

**THE COMPANIES LAW (2020 REVISION)  
COMPANY LIMITED BY SHARES**

**AMENDED AND RESTATED  
MEMORANDUM AND ARTICLES  
OF ASSOCIATION OF  
FULCRUM UTILITY SERVICES LIMITED**

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**AMENDED AND RESTATED  
MEMORANDUM OF ASSOCIATION  
OF  
FULCRUM UTILITY SERVICES LIMITED**

**(Adopted pursuant to a Special Resolution passed on 25 June 2020)**

1. The name of the Company is Fulcrum Utility Services Limited.
2. The registered office of the Company will be situated at the offices of Maples Corporate Services Limited, PO Box 309, Ugland House, Grand Cayman KY1 -1104, Cayman Islands or at such other location as the Directors may from time to time determine.
3. The objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by the Companies Law (2020 Revision) or as the same may be revised from time to time or any other law of the Cayman Islands.
4. The liability of the members is limited to the amount, if any, unpaid on the shares respectively held by them.
5. The authorised share capital of the Company is £500,000 divided into 500,000,000 Ordinary Shares of a par value of 0.1 p each.
6. The Company has power to register by way of continuation as a body corporate limited by shares under the laws of any jurisdiction outside the Cayman Islands and to be de-registered in the Cayman Islands.
7. Capitalised terms that are not defined in this Memorandum of Association bear the same meaning as those given in the articles of association of the Company.

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**(Adopted pursuant to a Special Resolution passed on 25 June 2020)**

**1. TABLE A**

The Regulations contained or incorporated in Table 'A' in the First Schedule of the Law shall not apply to this Company and the following Articles shall comprise the Articles of Association of the Company:

**2. INTERPRETATION**

**2.1 In these Articles:**

<b>"Articles"</b>	means the articles of association of the Company as amended from time to time;
<b>"Business Day"</b>	means any day on which the London Stock Exchange and banks in London and the Cayman Islands are open for business;
<b>"Class"</b>	means a separate class of share (and includes any sub-class of any such class);
<b>"Code"</b>	means the United States Internal Revenue Code of 1986 (as amended);
<b>"Company"</b>	means Fulcrum Utility Services Limited, an exempted company registered in the Cayman Islands;
<b>"Defaulter"</b>	has the meaning given in Article 22.10;
<b>"Depository"</b>	means any Person who is a Member by virtue of its holding Ordinary Shares as trustee for those individuals who have elected to hold Ordinary Shares in dematerialised or uncertificated form through Depository interests;
<b>"Direction Notice"</b>	has the meaning given in Article 22.10;
<b>"Directors" and "Board of Directors"</b>	means the directors of the Company for the time being, or as the case may be, the Directors assembled as a board or as a committee thereof;
<b>"Disclosure Notice"</b>	shall have the meaning attributed to it in Article 15.2;

<b>"Electronic Record"</b>	shall have the same meaning as set out in the Electronic Transactions Law;
<b>"Electronic Transactions Law"</b>	means the Electronic Transactions Law (2003 Revision) of the Cayman Islands;
<b>"Equity Securities"</b>	means Ordinary Shares or rights to subscribe for, or to convert securities into, Ordinary Shares in the Company;
<b>"ERISA"</b>	means the United States Employee Retirement Income Security Act of 1974, as amended;
<b>"Excess Shares"</b>	means such number of shares acquired by a Member (or persons acting in concert (as defined in Article 22) with it) in contravention of Article 22;
<b>"Law"</b>	means the Companies Law (2020 Revision) of the Cayman Islands;
<b>"London Stock Exchange"</b>	means the London Stock Exchange plc or any successor body carrying on its functions;
<b>"Member"</b>	means a Person whose name is entered in the Register of Members;
<b>"Memorandum of Association"</b>	means the memorandum of association of the Company, as amended from time to time;
<b>"Non-Qualifying Person"</b>	shall have the meaning attributed to it in Article 21;
<b>"Ordinary Resolution"</b>	means a resolution: <ul style="list-style-type: none"> <li>(a) passed by a simple majority of such Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the Company and where a poll is taken regard shall be had in computing a majority to the number of votes to which each Member is entitled; or</li> <li>(b) approved in writing by all of the Members entitled to vote at a general meeting of the Company in one or more instruments each signed by one or more of the Members and the effective date of the resolution so adopted shall be the date on which the instrument, or the last of such instruments if more than one, is executed;</li> </ul>

<b>"Ordinary Share"</b>	means an ordinary share in the capital of the Company of a par value of 0.1 p having the rights provided for under these Articles or as determined by the Directors;
<b>"paid up"</b>	means paid up as to the par value and any premium payable in respect of the issue or redesignation of any Shares and includes credited as paid up;
<b>"Person"</b>	means any natural person, firm, company, joint venture, partnership, corporation, association or other entity (whether or not having a separate legal personality) or any of them as the context so requires;
<b>"Recognised Person"</b>	means a recognised clearing house acting in relation to a Recognised Investment Exchange or a nominee of a recognised clearing house or of a Recognised Investment Exchange;
<b>"Recognised Investment Exchange"</b>	shall have the same meaning as set out in the Financial Services and Markets Act 2000, being a statute in force in the United Kingdom, as amended or re-enacted from time to time;
<b>"Register of Members"</b>	means the register to be kept by the Company in accordance with Section 40 of the Law;
<b>"Regulations"</b>	shall have the meaning attributed to it in Article 8.2;
<b>"Relevant System"</b>	shall have the meaning attributed to it in Article 13.3;
<b>"Seal"</b>	means the common seal of the Company (if adopted) including any facsimile thereof;
<b>"share"</b>	means an Ordinary Share of any Class as well as any fraction of an Ordinary Share of any Class;
<b>"Share Premium Account"</b>	means the share premium account established in accordance with these Articles and the Law;
<b>"signed"</b>	includes a signature or representation of a signature affixed by mechanical means;
<b>"Special Resolution"</b>	means a resolution passed in accordance with Section 60 of the Law, being a resolution: <ul style="list-style-type: none"> <li>(a) passed by a majority of not less than two-thirds of such Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the Company of which notice specifying the intention to propose the resolution as a Special Resolution has been duly given and where a poll is taken regard shall</li> </ul>

be had in computing a majority to the number of votes to which each Member is entitled; or

- (b) approved in writing by all of the Members entitled to vote at a general meeting of the Company in one or more instruments each signed by one or more of the Members and the effective date of the Special Resolution so adopted shall be the date on which the instrument or the last of such instruments if more than one, is executed;

**"Takeover Code"** means the UK City Code on Takeovers and Mergers, as amended from time to time

**"Takeover Panel"** means the UK Panel on Takeovers and Mergers;

**"uncertificated share"** means a share of a class in the capital of the Company which is recorded on the Register of Members as being held in uncertificated form and title to which may, by virtue of the regulations governing the Relevant System, be transferred by means of a Relevant System and references to a share being held in **"uncertificated form"** shall be construed as a reference to that share being an uncertificated unit of security;

**"United Kingdom"** means Great Britain and Northern Ireland.

2.2 In these Articles, save where the context requires otherwise:

- (a) words importing the singular number shall include the plural number and vice versa;
- (b) words importing the masculine gender only shall include the feminine gender;
- (c) "written" and "in writing" include all modes of representing or reproducing words in visible form, including in the form of an Electronic Record;
- (d) "may" shall be construed as permissive and "shall" shall be construed as imperative;
- (e) references to a "£" and "pence" or "p" is a reference to pounds or pence sterling being the currency of the United Kingdom;
- (f) references to a statutory enactment shall include reference to any amendment or re-enactment thereof for the time being in force; and
- (g) section 8 of the Electronic Transactions Law shall not apply.

2.3 Subject to the last two preceding Articles, any words defined in the Law shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.

3. **PRELIMINARY**

The registered office of the Company shall be at such address in the Cayman Islands as the Directors shall from time to time determine. The Company may in addition establish and maintain such other offices and places of business and agencies in such places as the Directors may from time to time determine.

4. **SERVICE PROVIDERS**

The Directors may appoint any one or more Persons to act as service providers to the Company (including, without limitation to act as manager, administrator, cash custodian, custodian, investment manager, investment adviser, sponsor, Depository and/or broker to the Company) and the Directors may entrust to and confer upon such Persons any of the powers exercisable by them as Directors upon such terms and conditions including the right to remuneration payable by, and indemnification from, the Company and with such restrictions and with such powers of delegation as they may determine and either collaterally with or to the exclusion of their own powers. The Company may agree with such service provider that any such fee may be rebated by the service provider to a Person as determined by the relevant service provider.

5. **SHARES**

5.1 The Directors may not allot Equity Securities in the Company unless they are authorised to do so by Ordinary Resolution of the Company.

5.2 Any authorisation under Article 5.1 shall state the maximum amount of Equity Securities that may be allotted under such authorisation and the date on which such authorisation will expire, which must not be more than five years from the date on which the resolution is passed by virtue of which the authorisation is given; but such an authorisation may be revoked or varied by Ordinary Resolution before that date.

5.3 Any authorisation under Article 5.1 may be renewed or further renewed by an Ordinary Resolution of the Members for a further period not exceeding five years; but the resolution must state (or restate) the maximum amount of Equity Securities which may be allotted under the authorisation or, as the case may be, the amount remaining to be allotted under it, and must specify the date on which the renewed authorisation will expire.

5.4 The Directors may allot Equity Securities, notwithstanding that authorisation under Article 5.1 has expired, if such Equity Securities are allotted or rights are granted in respect of such Equity Securities in pursuance of an offer or agreement made by the Company before the authorisation expired and the authorisation allowed the Company to make offers or agreements which would or might require Equity Securities to be allotted or rights granted in respect of such Equity Securities after the authorisation had expired.

