

ISLE OF MAN
COMPANIES ACT 2006
AMENDED AND RESTATED
MEMORANDUM AND ARTICLES OF ASSOCIATION
OF
ALABAMA MIDCO LIMITED

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AMENDED AND RESTATED
MEMORANDUM OF ASSOCIATION
OF
ALABAMA MIDCO LIMITED

1. NAME

The name of the Company is Alabama Midco Limited.

2. TYPE OF COMPANY

The Company is incorporated as a company limited by shares.

3. REGISTERED OFFICE

The address of the first registered office of the Company is 6th Floor, Victory House, Prospect Hill, Douglas, Isle of Man IM1 1EQ.

4. REGISTERED AGENT

The name of the first registered agent of the Company is Crowe Trust Isle of Man Limited of 6th Floor, Victory House, Prospect Hill, Douglas, Isle of Man IM1 1EQ.

5. POWER AND CAPACITY

The Company has unlimited capacity to carry on or to undertake any business or activity, to do, or to be subject to, any act or to enter into any transaction.

ISLE OF MAN
COMPANIES ACT 2006
ARTICLES OF ASSOCIATION
OF
ALABAMA MIDCO LIMITED
A COMPANY LIMITED BY SHARES

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ISLE OF MAN
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ARTICLES OF ASSOCIATION
OF
ALABAMA MIDCO LIMITED

1. PRELIMINARY

- 1.1 The model articles of association contained in Schedule 1 to the Companies (Model Articles) Regulations 2006 shall not apply to the Company. The following articles (as may be amended from time to time) shall constitute the articles of association of the Company.
- 1.2 These Articles are subject to the terms of the Shareholders' Agreement. In the event of any conflict between these Articles and the provisions of the Shareholders' Agreement, the provisions of the Shareholders' Agreement shall prevail.

2. DEFINITIONS AND INTERPRETATION

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

Act: the Companies Act 2006 including any statutory modification or re-enactment of it for the time being in operation;

Affiliate:

(a) in respect of any individual:

(i) any Relative of that individual;

(ii) any entity Controlled by that individual or one or more Relatives of that individual;

(iii) the executor of that individual's estate; and

(iv) any trust for the benefit of that individual or one or more Relatives of that individual;

(b) in respect of any undertaking, a second undertaking that:

(i) Controls the first undertaking;

(ii) is under the Control of the first undertaking; or

(iii) is under the Control of a third undertaking that Controls the first undertaking;

Articles: the Articles of Association of the Company as amended from time to time;

Board: the board of Directors;

Business Day: a day (excluding Saturday and Sunday) on which banks generally are open in the City of London, UK and the Isle of Man for the transaction of normal banking business;

B Ordinary Share: a non-transferable non-voting share in the capital of the Company with a par value of £~~0.05~~0.0005, having the rights and being subject to the restrictions set out in these Articles;

Class: in relation to Shares, means a class of Shares each of which has identical rights, privileges, limitations and conditions attached to it;

Company Value: has the meaning given to it in Article 4.10(b);

Control: in relation to an undertaking:

(a) the ownership or ability to direct the exercise of a majority of the voting rights capable of being exercised at a general meeting of that undertaking;

(b) the right to appoint or remove a majority of the board of directors (or corresponding officers) of that undertaking;

(c) in the case of a Fund, the right to be a Fund Manager; or

(d) the possession of the power to direct or cause the direction of its financial and operational management and policies (whether through the ownership of voting shares, by virtue of provisions contained in its constitutional documents, by a management or advisory agreement, by contract, by agency or otherwise),

in each case either directly or indirectly, and "Controlled" and "Controls" shall be construed accordingly;

DBAY Funds: DouglasBay Capital III Fund (Co-Investment Account No. 1) LP, DouglasBay Capital III Fund LP and DouglasBay Capital III Annex Fund LP;

Director: a director of the Company;

Distribution: in relation to a distribution by the Company to a Shareholder, the direct or indirect transfer of any assets, other than Shares, to or for the benefit of a Shareholder or the incurring of a debt to or for the benefit of a Shareholder, in relation to Shares held by that Shareholder, and whether by means of the purchase of an asset, the purchase,

redemption or other acquisition of Shares, a transfer or assignment of indebtedness or otherwise, and includes a dividend;

Equity Proportion: the number of Shares held by the relevant Shareholder and expressed as a proportion of the total number of Shares;

Excluded Issue: the issue of Securities under any management incentive plan operated and maintained by the Company from time to time;

Founders: [Alan Sellers and Samantha Moss;](#)

Fund: [any body corporate, partnership, superannuation scheme, pension fund, collective investment scheme or managed fund that \(a\) has been established or converted to pool the resources of multiple underlying investors or utilise the resources of one underlying investor, \(b\) is managed and/or advised by a professional manager that is appropriately authorised to provide management and/or advice, and \(c\) has been established or converted to invest in a class of assets or investments, rather than in a single asset or investment;](#)

Fund Manager: [an appropriately authorised person appointed by a Fund to manage and/or advise that Fund on a day to day basis in relation to all or part of its assets and undertakings;](#)

ICAEW: [the Institute of Chartered Accountants of England and Wales;](#)

Independent Determination: [has the meaning given in Article 4.11;](#)

Independent Valuation Notice: [has the meaning given in Article 4.10;](#)

Independent Valuer: [an independent audit or financial advisory firm of international standing, regulated by the ICAEW and/or UK Financial Conduct Authority;](#)

Investor: a holder of B Ordinary Shares;

Memorandum: the Memorandum of Association of the Company as amended from time to time;

New Issue: the issuance of new Securities;

Non-Cash Consideration Value: [has the meaning given in Article 4.10;](#)

Ordinary Share: a voting share in the capital of the Company with a par value of £~~0.05~~[0.0005](#), having the rights and being subject to the restrictions set out in these Articles;

Person: includes a body corporate;

Registrar: the Registrar of Companies appointed under section 205 (registrar of companies) of the Act;

Relative: in relation to an individual:

(a) the spouse, parent, son, daughter, brother or sister of that individual; or

(b) any person married to any of the persons specified in paragraph (a);

Relevant Issue: has the meaning given in Article 4.10;

Relevant Notice: has the meaning given in Article 4.10;

Restricted Person: has the meaning given in the Shareholders' Agreement;

Securities: (a) Shares; (b) any other shares in the capital of the Company of whatever class and with whatever rights as may attach thereto; and (c) any legal, beneficial or security interest in any of the items described in (a) and (b);

Seal: any seal which has been duly adopted as the common seal of the Company;

Share: a share issued by the Company;

Shareholder: a person whose name is entered in the register of members of the Company as the holder of one or more Shares or fractional Shares and each person named as a subscriber in the Memorandum until that person's name is entered in the register of members of the Company;

Shareholders' Agreement: any shareholder agreement in relation to the Company and/or the group of companies of which it is a member in place from time to time;

Solvency Test: the solvency test referred to in section 49 (meaning of "solvency test" and "distribution") of the Act which the Company satisfies if it is able to pay its debts as they become due in the normal course of the Company's business and the value of its assets exceeds the value of its liabilities;

Sponsor: the holder of Ordinary Shares;

Voting Rights: all the rights to vote on a poll on any resolution of the Shareholders or a class of Shareholders (as the case may be) according to the rights attached to the Shares held;

written: or any similar term includes information generated, sent, received or stored by electronic, digital, magnetic, optical, electromagnetic, biometric or photonic means including electronic data interchange, electronic mail, telegram, telex or telecopy, and **in writing** shall be construed accordingly.

