

THE COMPANIES (GUERNSEY) LAW 2008, AS AMENDED

NON-CELLULAR COMPANY LIMITED BY SHARES

ARTICLES OF INCORPORATION

of

**ASIA PACIFIC BASKET LIMITED**

Registered on 19 May 2008

(as amended and restated by special resolutions dated 29 May 2013, 25 August 2017 and [ ] 2022)

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**1 STANDARD ARTICLES**

The standard articles of incorporation prescribed by the States of Guernsey Commerce and Employment Department pursuant to Section 16(2) of the Law shall be excluded in their entirety.

**2 INTERPRETATION**

2.1 In these Articles the following words shall bear the following meanings if not inconsistent with the subject or context:-

<b>Words</b>	<b>Meanings</b>
"A Class Shares"	An ordinary share in the capital of the Company of AUD 0.01 nominal value designated as an A Class Share and having the rights reserved under these Articles.
"accounts"	Either individual accounts prepared in accordance with Section 243 of the Law or consolidated accounts prepared in accordance with Section 244 of the Law.
"Administrator or Designated Administrator"	Such designated person, firm or corporation appointed for the time being and acting as administrator of the Company.
"Articles"	These Articles of Incorporation as amended or replaced from time to time.
"at any time"	At any time or times and includes for the time being and from time to time.
"AUD"/ "Australian Dollars"	The lawful currency of Australia.

"Auditor"	The Auditor of the Company for the time being who shall be or include members of the Institute of Chartered Accountants in England and Wales.
"B Class Shares"	An ordinary share in the capital of the Company of USD 0.01 nominal value designated as a B Class Share and having the rights reserved under these Articles.
"Board"	The Directors at any time or the Directors present at a duly convened meeting of Directors at which a quorum is present.
"Business Day"	Any day, other than a Saturday, Sunday or public holiday, on which banks are normally open for full banking business in Guernsey.
"Call Date"	The First Call Date and every quarterly date thereafter.
"Call Option"	The Debt Issuer's right to elect to redeem the Debt Instruments on the Call Date.
"clear days"	In relation to a period of notice means that period excluding the day when notice is given or deemed to be given and the day for which it is given or on which it is to take effect.
"Closing Date"	The date stipulated in the applicable Prospectus as the closing date for investments in respect of the applicable Investment Term.
"Company"	Asia Pacific Basket Limited.
"Company's Funds"	The total subscription monies received from Investors on the applicable Closing Date, less all Front End Fees, plus the aggregate EIS Price of the Existing Issued Shares retained by existing Shareholders in the Company.
"Debt Instruments"	Unsecured, USD denominated subordinated or senior debt instruments issued by a Debt Issuer, which instruments may contain a Call Option, as further described in the applicable Prospectus.
"Debt Issuer"	IBL or another debt issuer to be selected by the Investment Adviser, which debt issuer will have a long-term rating equal to or better than IBL's rating.
"Director"	A director of the Company for the time being or, as the case may be, the directors assembled as a Board or committee of such Board.
"dividend"	Includes bonus.
"executors"	Includes administrators.
"EIS Price"	The Fair Market Value per Share as reviewed by the Auditor on the applicable Termination Date. Each new A Class Shares shall be issued at the EIS Price. Each new B Class Share shall be issued at an amount that is the USD equivalent of the EIS Price as calculated at the applicable Termination Date.
"Electronic Means"	Shall have the meaning ascribed to it by Law.
"Existing Issued Shares"	The issued Shares in the Company as at the date of the applicable

	Prospectus.
"Fair Market Value per Share"	The fair market value of each Share as determined by the Investment Adviser on the first Business Day of each month (as reviewed by the Auditor on the applicable Termination Date or the liquidator on a winding up) acting in good faith and in a fair and reasonable manner.
"FATCA"	Sections 1471 to 1474 of the United States Internal Revenue Code of 1986, United States Treasury Regulations made thereunder, any agreement relating thereto and any legislation or guidance implementing or relating to such agreement, including in each case any amendments, modification, consolidation, re-enactment or replacement thereof from time to time.
"Financial Year"	An accounting reference period of the Company.
"First Call Date"	The date that is 5 years after the issue date of the applicable Debt Instruments.
"Front End Fee"	An amount not exceeding 2% (plus South African value added tax where applicable) of the amount subscribed for per Investor pursuant to this Prospectus as described in the Prospectus.
"IBL"	Investec Corporate and Institutional Banking, a division of Investec Bank Limited, a company incorporated in the Republic of South Africa (registration number 1969/004763/06.
"Investment Adviser"	The person or entity appointed for the time being and acting as investment adviser of the Company.
"Investment Term"	the 'Investment Period' as defined in the applicable Prospectus.
"Investor"	Any person who may potentially subscribe for Shares in the Company, being a sophisticated or professional investor who can afford to take a higher degree of risk, which may include the risk of the loss of his entire investment, and who has extensive knowledge and experience in financial and business matters and is capable of evaluating the merits and risks associated with an investment in the Company.
"Law"	The Companies (Guernsey) Law 2008 as amended, extended or replaced and any Ordinance, statutory instrument or regulation made thereunder.
"Liquidator"	Includes joint Liquidators.
"Management Share"	A management share of AUD1.00 each having the rights described in these Articles.
"Memorandum"	The Memorandum of Incorporation of the Company.
"month"	Calendar month.
"Offering"	The offering of Shares in the Company in respect of the applicable Investment Term, commencing on the Opening Date

"Office"	The registered office of the Company.
"Opening Date"	Means the date specified in the Prospectus for the opening of an Offering related to an Investment Term.
"Ordinary Resolution"	A resolution passed by a simple majority in accordance with Section 176 of the Law.
"Permitted Transferee"	Any person other than a person in breach of any restrictions imposed by or pursuant to Article 12.1.
"Prospectus"	Means the prospectus of the Company issued in relation to the applicable Offering of its Shares and the listing of the Shares on the Bermuda Stock Exchange, as amended from time to time.
"proxy"	Includes attorney.
"Redemption Date"	the date that is 5 (five) Business Days after the applicable Termination Date.
"Register"	The register of Shareholders to be kept pursuant to the Law.
"Relevant Electronic Address"	Shall have the meaning ascribed to it by Law.
"Seal"	The Common Seal of the Company.
"Secretary"	Any person appointed by the Directors to perform any of the duties of Secretary of the Company (including a temporary or assistant secretary) and in the event of two or more persons being appointed as joint secretaries any one or more of the persons so appointed.
"share"	A share of whatever description in the capital of the Company being either a Share or a Management Share and having the rights described in these Articles.
"Shares"	Together the A Class Shares and B Class Shares and each a "Share".
"Shareholder"	A person who is registered as the holder of Shares in the Register for the time being kept by or on behalf of the Company.
"Special Resolution"	A resolution passed by a majority of not less than 75% in accordance with Section 178 of the Law.
"Tax Reporting Regime"	means FATCA, any intergovernmental agreement between any two or more jurisdictions (or government bodies thereof) and any legislation, rules, regulations, and other guidance enacted or issued in any jurisdiction in each case which seeks to implement tax or financial account information reporting and/or withholding tax regimes and all administrative and judicial interpretations thereof or practice in connection therewith, including without limitation any intergovernmental agreement entered into in connection with the automatic exchange of tax information, the Organisation for Economic Co-operation and Development's Common Reporting

Standard, the Council of the European Union's Directives 2011/16/EU or 2014/107/EU, and any legislation, rules, regulations, and other guidance enacted or issued in any jurisdiction in connection with any of the foregoing and all administrative and judicial interpretations thereof or practice in connection therewith.

"Termination Date"	Means, in relation to an Investment Term, either: (i) the Call Date if the applicable Debt Instrument contains a Call Option and the Debt Issuer exercises the Call Option in accordance with the terms of the Debt Instrument; or  (ii) the maturity date of the applicable Debt Instruments if the Debt Issuer did not exercise a Call Option in accordance with its terms;  as the case may be.
"Trade Date"	Any date that is no later than 20 Business Days after the applicable Closing Date, being the date on which the Company will invest the Company's Funds.
"Trust"	The trust known as The Basket Trust constituted by a declaration of trust dated 2 September 2009 and made by Praxis Trustees Limited (registered number 16783).
"Unanimous Resolution"	A resolution agreed to by every Shareholder of the Company in accordance with Section 180 of the Law.
"USD" / "United States Dollars"	The lawful currency of the United States of America
"Waiver Resolution"	A resolution passed by a majority of not less than 90% in accordance with Section 179 of the Law.

2.2 In these Articles unless there be something in the subject or context inconsistent with such construction:-

- 2.2.1 words importing the singular number shall be deemed to include the plural number and vice versa;
- 2.2.2 words importing the masculine gender only shall include the feminine gender;
- 2.2.3 words importing persons shall include companies or associations or bodies of persons, whether corporate or not;
- 2.2.4 the words:-
  - (a) "may" shall be construed as permissive; and
  - (b) "shall" shall be construed as imperative;
- 2.2.5 any reference to a share shall, where the Board has resolved to allot and issue fractions of shares, include such fractions.
- 2.2.6 words or expressions contained in these Articles shall bear the same meaning as in the Law and The Interpretation (Guernsey) Law 1948; and

2.2.7 where a Section of the Law is referred to and that Section is amended or renumbered or supplemented, then the reference shall be deemed to refer to the same Section as amended, renumbered or supplemented.

### 3 **BUSINESS**

Any branch or kind of business which by the Memorandum or by these Articles is either expressly or impliedly authorised to be undertaken may be undertaken or suspended at any time by the Board whether commenced or not.

### 4 **SHARES**

4.1 Save as specifically provided in these Articles, the Shares and the Management Shares shall rank pari passu in all respects. The Management Shares were issued to and are held by the Trust or its nominees and shall not be capable of being transferred except to the Trust or its nominees.

4.2 The holders of Management Shares shall have the following rights:

#### 4.2.1 Dividends

The holders of Management Shares shall have no rights to receive nor participate in any distributions of the Company, subject to Article 40.

#### 4.2.2 Winding up

Subject to Article 40, on a winding up and after satisfaction of the costs associated with the liquidation and payment of all the creditors of the Company and after payment of the nominal amount of the Shares has been paid to the Shareholders, the nominal value of the Management Shares shall be paid to the holders of the Management Shares.

