

BYLAWS

of

THE MASON-RICE ELEMENTARY SCHOOL PARENT TEACHER ORGANIZATION, INC.

Amended and Restated [September 15], 2017

Article I

Name, Affiliation, Location and Fiscal Year

Section 1.1 **Name and Affiliation.** The name of this Corporation is the Mason-Rice Elementary School Parent Teacher Organization, Inc. (the “**PTO**”). The PTO is a member of the Newton Council of Parent Teacher Organizations, Inc.

Section 1.2 **Location.** The location of the principal offices of the PTO shall be in Newton, Massachusetts.

Section 1.3 **Fiscal Year.** Except as from time to time otherwise determined by the board of directors of the PTO (the “**Board**”), the fiscal year of the PTO shall be September 1 to August 31.

Article II

Purposes, Powers and Liabilities

Section 2.1 **Purposes.** In addition to those provided by law, and subject to the terms of the PTO’s Articles of Organization, the purposes of the PTO shall be to:

- (a) foster communication, understanding, and cooperation among parents and teachers in order to benefit all children in the Mason-Rice Elementary School (the “**School**”);
- (b) encourage parent involvement in School life;
- (c) support the efforts of the principal, faculty, and School Council in providing an optimal educational experience for students;
- (d) provide support and services to the school community; and
- (e) promote and encourage the support of public school education in the City of Newton.

Section 2.2 **Powers.**

(a) As provided in the Articles of Organization, the PTO is organized and shall be operated exclusively for educational, charitable or literary purposes as those terms have been and shall be defined pursuant to Sections 170(c) and 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”).

(b) Notwithstanding any other provisions of these Bylaws, the PTO shall not carry on any activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Code.

Section 2.3 **Liability.** No director or officer of the PTO shall be liable for the performance of his or her duties if he or she acts in compliance with Section 6C of Chapter 180 of the Massachusetts General Laws.

Article III *Policies*

The PTO shall be noncommercial, nonsectarian, and nonpartisan. No commercial enterprise and no political candidates shall be endorsed by it. Neither the name of the PTO nor the names of its directors or officers in their official capacities shall be used in connection with any commercial concern or with any partisan interest, or for any purpose not appropriately related to promotion of the goals and objectives of the PTO.

Article IV *Members*

Section 4.1 **Members.** Each member of the administrative, teaching, and support staff of the School, and each parent or legal guardian of a student of the School, shall automatically be a member of the PTO, and such individual will continue to be a member until he or she no longer serves in any of those capacities, or until he or she earlier resigns. Any member may resign by delivering a written resignation to one of the Co-Presidents or the Secretary or to the PTO at its principal office. The resignation shall be effective upon receipt unless it is specified to be effective at some later time.

Section 4.2 **Duties of Members.** The duties of the membership shall be to support, sponsor, coordinate and implement activities to further the purposes of the PTO as stated in the Articles of Organization and Article II.

Section 4.3 **Dues.** Voluntary dues will be solicited annually from the members of the PTO.

Section 4.4 **Meetings of the Members.**

(a) The PTO shall hold an annual meeting of members as described in Section 4.4(b) and such other meetings of the members as may be called in accordance with Section 4.4(c). At least one meeting of the members should address topics intended to promote and foster the educational purposes of the PTO.

(b) The annual meeting of members shall be held on such date, and at such time and place, as the Co-Presidents may determine. At the annual meeting of members, (1) the Co-Presidents and the Treasurer shall present an annual report on the operations and finances of the PTO, (2) in accordance with the requirements of Article VII, the members shall elect At-Large Directors (as defined in Section 5.1) to fill the number of seats fixed by the Board for election at the annual meeting of members, (3) in accordance with the requirements of Article VII, the members shall elect successors for the officers whose terms expire at the end of the school year (as

defined below) and (4) the members shall vote upon the annual budget of the PTO in accordance with the requirements of Article VIII. A “**school year**” is the period from the last day of classes at the end of one School year (typically in June) to the next.

(c) Special meetings of the members may be called by a Co-President, the Board or the Principal of the School (the “**Principal**”), and shall be called by the Secretary (or, in case of the death, absence, incapacity or refusal of the Secretary, another officer) when otherwise required by law.