2.2 In the Articles, unless the context otherwise requires:

- (a) a reference to:
 - (i) an Article is a reference to an article in the Articles;
 - (ii) voting by Shareholders is a reference to the casting of votes attached to Shares by Shareholders;
 - (b) words denoting any one gender include the other gender and words denoting the singular shall include the plural and vice versa; and
 - (c) words or phrases contained in the Articles bear the same meaning as they do in the Act but excluding any statutory modification to such meaning not in operation when the Articles become binding on the Company.
- 2.3 Headings are for ease of reference only and shall not affect the interpretation of the Articles.
3. **SHARE CERTIFICATES**
- 3.1 Upon request to the Company, a Shareholder shall be entitled:
- (a) without payment, to one certificate for all the Shares of each Class held by that Shareholder and (upon transferring some of such Shares) to a certificate for the balance thereof; or
 - (b) to several certificates each for one or more of that Shareholder's Shares upon payment, for every certificate after the first, of such reasonable sum as the Directors may determine.
- 3.2 The Company shall not be bound to issue more than one certificate for Shares held jointly by several persons and delivery of a certificate to one joint owner shall be delivery to all of them.
- 3.3 Any certificate for Shares issued by the Company shall be signed by a Director or any other person authorised by a resolution of the Directors or under the Seal and shall specify the number, Class and par value (if any) of the Shares to which it relates. Such signature or Seal may be a facsimile.
- 3.4 Any Shareholder receiving a certificate shall indemnify and hold the Company and the Directors and officers harmless from any loss or liability which it or they may incur by reason of any wrongful or fraudulent use of such certificate or representation made by any person by virtue of the possession of such certificate. If a certificate for Shares is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and payment of the expenses reasonably incurred by the Company in investigating evidence as the Directors may determine (but otherwise free of charge) and, in the case of defacement or wearing out, on delivery up of the old certificate.

4. ISSUE OF SHARES

- 4.1 Subject to the Act, the Memorandum, the Articles and the Shareholders' Agreement, the Shares may be issued and options to acquire Shares may be granted at such times, to such persons, for such consideration and on such terms as the Directors may determine.
- 4.2 Shares may be numbered or unnumbered.
- 4.3 The Company may issue fractional Shares. A fractional Share has the corresponding fractional rights, obligations and liabilities of a whole Share of the same Class.
- 4.4 The Company may issue bonus shares and nil or partly paid shares.

~~4.5 A Share may be issued for consideration in any form, including money, a promissory note or other written obligation to contribute money or property, real property, personal property (including goodwill and know-how), services rendered or a contract for future services provided that no Shares may be issued for a consideration other than money, unless the Directors have passed a resolution stating:—~~

~~(a) the amount to be credited for the issue of the Shares;~~

~~(b) their determination of the reasonable present cash value of the non-money consideration for the issue; and~~

~~(c) that, in their opinion, the present cash value of the non-money consideration for the issue is not less than the amount to be credited for the issue of the Shares.~~

4.5 ~~4.6~~ The Company shall keep a register of members containing:

- (a) the name and business or residential address of each of the Shareholders provided that if the register does not contain a Shareholder's residential address the registered agent shall maintain a separate record of such address;
- (b) the number of Shares of each Class held by each Shareholder at any time;
- (c) the date on which the name of each Shareholder was entered in the register of members; and
- (d) the date on which any person ceased to be a Shareholder.

4.6 ~~4.7~~ The register of members may be in any such form as the Directors may approve but, if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents.

4.7 ~~4.8~~ Save in respect of Shares subscribed for by a subscriber, a Share is deemed to be issued when the name of the Shareholder is entered in the register of members.

4.8 ~~4.9~~ The Company may pay commission at such rates or in such amounts as the Directors may determine to any person in consideration of such person 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.

4.9 A Share may be issued for consideration in any form, including money, a promissory note or other written obligation to contribute money or property, real property, personal property (including goodwill and know-how), services rendered or a contract for future services provided that no Shares may be issued for a consideration other than money, unless the Directors have passed a resolution stating:

- (a) the amount to be credited for the issue of the Shares;
- (b) their determination of the reasonable present cash value of the non-money consideration for the issue; and
- (c) that, in their opinion, the present cash value of the non-money consideration for the issue is not less than the amount to be credited for the issue of the Shares.

4.10 If the Board proposes to allot a New Issue (other than an Excluded Issue) to the Sponsor, any DBAY Fund, any Founder or an Affiliate of any of the foregoing in exchange for consideration other than cash (**Relevant Issue**) the following provisions of this Article 4.10, Article 4.11 and 4.12 will apply in addition to Article 4.9:

- (a) the Board must first give written notice to each Shareholder (**Relevant Notice**) as soon as reasonably practicable after approval from the Board for that issue is given with respect to the Relevant Issue stating:
 - (i) the particulars of the transaction;
 - (ii) a description of the assets which are the subject of the Relevant Issue, or the business carried on by, or using, the assets;
 - (iii) the profits (or if applicable, losses) attributable to those assets;
 - (iv) the aggregate number of Shares the Company proposes to offer for subscription;
 - (v) the value attributable to the non-cash consideration (**Non-Cash Consideration Value**); and
 - (vi) confirmation that the Board considers the financial terms of the Relevant Issue to be fair and reasonable; and
- (b) holders of 75% of the nominal value of the B Ordinary Shares may, by giving written notice (**Independent Valuation Notice**) to the Company within 10 Business Days following the Relevant Notice, require the Company to obtain an independent valuation of the Non-Cash Consideration Value, and the attributable

issue price per Share and consequent pre-subscription value of the Company
(Company Value) prior to the proposed date for completion of the Relevant Issue,

provided that, if an Independent Valuation Notice is not duly served in accordance with
Article 4.10(b), the Company shall be entitled to complete the Relevant Issue on the terms
set out in the Relevant Notice.

4.11 Where holders of 75% of the nominal value of the B Ordinary Shares validly serve an
Independent Valuation Notice:

(a) the Board shall, within 20 Business Days following the Independent Valuation
Notice, appoint in its absolute discretion and at the Company's cost an
Independent Valuer to determine the fair market valuation of the Non-Cash
Consideration Value and the Company Value in accordance with the provisions of
Article 4.12 (Independent Determination), and shall, upon receipt of the
Independent Determination, deliver a copy of such Independent Determination to
holders of the B Ordinary Shares who have so requested in writing, subject to each
such holder of B Ordinary Shares having executed and delivered to the Company
appropriate confidentiality undertakings in a form reasonably satisfactory to the
Company; and

(b) the Company shall only complete the Relevant Issue:

(i) once it has received the Independent Determination from the Independent
Valuer;

(ii) provided that the number of Shares to be issued in the Relevant Issue does
not exceed by more than 15% the number of such Shares that would be
issued if the following formula were applied:

$$\frac{(A \times B)}{C}$$

where "A" is the Non-Cash Consideration Value determined by the
Independent Valuer, "B" is the fully diluted share capital of the Company
immediately prior to the Relevant Issue and "C" is the Company Value
determined by the Independent Valuer; and

(iii) once it has given further notice to each Shareholder, stating the final
aggregate number of Shares the Company proposes to offer for
subscription in connection with the Relevant Issue and confirming
compliance with the provisions of Articles 4.10-4.12.

4.12 The following provisions shall apply to the Independent Determination:

(a) it shall be made by reference to such matters as the Independent Valuer shall
reasonably consider to be appropriate;

- (b) the Independent Valuer shall be given all such information and other assistance as he or she may reasonably require; and
- (c) it shall, in the absence of manifest error, be final and binding on all concerned.