#### 4.2.3 Voting

- (a) The holders of the Management Shares will have the right to receive notice of and to attend and to vote at any general meeting of the Company, subject to (b) and (c) below. Each holder of a Management Share who is present in person or by proxy (or being a corporation, by a duly authorised representative) at a general meeting will have on a show of hands one vote and on a poll every such holder who is present in person or by proxy (or being a corporation, by a duly authorised representative) will have 10,000 votes in respect of each Management Share held by them.
- (b) The Management Shares exist for the sole purpose of voting on purely administrative matters at the Company's annual general meeting if there is no quorum of Shareholders on such date, to enable the Company to function effectively.
- (c) Prior to redemption of all the Shares, the holders of Management Shares can only vote on Ordinary Resolutions relating to administrative matters such as the appointment the Auditor, approving the financial statements and the Directors appointments. After the redemption of all the Shares, holders of the Management Shares may vote on any matters under Ordinary and Special Resolution.

#### 4.2.4 Transfer

The Management Shares shall be issued to and held by the Trust or its nominees and shall not be capable of being transferred except to the Trust or its nominees.

4.3 The Shareholders shall have the following rights:

#### 4.3.1 Dividends

The Shareholders are entitled to receive, and participate in, any distributions that are resolved to be distributed in respect of any financial year or other income or right to participate therein.

#### 4.3.2 Winding up

Subject to Article 40, on a winding up and after satisfaction of the costs associated with the liquidation and payment of all the creditors of the Company, the nominal value of the Shares shall be paid to the Shareholders. After payment of the nominal amount of the Management Shares has been paid to the holders of the Management Shares, the Shareholders shall be entitled to any surplus.

#### 4.3.3 Voting

The Shareholders will have the right to receive notice of and to attend and to vote at any general meeting of the Company. Each holder of a Share who is present in person or by proxy (or being a corporation, by a duly authorised representative) at a general meeting will have on a show of hands one vote and on a poll every such holder who is present in person or by proxy (or being a corporation, by a duly authorised representative) will have one vote in respect of each Share held by them.

4.4 Subject to the provisions of the Law, the Company may at the discretion of the Board purchase any of its own shares (including redeemable shares) in any manner permitted by the Law. Shares repurchased by the Company may be cancelled or held as treasury shares and dealt with by the Directors to the fullest extent permitted by the Law.

4.5 Subject to the provisions of the Law, the Company may at the discretion of the Board give financial assistance directly or indirectly for the purpose of or in connection with the acquisition of shares in the Company or in connection with reducing or discharging any liability incurred in connection with the purchase of shares in the Company.

4.6 Subject to the provisions of the Law, the Company may convert all or any of its fully paid shares the nominal amount of which is expressed in a particular currency into fully paid shares of a nominal amount of a different currency, the conversion being effected at the rate of exchange (calculated to not less than three significant figures) current on the date of the resolution or on such other date as may be specified therein.

4.7 The rights attached to A Class Shares and B Class Shares shall be identical and the rights of the Shares may only be altered, abrogated or varied with the consent in writing of the holders of not less than three-fourths of the issued Shares of both classes or with the sanction of a Special Resolution of the holders of the Shares of both classes. To any separate general meeting of a class the provisions of these Articles relating to general meetings shall apply but so that the necessary quorum shall be:

4.7.1 for a meeting other than an adjourned meeting, two persons present in person or by proxy holding at least one-third of the voting rights of the class in question;

4.7.2 for an adjourned meeting, one person present holding shares of the class in question; or

4.7.3 where the class has only one shareholder, that shareholder,

and that any holder of shares of that class present in person or by proxy may demand a poll.

4.8 Subject to the Law and the provisions of these Articles, the unissued shares shall be at the disposal of the Board which may allot, grant options over, or otherwise dispose of them to such persons on such terms and conditions and at such times as the Board determines. Fractions of shares may be issued or purchased by the Company.



- 4.9 Where an authorisation to issue shares or grant rights to subscribe for or to convert any security into shares specifies and expires on any date, event or circumstance, the Directors may issue shares or grant rights to subscribe for or to convert any security into shares after the expiry of such authorisation if the shares are issued or the rights are granted, in pursuance of an offer or agreement made by the Company before the authorisation expired and the authorisation allowed the Company to make an offer or agreement which would or might require shares to be issued, or rights to be granted, after the authorisation had expired.
- 4.10 The Company may pay commission in money to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any shares in the Company or procuring or agreeing to procure subscriptions whether absolute or conditional for any shares in the Company **PROVIDED THAT** the rate or amount of commission shall be fixed by the Board and disclosed in accordance with the Law. The Company may also pay brokerages.

## 5 REDEMPTION OF SHARES PRIOR TO THE REDEMPTION DATE

- 5.1 Prior to the applicable Redemption Date there is no entitlement in favour of the Shareholders to have their Shares redeemed by the Company. Redemptions are wholly at the discretion of the Directors and any request for redemptions may be refused in whole or in part at the discretion of the Directors.
- 5.2 Redemption requests should be made in the manner set out in the Prospectus and are subject to the terms and conditions applying to redemptions as set out in the Prospectus (including, in particular, the redemption policy).
- 5.3 No redemption prior to the applicable Redemption Date will be considered by the Directors, where:
- 5.3.1 such redemption would or might leave the Company with insufficient funds to meet any future contemplated obligations or contingencies; or
  - 5.3.2 such redemption would render the Company insolvent; or
  - 5.3.3 such redemption may in the opinion of the Directors be prejudicial to the Company or other Shareholders.
- 5.4 All redemptions of Shares prior to the applicable Redemption Date will be subject to a settlement and registration fee of up to 1.25% of the total value of the applicable transaction of which 0.75% is payable to and for the account of the Investment Adviser and 0.5% of the total value of the applicable transaction is payable to and for the account of the Administrator. This fee will be deducted by the Administrator from the redemption proceeds due to the applicable Shareholder.

## 6 REDEMPTION ON A REDEMPTION DATE

- 6.1 Prior to the applicable Redemption Date, and subject to the Debt Issuer or any relevant counterparty(ies) having fulfilled its/their repayment obligations to the Company as described in the applicable Prospectus, the Company shall make an offer to each Shareholder in terms of which each Shareholder may elect to remain a Shareholder in the Company for a subsequent Investment Term. To be valid such acceptance must be made on such terms and by such date as the Directors shall determine, save that, the Company shall not be obliged to make an offer to Shareholders to remain a Shareholder in the Company if the Directors, acting on advice from the Investment Adviser, are of the view that a subsequent Investment Term is not desirable because of market conditions or legal constraints.
- 6.2 On the applicable Redemption Date, and subject to the Debt Issuer or any relevant counterparty(ies) having fulfilled its/their repayment obligations to the Company as described in the Prospectus, the Company shall be obliged to redeem Shares to the extent that the holders of the Existing Issued Shares have elected not to remain a Shareholder in the Company and payment shall be effected by the

Administrator to the relevant Shareholder no later than 10 Business Days after the applicable Redemption Date.

- 6.3 The redemption price shall be determined by the Investment Adviser, acting in good faith and in a fair and reasonable manner (as reviewed by the Auditor on the Termination Date or the liquidator on a winding up), which price shall represent the Fair Market Value per Share.
- 6.4 No settlement and registration fees will be payable in respect of redemptions effected on a Redemption Date. The Administrator will pay the redemption proceeds to the relevant Shareholder, by no later than 10 Business Days after the Redemption Date, by electronic transfer into an account in the name of the relevant Shareholder.
- 6.5 In the event that the redemption proceeds cannot for any reason be paid to the relevant Shareholder by telegraphic transfer within 10 Business Days after the Redemption Date, the money will be transferred to the Trust which will hold it until claimed by the relevant Shareholder or until three years after the Redemption Date, whichever is the earlier, and if not claimed by the relevant Shareholder on such date, then it will be paid to a registered charitable institution in Guernsey.

## 7 INTERESTS IN SHARES

- 7.1 Without prejudice to Part XXIX of the Law, except as ordered by a court of competent jurisdiction or as required by law the Company shall not be affected or bound by or be compelled in any way to recognise (even when having notice) any equitable, contingent, future or partial interest in any share or fraction or (except only as by these Articles or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety in the registered holder and whether or not such share shall be entered in the Register as held in trust nor shall the Company be bound to see to the execution of any trust to which any share may be subject.
- 7.2 The Board shall have power by notice in writing to require any Shareholder to disclose to the Company the identity of any person other than the Shareholder (an interested party) who has any interest in the shares held by the Shareholder and the nature of such interest.
- 7.3 Any such notice shall require any information in response to such notice to be given in writing within such reasonable time as the Board shall determine.
- 7.4 If any Shareholder has been duly served with a notice given by the Board in accordance with Article 7.2 and is in default for the prescribed period (which is 28 clear days after service of the notice) in supplying to the Company the information thereby required, then the Board may in its absolute discretion at any time thereafter serve or cause to be served a notice (a "direction notice") upon such Shareholder which:-

7.4.1 may direct that, in respect of:-

- (a) any shares in relation to which the default occurred (all or the relevant number as appropriate of such shares being the "default shares"); and
- (b) any other shares held by the Shareholder;

the Shareholder shall not be entitled to vote at a general meeting or meeting of the holders of any class of shares of the Company either personally or by proxy to exercise any other right conferred by those shares in relation to meetings of the Company or of the holders of any class of shares of the Company; and

7.4.2 may additionally direct that in respect of the default shares:-

- (a) any dividend or part thereof which would otherwise be payable on such shares shall be retained by the Company without any liability to pay interest thereon when such money is finally paid to the Shareholder;

- (b) no transfer of the default shares held by such Shareholder shall be registered unless:-
  - (i) the Shareholder is not himself in default as regards supplying the information requested; and
  - (ii) when presented for registration the transfer is accompanied by a certificate by the Shareholder in a form satisfactory to the Directors to the effect that after due and careful enquiry the Shareholder is satisfied that no person in default as regards supplying such information is interested in any of the shares the subject of the transfer.

The Company shall send to each other person appearing to be interested in the shares the subject of any direction notice a copy of the notice, but failure or omission by the Company to do so shall not invalidate such notice.