(d) At least ten (10) days’ notice of all meetings, stating the place, date, time and purpose of the meeting, shall be given to members by posting such notice on the PTO’s website, by sending such notice by e-mail to the member, by hand delivery to the member, by mailing such notice, postage prepaid, addressed to the residence of the member’s child, by leaving such notice at such residence, or by any other method now or hereafter authorized under the Massachusetts General Laws for the giving of notice to members of a corporation organized under Chapter 180 of such laws. Notice need not be given to a member if the member (or the member’s duly authorized attorney) signs a written waiver of notice before or after the meeting and the waiver is filed with the records of the meeting.

(e) The presence of at least fifteen (15) members of the PTO in person or represented by proxy shall constitute a quorum, except when a larger quorum is required by law, the Articles of Organization or these Bylaws. Any meeting may be adjourned to another place and/or another date and time by at least a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

(f) Unless otherwise provided by law or the Articles of Organization, members may participate in any meeting of members by means of remote communication. Participation by means of remote communication shall be subject to such guidelines and procedures as the Board shall adopt. Members participating in a meeting by means of remote communication shall be deemed present and may vote at the meeting if the PTO has implemented reasonable measures to (1) verify that each person participating remotely as a member is a member and (2) provide such members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with the proceedings.

(g) Unless otherwise provided in the Articles of Organization, directors and officers are elected by a plurality of the votes properly cast on the election at a meeting at which a quorum exists. If a quorum exists, action on a matter other than the election of directors or officers is approved if the votes cast in favor of the matter exceed the votes cast against the matter, unless a higher vote is required by law, the Articles of Organization or these Bylaws. Members do not have the right to cumulate their votes.

(h) Members may vote in person or by proxy. A member may appoint a proxy to vote or otherwise act for the member by signing an appointment form or by an electronic transmission (as defined below). An electronic transmission must contain or be accompanied by information from which the recipient can determine the date of the transmission and that the transmission was authorized by the sender. An appointment of a proxy is effective when a signed appointment form or an electronic transmission of the appointment is received by the agent of the

PTO authorized to count votes at the meeting (the “**Inspector**”). The person presiding at the meeting shall be the Inspector unless he or she appoints another person to act as the Inspector. An appointment is valid for the period stated in the appointment form or electronic transmission, but not for more than six months and not after the final adjournment of the meeting. An appointment form or electronic transmission purporting to be executed or sent by or on behalf of a member shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest on the challenger.

(i) An “**electronic transmission**” shall mean any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval and reproduction of information by the recipient. Unless otherwise provided by law or the Board, “electronic transmission” shall include e-mail and facsimile transmission.

Article V *Board of Directors*

Section 5.1 **Powers; Qualification.** Except as otherwise provided in the Articles of Organization, all corporate power shall be exercised by or under the authority of the Board, and the business and affairs of the PTO shall be managed under the direction of the Board. Unless otherwise determined by the Board or the members, only members are qualified to serve as directors.

Section 5.2 **Directors.** The Board shall consist of At-Large Directors, Ex-Officio Directors and Non-Voting Directors. The “**At-Large Directors**” are directors who are elected at an annual meeting of members. The “**Ex-Officio Directors**” are the officers of the PTO, as described in Article VI, and the immediate past Co-Presidents of the PTO. The “**Non-Voting Directors**” are the Principal and one or more faculty representatives selected by the Principal, and may also include other non-voting members appointed by the Co-Presidents. The Board shall from time to time, by vote of the greater of a majority of the directors then in office or two-thirds of the directors present, fix the number of At-Large Directors, which shall be at least one (1) director and no more than eight (8) directors, but no reduction in the number of At-Large Directors shall shorten the term of any director serving at the time of such reduction.

Section 5.3 **Terms of Directors.**

(a) Officers shall serve on the Board for the terms of office described in Article VI.