5.5 The Company shall not allot Equity Securities to a person unless:

- (a) it has made an offer to each holder of the relevant Class to allot to him on the same or more favourable terms a proportion of those securities which is as nearly as practicable equal to the proportion in nominal value held by him of the aggregate of such relevant shares; and
  - (b) the period during which any such offer may be accepted (being 14 days) has expired or the Company has received notice of the acceptance or refusal of every offer so made.
- 5.6 The provisions of Article 5.5 do not apply to a particular allotment of Equity Securities if these are, or are to be, wholly or partly paid up otherwise than in cash; and Equity Securities which the Company has offered to allot to a holder of the relevant Class may be allotted to him, or anyone in whose favour he has renounced his right to their allotment, without contravening Article 5.5(b).
- 5.7 The provisions of Article 5.5 do not apply to the allotment of Equity Securities which would, apart from a renunciation or assignment of the right to their allotment, be held under an employees' share scheme.
- 5.8 The Directors may, if so authorised by Special Resolution of the Members, allot Equity Securities as if Article 5.5 did not apply to the allotment or applied to the allotment with such modifications as the Directors may determine.
- 5.9 Any authorisation under Article 5.8 shall state the maximum amount of Equity Securities that may be allotted under such authorisation and the date on which such authorisation will expire, which shall not be more than five years from the date on which the resolution is passed by virtue of which the authorisation is given; but such an authorisation may be revoked or varied by Ordinary Resolution before that date.
- 5.10 Any authorisation under Article 5.8 may be renewed or further renewed by Special Resolution of the Members for a further period not exceeding five years; but such resolution must state (or restate) the maximum amount of Equity Securities which may be allotted under the authorisation or, as the case may be, the amount remaining to be allotted under it, and must specify the date on which the renewed authorisation will expire.
- 5.11 The Directors may allot Equity Securities, notwithstanding that authorisation under Article 5.8 has expired, if such Equity Securities are allotted in pursuance of an offer or agreement made by the Company before the authorisation expired and the authority allowed the Company to make offers or agreements which would or might require Equity Securities to be allotted after the authorisation had expired.
- 5.12 Notwithstanding any provision to the contrary contained in these Articles, the Company shall be precluded from issuing bearer shares, bearer warrants, bearer coupons or bearer certificates.
- 5.13 The Directors may resolve to accept non-cash assets in satisfaction (in whole or in part) of the price at which shares may be subscribed.
- 5.14 The Company may insofar as may be permitted by law, pay a commission to any Person in consideration of his subscribing or agreeing to subscribe whether absolutely or



conditionally for any Equity Securities provided that the rate of commission shall not exceed the rate of 10 per cent. of the price at which the relevant Equity Securities are issued or an amount equal to 10 per cent. of such price (as the case may be). Such commissions may be satisfied by the payment of cash or the lodgement of fully or partly paid-up shares or partly in one way and partly in the other. The Company may also on any issue of Equity Securities pay such brokerage as may be lawful.

## **6. VARIATION OF RIGHTS ATTACHING TO SHARES**

- 6.1 If at any time the share capital is divided into different Classes, the rights attaching to any Class (unless otherwise provided by the terms of issue of the shares of that Class) may be varied or abrogated with the consent in writing of the holders of three-quarters of the issued shares of that Class, or with the sanction of a resolution passed by at least a three-quarters majority of the holders of shares of the Class present in person or by proxy at a separate general meeting of the holders of the shares of the Class. To every such separate general meeting the provisions of these Articles relating to general meetings of the Company shall mutatis mutandis apply, but so that the necessary quorum shall be at least one Person holding or representing by proxy at least one-third of the issued shares of the Class and that any holder of shares of the Class present in person or by proxy may demand a poll.
- 6.2 The rights conferred upon the holders of the shares of any Class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that Class, be deemed to be varied or abrogated by the creation or issue of further shares ranking *pari passu* therewith or the redemption or purchase of shares of any Class by the Company.

## **7. CERTIFICATES**

- 7.1 The Company shall maintain a Register of Members. Every Person (except a Recognised Person in respect of whom the Company is not required by law to complete and have ready for delivery a certificate) whose name is entered as a member in the Register of Members shall, without payment, be entitled to a certificate in the form determined by the Directors within two months of allotment (or within such other period as the conditions of issue shall provide) or the lodgement of transfer. Such certificate may be under the Seal. All certificates shall specify the share or shares held by that Person and the amount paid up thereon, provided that in respect of a share or shares held jointly by several Persons, the Company shall not be bound to issue more than one certificate unless payment of £0.50 or such lesser sum as the Directors may from time to time determine for every additional certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.
- 7.2 If a share certificate is defaced, lost or destroyed it may be renewed on such terms, if any, as to evidence and indemnity as the Directors think fit.
- 7.3 Share certificates shall bear such legend as the Directors may from time to time determine.

## **8. DEPOSITORY INTERESTS AND UNCERTIFICATED SHARES**

- 8.1 The Directors shall, subject always to the Law and any other applicable laws and regulations and the facilities and requirements of any Relevant System concerned and these Articles, have power to implement and/or approve any arrangements they may, in their absolute discretion, think fit in relation to (without limitation) the evidencing of title to and transfer of interests in shares in the form of depository interests or similar interests, instruments or securities, and to the extent such arrangements are so implemented, no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with the holding or transfer thereof or the shares represented thereby. The Directors may from time to time take such actions and do such things as they may, in their absolute discretion, think fit in relation to the operation of any such arrangements.
- 8.2 Subject to the Law, the Board may permit shares (or interests in shares) to be held in uncertificated form and to be transferred by means of a Relevant System of holding and transferring shares (or interest in shares) in uncertificated form and may determine that any shares (or interests in such shares) shall cease to be a participating security (as defined in Regulation 3 of the UK Uncertificated Securities Regulations 2001 (the "**Regulations**")). Where the Board permits shares (or interests in such shares) to be held in uncertificated form, Articles 8.5 and 8.6 shall commence to have effect immediately prior to the time at which the operator of the Relevant System concerned permits the shares (or interest in such shares) to be a participating security.
- 8.3 Conversion of shares held in certificated form into shares (or any interest in such shares) held in uncertificated form, and vice versa, may be made in such manner as the Board may in its absolute discretion think fit (subject to the facilities and requirements of the Relevant System).
- 8.4 Shares that fall within a certain Class shall not form a separate Class from other shares in that Class because any share in that Class is held in uncertificated form or is permitted in accordance with the regulations of the Relevant System to become a participating security.
- 8.5 In relation to any shares (or any interest in such shares) which is, for the time being, a participating security, and for so long as such shares remains a participating security, no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with:
- (a) the holding of shares (or any interest in such shares) of that Class in uncertificated form;
  - (b) the transfer of title to shares (or any interest in such shares) of that Class by means of a Relevant System; or
  - (c) the requirements of the Relevant System

and, without prejudice to the generality of this Article, no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with the maintenance, keeping or entering up by the operator of the Relevant System, so long as that is permitted or required by the regulations governing the Relevant System, of an operator of the register of securities in respect of shares of that Class in uncertificated form.

8.6 Without prejudice to the generality of Article 8.4 and notwithstanding anything contained in these Articles, where any class (or interest in such class) is, for the time being, a participating security (such shares being referred to hereinafter as the "**Relevant Class**"):

- (a) the register relating to the Relevant Class will be maintained at all times in such place as may be determined by a resolution of the Directors; and
- (b) unless the Directors otherwise determine, the Relevant Class held by the same holder or joint holder in certificated form and uncertificated form shall be treated as separate holdings.

## 9. **COMPANY'S RIGHTS IN RESPECT OF UNCERTIFICATED SHARES**

Where any share (or interest in such share) is a participating security and the Company is entitled under the Law or these Articles to sell, transfer, dispose of, forfeit, re-allot, accept the surrender of or otherwise enforce a lien over a share (or interest in such share) held in uncertificated form, the Company shall be entitled, subject to the Law, these Articles and the facilities and requirements of the Relevant System:

- (a) to require the holder of that uncertificated share (or interest in such share) by notice to change that share (or interest in such shares) into certificated form within the period specified in the notice and to hold that share in certificated form so long as required by the Company;
- (b) to require the holder of that uncertificated share (or interest in such share) by notice to give any instructions necessary to transfer title to that share by means of the Relevant System within the period specified in the notice;
- (c) to require the holder of that uncertificated share (or interest in such share) by notice to appoint any Person to take any steps, including without limitation the giving of any instructions by means of the Relevant System, necessary to transfer that share within the period specified in the notice;
- (d) to take any action that the Board considers appropriate to achieve the sale, transfer, disposal of, forfeiture, re-allotment or surrender of that share (or interest in such share) or otherwise to enforce a lien in respect of it; and
- (e) to assume that the entries on any record of securities maintained by it in accordance with the regulations governing the Relevant System and regularly reconciled with the relevant operator register of securities are a complete and accurate reproduction of the particulars entered in the operator register of securities and shall accordingly not be liable in respect of any act or thing done or omitted to be done by or on behalf of the Company in reliance upon such assumption; in particular, any provision of these Articles which requires or envisages that action will be taken in reliance on information contained in the register shall be construed to permit that action to be taken in reliance on information contained in any relevant record of securities (as so maintained and reconciled).

## 10. **LIEN**

- 10.1 The Company shall have a first priority lien and charge on every partly paid share for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first priority lien and charge on all partly paid shares standing registered in the name of a Member (whether held solely or jointly with another person) for all moneys presently payable by him or his estate to the Company, but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien, if any, on a share shall extend to all distributions payable thereon.
- 10.2 The Company may sell, in such manner as the Directors in their absolute discretion think fit, any shares on which the Company has a lien, but no sale shall be made unless an amount in respect of which the lien exists is presently payable nor until the expiration of seven days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the persons entitled thereto by reason of his death or bankruptcy.
- 10.3 For giving effect to any such sale the Directors may authorise some Person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.
- 10.4 The proceeds of the sale after deduction of expenses, fees and commission incurred by the Company shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the Person entitled to the shares at the date of the sale.