## **8 CERTIFICATES AND JOINT OWNERSHIP**

- 8.1 The Company does not issue certificates in respect of the shares in the Company.
- 8.2 The Company shall not be bound to register more than four persons as the joint holders of any share or shares.
- 8.3 Where two or more persons are registered as the holders of any share they shall be deemed to hold that share as joint tenants, subject to the following provisions:-
  - 8.3.1 the joint holders of any share shall be jointly and severally liable for all amounts payable in respect of that share;
  - 8.3.2 any joint holder of a share may give an effectual receipt for any dividend or return of capital payable on that share to the joint holders of the share;
  - 8.3.3 only the first named joint holder of any share shall be entitled to receive notices from the Company to attend any general meeting and any notice given to the first-named joint holder of the share shall be deemed to be notice given to all joint-holders of the share;
  - 8.3.4 the vote of the first-named joint holder of a share who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders of the share; and
  - 8.3.5 for the purpose of this Article the first-named joint holder shall be the person whose name first appears in the Register in respect of the share.

## **9 LIEN**

- 9.1 The Company shall have a first and paramount lien (extending to all dividends payable) on all shares (not being fully paid) for all moneys whether presently payable or not called or payable at a fixed time in respect of those shares and for all the debts and liabilities of the holder to the Company and that whether the same shall have been incurred before or after notice to the Company of any equitable or other interest of any person (other than such holder) and whether the time for payment or discharge shall have arrived or not and notwithstanding that the same are joint debts or liabilities of such holder and any other person (whether a Shareholder or not).
- 9.2 For the purpose of enforcing such lien the Company may sell, in such manner as the Directors think fit, any shares on which the Company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen clear days after a notice in writing, stating and demanding payment of the sum presently payable, and giving notice of intention to

sell in default, shall have been served on the holder for the time being of the shares or the person entitled by reason of his death or bankruptcy to the shares. For the purpose of giving effect to any such sale the Directors may authorise some person to transfer to the purchaser thereof the shares so sold.

- 9.3 The net proceeds of such sale, after payment of the costs of such sale, shall be applied in or towards payment or satisfaction of the debt or liability in respect whereof the lien exists, so far as the same is presently payable and any residue shall (upon surrender to the Company for cancellation of the certificate for the shares sold and subject to a like lien for debts or liabilities not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the time of the sale. The purchaser shall be registered as the holder of the shares so transferred 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 relation to the sale.

## 10 **CALLS ON SHARES**

- 10.1 The Board may at any time make calls upon the Shareholders in respect of any moneys unpaid on their shares (whether on account of the nominal value or by way of premium and not by the conditions of allotment made payable at fixed times) and each Shareholder shall pay to the Company at the time and place appointed the amount called. A call may be revoked or postponed in whole or in part. A call may be required to be made by instalments. A person on whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect of which the call was made.
- 10.2 Joint holders shall be jointly and severally liable to pay calls.
- 10.3 If a sum called in respect of a share is not paid before or on the day appointed the person from whom the sum is due shall pay interest from the day appointed to the time of actual payment at such rate as the Board may determine.
- 10.4 Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date shall for the purposes of these Articles be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable and in the case of non-payment all the relevant provisions of these Articles as to payment of interest and expenses forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.
- 10.5 The Directors may, if they think fit, receive from any Shareholder willing to advance the same all or any part of the money uncalled and unpaid upon the shares held by him beyond the sums actually called up thereon as payment in advance of calls, and such payment in advance of calls shall extinguish, so far as the same shall extend, the liability upon the shares in respect of which it is advanced, and upon the money so received or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which it has been received, the Company may (until the same would, but for such advance, become presently payable) pay interest at such rate as the Shareholder paying such sum and the Directors agree upon **PROVIDED THAT** any amount paid up in advance of calls shall not entitle the holder of the shares upon which such amount is paid to participate in respect thereof in any dividend until the same would but for such advance become presently payable.
- 10.6 The Board may on an issue of shares differentiate between holders as to amount of calls and times of payment.

## 11 **FORFEITURE AND SURRENDER OF SHARES**

- 11.1 If a Shareholder fails to pay any call or instalment on the day appointed the Board may at any time during such period as any part remains unpaid serve notice requiring payment of so much of the call or instalment as is unpaid together with any interest which may have accrued and any expenses which may have been incurred by the Company by reason of non-payment.

- 11.2 The notice shall state a further day on or before which the payment required by the notice is to be made and the place where the payment is to be made and that in the event of non-payment the shares in respect of which the call was made or instalment is payable shall be liable to be forfeited. If the requirements of any such notice are not complied with any share in respect of which the notice has been given may at any time before payment has been made be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited share and not actually paid before the forfeiture.
- 11.3 Notice of forfeiture shall forthwith be given to the former holder and an entry of such notice and forfeiture shall forthwith be made and dated in the Register opposite the entry of the share; but no forfeiture shall be in any manner invalidated by any omission or neglect to give notice or to make entry.
- 11.4 A forfeited share shall be deemed to be the property of the Company and may be sold re-allotted or otherwise disposed of on such terms as the Board shall think fit with or without all or any part of the amount previously paid on the share being credited as paid and at any time before a sale or disposition the forfeiture may be cancelled.
- 11.5 A person whose shares have been forfeited shall cease to be a Shareholder in respect of those shares but shall notwithstanding remain liable to pay to the Company all moneys which at the date of forfeiture were payable in respect of the shares with interest at such rate as the Board may determine. The Board may enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
- 11.6 The forfeiture of a share shall extinguish all interest in and all claims and demands against the Company in respect of the share and all other rights and liabilities incidental to the share as between the holder and the Company.
- 11.7 The Board may accept from any Shareholder on such terms as shall be agreed a surrender of any shares in respect of which there is a liability for calls. Any surrendered share may be disposed of in the same manner as a forfeited share.
- 11.8 A declaration in writing by a Director or the Secretary that a share has been duly forfeited or surrendered on the date stated in the declaration shall be conclusive evidence of the facts therein as against all persons claiming to be entitled to the shares.
- 11.9 The Company may receive the consideration given for any share on any sale or disposition and may execute a transfer of the share in favour of the person to whom the same is sold or disposed of and he shall thereupon be registered as the holder and shall not be bound to see to the application of the purchase money nor shall his title be affected by any irregularity or invalidity in forfeiture sale re-allotment or disposal.

## 12 **COMPULSORY TRANSFER OR REPURCHASE OF SHARES**

- 12.1 The Board shall have power (but shall not be under any duty) to impose such restrictions as it may think necessary for the purpose of ensuring that no share is acquired or held by:-
- 12.1.1 any US person other than pursuant to an exemption available under the United States Securities Act of 1933, as amended (the "1933 Act") and any other relevant securities law of the United States; or
- 12.1.2 any person whose holding of shares would or might result in the Company having more than 80 beneficial owners of shares (whether directly or by attribution pursuant to Section 3 (c)(1)(A) of the United States Investment Company Act of 1940, as amended (the "Investment Company Act") who are US persons or any person whose holding would require the Company to register as an "investment company" under the Investment Company Act; or

- 12.1.3 any person subject to the Employee Retirement Income Security Act of 1974, as amended or Section 4975 of the Internal Revenue Code of 1986, as amended; or
- 12.1.4 any person in breach of any law or requirement of any country or governmental authority or by virtue of which such person is not qualified to hold such shares or any money laundering regulations; or
- 12.1.5 any person or persons in circumstances which (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons connected or not, or any other circumstances appearing to the Board to be relevant), in the opinion of the Board, might cause or be likely to cause the Company or Shareholders as a whole some legal, regulatory, pecuniary, tax or material administrative disadvantage which the Company or Shareholders might not otherwise have incurred or suffered; or
- 12.1.6 any person where the total subscription monies in AUD, received in relation to the subscription for Shares, from such investor amounts to at least the amount stipulated in the applicable Prospectus on the applicable Closing Date, however the Directors may at their sole discretion accept a subscription amount which is less than the stipulated subscription amount; or
- 12.1.7 any person whose holdings of shares would or might result in a South African resident holding 5% or more of the issued shares in the Company.

In this connection, the Board may: (i) reject in its discretion any subscription for shares or any transfer of shares to any persons who are so excluded from purchasing or holding shares; and (ii) pursuant to Article 12.4 below at any time repurchase or require the transfer of shares held by persons who are so excluded from purchasing or holding shares.

- 12.2 For this purpose the terms "US person" and "United States" as used herein shall have the meanings ascribed such terms in Section 902 (g) of Regulation S under the 1933 Act.
- 12.3 The Board shall, unless any Director has reason to believe otherwise, be entitled to assume without enquiry that none of the shares is held in such a way as to entitle the Board to give a notice in respect thereof pursuant to Article 12.4.1 below. The Board may, however, upon an application for shares or at any other time and from time to time require such evidence and/or undertakings to be furnished to it in connection with the matters stated in Article 12.1 above as it shall in its discretion deem sufficient or as it may require for the purpose of any restriction imposed pursuant thereto. In the event of such evidence and/or undertakings not being so provided within such reasonable period (not being less than 21 clear days after service of notice requiring the same) as may be specified by the Board in the said notice, the Board may, in its absolute discretion, treat any shares held by such a holder or joint holder as being held in such a way as to entitle them to give a notice in respect thereof pursuant to Article 12.4.1 below.
- 12.4
  - 12.4.1 If it comes to the notice of the Board that any shares are or may be owned or held directly or indirectly or beneficially by any person or persons in breach of any restrictions imposed under Article 12.1 above or who have failed to provide or keep up-to-date the information, representations, certificates or forms referred to in Article 12.4.6 below (the "Relevant shares"), the Board may give notice to the person or persons in whose names the Relevant shares are registered requiring him to transfer (and/or procure the disposal of interests in) the Relevant shares to a person who is in the opinion of the Board a person who is eligible to hold them, and/or has provided or will provide the information, representations, certificates or forms referred to in Article 12.4.6 below, or (in the Board's discretion) to give notice in writing accepting the repurchase of the Relevant shares in accordance with these Articles. If any person upon whom such a notice is served pursuant to this Article 12.4.1 does not within 21 clear days after the giving of such notice (or such extended time as the Board in its absolute discretion shall consider reasonable) transfer the Relevant shares to a person who is eligible to hold them or (as appropriate) give notice as to the repurchase of the Relevant shares or establish to the satisfaction of the Board (whose judgement shall be final and binding) that he is not subject to such restrictions, or, as the case may be, provide to the satisfaction of the Board (whose

judgement shall be final and binding) the information, representations, certificates or forms referred to in Article 12.4.6 below, the Board may in its absolute discretion upon the expiration of such 21 clear days arrange for the repurchase of all the Relevant shares or arrange and approve the transfer of all the Relevant shares to a person who is eligible to hold them (and/or has provided or will provide the information, representations, certificates or forms referred to in Article 12.4.6 below) in accordance with Article 12.4.3 below and the holder of the Relevant shares shall be bound forthwith to deliver his share certificate or certificates (if any) to the Board and the Board shall be entitled to appoint any person to sign on his behalf such documents as may be required for the purpose of the repurchase or transfer of the Relevant shares by the Company.