(b) Each At-Large Director elected at the annual meeting of members shall serve on the Board for two school years following his or her election (or, if the Board shall deem it appropriate in order for the members to elect approximately an equal number of At-Large Directors at each annual meeting of members, one school year following his or her election) and thereafter until his or her successor is chosen and qualified, or until he or she sooner dies, resigns, is removed or becomes disqualified. An At-Large Director elected to fill a vacancy created by an expansion of the Board (other than at the annual meeting of members) shall serve until the end of the school year in which he or she is elected or, if specified in the vote electing him or her or by the Board or the members, the end of the next school year, and in each case thereafter until his or her successor is chosen and qualified, or until he or she sooner dies, resigns, is removed or

becomes disqualified. An At-Large Director elected to fill any other vacancy shall serve for the period specified in Section 5.4.

(c) Each past Co-President shall serve on the Board for two school years following the expiration of his or her term of office as Co-President, or until he or she sooner dies, resigns, is removed or becomes disqualified.

(d) The Principal shall serve as a Non-Voting Director in an ex-officio capacity. Each Non-Voting Director who is a faculty representative shall serve until the end of the school year in which he or she is elected and thereafter until his or her successor is chosen and qualified, or until he or she sooner dies, resigns, is removed or becomes disqualified. All other Non-Voting Directors shall serve at the pleasure of the Co-Presidents.

Section 5.4 Resignation and Removal. Any director may resign by delivering a written resignation to one of the Co-Presidents or the Secretary or to the PTO at its principal office. The resignation shall be effective upon receipt unless it is specified to be effective at some later time. Any director may be removed from office with or without cause by the members, but only after reasonable notice and an opportunity to be heard.

Section 5.5 Vacancies. The Board may act despite one or more vacancies on the Board and shall for this purpose be deemed to constitute the full Board. Any vacancy on the Board may be filled by the Board. Any director elected or appointed to fill a vacancy shall serve for the balance of the term of his or her predecessor.

Section 5.6 Duties of Directors. The duties of the Board shall include:

- (a) approval of annual goals and strategies;
- (b) establishment or abolition of committees or offices;
- (c) approval of the general plans and programs of committees;
- (d) review and approval of the annual budget as prepared in accordance with Article VIII for submission to the members at the annual member meeting;
- (e) presentation of reports at Board meetings, as may be required; and
- (f) transaction of business between meetings of the members.

Section 5.7 Meetings of the Directors.

(a) The Board shall have such meetings as the Board may determine, with the non-binding goal that the Board shall meet at least quarterly. Special meetings of the Board shall be called at the request of a Co-President or any three (3) voting members of the Board.

(b) Notice of Board meetings will be given to the directors by the Secretary (or, in case of the death, absence, incapacity or refusal of the Secretary, another officer). Such notice shall be given to each director in person or by telephone, facsimile transmission, e-mail or other electronic means sent to such director's business or home at least twenty-four (24) hours in

advance of the meeting, or by mail addressed to such business or home address and sent at least five (5) days in advance of the meeting. Except as required by law, notice of any meeting of directors need not be given to any director who (1) either before or after the meeting, delivers a written waiver of notice, executed by the director, which is filed with the records of the meeting or (2) attends the meeting unless at the commencement of the meeting (or promptly upon arrival) he or she protests the lack of such notice.

(c) A majority of the Board then in office shall constitute a quorum. Non-Voting Directors are excluded from the calculation of a quorum.

(d) If a quorum is present when a vote is taken, the affirmative vote of a majority of the directors present is the act of the Board, except to the extent that a larger number is required by law or the Articles of Organization or these Bylaws.

(e) Unless otherwise provided by law, directors may participate in a meeting by means of a conference telephone or any similar communications equipment which enables all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

(f) All members of the PTO shall be entitled to attend and observe any meeting of the Board. Any member of the PTO may address any meeting of the Board at the request or invitation of the Board, and the Board may establish such procedures regarding the participation of members as it shall determine. Only the members of the Board (excluding Non-Voting Directors) shall be entitled to make motions, propose business and vote at any meeting of the Board.

(g) Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if all members of the Board entitled to vote consent to the action in writing, or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the records of the meetings of the Board. Such consents shall be treated for all purposes as a vote at a meeting.