5. PRE-EMPTION RIGHTS

5.1 Offer notice

5.2 If the Company proposes to allot a New Issue (other than an Excluded Issue) in exchange for cash consideration, it must first give written notice to each Shareholder (an **Offer Notice**) as soon as reasonably practicable after approval from the Board for that issue is given, inviting the Shareholder to subscribe for those Shares. An Offer Notice must:

- (a) be in writing and open for acceptance for at least ten Business Days from and including the date of the Offer Notice (the **Offer Period**);
- (b) specify the aggregate number of Shares the Company proposes to offer for subscription (the **Offer Shares**), the issue price per Share (the **Offer Price**) and any other terms and conditions of the New Issue (the **Offer Terms**);
- (c) state that, subject to the provisions of this Article 5, each Shareholder is entitled to subscribe for its Equity Proportion of the total number of Offer Shares at the Offer Price and on the Offer Terms (**Offer Entitlement**) and confirm the number of Offer Shares in the Shareholder's Offer Entitlement;
- (d) in respect of each Investor:
 - (i) stipulate that the Investor may apply for all (but not less than all) of the Offer Shares (in the form of B Ordinary Shares) in the Investor's Offer Entitlement; and
 - (ii) invite the Investor to do so by giving written notice to the Company no later than 5.00 pm on the last day of the Offer Period;
- (e) in respect of the Sponsor:
 - (i) stipulate that the Sponsor may apply for more Offer Shares than its Offer Entitlement and will be liable to subscribe for up to the number of Offer Shares applied for if other Shareholders do not take up their full Offer Entitlement; and
 - (ii) invite the Sponsor to apply for Offer Shares by giving written notice to the Company no later than 5.00 pm on the last day of the Offer Period, stating the number of Offer Shares for which the Shareholder wishes to subscribe (which may be greater than or equal to the Sponsor's Offer Entitlement); and
- (f) not be revoked unless otherwise decided by the Board.

5.3 **Allocation of Offer Shares**

5.4 Each Investor that applies for Offer Shares in accordance with the provisions of this Article and the terms of the Offer Notice (a **Subscribing Investor**) will be issued the number of Offer Shares (in the form of B Ordinary Shares) that it applied for.

5.5 If the Sponsor applies for a number of Offer Shares (the **Subscribing Sponsor**) equal to the Sponsor's Offer Entitlement in accordance with the provisions of this Article 5 and the terms of the Offer Notice, then the Subscribing Sponsor will be issued with the number of Offer Shares that it applied for.

5.6 If:

- (a) the Subscribing Sponsor applies for a number of Offer Shares which is greater than the Sponsor's Offer Entitlement in accordance with the provisions of this Article 5 and the terms of the Offer Notice; and
- (b) the total number of Offer Shares applied for by the Subscribing Sponsor and Subscribing Investors is:
 - (i) equal to or less than the total number of Offer Shares, the Company must issue to the Subscribing Sponsor the number of Offer Shares that it applied for; and
 - (ii) more than the total number of Offer Shares, the Company must issue to the Subscribing Sponsor such number of Offer Shares as would, when aggregated with the number of Offer Shares issued to the Investors, equal the total number of Offer Shares.

5.7 A Shareholder that does not apply in writing for any Offer Shares within the Offer Period is not entitled to subscribe for any Offer Shares.

5.8 **Notice and closing**

5.9 The Company shall, within five Business Days after the end of the Offer Period notify each Subscribing Investor and, where applicable, the Subscribing Sponsor (the **Subscribing Shareholders**) of:

- (a) the number of Offer Shares to be issued to that Subscribing Shareholder (the **Subscription Shares**);
- (b) the subscription price to be paid by that Subscribing Shareholder for its Subscription Shares; and
- (c) the proposed date for completion of the issue of the Offer Shares, which must be at least ten Business Days and no more than fifteen Business Days after expiry of the Offer Period (the **Offer Closing Date**).

5.10 Closing of offer process

5.11 On the Offer Closing Date:

- (a) each Subscribing Shareholder must pay to the Company the subscription price for its Subscription Shares;
- (b) the Company must issue to each Subscribing Shareholder its Subscription Shares; and
- (c) the Company must enter the name of each Subscribing Shareholder in the register of members of the Company as holder of its Subscription Shares and execute and deliver to each Subscribing Shareholder a share certificate representing its Subscription Shares.

5.12 Issue of Offer Shares to third parties

5.13 Where the Company makes a New Issue in accordance with this Article 5 and the total number of Offer Shares applied for by the Subscribing Shareholders is less than the total number of Offer Shares, the Company may at any time up to sixty Business Days after the end of the Offer Period issue the balance of the Offer Shares to such persons as the Board determines, so long as:

- (a) those Offer Shares are issued at a price per Share that is not less than the Offer Price;
- (b) the subscriber is not a Restricted Person; and
- (c) the subscriber, if not already a party to the Shareholders Agreement, first executes and delivers to the Company a deed of adherence to the Shareholders Agreement.

6. RIGHTS OF SHARES

6.1 The Company may issue Shares of different Classes.

6.2 Each Ordinary Share confers upon the holder:

- (a) the right to receive notice of, to attend and to vote at a meeting of Shareholders or on any resolution of the Shareholders in accordance with the Articles;
- (b) the right to an equal share in any dividend paid by the Company; and
- (c) the right to an equal share in the distribution of the surplus assets of the Company on its winding up.

6.3 Each B Ordinary Share confers upon the holder:

- (a) no right to receive notice of, nor to attend, nor to vote at a meeting of Shareholders or on any resolution of the Shareholders;

- (b) the right to an equal share in any dividend paid by the Company; and
 - (c) the right to an equal share in the distribution of the surplus assets of the Company on its winding up.
- 6.4 If at any time the Shares are divided into different Classes, the rights attached to the Shares of any Class may only be varied by resolution of the Shareholders of that Class passed by a Shareholder or Shareholders holding at least 75 per cent of the Voting Rights exercised in relation thereto.
- 6.5 The rights conferred upon the holders of the Shares of any Class shall not, unless otherwise expressly provided by the terms of issue of the Shares of that Class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* with such Shares.
- 6.6 Subject to the Act, the Memorandum, the Articles and the Shareholders' Agreement, Shares may be issued on terms that they are redeemable on such terms and in such manner as the Directors may determine.
- 7. **REDEMPTION OF SHARES**
- 7.1 Subject to the Act, the Memorandum, the Articles and the Shareholders' Agreement, the Company may purchase, redeem or otherwise acquire its own Shares provided that the Company continues to have at least one Shareholder at all times.
- 7.2 Unless Shares are expressed to be redeemable, the Company may only purchase, redeem or otherwise acquire them pursuant to:
 - (a) an offer to all Shareholders which, if accepted, would leave the relative rights of the Shareholders unaffected and which affords each Shareholder a period of not less than 14 days within which to accept the offer; or
 - (b) an offer to one or more Shareholders to which all Shareholders have consented in writing or in respect of which the Directors have passed a resolution stating that in their opinion the transaction is to the benefit of the remaining Shareholders and the terms of the offer and the consideration offered for the Shares are fair and reasonable to the Company and the remaining Shareholders.
- 7.3 The Company may only purchase, redeem or otherwise acquire Shares if the Directors are satisfied, on reasonable grounds, that the Company will, immediately after the purchase, redemption or other acquisition satisfy the Solvency Test.
- 7.4 Shares that the Company purchases, redeems or otherwise acquires pursuant to this Article shall be cancelled.

8. **ALTERATION OF SHARE CAPITAL**

Subject to the Act, the Memorandum, the Articles and the Shareholders' Agreement, the Directors may alter the Company's Share capital comprising Shares with par value in any way and, in particular but without prejudice to the generality of the foregoing, may:

- (a) consolidate and divide all or any such Shares into Shares of a larger amount;
- (b) redenominate all or any such Shares as Shares with a par value denominated in another currency on such basis as the Directors see fit; or
- (c) sub-divide all or any such Shares into Shares of smaller amount.