- 12.4.2 A person who becomes aware that he is holding or owning Relevant shares shall forthwith unless he has already received a notice pursuant to Article 12.4.1 above either transfer all his Relevant shares to a person who is eligible to hold them or give a request in writing for the repurchase of all his Relevant shares in accordance with these Articles.
- 12.4.3 A transfer of Relevant shares arranged by the Board pursuant to Article 12.4.1 above shall be by way of sale at the best price reasonably obtainable and may be of all or part only of the Relevant shares with a balance available for repurchase or transfer to other persons who are eligible to hold them. Any payment received by the Company for the Relevant shares so transferred shall be paid to the person whose shares have been so transferred subject to Article 12.4.4 below.
- 12.4.4 Payment of any amount due to such person pursuant to Articles 12.4.1, 12.4.2 or 12.4.3 above shall be subject to any requisite exchange control consents first having been obtained and the amount due to such person shall be deposited by the Company in a bank for payment to such person upon such consents being obtained against surrender of the shares previously held by such person. Upon deposit of such amount as aforesaid such person shall have no further interest in such shares or any of them or any claim against the Company in respect thereof except the right to receive such amount so deposited (without interest) upon such consents as aforesaid being obtained. Payment of any amount due to such person pursuant to Articles 12.4.1, 12.4.2 or 12.4.3 above shall also be subject to any withholding or deduction under any Tax Reporting Regime.
- 12.4.5 The Board shall not be required to give any decisions, determination or declaration taken or made in accordance with these provisions. The exercise of the powers conferred by these provisions shall not be questioned or invalidated in any case on the grounds that there was insufficient evidence of direct or beneficial ownership of shares by any persons or that the true, direct or beneficial owner of any shares was otherwise than appeared to the Board at the relevant date **PROVIDED THAT** the powers shall be exercised in good faith.
- 12.4.6 The Board may upon an application for Shares or at any other time and from time to time call upon any Shareholder (or any person who may acquire or hold Shares) by notice in writing to provide the Board with such information, representations, certificates or forms relating to such Shareholder or such person (or in either case its direct or indirect beneficial owners or account holders) that the Board determines are necessary or appropriate for the Company to:
- (a) satisfy any account or payee identification, documentation or other due diligence requirements and any reporting requirements imposed under any Tax Reporting Regime; or
  - (b) avoid or reduce any tax otherwise imposed by any Tax Reporting Regime (including any withholding upon any payments to such Shareholder or such person by the Company); or
  - (c) permit the Company to enter into, comply with, or prevent a default under or termination of, an agreement of the type described in section 1471(b) of the US Internal Revenue Code of 1986 or any Tax Reporting Regime.

12.4.7 In this connection, the Board may: (i) reject in its discretion any subscription for Shares or any transfer of Shares to any person who does not comply with a notice referred to in Article 12.4.6 above; and (ii) in the event of such information, representations, certificates or forms not being provided within such reasonable period (not being less than 21 days after service of notice requiring the same) as may be specified by the Board in a notice referred to in Article 12.4.6 above, the Board may, in its absolute discretion, pursuant to the provisions of this Article 12.4 repurchase or require the transfer of Shares held by person who do not comply with such notice.

12.4.8 Each Shareholder shall promptly notify the Company upon any change in circumstances that could affect the accuracy or correctness of the information, representations, documents, certifications or forms provided pursuant to Article 12.4.6.

### 13 **TRANSFER AND TRANSMISSION OF SHARES**

13.1 All transfers of shares may be effected by transfer in writing in any form as the Board may accept **PROVIDED THAT** any such instrument of transfer shall state the transferors' and transferees' full names and addresses and where deemed necessary by the Board their nationalities. Any instrument of transfer shall be dated upon execution and shall be signed by or on behalf of the transferor who shall be deemed to remain the holder until the name of the transferee is entered in the Register.

13.2 Every instrument of transfer shall be left at the Office or such other place as the Board may prescribe and such other evidence as the Board may reasonably require to prove the title of the transferor or his right to transfer the shares; and shall remain in the custody of the Board but shall be at all reasonable times produced at the request and expense of the transferor or transferee or their respective representatives.

13.3 The Board may, in its absolute discretion and without giving a reason, refuse to register a transfer of any share which is not fully paid or on which the Company has a lien, provided, in the case of a listed share that this would not prevent dealings in the share from taking place on an open and proper basis. In addition, the directors may refuse to register a transfer of shares which is prohibited by a direction notice given by the Board in accordance with Article 7.4 and may also refuse to register a transfer of shares unless:-

13.3.1 it is in favour of a Permitted Transferee;

13.3.2 it is in favour of a single transferee or in the case of a transfer to joint holders the number of joint holders to whom the share is to be transferred does not exceed four; and

13.3.3 it is delivered for registration to the Company's Office or such other place as the Board may decide, accompanied by such other evidence as the Board may reasonably require to prove title of the transferor and the due execution by him of the transfer or, if the transfer is executed by some other person on his behalf, the authority of that person to do so.

13.4 If the Board refuses to register the transfer of a share it shall, within two months after the date on which the instrument of transfer was lodged with the Company, send notice of the refusal to the transferor and the transferee.

13.5 The registration of transfers may be suspended at such times and for such periods (not exceeding 30 days in any one year) as the Board may decide and either generally or in respect of a particular class of share.

13.6 No fee shall be payable to the Company in respect of the registration of any transfer, probate, letters of administration, certificate of marriage or death, power of attorney, instruction or other document relating to or affecting the title to any shares.

13.7 The Company shall keep the Register in accordance with the Law. The Register may be closed during such periods as the Board think fit not exceeding in all thirty days in any year.



13.8 On the death of a Shareholder the survivors where the deceased was a joint holder and the executors of the deceased where he was a sole holder shall be the only persons recognised by the Company as having any title to or interest in his shares; but nothing herein shall release the estate of a deceased joint holder from any liability in respect of any share jointly held.

13.9 A person so becoming entitled to a share in consequence of the death, bankruptcy or incapacity of a Shareholder shall have the right to receive and may give a discharge for all dividends and other money payable or other advantages due on or in respect of the share, but he shall not be entitled to receive notice of or to attend or vote at meetings of the Company, or save as aforesaid, to any of the rights or privileges of a Shareholder unless and until he shall be registered as a Shareholder in respect of the share PROVIDED ALWAYS that the Board may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share and if the notice is not complied with within ninety clear days the Board may thereafter withhold all dividends or other monies payable or other advantages due in respect of the share until the requirements of the notice have been complied with.

#### 14 **ALTERATION OF CAPITAL**

14.1 The Company may by Ordinary Resolution:-

14.2 consolidate and divide all or any of its share capital into shares of larger amounts than its existing shares;

14.3 subject to Article 14.7 below, subdivide all or any of its shares into shares of a smaller amount provided that the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as that proportion in the case of the share from which the reduced share was derived;

14.4 cancel shares which, at the date of the passing of the resolution, have not been taken up or agreed to be taken up by any person, and diminish the amount of its share capital by the amount of the shares so cancelled;

14.5 convert all or any of its shares the nominal amount of which is expressed in a particular currency or former currency into shares of a nominal amount of a different currency, the conversion being effected at the rate of exchange (calculated to not less than 3 significant figures) current on the date of the resolution or on such other day as may be specified therein;

14.6 where its share capital is expressed in a particular currency or former currency, denominate or redenominate it, whether by expressing its amount in units or subdivisions of that currency or former currency, or otherwise.

14.7 In any subdivision under Article 14.3, the proportion between the amount paid and the amount, if any, unpaid on each reduced Share shall be the same as that proportion in the case of the Share from which the reduced Share was derived.

14.8 The Board on any consolidation of Shares may deal with fractions of Shares in any manner.

14.9 The Company may reduce its share capital in any manner and with and subject to any incident authorised and consent required by the Law.

#### 15 **GENERAL MEETINGS**

15.1 Save as provided in the Law, an annual general meeting shall be held once at least in every calendar year but so that not more than 15 months may elapse between one annual general meeting and the next.

Other meetings of the Company shall be called extraordinary general meetings. General meetings shall be held in Guernsey.

- 15.2 A Shareholder participating by video link or telephone conference call or other electronic or telephonic means of communication in a meeting at which a quorum is present shall be treated as having attended that meeting **PROVIDED THAT** the Shareholders present at the meeting can hear and speak to the participating Shareholder.
- 15.3 A video link or telephone conference call or other electronic or telephonic means of communication in which a quorum of Shareholders participates and all participants can hear and speak to each other shall be a valid meeting which shall be deemed to take place where the Chair is present unless the Shareholders resolve otherwise.
- 15.4 Any general meeting convened by the Board unless its time shall have been fixed by the Company in general meeting or unless convened in pursuance of a requisition may be postponed by the Board by notice in writing and the meeting shall subject to any further postponement or adjournment be held at the postponed date for the purpose of transacting the business covered by the original notice.
- 15.5 The Board may whenever it thinks fit and shall on the requisition in writing of one or more holders representing not less than one-tenth of the issued share capital of the Company upon which all calls or other sums then due have been paid forthwith proceed to convene an extraordinary general meeting.
- 15.6 The requisition shall be dated and shall state the object of the meeting and shall be signed by the requisitionists and deposited at the Office and may consist of several documents in like form each signed by one or more of the requisitionists.
- 15.7 If the Board does not proceed to call a general meeting within twenty-one days from the date of the requisition being so deposited to be held within 28 days after the date of the notice convening the meeting, the requisitionists or any of them representing more than one half of the total voting rights of the requisitionists may themselves convene the meeting.
- 15.8 Any meeting convened by requisitionists shall be convened in the same manner (as nearly as possible) as that in which meetings are convened by the Board.