Article VI *Officers and their Duties*

Section 6.1 Officers. Unless otherwise determined by the Board or the members, only members are qualified to serve as officers. The officers of the PTO shall be the Co-Presidents, up to four Vice Presidents, the Secretary, the Treasurer, and such other officers as the Board may establish. Two or three persons may be elected jointly to the offices of Co-President, Secretary or Treasurer, in which event the office shall be held jointly by co-officers. Terms used in the singular in these Bylaws shall be deemed to include the plural for co-office holders. An officer shall serve until the end of his or her term of office and thereafter until his or her successor is chosen and qualified or until he or she sooner dies, resigns, is removed or becomes disqualified.

Section 6.2 Term and Duties of Co-Presidents.

(a) Each Co-President elected at the annual meeting of members shall serve for two school years following his or her election as Co-President. The terms of the Co-Presidents shall be staggered so that at least one Co-President is elected each year. If the terms of the Co-

Presidents expire at the same time, then one of the successor Co-Presidents shall be elected for a term of one school year following his or her election as Co-President.

(b) The Co-Presidents shall, subject to the direction and control of the Board, carry on the general affairs of the PTO. The Co-Presidents shall have such other powers and duties as are usually incident to that office and as may be vested in that office by these Bylaws or by the Board. One of the Co-Presidents shall preside at all meetings of the Board and members of the PTO. The Co-Presidents shall be ex-officio members of all committees. They may appoint ad hoc committees when and as they deem appropriate. One of the Co-Presidents shall represent the interests of the School and the PTO at meetings of the Newton Council of Parent Teacher Organizations or shall designate a representative to attend in his or her place.

Section 6.3 **Term and Duties of Vice Presidents.**

(a) Each Vice President elected at the annual meeting of members shall serve for one school year following his or her election as Vice President. A Vice President elected in any other manner shall serve until the end of the school year in which he or she is elected.

(b) Each Vice President shall act as a liaison between the Co-Presidents and committee chairs for such committees as the Board shall designate from time to time. Responsibilities include overseeing communications, events or concerns of his or her committees. Any Vice President may fulfill the duties of a Co-President if for any reason a Co-President is unable to, or does not, fulfill his or her obligations.

(c) Unless otherwise determined by the Board or the members, the PTO shall have a Vice President of Communications, a Vice President of Community Events and Outreach, a Vice President of Fundraising and a Vice President of Classroom, Teacher and School Support. Each Vice President shall have such other powers and duties as are usually incident to that office and as may be vested in that office by these Bylaws or by the Board.

Section 6.4 **Term and Duties of Treasurer.**

(a) A Treasurer elected at the annual meeting of members shall serve for two school years following his or her election as Treasurer. A Treasurer elected in any other manner shall serve until the end of the school year in which he or she is elected.

(b) The Treasurer shall receive all monies of the PTO and shall make authorized disbursements. The Treasurer shall keep accurate accounts of the funds of the PTO and shall present a summary of expenditures upon request of a Co-President or the Board. The Treasurer shall assist with the preparation of the annual budget and with the filing of annual forms with the office of the Secretary of State and other governing authorities. The Treasurer shall be responsible for the maintenance of such books of account and records as conform to the requirements of these Bylaws. The Treasurer shall have such other powers and duties as are usually incident to that office and as may be vested in that office by these Bylaws or by the Board.

Section 6.5 **Term and Duties of Secretary.**

(a) A Secretary elected at the annual meeting of members shall serve for two school years following his or her election as Secretary. A Secretary elected in any other manner shall serve until the end of the school year in which he or she is elected.

(b) The Secretary shall be a resident of Massachusetts unless the PTO shall have a duly appointed resident agent.

(c) The Secretary shall keep a true record of all member meetings of the PTO and all meetings of the Board as well as motions and voting results. In the absence of the Secretary, the person presiding at any meeting shall appoint a temporary Secretary to fulfill the duties of the Secretary at that meeting. The Secretary shall have such other powers and duties as are usually incident to that office (and the office of clerk) and as may be vested in that office by these Bylaws or by the Board.

Section 6.6 Resignation and Removal. Any officer may resign by delivering a written resignation to one of the Co-Presidents or the Secretary or to the PTO at its principal office. Such resignation shall be effective upon receipt, unless it is specified to be effective at some later time. Any officer may be removed, with or without cause, by the Board or the members.