## 11. **CALLS ON SHARES**

- 11.1 The Directors may from time to time make calls upon the Members in respect of any moneys unpaid on their partly paid shares, and each Member shall (subject to receiving at least 14 days notice specifying the time or times of payment) pay to the Company at the time or times so specified the amount called on such shares.
- 11.2 The joint holders of a share shall be jointly and severally liable to pay calls in respect thereof.
- 11.3 If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the Person from whom the sum is due shall pay interest upon the sum at the rate of 15 per cent. per annum from the day appointed for the payment thereof to the time of the actual payment, but the Directors shall be at liberty to waive payment of that interest wholly or in part.
- 11.4 The provisions of these Articles as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

- 11.5 The Directors may make arrangements on the issue of partly paid shares for a difference between the Members, or the particular shares, in the amount of calls to be paid and in the times of payment.
- 11.6 The Directors may, if they think fit, receive from any Member willing to advance the same all or any part of the moneys uncalled and unpaid upon any partly paid shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of an Ordinary Resolution, eight per cent. per annum) as may be agreed upon between the Member paying the sum in advance and the Directors.

## 12. **FORFEITURE OF SHARES**

- 12.1 If a Member fails to pay any call or instalment of a call in respect of partly paid shares on the day appointed for payment, the Directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
- 12.2 The notice shall name a further day (not earlier than the expiration of seven days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.
- 12.3 If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by notice has been made, be forfeited by a resolution of the Directors to that effect.
- 12.4 A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.
- 12.5 A Person whose shares have been forfeited shall cease to be a Member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Company all moneys which at the date of forfeiture were payable by him to the Company in respect of the shares forfeited, but his liability shall cease if and when the Company receives payment in full of the amount unpaid on the shares forfeited.
- 12.6 A statutory declaration in writing that the declarant is a Director, and that a share has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts in the declaration as against all Persons claiming to be entitled to the share.
- 12.7 The Company may receive the consideration, if any, given for a share on any sale or disposition thereof pursuant to the provisions of these Articles as to forfeiture and may execute a transfer of the share in favour of the Person to whom the share is sold or disposed of and that Person shall be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the disposition or sale.

12.8 The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which by the terms of issue of a share becomes due and payable, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

### 13. TRANSFER OF SHARES

13.1 Subject to the Law and these Articles, any Member may transfer all or any of its shares (or interest in such shares) by instrument of transfer in any usual form or in such other form as the Directors may approve and the instrument must be signed by or on behalf of the transferor (but need not be under seal) and, in the case of a partly paid share, by or on behalf of the transferee. The transferor will be deemed to remain the holder of the share until the name of the transferee is entered in the Register of Members in respect of it.

13.2 Transfers of shares (or interest in such shares) in uncertificated form shall be effected by means of the Relevant System in accordance with the rules of the Relevant System and these Articles.

13.3 For the purposes of these Articles, a "**Relevant System**" means, in relation to a share, a computer-based system, and procedures, which enable title to units of a security to be evidenced and transferred without a written instrument, and which facilitate supplementary and incidental matters.

13.4 [*Not used*].

13.5 The Directors may, in their absolute discretion and without giving any reason therefor, refuse to register any transfer of shares unless:

- (a) it is in respect of a fully paid share;
- (b) it is duly stamped (if required);
- (c) save in the case of a transfer by a Recognised Person to whom no share certificate was issued, it is deposited at the office or such other place as the Directors may appoint and is accompanied by the certificate, for the shares to which it relates and such other evidence (if any) as the Directors may reasonably require to show the right of the transferor to make the transfer;
- (d) it is in respect of only one Class;
- (e) it is in favour of not more than four transferees except in the case of executors or trustees of a deceased Member; and
- (f) it is in respect of a share on which the Company does not have a lien in respect of which the Company has served a notice pursuant to Article 11.1.

13.6 The Directors may, in exceptional circumstances approved by the London Stock Exchange and/or the rules and practices of the operator of the Relevant System, refuse to register any transfer of shares (or interest in such shares) to which the provisions of Article 13.5 would otherwise apply, provided that their refusal does not disturb the market in the shares.

- 13.7 If the Directors refuse to register a transfer of any shares, they must, within two months after the date on which the transfer was lodged with the Company or the instruction was received by the operator of the Relevant System (as the case may be), send to the transferor and the transferee notice of the refusal.
- 13.8 The registration of transfers of shares may be suspended at such times and for such periods as the Directors may, in their absolute discretion, from time to time determine, provided always that (i) such registration shall not be suspended for more than 30 days in any year, and (ii) the Directors may not suspend the registration of transfers of any participating security without the consent of the operator of the Relevant System.
- 13.9 All instruments of transfer which are registered shall be retained by the Company, but any instrument of transfer which the Directors decline to register shall (except in any case of fraud) be returned to the Person depositing the same.
- 13.10 Nothing in these Articles precludes the Directors from recognising a renunciation of the allotment of any share by the allottee in favour of some other Person.

#### **14. TRANSMISSION OF SHARES**

- 14.1 The legal personal representative of a deceased sole holder of a share shall be the only person recognised by the Company as having any title to the share. In the case of a share registered in the name of two or more holders, the survivors or survivor, or the legal personal representatives of the deceased survivor, shall be the only person recognised by the Company as having any title to the share.
- 14.2 Any Person becoming entitled to a share in consequence of the death or bankruptcy of a Member shall upon such evidence being produced as may from time to time be required by the Directors, have the right either to be registered as a Member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.
- 14.3 A Person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends or other distributions and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a Member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company and the Directors may at any time give notice requiring any such Person to elect either to be registered himself or to have some Person nominated by him become the holder of the share (but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the relevant Member before his death or bankruptcy or liquidation or dissolution or any other case than by transfer, as the case may be). If the notice is not complied with within 60 days, the Directors may thereafter withhold payment of all dividends, other distributions, bonuses or other monies payable in respect of the share until the requirements of the notice have been complied with.

#### **15. DISCLOSURE OF INTERESTS IN SHARES**

- 15.1 The provisions of Chapter 5 of the disclosure guidance and transparency rules made by the Financial Services Authority of the United Kingdom under Part VI of Financial Services and Markets Act 2000 of the United Kingdom (the "**DTR 5**") shall be deemed to apply to the Company, so that Members are required under the Articles to notify the Company of the percentage of their voting rights if the percentage of voting rights which they hold as a Member or through their direct or indirect holding of financial instruments falling within paragraph 5.1.2 R of DTR 5 (or a combination of such holdings) reaches, exceeds or falls below 3 per cent, 4 per cent, 5 per cent, 6 per cent, 7 per cent, 8 per cent, 9 per cent, 10 per cent, and each 1 per cent threshold thereafter up to 100% or reaches, exceeds or falls below any of these thresholds as a result of events changing the breakdown of voting rights.
- 15.2 The Directors shall have the power by notice to require any Member to disclose to the Company the identity of any Person other than the Members who has any interest in the shares held by the Member and the nature of such interest. If any Member has been duly served with a notice by the Directors of the Company and is in default for the prescribed period in supplying to the Company the information thereby required, then the Directors may serve a notice (a "**Disclosure Notice**") upon such Member. A Disclosure Notice may direct that the Member shall not be entitled to vote at a general meeting or meeting of the holders of any Class or exercise any other right conferred by membership in relation to the meetings of the Company or holders of any Class.
- 15.3 Where a Disclosure Notice is served by the Company on a Member, or another Person whom the Company knows or has reasonable cause to believe to be interested in shares held by that Member, and the Member or other Person has failed in relation to any shares (the "default shares", which expression includes any shares issued to such Member after the date of the Disclosure Notice in respect of those shares) to give the Company the information required within 28 days or 14 days where the default shares represent at least 0.25 per cent. in nominal value of the issued shares the relevant Class following the date of service of the Disclosure Notice, the Board may serve on the holder of such default shares a notice (a "disenfranchisement notice") whereupon the following sanctions apply, unless the Board otherwise decides:
- (a) the Member shall not be entitled in respect of the default shares to be present or to vote (either in person or by proxy) at a general meeting or at a separate meeting of the holders of a class of shares or on a poll or to exercise other rights conferred by membership in relation to the meeting or poll; and
  - (b) where the default shares represent at least 0.25 per cent. in nominal value of the issued shares of the relevant Class:
    - (i) a dividend (or any part of a dividend) or other amount payable in respect of the default shares shall be withheld by the Company, which has no obligation to pay interest on it; and
    - (ii) no transfer of any of the default shares shall be registered unless:
      - (A) the transfer is an excepted transfer; or
      - (B) the Member is not himself in default in supplying the information required and the Member proves to the satisfaction



of the Board that no person in default in supplying the information required is interested in any of the shares the subject of the transfer; or

- (C) registration of the transfer is required by any Relevant System, (and, for the purpose of ensuring this Article 15.3(b)(ii) can apply to all shares held by the holder, the Company may, in accordance with the regulations of any Relevant System, issue written notification to the operator of the Relevant System requiring the conversion into certificated form of any shares held by the holder in uncertificated form).

15.4 Directors may be required to exercise their powers under Article 15.2 on the requisition of Members holding at the date of the deposit of the requisition not less than 10 per cent. in nominal value of the total issued Ordinary Shares.

15.5 A requisition under Article 15.4 must:

- (a) state that the requisitionists are requiring the Company to exercise its powers under this Article;
- (b) specify the manner in which they require those powers to be exercised;
- (c) give reasonable grounds for requiring the Company to exercise those powers in the manner specified; and
- (d) be signed by the requisitionists and deposited at the registered office of the Company.

