

Resolution No. [●]
of the Annual General Meeting of Polenergia S.A.
with its registered office in Warsaw
dated [●], 2021

on amendment of the Articles of Association of the Company in relation to granting Mansa Investments sp. z o.o. and BIF IV Europe Holdings Limited personal rights to appoint members of the Company's Management Board and Supervisory Board and amending other provisions of the Articles of Association of the Company

§1

Acting pursuant to Art. 430.1 of the Commercial Companies Code and ~~Art.~~Section 20.1(g) of the Articles of Association of Polenergia S.A. with its registered office in Warsaw (the “**Company**”), the Annual General Meeting of the Company hereby resolves to amend the Articles of Association of the Company ~~to be so that it shall~~ read as follows:

1. ~~Article~~Section 10.2 (a), ~~and (c) and d~~ of the Articles of Association of the Company, renumbered as Section 5.4.2 (a), ~~and (b) and e~~ by Resolution No. [X] of this Annual General Meeting of the Company, shall be amended to ~~be~~ read as follows:

“5.4.2 The Supervisory Board shall be appointed in the following manner:

- (a) no more than six members of the Supervisory Board based on the personal rights (*uprawnienie osobiste*) vested in each of Mansa and Brookfield, respectively (each ~~the~~an “**Authorised Shareholder**”), according to the following rules:
 - (i) in the ~~ease of holding~~event where an Authorised Shareholder holds at least 22.80% of the Shares, it shall have a personal right (*uprawnienie osobiste*) to appoint three members of the Supervisory Board_;
 - (ii) in the ~~ease of holding~~event where an Authorised Shareholder holds less than 22.80% but at least 20% of the Shares, it shall have a personal right (*uprawnienie osobiste*) to appoint two members of the Supervisory Board_; and
 - (iii) in the ~~ease of holding~~event where an Authorised Shareholder holds less than 20% but at least 10% of the Shares, it shall have a personal right (*uprawnienie osobiste*) to appoint one member of the Supervisory Board_; and
- (b) two members of the Supervisory Board shall comply with the independence criteria set out in Article 129 item 3 of the ~~act~~Act of 11 May 2017 on statutory auditors, audit firms and public supervision and shall be appointed by the General Meeting, provided however that:
 - (i) each shareholder can submit candidates for such independent members of the Supervisory Board, provided however that such independent member cannot, directly or indirectly, at any time be engaged in or cooperate with or derive any benefits from any competing business in relation to the Company or any Group

Company or be associated with any entity or person conducting such a competing business;

- (ii) each ~~Authorized~~Authorised Shareholder holding at least 20% of the Shares shall be excluded from exercising of the voting rights in relation to the appointment of one independent member of the Supervisory Board (such exclusion does not apply to the appointment of the second independent member of the Supervisory Board and, for the avoidance of doubt, expires upon the relevant ~~Authorized~~Authorised Shareholder falling below 20% of the Shares);
- (iii) in case where the General Meeting does not appoint the independent member of the Supervisory Board in the manner described in ~~Article~~Section 5.4.2. (b) (ii), the exclusion of the voting rights referred to in ~~Article~~Section 5.4.2. (b) (ii) shall not apply to the appointment of such independent member on any subsequent General Meeting until such independent member is appointed~~;~~ and

(c) members of the Supervisory Board who are not appointed pursuant to Section 5.4.2(a) shall be appointed and dismissed by the General Meeting by a simple majority of votes of all the shareholders.”;

2. Section 5.4.4 of the Articles of Association of the Company shall be amended to read as follows:

“5.4.4. The Supervisory Board shall have a Chairperson and a Deputy Chairperson. If the Chairperson is elected from among Mansa’s appointees to the Supervisory Board, the Deputy Chairperson shall be elected from among the appointees of Brookfield and, accordingly, if the Chairperson is elected from among Brookfield’s appointees to the Supervisory Board, the Deputy Chairperson shall be elected from among the appointees of Mansa, provided, however, that as long as Mansa holds at least 10% of the Shares, one of Mansa’s appointees to the Supervisory Board will hold the position of the Chairperson of the Supervisory Board. Neither the Chairperson, nor the Deputy Chairperson shall have any second or casting vote.”;