Section 6.7 Vacancies. If any office becomes vacant, the Co-Presidents shall nominate a successor, and the successor shall be elected if his or her election is approved by the Board or the members. The successor shall hold office for the unexpired term of his or her predecessor.

Article VII
Nomination and Election of Officers and
At-Large Members of the Board of Directors

Section 7.1 Officers. The Co-Presidents shall offer recommendations to the Board of a proposed slate of officers for the next school year at a Board meeting in the last quarter of the school year. The Board shall accept or reject the recommendations of the Co-Presidents and shall nominate a slate of officers for election by the members at the annual meeting of members.

Section 7.2 At-Large Directors. At least ten (10) days before the meeting of the Board (the “**Nomination Meeting**”) at which the Board is expected to nominate candidates for election as At-Large Directors of the PTO at the annual meeting of members, the Co-Presidents shall notify the members of the upcoming election at the annual meeting of members. Any member of the PTO may volunteer to serve as an At-Large Director by notifying one of the Co-Presidents before the Nomination Meeting. The Co-Presidents shall provide the Board with a list of all such volunteers. The Board shall nominate a slate of At-Large Directors for election by the members at the annual meeting of members. The Board may nominate a number of directors equal to, or greater than, the number of directors to be elected, and the Board may make such recommendations to the members regarding the nominees as it shall determine to be appropriate. Only members nominated by the Board at the Nomination Meeting (or by the Board to replace any candidate so nominated who shall have subsequently withdrawn from such election) shall be eligible for election as At-Large Directors at the annual meeting of members.

Article VIII
Budget and Expenditures

Section 8.1 Adoption of the Budget. The preliminary budget shall be prepared by a committee comprised of the Co-Presidents, the Treasurer and such other persons as the Co-Presidents and the Treasurer select. The committee shall present the budget to the Board for its consideration, and the Board shall recommend that budget, or such other budget as it shall determine to be appropriate, to the members for their approval. The members shall vote upon the approval of the budget at the annual meeting of members and, upon their approval, such budget shall be the budget of the PTO.

Section 8.2 Expenditures. Subject to the availability of funds, the officers of the PTO shall make expenditures in accordance with the budget. If available funds are less than the budgeted amount, the Co-Presidents, subject to the direction of the Board, may reduce expenditures in their discretion. The Co-Presidents may authorize any expenditure up to \$500 that is not contained in the budget. Any expenditure over \$500 not contained in the budget must be approved by the Board.

Section 8.3 Authorized Signatories. Each of the Co-Presidents and the Treasurer is an authorized signatory of the PTO for all expenditures.

Article IX
Indemnification of Directors and Officers

The corporation shall, to the extent legally permissible, indemnify each of its directors and officers (including persons who serve at its request as directors) (hereinafter "Indemnified Officer") against all liabilities and expenses, including, without limitation, amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and counsel fees, reasonably incurred by or imposed upon such Indemnified Officer in connection with any threatened, pending or completed action, suit or other proceeding, whether civil or criminal, in which he may be involved or with which he may be threatened, while in office or thereafter, by reason of Indemnified Officer being or having been such a director or officer, except with respect to any matter as to which he or she shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that such action was in the best interest of the corporation.

Such indemnification may, to the extent authorized by the Board of Directors of the corporation, include payments by the corporation of expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding, upon receipt of an undertaking by the person indemnified to repay such payment if such Indemnified Officer shall be not entitled to indemnification under this article, which undertaking may be accepted without regard to the financial ability of such Indemnified Officer to make repayment.

The payment of any indemnification or advance shall be conclusively deemed authorized by the corporation under this Article, and each director and officer of the corporation approving such payment shall be wholly protected, if:

- A. the payment has been approved or ratified (1) by a majority vote of a quorum of

- either (a) the members who are not at that time parties to the proceeding or (b) the directors who are not at that time parties to the proceeding or (2) by a majority vote of a committee of two or more directors who are not at that time parties to the proceeding and are selected for this purpose by the full board (in which selection directors who are parties may participate); or
- B. the action is taken in reliance upon the opinion of independent legal counsel (who may be counsel to the corporation) appointed for the purpose by vote of the directors in the manner specified in clauses (1) and (2) of subparagraph (i) or, if that manner is not possible, appointed by a majority of the full board of directors then in office; or
 - C. the directors have otherwise acted in accordance with the standard of conduct applied to directors under Chapter 180 of the Massachusetts General Laws, as amended; or
 - D. a court having jurisdiction shall have approved the payment.