15.6 A requisition may consist of several documents in like form each signed by one or more requisitionists.

15.7 On the deposit of a requisition complying with Article 15.5, it is the Directors' duty to exercise their powers under Article 15.2 in the manner specified in the requisition.

15.8 The provisions of this Article 15 shall not apply to a Member that is a Member solely by reason of its role as Depository.

## 16. **REMOVAL OF SANCTIONS**

The sanctions under Articles 15.2 to 15.3 shall cease to apply seven days after the earlier of receipt by the Company of:

- (a) notice of registration of an excepted transfer, in relation to the default shares the subject of the excepted transfer; and
- (b) all information required by the Disclosure Notice, in a form satisfactory to the Board, in relation to any default shares.

## 17. **NOTICE TO PERSON OTHER THAN A MEMBER**

Where, on the basis of information obtained from a Member in respect of a share held

by him, the Company issues a Disclosure Notice to another Person, it shall at the same time send a copy of the Disclosure Notice to the Member, but the accidental omission to do so, or the non-receipt by the Member of the copy, does not invalidate or otherwise affect the application of Articles 15.2 to 15.3.

## 18. **INTEREST IN SHARES, FAILURE TO GIVE INFORMATION AND EXCEPTED TRANSFERS**

For the purpose of Articles 15 and 16:

- (a) **"interest"** shall mean any interest as well as any right to subscribe or receive shares in the Company which if vested would create an interest;
- (b) reference to a Person having failed to give the Company the information required by a Disclosure Notice, or being in default in supplying such information, includes:
  - (i) reference to his having failed or refused to give all or any part of it; and
  - (ii) reference to his having given information which he knows to be false in a material particular or having recklessly given information which is false in a material particular; and
- (c) **"excepted transfer"** means, in relation to shares held by a Member:
  - (i) a transfer pursuant to acceptance of a takeover offer for all of the issued shares of the Company; or
  - (ii) a transfer in consequence of a sale made through a Recognised Investment Exchange in the United Kingdom or any other stock exchange outside the United Kingdom on which shares in the capital of the Company are normally traded; or
  - (iii) a transfer which is shown to the satisfaction of the Board to be made in consequence of a bona fide sale of the whole of the interest in the shares to a Person who is unconnected with the Member and with any other Person appearing to be interested in the shares.
- (d) Articles 15, 16 and 17 are in addition to and without prejudice to the Law.

## 19. **ALTERATION OF CAPITAL**

19.1 The Company may from time to time by Ordinary Resolution increase the share capital by such sum, to be divided into shares of such Classes and amount, as the resolution shall prescribe.

19.2 The Company may by Ordinary Resolution:

- (a) increase its share capital by such sum as the Ordinary Resolution shall provide and with such rights, priorities and privileges annexed thereto as the Company in general meeting may determine;

- (b) consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares;
- (c) convert all or any of its paid up shares into stock and reconvert that stock into paid up shares of any denomination;
- (d) subdivide its existing shares, or any of them into shares of a smaller amount provided that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in case of the share from which the reduced share is derived;
- (e) cancel any shares which, at the date of the passing of the Ordinary Resolution, have not been taken or agreed to be taken by any Person and diminish the amount of its share capital by the amount of the shares so cancelled.

19.3 Subject to the provisions of the Law and the provisions of these Articles as regards matters to be dealt with by Ordinary Resolution, the Company may by Special Resolution:

- (a) change its name;
- (b) alter or add to these Articles;
- (c) alter or add to the Memorandum of Association with respect to any objects, powers or other matters specified in such document; or
- (d) reduce its share capital and any capital redemption reserve.

## 20. **REDEMPTION AND PURCHASE OF OWN SHARES**

20.1 Subject to the provisions of the Law and the Memorandum of Association, the Company may:

- (a) issue shares on terms that they are to be redeemed or are liable to be redeemed at the option of the Company or the Member on such terms and in such manner as the Company may, before the issue of such shares, by Special Resolution determine;
- (b) purchase its own shares (including any redeemable shares) provided that the manner of purchase has first been authorised by the Company in general meeting and may make payment therefor in any manner authorised by the Law, including out of capital.

20.2 Any share in respect of which notice of redemption or purchase has been given shall not be entitled to participate in the profits of the Company in respect of the period after the date specified as the date of redemption or purchase in the notice.

20.3 The redemption or purchase of any share shall not be deemed to give rise to the redemption or purchase of any other share.

20.4 The Directors may when making payments in respect of redemption or purchase of shares, if authorised by the terms of issue of the shares being redeemed or purchased or

with the agreement of the holder of such shares, make such payment either in cash or in specie.

- 20.5 Once a share has been redeemed or repurchased, the Member shall cease to be entitled to any rights in respect of it (except the right to receive redemption or repurchase proceeds and any dividend which has been declared but not paid prior to the relevant date of redemption or repurchase).

## 21. **COMPULSORY TRANSFER**

Where, in the opinion of the Directors, shares are being held, directly or indirectly, by any Member (a "**Non-Qualifying Person**"): (i) whose ownership of shares may cause the Company's assets to be deemed "plan assets" for the purposes of ERISA or Section 4975 of the Code, or (ii) whose ownership of shares may cause the Company to be required to register as an "investment company" under the US Investment Company Act of 1940 (as amended) (including because the holder of the shares is not a "qualified purchaser" as defined in the US Investment Company Act), or (iii) whose ownership of shares may cause the Company to be a "controlled foreign corporation" for the purposes of the US Internal Revenue Code, or may cause the Company to suffer any pecuniary disadvantage (including any excise tax, penalties or liabilities under ERISA or the Code) or (iv) whose ownership of shares may cause the Company to be required to comply with any registration or filing requirements in any jurisdiction with which the Company would not otherwise be required to comply, the Company may at its option direct the Non-Qualifying Person (or if more than one, the Member or Members whose act of coming to hold shares or more shares caused this part (iv) to be activated) to transfer his shares to a Person who is qualified to hold them and would not by reason of a transfer become a Non-Qualifying Person. In addition to the foregoing, the Directors may at any time and for any reason determine that any Member that is a "benefit plan investor" (as defined in Section 3(42) of ERISA) will be treated as a Non-Qualifying Person, and may direct such Non-Qualifying Person to transfer his shares to a non-benefit plan investor that is qualified to hold such shares and would not be reason of such transfer become a Non-Qualifying Person. Notwithstanding any provisions to the contrary in these Articles or on any resolution of the Directors altering the rights of any shares, until such transfer is effected, the holder of such shares will not be entitled to any rights or privileges attaching to such shares. If the required transfer is not effected within 20 days after service of a notice to do so and the said Member directed to transfer his shares has not established to the reasonable satisfaction of the Board of Directors (whose judgement shall be final and binding) that he is not a Non-Qualifying Person, the Company may instruct the Depository to deliver (in accordance with Regulation 32(2)(c) of the Regulations a written notification to the operator of the Relevant System requiring conversion of the relevant shares into certificated form to enable the Company and the Depository to deal with such shares in accordance with these Articles. At any time following the recertification of the relevant shares having taken place, any or all of such shares may be sold by the Company on behalf of the said Member. The said Member shall be entitled to receive the sale proceeds in respect of his shares so sold and such sale proceeds to be paid to such Member in the manner described and subject as provided in these Articles. The consent of such Member for the recertification or sale of his shares by the Company is not required. To give effect to any such sale the Board of Directors may authorise any Person to transfer the shares to be sold.

## 22. **TAKEOVER PROVISIONS**

- 22.1 The provisions of this Article 22 shall apply to the Company unless the Takeover Panel has advised the Company (or a financial adviser to the Company) that the Company is subject to the Takeover Code.
- 22.2 Subject to Articles 22.11 to 22.13, except with the consent of an Ordinary Resolution of Independent Shareholders on a poll or the consent of the Board, when:
- (a) any Member (or person acting in concert with such Member) acquires whether in a single transaction or by a series of transactions over a period of time, an interest in shares which (taken together with shares in which such Member or persons acting in concert with such Member are interested) carry 30% of more of the voting rights of the Company; or
  - (b) any Member, together with persons acting in concert with such Member, is interested in shares which in the aggregate carry not less than 30% of the voting rights of the Company but does not hold shares carrying more than 50% of such voting rights and such Member, or any person acting in concert with such Member, acquires an interest in any other shares which increases the percentage of shares carrying voting rights in which he is interested,

such Member (the "**Offeror**") shall extend an offer, on the basis set out in Articles 22.3 to 22.6, to the holders of all the issued (and to be issued) shares in the Company. An offer will not be required under this Article 22.2 where control of the Company is acquired as a result of a voluntary offer made materially in accordance with the provisions of the Takeover Code (as if the Takeover Code applied to the Company) to all holders of shares in the Company.

- 22.3 An offer made pursuant to Article 22.2 must be conditional only upon the Offeror having received acceptances in respect of shares which, together with shares acquired or agreed to be acquired before or during the offer, will result in the Offeror and any person acting in concert with it holding shares carrying more than 50% of the voting rights of the Company.
- 22.4 An offer made pursuant to Article 22.2 must be in cash or be accompanied by a full cash alternative at not less than the highest price paid by the Offeror or any person acting in concert with it for any interest in shares during the 12 months prior to the date upon which the obligation to make an offer under Article 22.2 arose. If, after the obligation to make an offer pursuant to Article 22.2 arises and before the offer closes for acceptance, the Offeror or any person acting in concert with it acquires any interest in shares at a price above the offer price, it shall increase its offer to not less than the highest price paid for the interest in shares so acquired. The cash offer or cash alternative must remain open after the offer has become or been declared unconditional as to acceptances for not less than 14 days after the date on which it would otherwise have expired.
- 22.5 When an offer is made pursuant to Article 22.2 and the Company has convertible securities outstanding, the Offeror must make an appropriate offer or proposal, on terms

equivalent to the offer made for the shares, to the holders of such convertible securities to ensure that their interests are safeguarded.