9. **REDUCTION OF SHARE CAPITAL**

Subject to the Act, the Memorandum, the Articles and the Shareholders' Agreement, the Company may, by a resolution of the Directors, reduce its share capital in any way provided that the Directors are satisfied, on reasonable grounds, that the Company will, immediately after such reduction, satisfy the Solvency Test.

10. **LIEN**

- 10.1 The Company shall (unless the Directors resolve to the contrary in respect of any Share) have a first and paramount lien on every Share (not being a fully paid Share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that Share.
- 10.2 The Company may sell in such manner as the Directors determine any Share on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within 14 days after notice has been given to the Shareholder or to the person entitled to it in consequence of the death, bankruptcy or winding up of the Shareholder, demanding payment and stating that if the notice is not complied with the Share may be sold.
- 10.3 In order to give effect to a sale under Article 10.2, the Directors may authorise some person to execute an instrument of transfer of the Share sold.
- 10.4 The net proceeds of any sale under Article 10.2, after payment of the costs of sale, shall be applied in payment of so much of the sum for which the lien exists as is presently payable, and any residue shall (upon surrender to the Company for cancellation of any certificate for the Share sold and subject to a like lien for any moneys not presently payable as existed upon the Share before the sale) be paid to the person entitled to the Share immediately prior to its sale.
- 10.5 The title of the transferee to any Share sold under Article 10.2 shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

11. **CALLS ON SHARES**

11.1 Subject to the terms of issue of any Shares, the Directors may make calls upon the Shareholders in respect of any moneys unpaid on their Shares and each Shareholder shall (subject to receiving at least 14 days' notice specifying when and where payment is to be made) pay to the Company as required by the notice the amount called on such Shareholder's Shares.

11.2 Where a call is made under Article 11.1:

- (a) such call may be required to be paid by instalments;
- (b) such call may, before receipt by the Company of any sum due thereunder, be revoked in whole or in part;
- (c) payment of such call may be postponed in whole or part by the Company;
- (d) a person upon whom such a call is made shall remain liable for calls made upon such person notwithstanding the subsequent transfer of the Shares in respect of which the call was made;
- (e) such call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed; and
- (f) the joint holders of a Share shall be jointly and severally liable to pay all such calls in respect thereof.

11.3 If a call remains unpaid after it has become due and payable, the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due and payable until it is paid at the rate fixed by the terms of allotment of the Share or in the notice of the call or, if no rate is fixed, at the rate of 5 per cent per annum, but the Directors may waive payment of the interest wholly or in part.

11.4 The Directors may make arrangements on the issue of Shares for a difference between the Shareholders in the amounts and times of payment of calls on their Shares.

12. **FORFEITURE**

12.1 Shares that are not fully paid on issue are subject to the forfeiture provisions set forth in this Article, and for this purpose, Shares issued for a promissory note, other written obligation to contribute money or property or a contract for future services are deemed not to be fully paid.

12.2 Notwithstanding the terms of issue of any Shares, a written notice of forfeiture specifying the date for payment to be made shall be served on the Shareholder who defaults in making payment in respect of the Shares.

12.3 The written notice of forfeiture referred to in Article 12.2 shall name a further date not earlier than the expiration of 14 days from the date of service of the notice on or before

which the payment required by the notice is to be made and shall contain a statement that in the event of non-payment on or before the date named in the notice the Shares, or any of them, in respect of which payment is not made, will be liable to be forfeited.

12.4 Where a written notice of forfeiture has been issued pursuant to Article 12.3 and the requirements of the notice have not been complied with, the Directors may, at any time before tender of payment, forfeit and cancel the Shares to which the notice relates. The forfeiture shall include all dividends or other monies payable in respect of the forfeited Shares and not paid before the forfeiture.

12.5 The Company is under no obligation to refund any moneys to the Shareholder whose Shares have been cancelled pursuant to Article 12.4 and that Shareholder shall be discharged from any further obligation to the Company.

13. **TRANSFER OF SHARES**

13.1 Subject to the terms of the Shareholders' Agreement, Shares may be transferred by a written instrument of transfer signed by or on behalf of the transferor and containing the name and address of the transferee. The instrument of transfer shall also be signed by or on behalf of the transferee if registration as a holder of the Share imposes a liability to the Company on the transferee. The instrument of transfer must be sent for registration on behalf of the Company to the registered agent of the Company or such other person as the Directors may from time to time appoint.

13.2 Subject to Article 13.3 and the Shareholders' Agreement, the Company shall, on receipt of an instrument of transfer complying with Article 13.1, by resolution of the Directors, approve the transfer of the Share and cause the name of the transferee of the Share to be entered in the register of members unless the Directors resolve to refuse or delay the registration of the transfer.

13.3 Subject to the terms of the Shareholders' Agreement, the Directors may, in their absolute discretion and without assigning any reason, refuse or delay the registration of a transfer of a Share, whether or not it is a fully paid Share. Where the Directors refuse or delay the registration of a transfer of a Share, the Company shall, as soon as practicable, send the transferor and the transferee notice of the refusal or delay.

13.4 The transfer of a Share is effective when the name of the transferee is entered on the register of members.

13.5 If the Directors are satisfied that an instrument of transfer relating to Shares has been signed but that the instrument has been lost or destroyed, the Directors may:

- (a) accept such evidence of the transfer of Shares as they consider appropriate; and
- (b) determine that the transferee's name should be entered in the register of members notwithstanding the absence of the instrument of transfer.

13.6 A person becoming entitled to a Share in consequence of the death, bankruptcy or winding up of a Shareholder may, upon producing such evidence as the Directors may reasonably require, elect either to become the registered holder of the Share by giving notice to the Company to that effect or have some other person registered as the transferee by executing an instrument of transfer even though such person is not a Shareholder at the time of the transfer. Any instrument of transfer of the Shares must be in accordance with, and will be subject to, the provisions of this Article.

13.7 A person becoming entitled to a Share in consequence of the death, bankruptcy or winding up of a Shareholder shall have the rights to which such person would be entitled if that person were the registered holder of the Share, except that such person shall not, before being registered as the holder of the Share, be entitled to receive notice of, to attend or to vote at any meeting of the Shareholders, or any class of Shareholders, of the Company.

14. **DISTRIBUTIONS**

14.1 Subject to the Act, the Articles and the Shareholders' Agreement, the Directors may authorise a Distribution by the Company to Shareholders at such time and of such amount as they think fit if they are satisfied, on reasonable grounds, that the Company will, immediately after the Distribution, satisfy the Solvency Test.

14.2 Where a Distribution has been made to a Shareholder and the Company did not, immediately after the Distribution, satisfy the Solvency Test, the Distribution (or the value thereof) may be recovered by the Company from the Shareholder in accordance with section 51 of the Act.

14.3 If several persons are registered as joint owners of any Shares, any one such person may give an effective receipt for any Distribution.

15. **DIVIDENDS**

15.1 Subject to the Act, the Articles and the Shareholders' Agreement, the Company may, by a resolution of the Directors, declare and pay a dividend in money, shares or other property at such time and of such amount as the Directors think fit if the Directors are satisfied, on reasonable grounds, that the Company will, immediately after the payment of the dividend, satisfy the Solvency Test.

15.2 Notice of any dividend that has been declared shall be given to each Shareholder entitled to receive the dividend or, in the case of joint owners of a Share, to the person who is first named in the register of members. All dividends unclaimed for three years after having been declared may be forfeited by a resolution of Directors for the benefit of the Company.

