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Comment: Several Member States already provide for a template, so that an harmonised one should not be a problem. The creation of the SMC entails costs but this is even more the case of providing suitable articles and modifications. Therefore it is important to limit the need for an amendment of the articles of association and to keep them as short as possible. It should be remembered that the SMC may at any time after its registration change its articles. Consequently, the template should only provide the most necessary that will suit the vast majority of new SMCs, especially the ones established for SMEs.

I General provisions

Article 1

Form

The company is established as an SARL/GmbH (-SMC, -Uni, - Up) with limited liability subject to the law of Member State XXX.

The matters not regulated in these articles of association shall be governed by the applicable legislation of the Member State XXX.

Article 2

Company's objects

The object of the company is to carry on any kind of trade or business, and the company has the power to do all such things as are incidental or conducive to the carrying on of its trade or business.

Comment: The company's object should be all purpose in order to prevent any translation. There should be no restriction on their objects. Because the doctrine of Ultra-vires does not apply in limited liability companies, this drafting is taken from UK law. In the UK, from 1.10.2009, section 31(1), provides that, unless a company's articles specifically restrict the objects of a company, its objects are unrestricted. Therefore, there is no more need to have an objects clause in their memorandum of association.

Article 3

Name

The name of the company is (...)

Article 4

Registered seat

The registered seat of the company is located at (...)

The principal place of business of the company is located at (...)

Article 5

Duration

The duration of the company is unlimited (by default).

or

The duration of the company is limited to (...)

II Social capital and shares

Article 6

Amount of capital

The amount of the capital is (...).

Article 7

Contribution

The contribution has been paid in cash up to the amount of (...), and subscribed by (...).

The contribution has been paid in kind up to the amount of (...) and provided by (...).

The director(s) declare(s) that the above mentioned contribution has been fully paid.

III Management

Article 8

Management

The company has one director /or up to (...) directors (delete as appropriate)

The director(s) is(are) appointed for an unlimited duration and serve until the director(s) is/are dismissed.

or

The director(s) is(are) appointed for - a duration of (...).

The expiry of term in office is (...)

Article 9

Representation towards third parties

Each director can represent the company in dealings with third parties.

Or

The company is only represented by (...) directors acting in concert. (delete as appropriate)

IV Shareholder

Article 10

Power of the shareholder

The single shareholder can decide to pass resolution at any moment.

The single shareholder cannot delegate the right to pass resolutions to the management.

The resolutions of the single shareholder are reported in writing and recorded.

Comment : It is not possible to provide an exhaustive list of powers, as this may vary from Member States to Member States (eg related parties transactions),

V Fiscal year. Annual accounts

Article 11

Fiscal year

The first fiscal year of the company starts on the day of the registration of the company and last until (...).

The second year starts on (...) and last until (...).

Article 12

Accounts

The accounts are established by the single shareholder.

The accounts are filed with the national registry within six months of the end of the fiscal year.

VI Continuation of operations. Dissolution and liquidation

Article 13

Continuation of operations

In case of death of the single shareholder, the rights attached to the single share may only be exercised by one representative of the heirs, who acts for the co-owners.

Article 14

Conversion of operation as an SMC in case of death of the single shareholder

In case of dissolution the SMC, it shall continue as an (*insert name of national limited company form*).