- 22.6 Any offer required to be made pursuant to Article 22.2 shall be made on terms that would be required by the Takeover Code, save to the extent that the Board otherwise determines. In relation to any offer required to be made pursuant to Article 22.2, any matter which under the Takeover Code would fall to be determined by the Takeover Panel shall be determined by the Board in its absolute discretion, having taken into account the views of the Company's broker and other professional advisors from time to time, or by such person appointed by the Board to make such determination, save in relation to any matter concerning a determination of parties acting in concert which shall be determined by an appropriate independent third party appointed by the Board (who will be a current or former senior lawyer, corporate broker or investment banker with experience of the Takeover Code).
- 22.7 No acquisition of any interest in shares which would give rise to a requirement for an offer pursuant to Article 22.2 may be made (and the Directors shall be entitled to refuse to register any transfer of shares effecting such acquisition) if the making or implementation of such offer would or might be dependent on the passing of a resolution at any meeting of shareholders of the Offeror or upon any other conditions, consents or arrangements.
- 22.8 Where an offer is required pursuant to Article 22.2, no nominee of an Offeror or persons acting in concert with it may exercise the votes attaching to any shares until the relevant offer document has been posted.
- 22.9 Except with the consent of an Ordinary Resolution of the Independent Shareholders on a poll or the consent of the Board, Members shall comply with the requirements of the Takeover Code (as if the Takeover Code applied to the Company), other than those requirements set out in Rule 8 of the Takeover Code, in relation to any dealing in any shares and in relation to their dealings with the Company in relation to all matters. Any matter which under the Takeover Code would fall to be determined by the Takeover Panel shall be determined by the Board in its absolute discretion, having taken into account the views of the Company's broker and other professional advisors from time to time, or by such person appointed by the Board to make such determination, save in relation to any matter concerning a determination of parties acting in concert which shall be determined by an appropriate independent third party appointed by the Board (who will be a current or former senior lawyer, corporate broker or investment banker with experience of the Takeover Code). Any notice which under the Takeover Code is required to be given to the Takeover Panel shall be given to the Company at its UK establishment address.
- 22.10 If at any time any Member has incurred any obligation under Article 22.2 to extend any offer to the holders of all the issued shares (and any convertible securities of the Company), and shall have failed to so do, or that Member is in material default of any other obligation imposed upon the Members pursuant to this Article 22, then the Board may by notice (a "**Direction Notice**") to such Member and any other Member acting

in concert with such Member (together the "**Defaulters**") direct that such Defaulter(s) do all or some of the following:

- (a) in respect of some or all of the Excess Shares held by the Defaulter for a definite or indefinite period, the Defaulter shall not be entitled to vote at a general meeting either personally or by proxy or to exercise any other right conferred by membership in relation to meetings of the Company; and/or
- (b) the Defaulter divest of some or all of the Excess Shares such that the Defaulter's interest in voting rights of the Company is reduced to the Defaulter's interest in shares prior to its obligation to make an offer under Article 22.2 arising.

22.11 The Company shall be entitled, without the requirement to obtain the consent of any Member, to make all such announcements as would be required or permitted under the Takeover Code (if the Takeover Code applied to the Company), notwithstanding that such announcements may make reference to, or contain information about, Members or persons acting in concert with Members.

22.12 Where shares or other securities of the Company are charged as security for a loan and, as a result of enforcement of such security, the lender incurs an obligation to make an offer under Article 22.2, no such offer will be required if sufficient interests in shares are disposed of within 14 days to persons unconnected with the lender, so that the percentage of shares carrying voting rights in which the lender, together with persons acting in concert with it, is interested is reduced to below 30% in a manner satisfactory to the Board (in the Board's absolute discretion). In any case where arrangements are to be made involving a transfer of voting rights to the lender, but which do not amount to enforcement of security, no offer under Article 22.2 will be required if the lender satisfies the Board (in the Board's absolute discretion) that such arrangements are necessary to preserve the lender's security and that the security was not given at a time when the lender had reason to believe that enforcement was likely. A receiver, liquidator or administrator of a company, or any other insolvency or bankruptcy official, is not required to make an offer under Article 22.2 when he acquires an interest in shares carrying 30% or more of the voting rights in the Company in his capacity as such, but Article 22.2 shall for the avoidance of doubt apply to the purchaser from such a person.

22.13 Where in the opinion of the Board the Company is in such a serious financial position that the only way it can avoid insolvency is by an urgent rescue fundraising which involves the issue of new shares to, or the acquisition of existing shares by, a new or existing Member, without approval by an Ordinary Resolution of Independent Shareholders, and which would otherwise require such Member(s) to make an offer pursuant to Article 22.2, the Board may waive the requirements of Article 22.2 in such circumstances provided either:

- (a) approval for the rescue fundraising by an Ordinary Resolution of Independent Shareholders on a poll is obtained as soon as possible after the rescue fundraising is carried out; or
- (b) some other protection for Independent Shareholders is provided which the Board considers satisfactory in the circumstances.

22.14 If, due to a bona fide inadvertent mistake, a person incurs an obligation to make an offer under Article 22.2, the Board may waive the requirement to make such an offer if the Excess Shares are disposed of within a limited period (being a maximum of 14 days) to persons unconnected with such person, so that the percentage of such shares carrying voting rights in which the person, together with persons acting in concert with him, is interested is reduced to that person's interest in shares prior to the obligation to make an offer under Article 22.2 arising in a manner satisfactory to the Board.

22.15 In construing this Article 22:

- (a) the words "**acting in concert**", "**control**", "**interests**" in securities, "**offer period**", "**voting rights**" and any other words and expressions used in or defined in the Takeover Code shall bear the same meanings given by the Takeover Code;
- (b) "**Independent Shareholders**" means the Members of the Company other than any person who is (or may be) obliged to make an offer pursuant to Article 22.2 and persons acting in concert with him;
- (c) for the avoidance of doubt, a reference to a "**Member**" shall include a person who becomes (or upon entry in the Register of Members would become) a Member as a result of any acquisition of an interest in shares to which this Article 22 relates; and
- (d) any decision to be made, or discretion to be exercised, by the Board shall be made or exercised by the Board excluding any Director who is (or may be) obliged to make an offer pursuant to Article 22.2 or who is acting in concert with any person who is (or may be) obliged to make such an offer.

## 23. **CLOSING REGISTER OF MEMBERS OR FIXING RECORD DATE**

23.1 For the purpose of determining those Members that are entitled to receive notice of, attend or vote at any meeting of Members or any adjournment thereof, or those Members that are entitled to receive payment of any dividend or other distribution, or in order to make a determination as to who is a Member for any other purpose, the Directors may provide that the Register of Members shall be closed for transfers for a stated period which shall not exceed in any case 30 days provided that the Directors shall have notified any Member acting as Depository in writing at least 60 days (or such other time as may be agreed with the Depository) prior to the date of the announcement of such closure. If the Register of Members shall be so closed for the purpose of determining those Members that are entitled to receive notice of, attend or vote at a meeting of Members the register shall be so closed for at least 10 days immediately preceding such meeting and the record date for such determination shall be the date of the closure of the Register of Members.

23.2 In lieu of or apart from closing the Register of Members, the Directors may fix in advance a date as the record date for any such determination of those Members that are entitled to receive notice of, attend or vote at a meeting of the Members and for the purpose of determining those Members that are entitled to receive payment of any dividend or other distribution the Directors may, at or within 90 days prior to the date of declaration of such dividend, fix a subsequent date as the record date for such



determination.

- 23.3 If the Register of Members is not so closed and no record date is fixed for the determination of those Members entitled to receive notice of, attend or vote at a meeting of Members or those Members that are entitled to receive payment of a dividend or other distribution, the date on which notice of the meeting is posted or the date on which the resolution of the Directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of those Members that are entitled to receive notice of, attend or vote at a meeting of Members has been made as provided in this Article 22, such determination shall apply to any adjournment thereof.

## 24. **GENERAL MEETINGS**

- 24.1 The Company shall, within 18 months of the date of incorporation of the Company and in each year of its existence thereafter, hold a general meeting as its annual general meeting in addition to any other meetings in that year and shall specify the meeting as such in the notices calling it. Not more than 15 months shall elapse between the date of one annual general meeting of the Company and the date of the next such meeting. The annual general meeting shall be held at such time and place as the Directors shall appoint. At these meetings, the report of the Directors (if any) shall be presented.
- 24.2 The Directors may whenever they think fit, and they shall on the requisition of Members of the Company holding at the date of deposit of the requisition not less than one-tenth of such of the paid-up capital of the Company as at the date of the deposit carries the unconditional right of voting at general meetings of the Company, proceed to convene a general meeting of the Company.
- 24.3 The requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the registered office of the Company and may consist of several documents in like form each signed by one or more requisitionists.
- 24.4 If the Directors do not within 21 days from the date of the deposit of the requisition duly proceed to convene a general meeting, the requisitionists, or any of them representing more than one-half of the total voting rights of all of them, may themselves convene a general meeting, but any meeting so convened shall not be held after the expiration of three months after the expiration of the said 21 days.
- 24.5 A general meeting convened as aforesaid by requisitionists shall be convened in the same manner as nearly as possible as that in which general meetings are convened by Directors.

## 25. **NOTICE OF GENERAL MEETINGS**

- 25.1 At least 14 days' notice shall be given of any general meeting. Every notice shall be exclusive of the day on which it is given or deemed to be given and of the day for which it is given and shall specify the place, the day and the hour of the meeting and the general nature of the business and shall be given in manner hereinafter mentioned or in such other manner if any as may be prescribed by the Company, provided that a general meeting of the Company shall, whether or not the notice specified in this regulation has been given and whether or not these Articles regarding general meetings have been

complied with, be deemed to have been duly convened if it is so agreed:

- (a) in the case of an annual general meeting, by all the Members (or their proxies) entitled to attend and vote thereat; and
- (b) in the case of any other general meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than 75% in par value of the shares giving that right, or their proxies.