15.3 No dividend shall bear interest as against the Company.

16. MEETINGS OF SHAREHOLDERS

- 16.1 The Directors may convene meetings of the Shareholders or any class of Shareholders at such times and in such manner and places within or outside the Isle of Man as they consider appropriate.
- 16.2 Upon the written request of a Shareholder or Shareholders entitled to exercise 10 per cent or more of the Voting Rights in respect of the matter for which the meeting is requested, the Directors shall convene a meeting of Shareholders or class of Shareholders.
- 16.3 When convening a Shareholders' meeting or a meeting of a class of Shareholders, the Directors shall give not less than 14 days' notice of such meeting to those Shareholders whose names on the date the notice is given appear as Shareholders in the register of members of the Company and who are entitled to vote at the meeting.
- 16.4 A meeting of Shareholders or a class of Shareholders held in contravention of the requirement to give not less than 14 days' notice is valid if a Shareholder or Shareholders holding at least 90 per cent of the total Voting Rights on all the matters to be considered at the meeting have waived notice of the meeting and, for this purpose, the presence of a Shareholder at the meeting shall constitute a waiver in relation to all the Shares which that Shareholder holds.
- 16.5 The inadvertent failure of the Directors to give notice of a meeting to a Shareholder or the fact that a Shareholder has not received notice, does not invalidate the meeting.
- 16.6 A Shareholder may be represented at a meeting of Shareholders or a class of Shareholders by a proxy who may speak and vote on behalf of the Shareholder.
- 16.7 The instrument appointing a proxy shall be produced at the place designated for the meeting before the time for holding the meeting at which the person named in such instrument proposes to vote. The notice of the meeting may specify an alternative or additional place or time at which the proxy shall be presented.

- 16.8 The instrument appointing a proxy shall be in substantially the following form or such other form as the chairman of the meeting shall accept as properly evidencing the wishes of the Shareholder appointing the proxy.

<p style="text-align: center;">[NAME OF COMPANY]</p> <p>I/We being a Shareholder of the above Company APPOINT [Name] of [Address] or failing him/her [Name] of [Address] to be my/our proxy to speak and vote for me/us at the meeting of Shareholders to be held on the [Day] day of [Month] and at any adjournment thereof.</p> <p>(Any restrictions on voting to be inserted here)</p> <p>Signed this [Day] day of [Month] 20[Year]</p> <p>_____</p> <p>Shareholder</p>

- 16.9 The following applies where Shares are jointly owned:
- (a) each of the joint owners may be present in person or by proxy at a meeting of Shareholders and may speak as a Shareholder;
 - (b) if only one of the joint owners is present in person or by proxy, that person may vote on behalf of all joint owners; and
 - (c) if two or more of the joint owners are present in person or by proxy, the vote of the senior joint owner shall be accepted to the exclusion of the votes of the other joint owners and seniority shall be determined by the order in which the names of the owners stand in the register of members.
- 16.10 A Shareholder shall be deemed to be present at a Shareholders' meeting or a meeting of a class of Shareholders if that person participates by telephone or other electronic means and all Shareholders participating in the meeting are able to communicate with each other.
- 16.11 Subject to the Shareholders' Agreement, a meeting of Shareholders or class of Shareholders is duly constituted and quorate if, at the commencement of the meeting, there are present in person (in the case of a Shareholder who is an individual) or by a duly appointed representative (in the case of a Shareholder who is a body corporate) or by proxy (in either case) a Shareholder or Shareholders holding at least 10 per cent of the Voting Rights entitled to be exercised at the meeting. Subject to the Shareholders' Agreement, a quorum may comprise a single Shareholder present in person (in the case of a Shareholder who is an individual) or by duly appointed representative (in the case of a Shareholder who is a body corporate) or by proxy (in either case) in which case such person may pass a resolution of the Shareholders or class of Shareholders and a certificate

signed by such person accompanied, where such person is a proxy, by a copy of the proxy instrument, shall constitute a valid resolution of the Shareholders.

- 16.12 If a quorum is not present at a meeting of the Shareholders within 30 minutes from the time specified for the meeting, or if during the meeting a quorum is no longer present, the meeting shall be adjourned for at least five, but no more than ten, Business Days (excluding the date of the original meeting and the date of the adjourned meeting) to the same place and time of day, when the quorum shall be determined in accordance with the Shareholders' Agreement.
- 16.13 At every meeting of Shareholders or class of Shareholders, the chairman, if any, of the Board shall preside as chairman of the meeting. If there is no chairman of the Board or if the chairman of the Board is not present at the meeting, the Shareholders present shall choose one of their number to be the chairman. If the Shareholders are unable to choose a chairman for any reason, then the Shareholder with the most Voting Rights present at the meeting in person (in the case of a Shareholder who is an individual) or by a duly appointed representative (in the case of a Shareholder who is a body corporate) or by proxy (in either case) shall preside as chairman failing which the longest registered Shareholder present in person (in the case of a Shareholder who is an individual) or by a duly appointed representative (in the case of a Shareholder who is a body corporate) or by proxy (in either case) shall take the chair.
- 16.14 The chairman may, with the consent of the meeting, adjourn any meeting from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 16.15 Unless otherwise specified in the Act, the Memorandum, the Articles or the Shareholders' Agreement, the exercise by the Shareholders or a class of Shareholders of a power which is given to them under the Act or the Memorandum or Articles shall be by:
- (a) a resolution passed on a poll taken at a meeting of the Shareholders or class of Shareholders; or
 - (b) a resolution consented to in writing by the Shareholders or class of Shareholders.
- 16.16 Subject to any rights or restrictions attached to any Shares, at any meeting of the Shareholders or any class of Shareholders every shareholder shall have one vote for every Share of which it is the holder.
- 16.17 A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be Shareholders) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be a resolution made at the meeting at which the poll was demanded.
- 16.18 Any Shareholder which is a body corporate may, by resolution of its directors or other governing body, authorise such individual as it thinks fit to act as its representative at any meeting of Shareholders or class of Shareholders, and the individual so authorised shall be

entitled to exercise the same rights on behalf of the Shareholder which the individual represents as that Shareholder could exercise if it were an individual.

- 16.19 A Shareholder in respect of whom an order has been made by any court having jurisdiction (whether in the Isle of Man or elsewhere) in matters concerning mental disorder may vote, by his receiver, *curator bonis* or other person authorised in that behalf appointed by that court, and any such receiver, *curator bonis* or other person may vote by proxy. Evidence to the satisfaction of the chairman of the authority of the person claiming to exercise the right to vote shall be deposited at the registered office of the Company not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.
- 16.20 The chairman of any meeting at which a vote is cast on behalf of any Shareholder which is a body corporate may call for such evidence of authority of the representative to exercise the rights of the Shareholder as the chairman may reasonably require.
- 16.21 A vote by proxy or by a duly appointed representative (in the case of a Shareholder who is a body corporate) shall be valid notwithstanding the previous determination of the authority of the person voting unless notice of the determination was received by the Company at its registered office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.
- 16.22 Directors may attend and speak at any Shareholders' meeting and at any separate meeting of a class of Shareholders.