## 16 **NOTICE OF GENERAL MEETINGS**

- 16.1 Not less than ten clear days' notice specifying the time and place of an annual general meeting and not less than fourteen clear days' notice in respect of any other general meeting shall be given by notice (which may be published on a website in accordance with Section 208 of the Law) to every Shareholder and every Director **PROVIDED THAT** with the consent in writing of all the Shareholders entitled to attend and vote, the meeting may be convened by a shorter notice or at no notice and in any manner they think fit. In every notice there shall appear:
- 16.1.1 the time and date of the meeting;
- 16.1.2 the place of the meeting;
- 16.1.3 a statement of the general nature of the business to be dealt with at the meeting;
- 16.1.4 where the notice contains a resolution to be passed as a Special Resolution, a Waiver Resolution or an Unanimous Resolution, the text of the resolution and the intention to propose the resolution as a special, waiver or Unanimous Resolution (as the case may be).
- 16.1.5 contain a statement that the Shareholder who is entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of him and that a proxy need not be a Shareholder.

16.2 The accidental omission to give notice of any meeting to or the non-receipt of such notice by any Shareholder shall not invalidate any resolution (or any proposed resolution otherwise duly approved) passed or proceeding at any meeting.

16.3 All Shareholders are deemed to have agreed to accept communications from the Company by Electronic Means in accordance with Article 38.2.

## 17 PROCEEDINGS AT GENERAL MEETINGS

17.1 The ordinary business of a general meeting shall be to receive and consider the financial statements of the Company and the reports of the Directors and the Auditor to elect Directors and appoint the Auditor in the place of those retiring to fix the remuneration of the Auditor to sanction or declare dividends (if required by these Articles) and to transact any other ordinary business which ought to be transacted at such meeting. All other business shall be deemed special and shall be subject to notice as hereinbefore provided.

17.2 The quorum for a general meeting shall be two (2) Shareholders present in person or by proxy, at least one of whom shall be the holder of a Management Share provided that, if the Company shall have only one (1) Shareholder entitled to attend and vote at the general meeting, that Shareholder shall constitute a quorum.

17.3 If within half an hour after the time appointed for the meeting a quorum is not present the meeting if convened by or upon a requisition shall be dissolved. If otherwise convened it shall stand adjourned for seven clear days at the same time and place or to such other day and at such other time and place as the Board may determine and (subject to Article 17.3) no notice of adjournment need be given. On the resumption of an adjourned meeting, those Shareholders entitled to attend and vote present in person or by proxy shall constitute the quorum.

17.4 The Chair (if any) or, if absent, the Deputy Chair (if any) of the Board or, failing him, some other Director nominated by the Directors shall preside as Chair at every general meeting of the Company, but if at any meeting none of the Chair nor the Deputy Chair nor such other Director be present within fifteen minutes after the time appointed for holding the meeting, or if none of them be willing to act as Chair, the Directors present shall choose some Director present to be Chair, or if no Directors be present, or if all the Directors present decline to take the chair the Shareholders entitled to attend and vote present in person or by proxy shall choose some Shareholder present to be Chair.

17.5 The Chair may with the consent of any meeting at which a quorum is present and shall if so directed by the meeting adjourn the meeting at any time and to any 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.

17.6 At any meeting a resolution put to the vote shall be decided by a show of hands or by a poll at the option of the Chair. Nevertheless before or on the declaration of the result a poll may be demanded:-

17.6.1 by the Chair; or

17.6.2 a holder of a Management Share: or

17.6.3 by not less than five (5) Shareholders having the right to vote on the resolution; or

17.6.4 by a Shareholder or Shareholders representing not less than ten (10) percent of the total voting rights of all Shareholders having the right to vote on the resolution.

The demand for a poll may be withdrawn.

- 17.7 Unless a poll be demanded a declaration by the Chair 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 minute book shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded.
- 17.8 A poll if demanded shall be taken at the meeting at which the same is demanded or at such other time and place as the Chair shall direct and the result shall be deemed the resolution of the meeting.
- 17.9 If a poll is duly demanded, it shall be taken in such manner and at such place as the Chair may direct (including the use of ballot or voting papers or tickets) and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The Chair may, in the event of a poll appoint scrutineers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
- 17.10 A poll demanded on the election of a Chair and a poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the Chair directs not being more than thirty days from the date of the meeting or adjourned meeting at which the poll was demanded.
- 17.11 In case of an equality of votes on a show of hands or on a poll the Chair shall have a second or casting vote.

## 18 **VOTES OF SHAREHOLDERS**

- 18.1 Save as otherwise provided in these Articles and subject to any special rights or restrictions for the time being attached to any class of share:-
- 18.1.1 On a show of hands every holder of a Share present in person or by proxy shall have 1 (one) vote and every holder of a Management Share present in person or by proxy shall have 10,000 (ten thousand) votes.
- 18.1.2 On a poll every holder of a Share present in person or by proxy shall have 1 (one) vote for each share held by him and every holder of a Management Share present in person or by proxy shall have 10,000 (ten thousand) votes for each fully paid Management Share held by him.
- 18.2 Where there are joint registered holders of any share such persons shall not have the right of voting individually in respect of such share but shall elect one of their number to represent them and to vote whether in person or by proxy in their name. In default of such election the person whose name stands first on the Register shall alone be entitled to vote.
- 18.3 Any Shareholder being incapable or of unsound mind may vote by his curator or other legal guardian. Any such persons may vote either personally or by proxy.
- 18.4 On a poll votes may be given either personally or by proxy and a Shareholder entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way. A proxy need not be a Shareholder. An instrument of proxy may be valid for one or more meetings.
- 18.5 No Shareholder shall be entitled to be present or take part in any proceedings or vote either personally or by proxy at any meeting unless all calls due from him have been paid. No Shareholder shall be entitled to vote in respect of any shares unless he has been registered as their holder.
- 18.6 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed shall be valid for all purposes. Any objection made in due time shall be referred to the Chair whose decision shall be final and binding.

- 18.7 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 under its common seal or under the hand of an officer or attorney duly authorised.
- 18.8 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarised certified copy of that power or authority shall be deposited at the Office not less than 48 hours, excluding any day or part of any day which is not a Business Day, before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default unless the Board directs otherwise the instrument of proxy shall not be treated as valid.
- 18.9 The instrument appointing a proxy may be in any form which the Board may approve and may include an instruction by the appointor to the proxy either to vote for or against any resolution to be put to the meeting.
- 18.10 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll and shall be as valid for any adjournment as for the meeting to which it relates.
- 18.11 Without prejudice to Section 226 of the Law, a vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or disability of the principal or revocation of the proxy or of the authority under which the proxy was executed **PROVIDED THAT** no intimation in writing of such death disability or revocation shall have been received by the Company at the Office before the commencement of the meeting or adjournment or the taking of the poll at which the proxy is used.
- 18.12 Any corporation which is a Shareholder 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 Shareholders of the Company or to approve any resolution submitted in writing and the person so authorised shall be entitled to exercise on behalf of the corporation which he represents the same powers (other than to appoint a proxy) as that corporation could exercise if it were an individual Shareholder of the Company.

## 19 **NUMBER AND APPOINTMENT OF DIRECTORS**

- 19.1 The first Directors of the Company shall be appointed by the subscribers to the Memorandum. Unless otherwise determined by Ordinary Resolution of the Company the Directors (disregarding alternate Directors) will not be less than 3 (three) nor more than 10 (ten). At no time shall a majority of Directors be resident in either the United Kingdom or in the Republic of South Africa.
- 19.2 The Board shall have power at any time to appoint any person eligible in accordance with Section 137 of the Law to be a Director either to fill a casual vacancy or as an addition to the existing Directors but so that the total number of Directors shall not at any time exceed the number (if any) fixed pursuant to these Articles. Any Director so appointed shall hold office only until the next following annual general meeting and shall then be eligible for re-election.
- 19.3 No person other than a Director retiring at an annual general meeting shall unless recommended by the Directors be eligible for election by the Company to the office of Director unless not less than four nor more than twenty-eight clear days before the date appointed for the general meeting there shall have given to the secretary of the Company notice in writing signed by a Shareholder duly qualified to attend and vote at the meeting for which such notice is given of his intention to propose such person for election together with notice in writing signed by that person of his willingness to be elected. There is no provision for the retirement of Directors on their attaining a certain age.
- 19.4 The Company at the meeting at which a Director retires in manner aforesaid may fill the vacated office by appointing a person thereto by Ordinary Resolution and in default the retiring Director shall, if willing to act, be deemed to have been re-appointed unless at such meeting it is expressly resolved not to fill the vacated office or a resolution for the re-appointment of such Director shall have been put to the meeting and lost. The Company at such meeting may also (subject to Article 19.1) fill any other vacancies.

- 19.5 Without prejudice to the powers of the Board the Company in general meeting may appoint any person to be a Director either to fill a casual vacancy or as an additional Director.
- 19.6 At a general meeting a motion for the appointment of two or more persons as Directors of the Company by a single resolution shall not be made unless a resolution that it shall be so made has been first agreed to by the meeting without any vote being given against it.
- 19.7 The Directors or Secretary shall cause to be maintained a register of Directors in accordance with Sections 143 and 147 of the Law.

## 20 **QUALIFICATION AND REMUNERATION OF DIRECTORS**

- 20.1 A person must not be appointed as a Director unless he has, in writing, consented to being a Director and declared that he is not ineligible to be a Director under the Law.
- 20.2 A Director need not be a Shareholder of the Company but shall be entitled to receive notice of and attend all general meetings of the Company.
- 20.3 A Director shall be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of shares in the Company, regardless of whether that Director is a Shareholder of the Company or of the relevant class.
- 20.4 No fee will be paid to the Directors save as provided in Article 20.5.
- 20.5 Notwithstanding Article 20.4, if any Director having been requested by the Board shall render or perform extra or special services or shall travel or go to or reside in any country not his usual place of residence for any business or purpose of the Company he shall be entitled to receive such sum as the Board may think fit for expenses and also such remuneration as the Board may think fit either as a fixed sum or as a percentage of profits or otherwise and such remuneration may as the Board shall determine be either in addition to or in substitution for any other remuneration which he may be entitled to receive.