The indemnification provided here under shall inure to the benefit of the heirs, executors and administrators of any Indemnified Officer entitled to indemnification hereunder.

The right of indemnification under this article shall be in addition to and not exclusive of all other rights to which any person may be entitled. Nothing contained in this article shall affect any rights to indemnification to which corporation employees, agents, directors, officers and other persons maybe entitled by contract or otherwise under law.

This article, as amended, constitutes a contract between the corporation and the Indemnified Officers. No amendment or repeal of the provisions of this article which adversely affects the right of an Indemnified Officer under this article shall apply with respect to such Indemnified Officer's acts or omissions that occurred at any time prior to such amendment or repeal, unless such amendment or repeal was voted for by or was made with the written consent of such Indemnified Officer.

Article X *Standing Committees and Positions*

In order to promote the goals and interests of the PTO, the Board may from time to time appoint one or more persons to serve on such committees or in such positions as the Board shall determine. Any committee or position shall have such duties and responsibilities as the Board shall determine, but no committee may exercise the powers of the Board unless the committee consists solely of voting directors. The members of any committee and the holder of any position shall serve at the pleasure of the Board and may be removed by the Board at any time with or without cause and with or without notice.

Article XI *Amendments*

Section 11.1 The members may make, amend or repeal these Bylaws in whole or in part.

Section 11.2 The directors may also make, amend or repeal these Bylaws in whole or in part, except with respect to any provision hereof which by law, the Articles of Organization or

these Bylaws requires action by the members. To the extent required by Section 6 of Chapter 180 of the Massachusetts General Laws or other applicable law, any bylaw providing indemnification to directors, officers, employees or agents of the PTO, or other persons, shall be authorized by the members. Any Bylaw adopted by the Board may be amended or repealed by the members.

Section 11.3 If the directors adopt, amend or repeal any Bylaw, the PTO shall send the members a notice describing the substance of the change. The notice must be sent either before or at the same time as the first notice of a meeting of members to be sent after the change.

Article XII
Provisions Relevant to Transactions with Interested Persons

The PTO may enter into contracts and transact business with one or more of its directors or officers or with any corporation, organization or other concern in which one or more of its directors or officers are directors, officers, stockholders, partners or otherwise interested; and, in the absence of fraud, no such contract or transaction shall be invalidated or in any way affected by the fact that any director or officer of the PTO has or may have interests which are or might be adverse to the interest of the PTO even though the vote or action of one or more directors or officers having such adverse interest may have been necessary to obligate the PTO upon such contract or transaction unless, for so long as the PTO is a private foundation described in Section 509 of the Code, such contract or transaction constitutes an act of self-dealing prohibited by Section 4941 of the Code. In the absence of fraud or, for so long as the PTO is a private foundation described in Section 509 of the Code, in the absence of self-dealing, no director or officer of the PTO having such adverse interest shall be liable to the PTO or to any creditor thereof or to any other person for loss incurred by it under or by reason of such contract or transaction, nor shall any such director or officer be accountable for any gains or profits realized thereon.

Article XIII
Miscellaneous Provisions

Section 13.1 **Inspection of Books and Records.** The original or attested copies of the Articles of Organization, Bylaws and records of meetings shall be kept at the principal office of the PTO or of the Secretary, but such corporate records need not all be kept in the same office. They shall be available at all reasonable times for inspection by any member for any purpose in the proper interest of the member relative to the affairs of the PTO.

Section 13.2 **Execution of Instruments.** All contracts, deeds, bonds, notes, checks and other instruments to be executed by the PTO shall be signed by one of the Co-Presidents or the Treasurer, except as the directors may generally or in particular cases otherwise determine.