25.2 The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by any Member shall not invalidate the proceedings at any meeting.

## 26. PROCEEDINGS AT GENERAL MEETINGS

26.1 All business carried out at a general meeting shall be deemed special with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets, and any report of the Directors or of the Company's auditors, the appointment and removal of Directors and the fixing of the remuneration of the Company's auditors. No special business shall be transacted at any general meeting without the consent of all Members entitled to receive notice of that meeting unless notice of such special business has been given in the notice convening that meeting.

26.2 No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Save as otherwise provided by these Articles, two Members entitled to vote at the meeting, whether present in person or by proxy, shall be a quorum unless the Company has only one Member entitled to vote at such general meeting in which case the quorum shall be that one Member present in person or by proxy.

26.3 If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day, time or such other place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the Member or Members present and entitled to vote shall be a quorum.

26.4 A Member may participate in any general meeting of the Company, by means of a telephone or similar communication equipment by way of which all persons participating in such meeting can hear each other and such participation shall be deemed to constitute presence in person at the meeting.

26.5 The chairman, if any, of the Board of Directors shall preside as chairman at every general meeting of the Company.

26.6 If there is no such chairman, or if at any general meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the Directors present may choose one of their number to be chairman of that meeting failing which the Members present shall choose one of their number to be chairman.

- 26.7 The chairman may, with the consent of any general meeting at which a quorum is present by Members present in person or by proxy (and shall if so directed by the meeting) adjourn a meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 26.8 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by one or more Members collectively present in person or by proxy representing not less than one-tenth of the total sum paid up on all shares conferring that right, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.
- 26.9 If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 26.10 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.
- 26.11 A poll demanded on the election of a chairman of the meeting or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

## 27. **VOTES OF MEMBERS**

- 27.1 Subject to any rights and restrictions for the time being attached to any Class, on a show of hands every Member present in person and every Person representing a Member by proxy shall at a general meeting of the Company have one vote and on a poll every Member and every Person representing a Member by proxy shall have one vote for each share of which he or the person represented by proxy is the holder.
- 27.2 In the case of joint holders the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the joint holders and for this purpose seniority shall be determined by the order in which the names stand in the Register of Members.
- 27.3 A Member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, or other person in the nature of a committee appointed by that court, and any such committee or other person may vote by proxy.
- 27.4 No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares carrying the right to vote held by

him have been paid.

- 27.5 On a poll votes may be given either personally or by proxy.
- 27.6 The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised. A proxy need not be a Member.
- 27.7 An instrument appointing a proxy may be in any usual or common form or such other form as the Directors may approve.
- 27.8 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 27.9 A resolution (including a Special Resolution) in writing (in one or more counterparts) signed by all the Members for the time being entitled to receive notice of and to attend and vote at general meetings (or being corporations by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held.

## 28. **CORPORATIONS ACTING BY REPRESENTATIVES AT MEETINGS**

Any corporation which is a Member or a Director may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members or of the Board of Directors or of a committee of Directors, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member or Director.

## 29. **DIRECTORS**

- 29.1 The Company may by Ordinary Resolution from time to time fix the maximum and minimum number of Directors to be appointed but unless such number is fixed as aforesaid the number of Directors shall be unlimited.
- 29.2 The remuneration of the Directors may be determined by the Board of Directors (or by a committee of Directors) or by the Company by Ordinary Resolution.
- 29.3 There shall be no shareholding qualification for Directors unless determined otherwise by the Company by Ordinary Resolution.
- 29.4 **At each annual general meeting, one-third of the Directors for the time being, (or, if their number is not a multiple of three, the number nearest one-third) shall retire from office. The Directors to retire by rotation shall include (so far as necessary to obtain the number required) any Director who wishes to retire and not offer himself for re-election. Any further Directors to so retire shall be those of the other Directors subject to retirement by rotation who have been longest in office since their last re-election or appointment and so that as among persons who became or were last re-elected Directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by lot.**

- 29.5 **Article 29.4 shall not apply to any Director exempted from the requirements either generally or for a specified period of time established by these Articles or by Ordinary Resolution of the Company.**
- 29.6 **A retiring Director shall be eligible for re-election.**
- 29.7 **The Company at the meeting at which a Director retires in manner aforesaid may fill the vacated office by electing a person thereto, and in default the retiring Director shall if offering himself for re-election be deemed to have been re-elected except in any of the following cases:**
- (a) at such meeting it is expressly resolved not to fill such vacated office or a resolution for the re-election of such Director is put to the meeting and lost; or
  - (b) such Director has given notice in writing to the Company that he is unwilling to be re-elected.
- 29.8 No person other than a Director retiring at the meeting shall, unless recommended by the Board of Directors, be eligible for election to the office of Director at any general meeting unless not less than seven nor more than 21 days before the date appointed for the meeting there shall have been left at the registered office of the Company notice in writing signed by a Member duly qualified to attend and vote at the meeting for which such notice is given of his intention to propose such person for election, and also notice in writing signed by that person of his willingness to be elected.
- 29.9 The Board of Directors shall have power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors.
- 29.10 Any Director appointed to fill a casual vacancy or as an addition to the existing Directors shall hold office only until the conclusion of the next following annual general meeting and shall then be eligible for re-election.
- 29.11 The Company may by Ordinary Resolution remove any Director before the expiration of his period of office notwithstanding anything in these Articles or in any agreement between the Company and such Director. Such removal shall be without prejudice to any claim which such Director may have for damages for breach of any contract of service between him and the Company.
- 29.12 The Company may by Ordinary Resolution appoint another person in place of a Director removed from office under Article 29.11 and without prejudice to the powers of the Directors under Article 29.10 the Company in general meeting may appoint any person to be a Director either to fill a casual vacancy or as an additional Director. A person appointed in place of a Director so removed or to fill such a vacancy shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director.
30. **ALTERNATE DIRECTORS**
- 30.1 Any Director may in writing appoint another person to be his alternate to act in his place at any meeting of the Directors at which he is unable to be present. Every such alternate

shall be entitled to notice of meetings of the Directors and to attend and vote thereat as a Director when the person appointing him is not personally present and where he is a Director to have a separate vote on behalf of the Director he is representing in addition to his own vote. A Director may at any time in writing revoke the appointment of an alternate appointed by him. Such alternate shall not be an officer of the Company and shall be deemed to be the agent of the Director appointing him. The remuneration of such alternate shall be payable out of the remuneration of the Director appointing him and the proportion thereof shall be agreed between them.

- 30.2 Any Director may appoint any person, whether or not a Director, to be the proxy of that Director to attend and vote on his behalf, in accordance with instructions given by that Director, or in the absence of such instructions at the discretion of the proxy, at a meeting or meetings of the Directors which that Director is unable to attend personally. The instrument appointing the proxy shall be in writing under the hand of the appointing Director and shall be in any usual or common form or such other form as the Directors may approve, and must be lodged with the chairman of the meeting of the Directors at which such proxy is to be used, or first used, prior to the commencement of the meeting.

### **31. POWERS AND DUTIES OF DIRECTORS**

- 31.1 Subject to the provisions of the Law, these Articles and to any resolutions made in a general meeting, the business of the Company shall be managed by the Directors in such manner as they may think fit and who may pay all expenses incurred in setting up and registering the Company and may exercise all powers of the Company. No resolution made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if that resolution had not been made.
- 31.2 The Directors may appoint a Secretary (and if need be an Assistant Secretary or Assistant Secretaries) who shall hold office for such term, at such remuneration and upon such conditions and with such powers as they think fit. Any Secretary or Assistant Secretary so appointed by the Directors may be removed by the Directors.
- 31.3 The Directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.
- 31.4 The Directors may from time to time and at any time by power of attorney appoint any Person, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretion (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit, and any such power of attorney may contain such provisions for the protection and convenience of Persons dealing with any such attorney as the Directors may think fit, and may also authorise any such attorney to delegate all or any of the powers, authorities and discretion vested in him.
- 31.5 The Directors may act as the Board of Directors at any time notwithstanding any vacancy but if and so long as their number is reduced to less than the minimum number prescribed by or in accordance with these Articles, it shall be lawful for them to act as the Board of Directors for the purpose of filling any vacancies in their body or of

summoning a general meeting of the Company, but not for any other purposes.

## 32. **BORROWING POWERS OF DIRECTORS**

The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital or any part thereof, to issue debentures, debenture stock, mortgages, bonds and other securities whenever money is borrowed or as security for any debt, liability or obligation of the Company or of any third party.

## 33. **THE SEAL**

33.1 The Seal shall not be affixed to any instrument except by the authority of a resolution of the Board of Directors provided always that such authority may be given prior to or after the affixing of the Seal and if given after may be in general form confirming a number of affixings of the Seal. The Seal shall be affixed in the presence of a Director or a Secretary (or an Assistant Secretary) or in the presence of any one or more persons as the Directors may appoint for the purpose and every person as aforesaid shall sign every instrument to which the Seal is so affixed in their presence.