3. ~~2-Aa~~ new ArticleSection 5.4.5 shall be added to the Articles of Association of the Company ~~to be~~ and shall read as follows:

“5.4.5 Only the Authorised Shareholder who appointed ~~the~~a given member of the Supervisory Board in the exercise of its personal right (*uprawnienie osobiste*) shall have a right to subsequently suspend or dismiss such member, subject to Section ~~3-below~~5.4.7.”;

4. a new Section 5.4.6 shall be added to the Articles of Association of the Company and shall read as follows:

“5.4.6 The aforesaid personal right to appoint, suspend or dismiss a member of the Supervisory Board shall be exercised by way of the delivery of a written statement to the Company and shall be effective upon the receipt of such by the Company, provided that with respect to the exercise of appointment rights, the statement must delivered together with the respective declaration of acceptance of a given candidate to being appointed to the Supervisory Board.”;

5. ~~3-Aa~~ new ArticleSection 5.4.7 shall be added to the Articles of Association of the Company ~~to be~~ and shall read as follows:

“5.4.7 If a member of the Supervisory Board is not appointed by the Authorised Shareholder within 10 Business Days from the day the respective position in the Supervisory Board became vacant, and as a result the number of the Supervisory Board members at that point in time drops below a) eight, or b) seven, in the event of the election of Supervisory Board members by voting in groups, in accordance with the provisions of the Commercial Companies Code, or c) six, if the Company ceases to be a public company pursuant to the provisions of the ~~act~~ Act of 29 July 2005 on public offering, the conditions governing the introduction of financial instruments to organised trading, and on public companies, the remaining members of the Supervisory Board may, by a simple majority of votes cast, temporarily appoint by way of co-optation a Supervisory Board member to the vacated position. ~~In order to dispel~~ For the avoidance of any doubt:

(a) ~~(e)~~ the Authorised Shareholder who was originally entitled to appoint, suspend and dismiss the given member of the Supervisory Board, shall retain its rights and may at any time dismiss the individual appointed to the Supervisory Board in accordance with the preceding sentence, provided that simultaneously with such dismissal such Authorised Shareholder appoints a new member to the Supervisory Board; and

(b) ~~(d)~~ such temporarily appointed, by way of co-optation in accordance with ~~the~~ this Section ~~3~~5.4.7, member of the Supervisory Board shall not be accounted for as any Authorised Shareholder’s appointee to the Supervisory Board, whether for the purposes of approving any SB Reserved Matter or SB Limited Reserved Matter, or for any other purpose.”;

6. ~~4. Article~~ Section 5.4.8 of the Articles of Association of the Company shall be amended to ~~be~~ read as follows:

“5.4.8 Upon appointment, each member of the Supervisory Board will be provided by the Company with an individual email address, maintained at the Company’s domain @polenergia.pl or such other domain as may be maintained by the Company. Such email address shall be the main channel of communication for the Supervisory Board members on any Company-related matters – provided, however, that a member of the Supervisory Board may, by notice to the Company, elect to use for such purposes a different e-mail address maintained at the domain of the Authorised Shareholder who appointed such Supervisory Board member.”;

7. ~~5. Article~~ Section 5.4.16 of the Articles of Association of the Company shall be amended to ~~be~~ read as follows:

“5.4.16 The Supervisory Board will adopt its resolutions with a simple majority of votes, save for:

(a) SB Reserved Matters – where an affirmative vote of at least one Supervisory Board member appointed in the exercise of a personal right (*uprawnienie osobiste*), as set out in Section ~~1.1.1(a)~~5.4.2(a), by each Authorised Shareholder holding at least 20% of the Shares will be required; and