17. **SHAREHOLDER RESOLUTIONS**

- 17.1 Subject to any requirement for a higher majority specified in the Act, the Memorandum, the Articles or the Shareholders Agreement, a resolution of the Shareholders or a class of Shareholders is passed at a meeting of such Shareholders if it is approved by a Shareholder or Shareholders holding a majority of the Voting Rights exercised in relation thereto.
- 17.2 Any action that may be taken by the Shareholders or a class of Shareholders at a meeting may also be taken by a resolution consented to in writing, by a Shareholder or Shareholders or the member or members of a class of Shareholders holding in excess of 50 per cent of the Voting Rights in relation thereto (subject to any requirement specified in the Act, the Articles or the Shareholders' Agreement for a resolution to be passed by a particular majority) provided that a copy of the proposed resolution is sent to all of the persons entitled to consent to it. The consent may be in the form of counterparts, each counterpart being signed by one or more Shareholders or by one or more members of the class of Shareholders. If the consent is in one or more counterparts, and the counterparts bear different dates, then the resolution shall take effect on the earliest date upon which Shareholders or members of the class of Shareholders holding a sufficient number of votes to constitute a resolution of Shareholders or the class of Shareholders have consented to the resolution by signed counterparts. If any written resolution of the Shareholders or the

class of Shareholders is adopted otherwise than by the unanimous written consent of all Shareholders or all members of the class of Shareholders, a copy of such resolution shall be sent to all Shareholders or all the members of the class of Shareholders not consenting to such resolution forthwith upon it taking effect.

18. **DIRECTORS**

18.1 The Shareholders shall appoint one or more persons as the first Directors within one month of the date of incorporation of the Company and thereafter the Directors may be appointed by a resolution of the Shareholders or by a resolution of the Directors, subject to the terms of the Shareholders' Agreement.

18.2 The minimum number of Directors shall be one and there shall be no maximum number.

18.3 Subject to the terms of the Shareholders' Agreement, each Director holds office for the term, if any, fixed by the resolution of Shareholders or the resolution of the Directors appointing such person, or until such person's earlier death, resignation or removal or until such person is no longer permitted to act as a Director under section 93 of the Act. If no term is fixed on the appointment of a Director, the Director serves indefinitely until such person's earlier death, resignation or removal or until such person is no longer permitted to act as a Director under section 93 of the Act.

18.4 Subject to the terms of the Shareholders' Agreement, a Director may be removed from office by:

- (a) a resolution passed at a meeting of Shareholders called for the purpose of removing the Director or for purposes including the removal of the Director; or
- (b) a written resolution consented to by a Shareholder or Shareholders holding at least 75 per cent of the Voting Rights in relation thereto; or
- (c) a resolution of the Directors.

18.5 A Director may resign his or her office by giving written notice of resignation to the Company and the resignation has effect from the date the notice is received by the Company or from such later date as may be specified in the notice.

18.6 The Company shall keep a register of Directors containing:

- (a) the names and business or residential address of the persons who are Directors provided that if the register does not contain the residential address of a Director, the registered agent of the Company shall maintain a separate record of such address;
- (b) the date on which each person whose name is entered in the register was appointed as a Director; and

- (c) the date on which each person named as a Director ceased to be a Director of the Company.
- 18.7 The register of Directors may be kept in any such form as the Directors may approve, but if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents.
- 18.8 Subject to the terms of the Shareholders' Agreement, the Directors may, by resolution, fix the emoluments of Directors with respect to services to be rendered in any capacity to the Company.
- 18.9 The Directors may, by resolution, pay the Directors all expenses properly incurred by the Directors in the discharge of their duties.
- 18.10 A Director is not required to hold a Share as a qualification to hold office.
- 18.11 In any case where, as a result of death, the Company has no Shareholders and no Directors, the personal representatives of the last Shareholder to have died have the right, by notice in writing, to appoint a person to be a Director. For the purposes of this Article, where two or more Shareholders die in circumstances rendering it uncertain who was the last to die, a younger Shareholder is deemed to have survived an older Shareholder.

19. **POWERS OF DIRECTORS**

- 19.1 The business and affairs of the Company shall be managed by, or under the direction or supervision of the Directors. The Directors have all the powers necessary for managing, and for directing and supervising, the business and affairs of the Company, subject to the terms of the Shareholders' Agreement. The Directors may pay all expenses incurred preliminary to and in connection with the incorporation of the Company.
- 19.2 The Directors may exercise all powers of the Company other than those required by the Act, the Memorandum, these Articles or the Shareholders' Agreement to be exercised by the Shareholders.
- 19.3 Each Director shall exercise that person's powers as Director for a proper purpose and shall not act or agree to the Company acting in a manner that contravenes the Act, the Memorandum, the Articles or the Shareholders' Agreement. Each Director, in exercising powers or performing duties as Director, shall act honestly and in good faith in what the Director believes to be the best interests of the Company.
- 19.4 Any Director which is a body corporate may appoint any individual as its duly appointed representative for the purpose of representing it at meetings of the Directors, of any committee of Directors or of Shareholders and with respect to the signing of any consent or otherwise.
- 19.5 The continuing Directors may act notwithstanding any vacancy in the Board, but, if the number of Directors is less than the number fixed as the quorum, the continuing Directors

or Director may act only for the purpose of filling vacancies or of calling a meeting of Shareholders or class of Shareholders.

- 19.6 Subject to the terms of the Shareholders' Agreement, the Directors may exercise all the powers of the Company to incur indebtedness, liabilities or obligations and to secure indebtedness, liabilities or obligations whether of the Company or of any third party.
- 19.7 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, as the case may be, in such manner as shall from time to time be determined by the Directors.
- 19.8 Any written contract, deed, instrument, power of attorney or other document may be made or executed on behalf of the Company by any person acting with the authority of the Directors and for these purposes any Director shall be deemed to have such authority.

20. **PROCEEDINGS OF DIRECTORS**

- 20.1 Unless otherwise specified in the Act, the Memorandum, the Articles or the Shareholders' Agreement, the exercise by the Directors of a power given to them under the Act or the Memorandum or Articles shall be by a resolution passed at a meeting of, or consented to in writing by, the Directors or any committee of the Directors.
- 20.2 Subject to any contrary provision in the Memorandum, the Articles or the Shareholders' Agreement, a resolution of Directors is passed at a meeting of the Directors if it is approved by a majority of the Directors who are present at such meeting and (being entitled to do so) vote thereon. Subject to the Shareholders' Agreement, in the case of an equality of votes, the chairman of the Board shall have a second or casting vote.
- 20.3 Subject to the provisions of the Articles and the Shareholders' Agreement, the Directors may regulate their proceedings as they see fit.
- 20.4 Subject to the Shareholders' Agreement, any one Director may call a meeting of the Directors by giving notice to each other Director.
- 20.5 A Director shall be given reasonable notice of meetings of Directors save that any Director may waive this requirement to be given notice either before or after such meeting, subject to the Shareholders' Agreement.
- 20.6 Subject to the Shareholders' Agreement, the Directors or any committee of Directors may meet at such times and in such manner and places within or outside the Isle of Man as the Directors or any committee of the Directors may determine to be necessary or desirable.
- 20.7 A Director is deemed to be present at a meeting of the Directors or at a meeting of any committee of Directors if such Director participates by telephone or other electronic means and all Directors participating in the meeting are able to communicate with each other.
- 20.8 A Director may by a written instrument appoint an alternate who need not be a Director and may remove from office any alternate director appointed by such Director. If a

Director ceases to be a Director, the appointment of any alternate made by the Director shall also cease.