33.2 **The Company may maintain a facsimile of the Seal in such countries or places as the Directors may appoint and such facsimile Seal shall not be affixed to any instrument except by the authority of a resolution of the Board of Directors provided always that such authority may be given prior to or after the affixing of such facsimile Seal and if given after may be in general form confirming a number of affixings of such facsimile Seal. The facsimile Seal shall be affixed in the presence of such person or persons as the Directors shall for this purpose appoint and such person or persons as aforesaid shall sign every instrument to which the facsimile Seal is so affixed in their presence and such affixing of the facsimile Seal and signing as aforesaid shall have the same meaning and effect as if the Seal had been affixed in the presence of and the instrument signed by a Director or a Secretary (or an Assistant Secretary) or in the presence of any one or more persons as the Directors may appoint for the purpose.**

33.3 Notwithstanding the foregoing, a Secretary or any Assistant Secretary shall have the authority to affix the Seal, or the facsimile Seal, to any instrument for the purposes of attesting authenticity of the matter contained therein but which does not create any obligation binding on the Company.

## 34. **DISQUALIFICATION OF DIRECTORS**

Subject as otherwise provided in these Articles, the office of a Director shall be vacated:

- (a) if a receiving order is made against him or he makes any arrangement or composition with his creditors generally;
- (b) if he absents himself from the meetings of the Board of Directors during a continuous period of 12 months without special leave of absence from the Board of Directors, and the Board of Directors passes a resolution that he has by reason of such absence vacated his office;

- (c) if he is prohibited from being a Director by any order made under any provision of the laws of the Cayman Islands;
- (d) if in the Cayman Islands or elsewhere an order shall be made by any court claiming jurisdiction in that behalf on the ground (however formulated) of mental disorder for his detention or for the appointment of a guardian or for the appointment of a receiver or other person (by whatever name called) to exercise powers with respect to his property or affairs;
- (e) if by notice in writing given to the Company he resigns his office or if he is requested so to resign by all of the other Directors; or
- (f) if he is removed from office pursuant to Article 29.11.

but any act done in good faith by a Director whose office is vacated as aforesaid shall be valid unless, prior to the doing of such act, written notice shall have been served upon the Company or an entry shall have been made in the minute book of the Company stating that such Director has ceased to be a Director.

## **35. PROCEEDINGS OF DIRECTORS**

- 35.1 The Directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings and proceedings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A Director may, and a Secretary or Assistant Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
- 35.2 A Director or Directors may participate in any meeting of the Board of Directors, or of any committee appointed by the Board of Directors of which such Director or Directors are members, by means of conference telephone or similar communications equipment by way of which all persons participating in such meeting can hear each other and such participation shall be deemed to constitute presence in person at the meeting. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no group, where the chairman of the meeting is present.
- 35.3 The quorum necessary for the transaction of the business of the Directors shall be two (or one if there is only one Director). A Director represented by proxy or by an Alternate Director at any meeting shall be deemed to be present for the purposes of determining whether or not a quorum is present.
- 35.4 A Director who is present at a meeting of the Board of Directors at which action on any Company matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent from such action with the person acting as the chairman or secretary of the meeting before the adjournment thereof or shall forward such dissent by registered post to such person immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favour of such action.
- 35.5 A Director or alternate director of the Company may be or become a director or other officer of or otherwise interested in any company promoted by the Company or in which



the Company may be interested as shareholder or otherwise, and no such Director or alternate Director shall be accountable to the Company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company.

- 35.6 A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company shall declare the nature of his interest at a meeting of the Directors. A general notice given to the Board of Directors by any Director to the effect that he is a member of any specified company or firm and is to be regarded as interested in any contract which may thereafter be made with that company or firm shall be deemed a sufficient declaration of interest in regard to any contract so made. Subject to such a declaration, a Director may vote at a meeting in respect of any contract, proposed contract or arrangement in which he has an interest and if he does so, his vote may be counted and he may be taken into account in ascertaining whether a quorum is present.
- 35.7 A Director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with his office of Director for such period and on such terms (as to remuneration and otherwise) as the Directors may determine and no Director or intending Director shall be disqualified by his office from contracting with the Company either with regard to his tenure of any such other office or place of profit or as vendor, purchaser or otherwise, nor shall any such contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested, be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relation thereby established.
- 35.8 Any Director may act by himself or his firm in a professional capacity for the Company, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director or alternate Director; provided that nothing herein contained shall authorise a Director or his firm to act as auditor to the Company.
- 35.9 The Directors shall cause minutes to be made in books or loose-leaf folders provided for the purpose of recording:
- (a) all appointments of officers made by the Directors;
  - (b) the names of the Directors present at each meeting of the Directors and of any committee of the Directors;
  - (c) all resolutions and proceedings at all meetings of the Company, and of the Directors and of committees of Directors.
- 35.10 When the chairman of a meeting of the Directors signs the minutes of such meeting those minutes shall be deemed to have been duly held notwithstanding that all the Directors have not actually come together or that there may have been a technical defect in the proceedings.
- 35.11 A resolution in writing (in one or more counterparts) signed by all the Directors or all the members of a committee of Directors shall be as valid and effectual as if it had been

passed at a meeting of the Directors or committee of Directors (as the case may be) duly called and constituted. When signed a resolution may consist of several documents each signed by one or more of the Directors.

- 35.12 The continuing Directors may act notwithstanding any vacancy in their body but if and so long as their number is reduced below the number fixed by or pursuant to these Articles as the necessary quorum of Directors, the continuing Directors may act for the purpose of increasing the number, or of summoning a general meeting of the Company, but for no other purpose.
- 35.13 The Directors may elect a chairman of their meetings and determine the period for which he is to hold office but if no such chairman is elected, or if at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the meeting, the Directors present may choose one of their number to be chairman of the meeting.
- 35.14 A committee appointed by the Directors may elect a chairman of its meetings. If no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairman of the meeting.
- 35.15 A committee appointed by the Directors may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the committee members present and in case of an equality of votes the chairman shall have a second or casting vote.
- 35.16 All acts done by any meeting of the Directors or of a committee of Directors, or by any person acting as a Director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

## 36. **DIVIDENDS**

- 36.1 Subject to the Law and this Article, the Directors may declare dividends and distributions on shares in issue and authorize payment of the dividends (including interim dividends) or distributions out of the funds of the Company lawfully available therefore. No dividend or distribution shall be paid except out of the realized or unrealized profits of the Company, or as otherwise permitted by the Law. There are no fixed dates on which the entitlement to dividends arises. All dividend payments shall be non-cumulative.
- 36.2 Except as otherwise provided by the rights attached to shares with special rights as to dividends or distributions, if dividends or distributions are to be declared on a Class they shall be declared and paid according to the amounts paid or credited as paid on the shares of such Class outstanding on the record date for such dividend or distribution as determined in accordance with these Articles but no amount paid or credited as paid on a share in advance of calls shall be treated for the purpose of these Articles as paid on the share.
- 36.3 The Directors may deduct from any dividend or other distribution payable to any

Member all sums of money (if any) then payable by him to the Company on account of calls or otherwise.

- 36.4 The Directors may declare that any dividend or distribution be paid wholly or partly by the distribution of specific assets and in particular (but without limitation) by the distribution of shares, debentures, or securities of any other company or in any one or more of such ways and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and may fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Members upon the basis of the value so fixed in order to adjust the rights of all Members and may vest any such specific assets in trustees in such manner as may seem expedient to the Directors.
- 36.5 Any dividend, other distribution, interest or other monies payable in cash in respect of shares may be paid by wire transfer to the holder or by cheque or warrant sent through by post directed to the registered address of the holder or, in the case of joint holders, to the registered address of the holder who is first named on the Register of Members or to such person and to such address as such holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, other distributions, bonuses, or other monies payable in respect of the share held by them as joint holders.
- 36.6 No dividend or other distribution shall bear interest against the Company.
- 36.7 The Directors may, before recommending or declaring any dividends or other distributions, set aside out of the funds legally available for distribution such sums as they think proper as a reserve or reserves which shall, in the absolute discretion of the Directors be applicable for meeting contingencies, or for equalising dividends or for any other purpose to which those funds may be properly applied and pending such application may in the absolute discretion of the Directors, either be employed in the business of the Company or be invested in such investments (other than shares) as the Directors may from time to time think fit.
- 36.8 Any dividend or other distribution which cannot be paid to a Member and/or which remains unclaimed after six months from the date of declaration of such dividend or other distribution may, in the discretion of the Directors, be paid into a separate account in the Company's name, provided that the Company shall not be constituted as a trustee in respect of that account and the dividend or other distribution shall remain as a debt due to the Member. Any dividend or other distribution which remains unclaimed after a period of six years from the date of declaration of such dividend or other distribution shall be forfeited and shall, if shares of the relevant Class remain in issue (other than shares in respect of which dividends or other distributions cannot be paid and/or remain unclaimed) revert to the Company for the benefit of all holders of shares of the relevant Class or otherwise revert to the Company for the benefit of all Members on the date that such dividend is forfeited.

## 37. **ACCOUNTS AND AUDIT**

- 37.1 The books of account relating to the Company's affairs shall be kept in such manner as may be determined from time to time by the Directors.

- 37.2 The books of account shall be kept at the registered office of the Company, or at such other place or places as the Directors think fit, and shall always be open to the inspection of the Directors.
- 37.3 The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors, and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by law or authorised by the Directors or by the Company by Ordinary Resolution.
- 37.4 The accounts relating to the Company's affairs shall only be audited if the Directors so determine, in which case the financial year end and the accounting principles will be determined by the Directors.
- 37.5 A printed or electronic copy of the audited annual financial statements of the Company shall be made available to Members, if so determined by the Directors in their discretion.
- 37.6 The Directors in each year shall prepare, or cause to be prepared, an annual return and declaration setting forth the particulars required by the Law and deliver a copy thereof to the Registrar of Companies.