(b) SB Limited Reserved Matters – where an affirmative vote of at least one Supervisory Board member appointed pursuant to the exercise of a personal right (*uprawnienie osobiste*), as set out in Section ~~1.1.1(a)~~5.4.2(a), by each Authorised Shareholder holding at least 10% of the Shares will be required,

provided that, as long as Mansa's appointee to the Supervisory Board holds the position of the Chairperson of the Supervisory Board, and Mansa's other appointee(s) to the Supervisory Board vote differently than such Chairperson on any SB Reserved Matter or SB Limited Reserved Matter, the affirmative vote of Mansa's appointee to the Supervisory Board holding the position of the Chairperson of the Supervisory Board will be required for a given SB Reserved Matter or SB Limited Reserved Matter to be approved.”;

8. ~~6. Article~~Section 5.6.2 of the Articles of Association of the Company shall be amended to ~~be~~ read as follows:

“5.6.2 The matters set out in Section 5.6.1 ~~Error! Reference source not found.~~ shall not require any additional approval by the Supervisory Board if and to the extent such matters are specifically provided for in the then current Annual Budget for the given year, or an applicable Ad-Hoc Budget, approved by the Supervisory Board in accordance with Section 5.5.1(a) above with affirmative vote from at least one Supervisory Board member appointed by each Authorised Shareholder holding at least 10% of the Shares.”;

9. ~~7. Article~~Section 5.6.3 of the Articles of Association of the Company shall be amended to ~~be~~ read as follows:

“5.6.3 If the Supervisory Board, acting in accordance with Section 5.6.1.(d) above, does not approve a proposed sale of an asset (including shares in a Group Company) to a *bona fide* third party purchaser, solely due to the Supervisory Board member being the appointee of the Authorised Shareholder holding less than 20% of the Shares in the Company voting against such resolution, the ~~other shareholder~~Management Board, at the request of members of the Supervisory Board who have voted in favour of the approval of the sale of such asset may (at its sole discretion) mandate a Fairness Option Provider to conduct an appropriate review into the proposed transaction, including its financial and other relevant terms and conditions, and present a fairness opinion addressed to the Company and the ~~shareholders~~Supervisory Board. In such case:

(a) ~~(e)~~ the Fairness Opinion Provider shall act with outmost care and professionalism, with the view to conduct appropriate analysis into the relevant asset and the proposed terms of the sale transaction in order to issue its opinion whether the proposed terms of the sale transaction are fair, from a financial point of view, to the Company (or the respective Group Company being the actual seller, as the case may be) (“**Fairness Opinion**”);

(b) ~~(e)~~ the Fairness Opinion Provider shall present the Company and the ~~shareholders~~Supervisory Board with a draft of the Fairness Opinion together with all underlying and supporting valuations, reports and analysis; each of the Company and the ~~shareholders~~members of the Supervisory Board may present, within two weeks from being presented with the above, its comments and questions thereto;

(c) ~~(e)~~ the Fairness Opinion Provider shall address the Fairness Opinion to the Company and to ~~each of the shareholders~~Supervisory Board;

(d) ~~(f)~~ if, following completion of the above procedure, the Fairness Opinion confirms that the proposed terms of the sale transaction are fair, from a

financial point of view, to the Company (or the respective Group Company being the actual seller, as the case may be), the matter shall be presented once more to the Supervisory Board for approval, but this time as an SB Reserved Matter, and not an SB Limited Reserved Matter.”;

10. Section 5.10.1 of the Articles of Association of the Company shall be amended to read as follows:

“5.10.1. The Management Board of the Company shall consist of one or more members appointed for a three-year joint term of office, subject to Sections 5.11.2(a) and 5.11.2(b), including the President of the Management Board and the Vice-President of the Management Board (in the case of a multi-member Management Board).”;

11. Section 5.10.7 of the Articles of Association of the Company shall be amended to read as follows:

“5.10.7. Resolutions of the Management Board may be adopted provided that all of the Management Board members have been duly notified of a Management Board meeting. Resolutions of the Management Board shall be adopted by an absolute majority of votes; in case of a tie, the President of the Management Board shall have a casting vote, subject to Section 5.11.4.”;