## 21 **ALTERNATE DIRECTORS**

- 21.1 Any Director may by notice in writing under his hand served upon the Company appoint any person (whether a Shareholder or not) as an alternate Director, other than a person resident in the United Kingdom or in the Republic of South Africa, unless the Director seeking to appoint the alternate director is himself resident in the United Kingdom or in the Republic of South Africa (as the case may be), to attend and vote in his place at any meeting of the Directors at which he is not personally present or to undertake and perform such duties and functions and to exercise such rights as he could personally and such appointment may be made generally or specifically or for any period or for any particular meeting and with and subject to any particular restrictions. Every such appointment shall be effective and the following provisions shall apply:-
- 21.2 Every alternate Director while he holds office as such shall be entitled:-
- 21.2.1 if his appointor so directs the Secretary, to notice of meetings of the Directors; and
- 21.2.2 to attend and to exercise (subject to any restrictions) all the rights and privileges of his appointor at all such meetings at which his appointor is not personally present.
- 21.3 Every alternate Director shall ipso facto vacate office if and when his appointment expires by effluxion of time or his appointor vacates office as a Director or removes the alternate Director from office as such by notice in writing under his hand served upon the Company.
- 21.4 No alternate Director shall be entitled as such to receive any remuneration from the Company but every alternate Director shall be entitled to be paid all reasonable expenses incurred in exercise of his duties.

21.5 Director may act as alternate Director for another Director and shall be entitled to vote for such other Director as well as on his own account but no Director shall at any meeting be entitled to act as alternate Director for more than one other Director.

## 22 **BORROWING POWERS OF THE BOARD**

Subject to the Company borrowing only up to 10 per cent of the value of its net assets and only for temporary purposes, the Board may exercise all the powers of the Company to borrow or raise money and secure or discharge any debt or obligation of or binding on the Company in any manner, including, subject to the Law, the issue of debentures and other securities and to secure the repayment of any money borrowed raised or owing by guarantees mortgage charge hypothecate pledge or lien upon all or any part of its undertaking property or assets (present or future) and uncalled capital and also by a similar mortgage, charge, pledge or lien to secure and guarantee the performance of any debt, obligation or liability of the Company or of any third party.

## 23 **OTHER POWERS AND DUTIES OF THE BOARD**

23.1 The business of the Company shall be managed by the Board who may exercise all such powers of the Company as are not required to be exercised by the Company in a general meeting subject nevertheless to these Articles and to the Law and to such regulations as may be prescribed by the Company in a general meeting but no regulation so made shall invalidate any prior act of the Board. The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Board by any other Article.

23.2 The Board may arrange that any branch of the business carried on by the Company or any other business in which the Company may be interested shall be carried on by or through one or more subsidiary companies and the Board may on behalf of the Company make such arrangements as it thinks advisable for taking the profits or bearing the losses of any branch or business so carried on or for financing assisting or subsidising any such subsidiary company or guaranteeing its contracts obligations or liabilities.

23.3 The Board may establish any local boards or agencies for managing any of the affairs of the Company and may appoint any one or more of its number or any other persons to be members of such local Boards or any managers or agents and may fix their remuneration and may delegate to any local board manager or agent any of the powers authorities and discretions vested in the Board with power to sub-delegate and may authorise the Shareholders of any local board to fill any vacancies and to act notwithstanding vacancies and any such appointment or delegation may be made upon such terms and subject to such conditions as the Board may think fit and the Board may remove any person so appointed and may annul or vary any such delegation but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.

23.4 The Board may at any time by power of attorney given under the hand of such person or persons duly authorised in that behalf appoint any person or any fluctuating body of persons whether nominated directly or indirectly by the Board to be the attorney of the Company for such purposes and with such powers and discretions and for such periods and subject to such conditions as the Board may think fit and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any attorney as the Board may think fit and may also authorise any attorney to sub-delegate all or any of his powers and discretions.

23.5 All cheques promissory notes drafts bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company shall be signed drawn accepted endorsed or otherwise executed in such manner as the Board shall at any time determine.

23.6 The Board shall cause minutes to be made and maintained at the Office in books provided for the purpose:-

23.6.1 of all resolutions and proceedings at meetings of the Board and of Board committees in accordance with Section 154 of the Law; and

23.6.2 of all proceedings at general meetings of the Company or otherwise and all decisions of a sole Shareholder in accordance with Sections 228 and 230 of the Law.

Any such minutes if purporting to be signed by the Chair of the meeting at which the proceedings took place, or by the Chair of the next succeeding meeting, shall be evidence of their proceedings.

## 24 **CONFLICTS OF INTEREST**

24.1 A Director must, immediately after becoming aware of the fact that he is interested in a transaction or proposed transaction with the Company, disclose to the Board in accordance with Section 162 of the Law, the nature and extent of that interest.

24.2 Article 24.1 does not apply if:-

24.2.1 the transaction or proposed transaction is between the Director and the Company; and

24.2.2 the transaction or proposed transaction is or is to be entered into in the ordinary course of the Company's business and on usual terms and conditions.

24.3 A general disclosure to the Board to the effect that a Director has an interest (as director, officer, employee, member or otherwise) in a party and is to be regarded as interested in any transaction which may after the date of the disclosure be entered into with that party is sufficient disclosure of interest in relation to that transaction.

24.4 Nothing in Articles 24.1, 24.2 or 24.3 applies in relation to:-

24.4.1 remuneration or other benefit given to a Director;

24.4.2 insurance purchased or maintained for a Director in accordance with Section 158 of the Law; or

24.4.3 qualifying third party indemnity provision provided for a Director in accordance with Section 159 of the Law.

24.5 A Director who is interested in a transaction entered into, or to be entered into, by the Company, may:-

24.5.1 vote on a matter relating to the transaction;

24.5.2 attend a meeting of Directors at which a matter relating to the transaction arises and be included among the Directors present at the meeting for the purpose of a quorum;

24.5.3 sign a document relating to the transaction on behalf of the Company; and

24.5.4 do any other thing in his capacity as a Director in relation to the transaction;

as if the Director was not interested in the transaction.

24.6 Subject to Article 24.7, a Director is interested in a transaction to which the Company is a party if the director:-

24.6.1 is a party to, or may derive a material benefit from, the transaction;

24.6.2 has a material financial interest in another party to the transaction;

24.6.3 is a director, officer, employee or Shareholder of another party (other than a party which is an



associated company) who may derive a material financial benefit from the transaction;

24.6.4 is the parent, child or spouse of another party who may derive a material financial benefit from the transaction; or

24.6.5 is otherwise directly or indirectly materially interested in the transaction.

24.7 A director is not interested in a transaction to which the Company is a party if the transaction comprises only the giving by the Company of security to a third party which has no connection with the Director, at the request of the third party, in respect of a debt or obligation of the Company for which the Director or another person has personally assumed responsibility in whole or in part under a guarantee, indemnity or security.

24.8 A Director may hold any other office or place of profit under the Company (other than Auditor) in conjunction with his office of Director for such period and on such terms (as to remuneration and otherwise) as the Board 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 any 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 profits realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established.

24.9 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.

## 25 **DISQUALIFICATION AND REMOVAL OF DIRECTORS**

25.1 The office of a Director shall ipso facto be vacated:-

25.1.1 if he (not being a person holding for a fixed term an executive office subject to termination if he cease from any cause to be a Director) resigns his office by written notice signed by him sent to or deposited at the Office, provided that the Company may agree to accept the resignation to take effect on a later date as specified by the resigning Director;

25.1.2 if he shall have absented himself (such absence not being absence with leave or by arrangement with the Board on the affairs of the Company) from meetings of the Board for a consecutive period of twelve months and the Board resolves that his office shall be vacated;

25.1.3 if he becomes bankrupt, suspends payment or compounds with his creditors, or is adjudged insolvent or has his affairs declared en désastre or has a preliminary vesting order made against his Guernsey realty;

25.1.4 if he becomes of unsound mind or incapable;

25.1.5 if he becomes insolvent suspends payment or compounds with his creditors;

25.1.6 if he is requested to resign by written notice signed by all his co-Directors;

25.1.7 if the Company in general meeting shall declare that he shall cease to be a Director;

25.1.8 if he becomes prohibited from acting as Director pursuant to the Law; or

25.1.9 if he becomes resident in the United Kingdom or in the Republic of South Africa and, as a result thereof, a majority of the Directors are resident in the United Kingdom or in the Republic of South Africa.

26 If the Company in general meeting removes any Director before the expiration of his period of office it may by an Ordinary Resolution appoint another person to be a Director in his stead who shall retain his office so long only as the Director in whose stead he is appointed would have held the same if he had not been removed. Such removal shall be without prejudice to any claims such Director may have for damages for breach of any contract of service between him and the Company.

## 27 **PROCEEDINGS OF DIRECTORS**

27.1 The Board may meet for the despatch of business adjourn and otherwise regulate its meetings as it thinks fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the Chair at the meeting shall have a second or casting vote. All meetings of Directors shall take place outside of the United Kingdom and the Republic of South Africa and any decision reached or resolution passed by the Directors at any meeting held within the United Kingdom or in the Republic of South Africa or at which a majority of United Kingdom or South African resident directors is present shall be invalid and of no effect.

27.2 A video link or telephone conference call or other electronic or telephonic means of communication in which a quorum of Directors participates and all participants can hear and speak to each other shall be a valid meeting **PROVIDED THAT** no Directors physically present in the United Kingdom or in the Republic of South Africa at the time of any such meeting may participate in a meeting by means of video link, telephone conference call or other electronic or telephonic means of communication.

27.3 The Board shall also determine the notice necessary for its meetings and the persons to whom such notice shall be given.

27.4 A meeting of the Board at which a quorum is present shall be competent to exercise all powers and discretions exercisable by the Board.

27.5 The continuing Directors may act notwithstanding any vacancy but if and so long as their number is reduced below the minimum number fixed pursuant to these Articles the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting but for no other purpose. If there be no Directors able or willing to act then any holder may summon a general meeting for the purpose of appointing Directors.

27.6 The Board may elect one of their number as Chair of their meetings who will hold office only for the duration of the meeting at which he was elected. If no such Chair be elected or if at any meeting the Chair be not present within five minutes after the time appointed for holding the same the Directors present may choose one of their number to be Chair of the meeting.