## 38. CAPITALISATION OF PROFITS

- 38.1 Subject to the Law, the Directors may:
- (a) resolve to capitalise an amount standing to the credit of reserves (including a share premium account and profit and loss account), or otherwise available for distribution;
  - (b) appropriate the sum resolved to be capitalised to the Members in proportion to the nominal amount of shares (whether or not fully paid) held by them respectively and apply that sum on their behalf in or towards:
    - (i) paying up the amounts (if any) for the time being unpaid on shares held by them respectively; or
    - (ii) paying up in full unissued shares or debentures of a nominal amount equal to that sum,and allot the shares or debentures, credited as fully paid, to the Members (or as such Members may direct) in those proportions, or partly in one way and partly in the other, but the share premium account, the capital redemption reserve and profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued shares to be allotted to Members credited as fully paid;
  - (c) make any arrangements they think fit to resolve a difficulty arising in the distribution of a capitalised reserve and in particular, without limitation, where shares or debentures become distributable in fractions the Directors may deal with the fractions as they think fit;

- (d) (authorise a Person to enter (on behalf of all the Members concerned) into an agreement with the Company providing for either:
  - (i) the allotment to the Members respectively, credited as fully paid, of shares or debentures to which they may be entitled on the capitalisation; or
  - (ii) the payment by the Company on behalf of the Members (by the application of their respective proportions of the reserves resolved to be capitalised) of the amounts or part of the amounts remaining unpaid on their existing shares,and any such agreement made under this authority being effective and binding on all those Members; and
- (e) generally do all acts and things required to give effect to the resolution.

### **39. SHARE PREMIUM ACCOUNT**

- 39.1 The Directors shall in accordance with Section 34 of the Law establish a Share Premium Account and shall carry to the credit of such account from time to time a sum equal to the amount or value of the premium paid on the issue of any share.
- 39.2 There shall be debited to any Share Premium Account on the redemption or purchase of a share the difference between the nominal value of such share and the redemption or purchase price provided always that at the discretion of the Directors such sum may be paid out of the profits of the Company or, if permitted by Section 37 of the Law, out of capital.

### **40. NOTICES**

- 40.1 Any notice or document may be served by the Company or by the Person entitled to give notice to any Member either personally, by facsimile, by electronic means or by sending it through the post in a prepaid letter or via a recognised courier service, fees prepaid, addressed to the Member at his address as appearing in the Register of Members. In the case of joint holders of a share, all notices shall be given to that one of the joint holders whose name stands first in the Register of Members in respect of the joint holding, and notice so given shall be sufficient notice to all the joint holders.
- 40.2 Any Member present, either personally or by proxy, at any meeting of the Company shall for all purposes be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was convened.
- 40.3 Any notice or other document, if served by
  - (a) post, shall be deemed to have been served two days after the time when the letter containing the same is posted; or
  - (b) facsimile, shall be deemed to have been served upon production by the transmitting facsimile machine of a report confirming transmission of the facsimile in full to the facsimile number of the recipient; or

- (c) recognised courier service, shall be deemed to have been served 48 hours after the time when the letter containing the same is delivered to the courier service; or
- (d) electronic means, shall be deemed to duly served by sending it by electronic means to an address for the time being notified to the person giving the notice or other document or information or as otherwise permitted by the Articles for that purpose, and to have been effected at the latest at the expiration of 24 hours from when it was sent (even if a hard copy of such notice, document or information is subsequently sent by post).

In determining whether service has been effected by post or courier service it shall be sufficient to prove that the letter containing the notice or documents was properly addressed and duly posted or delivered to the courier service. In determining whether service has been effected by electronic means, it shall be sufficient to prove that the notice or other document or information was properly addressed and, where the document or information is sent or supplied by means of a website, it is deemed to have been received by the intended recipient when the material was first made available on the website or if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website.

40.4 Any notice or document delivered or sent by post to or left at the registered address of any Member in accordance with the terms of these Articles shall notwithstanding that such Member be then dead or bankrupt, and whether or not the Company has notice of his death or bankruptcy, be deemed to have been duly served in respect of any share registered in the name of such Member as sole or joint holder, unless his name shall at the time of the service of the notice or document, have been removed from the Register of Members as the holder of the share, and such service shall for all purposes be deemed a sufficient service of such notice or document on all Persons interested (whether jointly with or as claiming through or under him) in the share.

40.5 Notice of every general meeting of the Company shall be given to:

- (a) all Members holding shares with the right to receive notice and who have supplied to the Company an address for the giving of notices to them;
- (b) every person entitled to a share in consequence of the death or bankruptcy of a Member, who but for his death or bankruptcy would be entitled to receive notice of the meeting; and
- (c) every Director who is not otherwise aware of the meeting at the address supplied by that Director for the giving of notices to him.

40.6 No other Person shall be entitled to receive notices of general meetings.

40.7 A notice may only be given to the Company by electronic communication if:

- (a) the Directors so resolve;
- (b) the resolution states how an electronic communication may be given and, if applicable, specifies an email address for the Company; and

- (c) the terms of that resolution are notified to the Members for the time being and, if applicable, to those Directors who were absent from the meeting at which the resolution was passed.

If the resolution is revoked or varied, the revocation or variation shall only become effective when its terms have been similarly notified.

- 40.8 A notice may not be given by electronic communication to a person other than the Company unless the recipient has notified the giver of an electronic address to which notice may be sent.
- 40.9 Subject to the AIM Rules and to any other rules which the Company is bound to follow, the Company may also send any notice or other document pursuant to these Articles to a Member by publishing that notice or other document on a website where:
  - (a) the Company and the Member have agreed to his having access to the notice or document on a website (instead of it being sent to him);
  - (b) the notice or document is one to which that agreement applied;
  - (c) the Member is notified (in accordance with any applicable requirements and in a manner for the time being agreed between him and the Company for the purpose) of:
    - (i) the publication of the notice or document on a website;
    - (ii) the address of that website;
    - (iii) the place on that website where the notice or document may be accessed, and how it may be accessed; and
    - (iv) the notice or document is published on that website throughout the publication period, provided that, if the notice or document is published on that website for a part, but not all of, the publication period, the notice or document shall be treated as being published throughout that period if the failure to publish that notice of document throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected that Company to prevent or avoid. For the purposes of this Article "publication period" means a period of not less than twenty-one (21) days, beginning on the day on which the notification referred to in this Article 40.9(c) is deemed sent.

#### 41. **INDEMNITY**

- 41.1 Every Director (including for the purposes of this Article any alternate Director appointed pursuant to the provisions of these Articles), secretary, assistant secretary, or other officer for the time being and from time to time of the Company (but not including the Company's auditors) and the personal representatives of the same shall be indemnified and secured harmless out of the assets and funds of the Company against all actions, proceedings, costs, charges, expenses, losses, damages or liabilities incurred or sustained by him in or about the conduct of the Company's business or affairs or in the execution or discharge of his duties, powers, authorities or discretions, including

without prejudice to the generality of the foregoing, any costs, expenses, losses or liabilities incurred by him in defending (whether successfully or otherwise) any actual or threatened civil proceedings concerning the Company or its affairs in any court whether in the Cayman Islands or elsewhere.

- 41.2 No such Director, alternate Director, secretary, assistant secretary or other officer of the Company (but not including the Company's auditors) shall be liable (a) for the acts, receipts, neglects, defaults or omissions of any other such Director or officer or agent of the Company or (b) for any loss on account of defect of title to any property of the Company or (c) on account of the insufficiency of any security in or upon which any money of the Company shall be invested or (d) for any loss incurred through any bank, broker or other similar person or (e) for any loss occasioned by any negligence, default, breach of duty, breach of trust, error of judgement or oversight on his part or (f) for any loss, damage or misfortune whatsoever which may happen in or arise from the execution or discharge of the duties, powers authorities, or discretions of his office or in relation thereto, unless the same shall happen through his own dishonesty.

#### 42. **INSURANCE**

Subject to the provisions of the laws of the Cayman Islands, the Company shall have the power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time Directors, officers or employees of the Company, or of any company or body which is its holding company or in which the Company or such holding company has an interest whether direct or indirect or which is in any way allied to or associated with the Company including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or in the exercise or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to the Company and/or any such other company or body.

#### 43. **NON-RECOGNITION OF TRUSTS**

Subject as provided to the contrary in these Articles, no Person shall be recognised by the Company as holding any share upon any trust and the Company shall not, unless required by law, be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent or future interest in any of its shares or any other rights in respect thereof except an absolute right to the entirety thereof in each Member registered in the Register of Members.

#### 44. **WINDING UP**

- 44.1 If the Company shall be wound up, the liquidator shall apply the assets of the Company in satisfaction of creditors' claims in such manner and order as such liquidator thinks fit. Subject to the rights attached to Ordinary Shares of any Class, in a winding up:
- (a) if the assets available for distribution amongst the Members shall be insufficient to repay the whole of the Company's issued share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the Members in proportion to the par value of the Ordinary Shares held by them; or



- (b) if the assets available for distribution amongst the Members shall be more than sufficient to repay the whole of the Company's issued share capital at the commencement of the winding up, the surplus shall be distributed amongst the Members in proportion to the par value of the Ordinary Shares held by them at the commencement of the winding up subject to a deduction from those Ordinary Shares in respect of which there are monies due, of all monies payable to the Company for unpaid calls or otherwise.

44.2 If the Company shall be wound up, the liquidator may, with the sanction of a Special Resolution of the Company, divide among the Members in kind the whole or any part of the assets of the Company or vest the whole or any part of such assets in trustees upon such trusts for the benefit of the Members as the liquidator, with the like sanction, shall think fit.

45. **REGISTRATION BY WAY OF CONTINUATION**

The Company may by Special Resolution resolve to be registered by way of continuation in a jurisdiction outside the Cayman Islands or such other jurisdiction in which it is for the time being incorporated, registered or existing. In furtherance of a resolution adopted pursuant to this Article, the Directors may cause an application to be made to the Registrar of Companies to deregister the Company in the Cayman Islands or such other jurisdiction in which it is for the time being incorporated, registered or existing and may cause all such further steps as they consider appropriate to be taken to effect the transfer by way of continuation of the Company.