- 20.9 An alternate director shall be entitled to receive notice of all meetings of Directors and of all meetings of any committee of Directors of which such alternate's appointor is a member, to attend meetings of the Directors or any committee of Directors (as appropriate) in the absence of the Director who appointed such alternate and to vote or consent in the place of such Director and generally perform all the functions of such Director in his absence (including the signing of written resolutions), until the appointment lapses or is terminated.
- 20.10 A Director who is also an alternate director shall be entitled, in the absence of their appointor:
- (a) to a separate vote on behalf of their appointor in addition to their own vote; and
 - (b) to be counted as part of the quorum of the Board on their own account and in respect of the Director for whom they are an alternate.
- 20.11 An alternate director shall not be entitled to receive any remuneration from the Company for the services performed as an alternate.
- 20.12 An alternate director shall be deemed for all purposes to be a Director and shall alone be responsible for such alternate director's acts and defaults and shall not be deemed to be the agent of such alternate director's appointor.
- 20.13 Subject to the Shareholders' Agreement, a meeting of the Directors is duly constituted and quorate for all purposes if at the commencement of the meeting there are two Directors present either in person (in the case of a Director who is an individual) or by a duly appointed representative (in the case of a corporate Director) or by an alternate (in either case).
- 20.14 If the Company has only one Director, the provisions contained in this Article for meetings of the Directors do not apply and such sole Director has full power to represent and act for the Company in all matters as are not by the Act, the Memorandum, the Articles or the Shareholders' Agreement required to be exercised by the Shareholders. In lieu of minutes of a meeting, the sole Director shall record in writing and sign a note or memorandum of all matters requiring a resolution of Directors. Such a note or memorandum constitutes sufficient evidence of such resolution for all purposes.
- 20.15 At meetings of the Directors at which the chairman of the Board is present, such person shall preside as chairman of the meeting. If there is no chairman of the Board or if the chairman of the Board is not present, the Directors present shall choose one of their number to be chairman of the meeting.
- 20.16 Any action that may be taken by the Directors or a committee of Directors at a meeting may also be taken by a resolution of Directors or a committee of Directors consented to in writing by a majority of the Directors, or by a majority of the members of a committee of

Directors, that would be entitled to vote on the resolution at a duly convened meeting provided that a copy of the proposed resolution is sent to all of the persons entitled to consent to it. The consent may be in the form of counterparts, each counterpart being signed by one or more Directors or by one or more members of the committee of Directors. If the consent is in one or more counterparts, and the counterparts bear different dates, then the resolution shall take effect on the earliest date upon which a majority of the Directors or members of the committee of Directors has consented to the resolution by signed counterparts. If any written resolution of the Directors or committee of Directors is adopted otherwise than by the unanimous written consent of all Directors or all members of the committee of Directors, a copy of such resolution shall be sent to all Directors or members of the committee of Directors not consenting to such resolution forthwith upon it taking effect.

21. COMMITTEES

- 21.1 Subject to the Shareholders' Agreement, the Directors may designate one or more committees, each consisting of one or more Directors, and delegate one or more of their powers, including the power to affix the Seal, to the committee. Any such delegation may be made subject to any conditions the Directors may impose, may be made collaterally with, or to the exclusion of, their own powers and may be revoked or altered.
- 21.2 Any committee so constituted shall, in the exercise of any powers delegated to it by the Board, conform to any regulations (including as to quorum and voting) imposed on it by the Board.

22. OFFICERS, AGENTS AND ATTORNEYS

- 22.1 Subject to the Shareholders' Agreement, the Directors may appoint officers of the Company at such times as may be considered necessary or expedient. Such officers may consist of a Chairman of the Board, a secretary, a managing director and such other officers as may from time to time be considered necessary or expedient. Any number of offices may be held by the same person.
- 22.2 The officers shall perform such duties as are prescribed at the time of their appointment, subject to any modification in such duties as may be prescribed subsequently by the Directors.
- 22.3 Subject to the Shareholders' Agreement, the emoluments of all officers shall be fixed by the Directors.
- 22.4 Subject to the Shareholders' Agreement, the officers of the Company shall hold office until their successors are duly appointed, but any officer elected or appointed by the Directors may be removed at any time, with or without cause, by the Directors. Subject to the Shareholders' Agreement, any vacancy occurring in any office of the Company may be filled by the Directors.
- 22.5 Subject to the Shareholders' Agreement, the Directors may appoint any person, including a person who is a Director, to be an agent of the Company. An agent of the Company

shall have such powers and authority of the Directors, including the power and authority to affix the Seal, as are set forth in the resolution of Directors appointing the agent, except that no agent has any power or authority to approve any of the following acts:

- (a) to amend the Memorandum or the Articles;
- (b) to change the registered office or registered agent;
- (c) to designate committees of Directors;
- (d) to delegate powers to a committee of Directors;
- (e) to appoint or remove Directors;
- (f) to appoint or remove an agent to act on behalf of the Company;
- (g) to fix emoluments of Directors;
- (h) to approve a scheme of merger, consolidation or arrangement;
- (i) to make a declaration of solvency;
- (j) to make a determination that the Company satisfies the Solvency Test; or
- (k) to authorise the Company to continue as a company incorporated under the laws of a jurisdiction outside the Isle of Man.

22.6 The resolution of Directors appointing an agent may authorise the agent to appoint one or more substitutes or delegates to exercise some or all of the powers conferred on the agent by the Company. The Directors may remove an agent appointed by the Company and may revoke or vary a power conferred on such agent.

22.7 The Company may, by instrument in writing executed in accordance with section 86 of the Act, appoint a person as its attorney either generally or in relation to a specific matter on such terms and conditions as the Directors determine.

23. CHANGE OF REGISTERED AGENT, REGISTERED OFFICE AND NAME

23.1 The Company may by resolution of Shareholders or by resolution of Directors change the location of its registered office or change its registered agent.

23.2 The Company may make an application to the Registrar to change its name or its foreign character name (if any). Such an application to the Registrar may be authorised by a resolution of Shareholders or by resolution of Directors.

24. **CONFLICT OF INTERESTS**

- 24.1 A Director shall, forthwith after becoming aware of the fact that he is interested in a transaction entered into or to be entered into by the Company, disclose the interest to the Board.
- 24.2 For the purposes of Article 24.1, a disclosure to the Board to the effect that a Director is also a member, director, officer or trustee of another named company or any other arrangement and is to be regarded as interested in any transaction which may, after the date of the disclosure, be entered into between the Company and that other company or person, is a sufficient disclosure of interest in relation to that transaction.
- 24.3 A disclosure made pursuant to Article 24.1 shall be made or brought to the attention of every Director on the Board, provided that a disclosure shall be deemed to have been so made if it is made at the meeting of the Directors at which the transaction was first considered or, if the Director in question was not at the date of that meeting interested in the transaction or aware that such Director was so interested, at the first meeting of the Directors held after the Director became so aware or so interested (as the case may be).
- 24.4 Subject to Articles 24.1 to 24.3 and the Shareholders' Agreement, a Director who is interested in a transaction entered into or to be entered into by the Company may:
- (a) vote on a matter relating to the transaction;
 - (b) attend a meeting of the Directors at which a matter relating to the transaction arises and be included among the Directors present at the meeting for the purposes of a quorum; and
 - (c) sign a document on behalf of the Company, or do any other thing in that person's capacity as a Director, that relates to the transaction.
- 24.5 Subject to the Shareholders' Agreement, provided that a Director has disclosed any interest in accordance with the Act and the Articles, a Director, notwithstanding his office:
- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;
 - (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and
 - (c) shall not by reason of his or her office, be accountable to the Company for any benefit which such Director derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