27.7 The Board may delegate any of their powers to committees consisting of such one or more Directors as they think fit. Such committees shall meet only outside the United Kingdom and the Republic of South Africa. 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 Board.

27.8 The quorum necessary for the transaction of the business of the Board may be fixed by the Board and unless so fixed shall be two except that where the minimum number of Directors has been fixed at one a sole Director shall be deemed to form a quorum. For the purposes of this Article an alternate appointed by a Director shall be counted in a quorum at a meeting at which the Director appointing him is not present.

## 28 **EXECUTIVE DIRECTOR**

28.1 The Board may at any time appoint one or more of their body (who is resident outside the United Kingdom and the Republic of South Africa) to be holder of any executive office including the office of Managing Director for such periods and upon such terms as the Board may determine and may revoke or terminate any such appointments. Any such revocation or termination as aforesaid shall be without prejudice to any claim for damages that such Director may have against the Company or the Company may have against

such Director for any breach of any contract of service between him and the Company which may be involved in such revocation or termination.

- 28.2 The Board may entrust to and confer upon a Director holding any executive office any of the powers exercisable by the Board upon such terms and conditions and with such restrictions as it thinks fit either collaterally with or to the exclusion of their own powers and may at any time revoke withdraw alter or vary all or any of such powers.

## 29 **SECRETARY**

- 29.1 The Secretary shall be appointed by the Board. Anything required or authorised to be done by or to the Secretary, may, if the office is vacant or there is for any other reason no Secretary capable of acting be done by or to any assistant or deputy secretary or if there is no assistant or deputy secretary capable of acting, by or to any officer of the Company authorised generally or specially in that behalf by the Directors.

- 29.2 No person shall be appointed or hold office as Secretary who is:-

29.2.1 the sole Director of the Company, or

29.2.2 a corporation the sole Director of which is the sole Director of the Company, or

29.2.3 the sole Director of a corporation which is the sole Director of the Company.

- 29.3 Where the Company has appointed a Secretary, and without prejudice to the responsibility of any other person or to any other responsibilities he may hold, the functions and responsibilities of a Secretary are those which are set out in any agreement under which the Secretary is appointed from time to time or, failing such agreement the Secretary shall take reasonable steps to ensure:

29.3.1 that all registers and indexes are maintained in accordance with the provisions of the Law;

29.3.2 that all notices and documents required to be filed or served upon the Registrar of Companies or other persons are duly so filed or served;

29.3.3 that all resolutions, records and minutes of the Company are properly kept;

29.3.4 that copies of the Memorandum and Articles are kept fully up to date; and

29.3.5 that the Directors are aware of any obligations imposed by the Articles.

- 29.4 The Secretary may be removed by resolution of the Directors or otherwise in accordance with Article 25 which shall apply mutatis mutandis as if the Secretary were a Director, save that Article 25.1.9 shall not apply.

## 30 **RESIDENT AGENT**

If Part XXIX of the Law applies to the Company, the Board shall ensure that a resident agent is appointed in accordance with the Law.

## 31 **THE SEAL**

If the Board determines to maintain a Seal it shall provide for the safe custody of the Seal which shall only be used by authority of the Board or of a committee and every instrument to which the Seal shall be affixed shall be signed by any such persons as are authorised by the Board in that behalf. The Board may authorise the use of a duplicate or facsimile Seal for use outside Guernsey in such manner as the Board may at its discretion determine.

## 32 COMMON SIGNATURE

32.1 The common signature of the Company may be either:-

32.1.1 the name of the Company with the addition of the signature(s) of one or more of the Directors or officers of the Company authorised generally or specifically by the Board for such purpose, or such other person or persons as the Board may from time to time appoint; or

32.1.2 if the Board resolves that the Company shall have a Seal, it shall be affixed in such manner as these Articles or the Board may from time to time provide.

## 33 AUTHENTICATION OF DOCUMENTS

Any Director or the Secretary or any person appointed by the Board for the purpose shall have power to authenticate any documents affecting the Company (including the Memorandum and these Articles) and any resolutions passed by the Company or the Board and any books records documents and accounts relating to the business of the Company and to certify copies or extracts as true copies or extracts; and where any books records documents or accounts are elsewhere than at the Office the local manager or other officer of the Company having their custody shall be deemed to be a person appointed by the Board as aforesaid.

## 34 DIVIDENDS

34.1 Subject to the Law the Company in general meeting may at any time declare dividend's but no dividend shall exceed the amount recommended by the Board. All dividends will be paid in accordance with the policy of the Bermuda Stock Exchange.

34.2 Subject to the Law the method of payment of dividends shall be at the discretion of the Board.

34.3 Subject to Article 18, unless and to the extent that the rights attached to any shares or the terms of issue thereof otherwise provide, all dividends shall be declared and paid according to the amounts paid up or credited as paid-up on the shares in respect whereof the dividend is paid.

34.4 The Directors may at any time if they think fit declare and pay such interim dividends as appear to be justified by the position of the Company.

34.5 With the sanction of the Company in general meeting, any dividend may be paid wholly or in part by the distribution of specific assets and, in particular, of paid-up shares of the Company. Where any difficulty arises in regard to such distribution the Board may settle the same as it thinks expedient and in particular may issue fractional shares and fix the value for distribution of such specific assets and may determine that cash payments shall be made to any Shareholders upon the footing of the value so fixed in order to adjust the rights of Shareholders and may vest any such specific assets in trustees for the Shareholders entitled as may seem expedient to the Board.

34.6 The Board may deduct from any dividend payable to any Shareholder on or in respect of a share all sums of money (if any) presently payable by him to the Company on account of calls or otherwise.

34.7 The Board may retain any dividend or other moneys payable on or in respect of a share on which the Company has a lien and may apply the same in or towards satisfaction of the liabilities or obligations in respect of which the lien exists.

34.8 The Board may retain dividends payable upon shares in respect of which any person is entitled to become a Shareholder until such person has become a Shareholder.

34.9 Any dividend interest or other moneys payable in cash in respect of shares may be paid by cheque or warrant sent through the post at the risk of the person entitled to the money represented thereby to the registered address of the holder or in the case of joint holders to the registered address of that one of the

joint holders who is first named on the Register. Any one of two or more joint holders may give effectual receipts for any dividends interest bonuses or other moneys payable in respect of their joint holdings.

34.10 No dividend or other moneys payable on or in respect of a share shall bear interest against the Company.

34.11 All unclaimed dividends may be invested or otherwise made use of by the Board for the benefit of the Company until claimed. No dividends will bear interest against the Company. All dividends unclaimed for a period of six years after having been declared or became due for payment shall be forfeited and shall revert to the Company and the payment by the Directors of any unclaimed dividend or other monies payable on or in respect of a share into a separate account will not constitute the Company a trustee in respect thereof.

## 35 RESERVES

The Board may before recommending any dividend set aside such sums out of the profits or otherwise of the Company as it thinks proper as reserves which shall at the discretion of the Board be applicable for any purpose to which such sums may be properly applied and pending such application may either be employed in the business of the Company or be invested in such investments as the Board may at any time think fit. The Board may also without placing the same to reserve carry forward any profits or other sums which it may think prudent not to distribute.

## 36 ACCOUNTS AND REPORTS

36.1 The Board shall cause proper books of account to be kept with respect to all the transactions assets and liabilities of the Company in accordance with the Law and International Financial Reporting Standards issued by the International Accounting Standards Board.

36.2 The books of account shall be kept at the Office or at such other place as the Board shall think fit and shall at all times be open to the inspection of the Directors but no person other than a Director or Auditor or other person whose duty requires and entitles him to do so shall be entitled to inspect the books, accounts and documents of the Company except as provided by the Law or authorised by the Board or by the Company in general meeting.

36.3 The accounts shall include a Statement of Financial Position and shall be laid before the Company at its annual general meeting in each year. Save where the Directors' duty to prepare a report is exempted or waived in accordance with the Law, the accounts shall be accompanied by a report of the Directors which includes a statement of the principal activities of the Company in the course of the Financial Year and may be in summary form. The Auditor's report shall be attached to the accounts or there shall be inserted at the foot of the accounts a reference to the report.

36.4 A copy of the accounts and of all documents annexed thereto including the reports of the Directors (if any) and the Auditor shall at least twenty one days before the date of the meeting be delivered or sent by post or electronically to each of the registered holders and to the Auditor. Any holder may by written notice served on the Company waive this requirement.

## 37 AUDITORS

37.1 A Director shall not be capable of being appointed as an Auditor.

37.2 A person other than a retiring Auditor shall not be capable of being appointed Auditor at an ordinary general meeting unless notice of intention to nominate that person as Auditor has been given by a Shareholder to the Company not less than fourteen clear days before the meeting and the Board shall send a copy of any such notice to the retiring Auditor and shall give notice to the Shareholders not less than seven clear days before the meeting **PROVIDED THAT** if after notice of the intention to nominate an Auditor has been so given a meeting is called for a date fourteen clear days or less after such notice has

been given the requirements of this provision as to time in respect of such notice shall be deemed to have been satisfied and the notice to be sent or given by the Company may instead of being sent or given within the time required by this Article be sent or given at the same time as the notice of the meeting.

- 37.3 The first Auditor shall be appointed by the Board before the first general meeting and they shall hold office until the first ordinary general meeting unless previously removed in which case the Shareholders at such meeting may appoint the Auditor.
- 37.4 The Board may fill any casual vacancy in the office of Auditor but while any such vacancy continues the surviving or continuing Auditor (if any) may act.
- 37.5 The remuneration of the Auditor shall be fixed by the Company in a general meeting or in such manner as the Company may determine except that the remuneration of any Auditor appointed by the Board shall be fixed by the Board.
- 37.6 Every Auditor shall have a right of access at all times to the books accounts and documents of the Company and as regards books accounts and documents of which the originals are not readily available shall be entitled to rely upon copies or extracts certified by an officer of the Company and shall be entitled to require from the Board such information and explanations as may be necessary for the performance of their duties and the Auditor shall make a report to the Shareholders on the accounts examined by them and the report shall state whether in their opinion the accounts give a true and fair view of the state of the Company's affairs and whether they have been prepared in accordance with the Law.
- 37.7 Any Auditor shall be eligible for re-election.