12. ~~8. Aa~~ new ~~Article~~Section 5.11.2 shall be added to the Articles of Association of the Company ~~to be~~and shall read as follows:

“5.11.2 Unless the Appointment Deadlock is resolved within five Business Days from the date of delivery of the Appointment Deadlock Notice by way of a relevant Supervisory Board resolution (without prejudice to Section 5.5.1(n)), the mandates of all members of the Management Board shall automatically expire with effect as of the sixth Business Day following of delivery of the Appointment Deadlock Notice to the Company (unless already expired due to lapse of the term of office and holding of the ~~annual-ordinary~~Ordinary General Meeting). Following thereafter:

- (a) each Authorised Shareholder holding at least 20% of the Shares in the Company (calculated jointly with the Shares held by its Affiliates, but without double counting) shall have the personal right (*uprawnienie osobiste*) to appoint and to dismiss one Management Board member for an individual three-year term of office; and
- (b) each Authorised Shareholder holding at least 50% of Shares in the Company (calculated jointly with the Shares held by its Affiliates, but without double counting) shall have the personal right (*uprawnienie osobiste*) to nominate, out of the two members appointed in accordance with item (a) above, the Management Board member to hold the position of the President of the Management Board; provided that, following such nomination, the other Management Board member shall automatically hold the position of the Vice-President of the Management Board.”;

13. ~~9. Aa~~ new ~~Article~~Section 5.11.3 shall be added to the Articles of Association of the Company ~~to be~~and shall read as follows:

“5.11.3 The Authorised Shareholder’s respective personal rights provided for in Sections 1.1.1(a) and 1.1.1(b) shall remain in force up until the Supervisory Board adopts a unanimous resolution

confirming that the Appointment Deadlock has been resolved. Following adoption of such resolution, the Supervisory Board may dismiss the Management Board members appointed pursuant to Section 5.11.2 and appoint new members of the Management Board; provisions of Sections 5.10.1 and 5.10.2 shall apply.”;

14. ~~10-Aa~~ new ~~Article~~Section 5.11.4 shall be added to the Articles of Association of the Company ~~to be~~and shall read as follows:

~~“~~5.11.4 The President of the Management Board appointed pursuant to ~~Article~~Section 5.11.2(b) ~~shall~~
~~not~~

shall not have a ~~decisive~~casting or additional vote~~”~~”; and

15. the definition of the “Qualified Rejected New Venture” under Section 9.1.31 shall be amended to read as follows:

“9.1.31 “Qualified Rejected
New Venture”

means a New Venture which: (i) is consistent with (although not necessarily envisaged in) the Business Plan from time to time; and (ii) satisfies the Required Investment Criteria, and in relation to which the Supervisory Board has twice failed to adopt a resolution on the approval of such New Venture as a result of all of the members of the Supervisory Board appointed by Brookfield pursuant to Section 5.4.2 voting against such resolution.”.

§2

The amendment to the Articles of Association of the Company referred to in §1 of this resolution shall enter into force upon its entry in the register of entrepreneurs of the National Court Register and provided that the amendments to the Articles of Association of the Company adopted under Resolution No. [X] of the Ordinary General Meeting of Shareholders of the Company are entered in the register of entrepreneurs of the National Court Register.

§3

The Supervisory Board is ~~authorized~~authorised to determine the consolidated text of the Articles of Association of the Company taking into account the amendments mentioned in this resolution.

Summary report: Litera® Change-Pro for Word 10.13.1.5 Document comparison done on 16.06.2021 20:36:31	
Style name: 2 WC StandardSet	
Intelligent Table Comparison: Active	
Original filename: Project Lewan - Uchwała ZWZ - zmiana Statutu uprawnienia osobiste ENG.DOCX	
Modified filename: 2Project Lewan - Uchwała ZWZ - zmiana Statutu uprawnienia osobiste ENG(100078316.4).docx	
Changes:	
Add	106
Delete	85
Move From	0
Move To	0
Table Insert	1
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	192