25. **INDEMNIFICATION**

- 25.1 The Company may indemnify against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person who:
- (a) is or was a party or is threatened to be made a party to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a Director; or
 - (b) is or was, at the request of the Company, serving as a director of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise.
- 25.2 The indemnity in Article 25.1 only applies if the person acted honestly and in good faith with a view to the best interests of the Company and, in the case of criminal proceedings, the person had no reasonable cause to believe that the conduct of such person was unlawful.
- 25.3 The decision of the Directors as to whether the person acted honestly and in good faith and with a view to the best interests of the Company and as to whether the person had no reasonable cause to believe that such person's conduct was unlawful is, in the absence of fraud, sufficient for the purposes of the Articles unless a question of law is involved.
- 25.4 The termination of any proceedings by any judgment, order, settlement or conviction does not, by itself, create a presumption that the person did not act honestly and in good faith and with a view to the best interests of the Company or that the person had reasonable cause to believe that the conduct of such person was unlawful.
- 25.5 Expenses, including legal fees, incurred by a Director or a former Director in defending any legal, administrative or investigative proceedings may be paid by the Company in advance of the final disposal of such proceedings upon receipt of an undertaking given by or on behalf of the Director or former Director to repay the amount if it shall ultimately be determined that the Director or former Director is not entitled to be indemnified by the Company in accordance with Article 25.1.
- 25.6 The indemnification and advancement of expenses provided by or granted pursuant to this Article is not exclusive of any other rights to which the person seeking indemnification or advancement of expenses may be entitled under any agreement, resolution of the Shareholders, resolution of the Directors or otherwise, both as to acting in the person's official capacity and as to acting in another capacity while serving as a Director.
- 25.7 If a person referred to in Article 25.1 has been successful in defence of any proceedings referred to in Article 25.1, that person is entitled to be indemnified against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred by such person in connection with the proceedings.

25.8 The Company may purchase and maintain insurance in relation to any person who is or was a Director, officer or liquidator of the Company, or who at the request of the Company is or was serving as a director, officer or liquidator of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise, against any liability asserted against that person and incurred by that person in that capacity, whether or not the Company has or would have had the power to indemnify the person against the liability as provided in the Articles.

26. **RECORDS**

The Company shall keep such records and documents as the Act requires.

27. **REGISTER OF CHARGES**

The Company shall keep a register of charges in which there shall be entered the following particulars regarding each mortgage, charge and other encumbrance created by the Company over any property of the Company:

- (a) the date of creation of the charge or, if the charge is a charge existing on property acquired by the Company, the date on which the property was acquired;
- (b) a short description of the liability secured by the charge;
- (c) a short description of the property charged;
- (d) the name and address of the chargee;
- (e) details of any prohibition or restriction contained in the instrument creating the charge on the power of the Company to create any future charge ranking in priority to or equally with the charge;
- (f) any variation in the terms of the charge; and
- (g) if any charge ceases to affect the property of the Company.

28. **SEAL**

A Seal may be adopted by the Company by resolution of the Directors. The Directors shall provide for the safe custody of the Seal and for an imprint of it to be kept at the office of its registered agent. The Seal, when affixed to any written instrument, shall be witnessed and attested to by the signature of any one Director or other person so authorised from time to time by the Directors.

29. **ACCOUNTS AND AUDIT**

29.1 The Company shall keep reliable accounting records which correctly explain the Company's transactions, enable the financial position of the Company to be determined with reasonable accuracy at any time and allow financial statements to be prepared.

- 29.2 The Directors or the Shareholders may, by resolution, require financial statements of the Company to be prepared. Such financial statements shall comprise a written statement recording the assets and liabilities of the Company on a specific date and a written statement recording the receipts, payments and other financial transactions undertaken by the Company in respect of the period ending on the date of the aforementioned statement together with such notes as are necessary for a reasonable understanding of such statements.
- 29.3 The Directors or the Shareholders may, by resolution, require the Company to appoint an auditor and, in such a case, Articles 29.4 to 29.6 shall apply.
- 29.4 The first auditor shall be appointed by the Directors. Subsequent auditors shall be appointed by the Shareholders or by the Directors. An auditor may be removed by the Directors or by the Shareholders.
- 29.5 Any auditor must be qualified for appointment as auditor of the Company in accordance with the Act.
- 29.6 The remuneration of the auditor of the Company may be fixed by the Directors.

30. **NOTICES**

- 30.1 Any notice, information or written statement to be given by the Company to Shareholders may be given by:
- (a) electronic communication to the Shareholder;
 - (b) personal service addressed to the Shareholder at the address shown in the register of members; or
 - (c) mail addressed to the Shareholder at the address shown in the register of members.
- 30.2 Any notice, information or written statement may only be given by the Company to a Shareholder by electronic communication if the Shareholder has indicated to the Company its willingness to receive any notice, information or written statement in the form and manner used. Any indication for such purposes:
- (a) must be given to the Company in such manner as the Directors may require;
 - (b) may be a general indication or an indication that is limited to notices, information or statements of a particular description;
 - (c) must state the address to be used;
 - (d) must be accompanied by such other information as the Company requires for making the electronic communication; and

- (e) may be modified or withdrawn at any time by a notice given to the Company.
- 30.3 In the case of joint owners of a Share, all notices shall be given to the senior joint owner and seniority shall be determined by the order in which the names of the owners stand in the register of members. Notice so given shall be sufficient notice to all the joint owners.
- 30.4 Proof that an envelope containing such notice, information or written statement was properly addressed, pre-paid and posted shall be conclusive evidence that it was given by mail. Any notice, information or written statement shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the case of any notice, information or written statement given by electronic communication, at the expiration of 48 hours after the time it was sent.
- 30.5 A Shareholder present, either in person (in the case of a Shareholder who is an individual) or by a duly appointed representative (in the case of a Shareholder who is a body corporate) or by proxy (in either case) at any meeting of Shareholders or class of Shareholders shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 30.6 Every person who becomes entitled to a Share shall be bound by any notice in respect of that Share which, before its name is entered in the register of members, has been duly given to a person from whom it derives title.
- 30.7 A notice may be given by the Company to persons entitled to a Share in consequence of the death, bankruptcy or winding up of a Shareholder by sending or delivering it, in any manner authorised by the Articles for the giving of notice to a Shareholder, addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt or liquidator or by any like description at the address, if any, supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death, bankruptcy or winding up had not occurred.
- 30.8 Any summons, notice, order, document, process, information or written statement to be served on the Company may be served by leaving it with, or by sending it by registered mail to, the registered office or registered agent of the Company.
- 30.9 Service of any summons, notice, order, document, process, information or written statement to be served on the Company may be proved by showing that the summons, notice, order, document, process, information or written statement was delivered to the registered office or the registered agent of the Company or that it was mailed in such time as to admit to its being delivered to the registered office or the registered agent of the Company in the normal course of delivery within the period prescribed for service and was correctly addressed and the postage was prepaid.

31. **DISCONTINUANCE**

Subject to the Shareholders' Agreement, the Company may apply to the Registrar for consent to be continued in a country or territory outside the Isle of Man in accordance with section 167 of the Act.

32. **RE-REGISTRATION**

Subject to the Shareholders' Agreement, the Company may apply to the Registrar under section 143 of the Act to re-register as a company of another type specified in section 1 of the Act. The Company may only re-register as a company limited by guarantee or an unlimited company without shares if, upon re-registration, it shall have no Shares in issue.

33. **MERGER OR CONSOLIDATION**

Subject to the Shareholders' Agreement, the Company may merge or consolidate with other companies in accordance with section 153 of the Act.

34. **ARRANGEMENTS**

Subject to the Shareholders' Agreement, the Company may make arrangements in accordance with section 157 of the Act.

35. **VOLUNTARY WINDING UP**

35.1 The Company may by a resolution of the Shareholders resolve that the Company be wound up voluntarily.

35.2 If the Company is being wound up, the liquidator may, with the sanction of a resolution of the Shareholders, divide among the Shareholders in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and determine how the division shall be carried out as between the Shareholders or the shareholders of different Classes. The liquidator may, with the sanction of a resolution of the Shareholders, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the Shareholders as the liquidator with the like sanction determines, but no Shareholder shall be compelled to accept any assets upon which there is a liability.

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