## 38 **NOTICES**

- 38.1 Any Shareholder may notify the Company of a Relevant Electronic Address for the purpose of his receiving communications by Electronic Means from the Company at any time.
- 38.2 Any document or notice which, in accordance with these Articles, may be transmitted by the Company in electronic form and by Electronic Means shall, if so transmitted, be deemed to be regarded as served immediately after it was transmitted. Proof (in accordance with the formal recommendations of best practice contained in the guidance issued by the United Kingdom Institute of Chartered Secretaries and Administrators) that a communication was transmitted by Electronic Means by the Company shall be conclusive evidence of such transmission.
- 38.3 A communication by Electronic Means shall not be treated as served by the Company if it is rejected by computer virus protection arrangements.
- 38.4 A notice may be given by the Company to any Shareholder either personally or in electronic form by Electronic Means (including publication on a website in accordance with Section 208 of the Law) or by sending it by prepaid post addressed to such Shareholder at his registered address or if he desires that notices shall be sent to some other address or person to the address or person nominated for such purpose. Notices to be posted to addresses outside the Channel Islands and the United Kingdom shall so far as practicable be forwarded by prepaid airmail.
- 38.5 The Company shall, where no other period is specified in these Articles, give all Shareholders sufficient notice to enable them to exercise their rights or comply with the terms of the notice.
- 38.6 Any notice or other document, if served by post (including registered post, recorded delivery service or ordinary letter post), shall be deemed to have been served on the second day after the day on which the same was posted from Guernsey to an address in the United Kingdom, the Channel Islands or the Isle of Man and, in any other case, on the third day following that on which the same was posted and, in each case, excluding any day which is a Saturday, Sunday, Good Friday, Christmas Day, bank holiday in Guernsey, or a day appointed as a day of public thanksgiving or public mourning in Guernsey.

- 38.7 Any notice or document delivered or sent by post to or left at the registered address of any Shareholder shall notwithstanding the death disability insolvency of such Shareholder and whether the Company has notice thereof be deemed to have been duly served in respect of any share registered in the name of such Shareholder as sole or joint holder 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 any such share.
- 38.8 Service of a document sent by post shall be proved by showing the date of posting, the address thereon and the fact of pre-payment.
- 38.9 Any notice or other document, if transmitted by Electronic Means, facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication, shall be regarded as served immediately after it was transmitted.
- 38.10 A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder first named in the Register in respect of the Share.
- 38.11 All Shareholders shall be deemed to have agreed to accept communication from the Company by Electronic Means in accordance with Sections 523, 524 and 526 and Schedule 3 of the Law unless a Shareholder notifies the Company otherwise. Notice under this Article must be in writing and signed by the Shareholder and delivered to the Company's Office or such other place as the Board directs.

## 39 **RECORD DATES**

- 39.1 Subject to any restriction thereon contained in the Law, for the purposes of serving notices of meetings, whether under the Law or under a provision in these Articles or any other instrument, the Directors may determine that those persons who are entered on the Register at the close of business on a day determined by the Directors shall be persons who are entitled to receive such notices provided that such day may not be more than 21 days before the day on which the notices of the meeting are sent.
- 39.2 For the purposes of determining which persons are entitled to attend or vote at a meeting, and how many votes they may cast, the Directors may specify in the notice of the meeting a time, being not more than 48 hours, excluding any days which are not Business Days, before the time fixed for the meeting, by which a person must be entered on the Register in order to have the right to attend or vote at the meeting.
- 39.3 Notwithstanding any provision to the contrary in these Articles, changes to entries on the Register after the time specified under Article 39.2 shall be disregarded in determining the rights of any person to attend or vote at the meeting unless the Directors in their discretion decide otherwise.
- 39.4 Subject to any restriction thereon contained in the Law or in the terms of issue of any share in the Company, for the purposes of issuing any share, making any distribution or paying any dividend, the Directors may determine that those persons who are entered on the Register at the close of business on a day determined by the Directors shall be the persons who are entitled to receive such shares, dividends or distributions.

## 40 **WINDING UP**

- 40.1 In the event of the Company being wound up, the Liquidator will apply the assets of the Company, subject to the provisions of the Law, in satisfaction of the costs associated with the liquidation creditors' claims in such manner and order as he thinks fit.
- 40.2 The assets available for distribution among the Shareholders shall then be applied in the following priority:-
- 40.2.1 firstly, in payment to the Shareholders a sum equal to the nominal amount of the Shares held by such holders respectively;

- 40.2.2 secondly, in the payment to holders of Management Shares of sums up to the nominal amount paid up thereon; and
- 40.2.3 thirdly, in payment to the Shareholders of any balance then remaining, such payment being made in proportion to the number of shares held.
- 40.3 If the Company shall be wound up whether voluntarily or otherwise the Liquidator may with the authority of a Special Resolution divide among the Shareholders in specie the whole or any part of the assets of the Company and whether or not the assets shall consist of property of a single kind and may for such purposes set such value as he deems fair upon any one or more class or classes of property and may determine how such division shall be carried out as between the Shareholders or different classes of Shareholders. The Liquidator may with the like authority vest any part of the assets in trustees upon such trusts for the benefit of Shareholders as the Liquidator with the like authority shall think fit and the liquidation of the Company may be closed and the Company dissolved but so that no Shareholder shall be compelled to accept any shares or other assets in respect of which there is any outstanding liability.
- 40.4 If thought expedient subject to the obtaining of any necessary consents or sanctions any such division made in accordance with Article 40.2 above may be otherwise than in accordance with the then existing rights of the Shareholders and in particular any class may be given preferential or special rights or may be excluded altogether or in part but in default of any such provision the assets shall subject to the rights of the holders of shares issued with special rights or privileges or on special conditions be distributed rateably according to the amount paid up on the shares.
- 40.5 In case any of the shares to be divided as aforesaid involve a liability to calls or otherwise any person entitled under such division to any of the said shares may within fourteen clear days after the passing of the Special Resolution by notice in writing direct the Liquidator to sell his proportion and pay him the net proceeds and the Liquidator shall if practicable act accordingly.
- 40.6 Where the Company is proposed to be or is in course of being wound up and the whole or part of its business or property is proposed to be transferred or sold to another company (the "transferee") the Liquidator of the Company may, with the sanction of an Ordinary Resolution, conferring either a general authority on the Liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares policies or other like interests in the transferee for distribution among the Shareholders of the Company or may enter into any other arrangement whereby the Shareholders of the Company may, in lieu of receiving cash, shares, policies or other like interests, or in addition thereto, participate in the profits of or receive any other benefits from the transferee.

#### 41 **DURATION**

- 41.1 The Company is of unlimited duration subject to the right of (but not the obligation on) the Directors in their absolute discretion to convene an extraordinary general meeting of the Company to be held within 25 days after a Redemption Date at which a Special Resolution may be proposed requiring that the Company be wound up voluntarily. At such meeting the vote of those Shareholders entitled to vote shall be taken by poll and the provisions of Article 41.2 shall apply in relation to such vote.
- 41.2 At any such extraordinary general meeting, those holders of shares who (being individuals) are present in person or by proxy or (being corporations) are present by proxy or by duly authorised representative and entitled to vote and who vote in favour of the resolution shall, on a poll, have such number of votes in respect of each share held by them (including fractions of a vote) so that the aggregate number of votes cast in favour of the resolution is four times the aggregate number of votes cast against the resolution and each Shareholder present in person or by proxy and entitled to vote and who votes against such resolution shall on a poll have one vote for each share held.



42 **INDEMNITY**

To the greatest extent possible under the Law, every Director Managing Director manager agent Auditor Secretary and other officer or servant for the time being of the Company and any trustee (if any) for the time being acting in relation to any of the affairs of the Company and each of their respective heirs and executors shall be fully indemnified out of the assets and profits of the Company from and against all actions expenses and liabilities which they or their respective heirs or executors may incur by reason of any contract entered into or any act in or about the execution of their respective offices or trusts except such (if any) as they shall incur by or through their own negligence, default, breach of duty or breach of trust respectively and none of them shall be answerable for the acts receipts neglects or defaults of the others of them or for joining in any receipt for the sake of conformity or for any bankers or other person with whom any moneys or assets of the Company may be lodged or deposited for safe custody or for any bankers or other persons into whose hands any money or assets of the Company may come or for any defects of title of the Company to any property purchased or for insufficiency or deficiency of or defect in title of the Company to any security upon which any moneys of the Company shall be placed out or invested or for any loss misfortune or damage resulting from any such cause as aforesaid or which may happen in or about the execution of their respective offices or trusts except the same shall happen by or through their own negligence, default, breach of duty or breach of trust.

43 **INSURANCE**

Without prejudice to any other provisions of these Articles, the Directors may exercise all the powers of the Company to purchase and maintain insurance for or for the benefit of any persons who are or were at any time Directors, officers, employees or auditors of the Company, or of any other body (whether or not incorporated) which is or was its subsidiary of the Company (together "Group Companies") or otherwise associated with the Company or any Group Company or in which the Company or any such Group Company has or had any interest, whether direct or indirect, or of any predecessor in business of any of the foregoing, including (without prejudice to the generality of the foregoing) insurance against any costs, charges, expenses, losses or liabilities suffered or 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 the exercise or purported exercise of their powers and discretions and/or otherwise in relation to or in connection with their duties, powers or offices in relation to the Company or any such other body.

44 **INSPECTION OF DOCUMENTS**

The Board shall determine whether and to what extent and at what times and places and under what conditions the accounts books and documents of the Company shall be open to inspection and no Shareholder shall have any right of inspecting any account or book or document except as conferred by the Law or authorised by the Board.

45 **AMENDMENT TO ARTICLES**

These Articles may from time to time be amended in accordance with the Part IV of the Law **PROVIDED THAT** no such amendment shall be made unless prior written approval has been sought and obtained from the Bermuda Stock Exchange for such amendment (including any deletion or addition) for so long as any shares are listed on the Bermuda Stock Exchange.

46 **MISCELLANEOUS**

The Company or its agents shall, if required to do so under the legislation of any jurisdiction to which any of them are subject, be entitled to release or disclose any information in their possession regarding the Company or its affairs or any of its Shareholders (or their direct or indirect owners or account holders), including without limitation information required under any Tax Reporting Regime. In making payments to or for the benefit of Shareholders, the Company may also make any withholding or deduction required by any Tax Reporting Regime.