

**THE COMPANIES (GUERNSEY) LAW 2008, AS AMENDED<sup>i</sup>**

**COMPANY LIMITED BY SHARES**

**MEMORANDUM OF INCORPORATION<sup>ii</sup>**

**of**

**TETRAGON FINANCIAL GROUP MASTER FUND LIMITED<sup>iii</sup>**

1. The name of the Company is “Tetragon Financial Group Master Fund Limited”<sup>iv</sup>.
2. The registered office of the Company will be situate in Guernsey.
3. The objects for which the Company is established are:
  - (1) to own assets comprising any property whether real or personal, immovable or movable, corporeal or incorporeal, and including money, securities, insurance policies, things in action, intellectual property and other intangible objects;
  - (2) to carry on business as a general commercial company;
  - (3) to carry on the business of an investment holding company and for that purpose to invest the capital and other moneys of the Company in the purchase or upon the security of shares, stocks, debentures, debenture stocks, bonds, mortgages, certificates of deposit, treasury bills, monetary instruments, obligations and securities of any kind issued by any company, corporation or undertaking of whatever nature and

wheresoever constituted or issued or guaranteed by a government, sovereign, ruler, commissioners, trust, authority or other body of whatever nature, in any part of the world, units of or participations in any collective investment schemes in any part of the world, currencies and any interests in any of the foregoing;

- (4) to acquire such shares, stocks, debentures, debenture stocks, bonds, mortgages, certificates of deposit, treasury bills, monetary instruments, obligations and other securities by original subscription, syndicate participation, tender, purchase, exchange or otherwise, and to guarantee the subscription thereof; and to exercise and enforce all rights and powers conferred by or incidental to the ownership thereof;
- (5) to deposit money in any currency with such persons and on such terms as may seem expedient and to discount, buy and sell bills, notes, warrants, coupons and other negotiable or transferable securities or documents;
- (6) to lend money, securities and/or property to or guarantee the performance of the contracts or obligations of any company, firm or person, and to guarantee the payment and repayment of capital and principal of, and dividends, interest or premiums payable on, any stock, shares and securities of any company, whether in any way associated with this Company or not and whether having objects similar to those of this Company or not, and generally to transact all kinds of guarantee and indemnity business and to secure any such guarantee and indemnity by mortgage, charge or lien upon all or any of the property or assets of the Company, both present and future, including its uncalled capital;
- (7) to employ or otherwise engage experts for the purpose of all or any of the objects of the Company and without limiting the generality of the foregoing to investigate and examine into the condition, prospects, value, character and circumstances of any business, concern or undertaking, or of any assets, properties or rights;

- (8) to act as promoters or founders of any company or undertaking, and to underwrite or guarantee the issue of or subscription to the capital, debentures, debenture stock or obligations of any such company upon commission or otherwise, and to expend money in legal expenses, in the payment of fees, in preparing, circulating and advertising notices and prospectuses, and in doing all other things which may be necessary or convenient for successfully promoting, forming and floating any such company or undertaking;
- (9) to borrow or raise money and to secure or discharge any debt or obligation of or binding on the Company in such manner as may be thought fit, and in particular by mortgages and charges upon the undertaking and all or any of the property and assets (present and future) and the uncalled capital of the Company, or by the creation and issue on such terms and conditions as may be thought expedient of debentures, debenture stock or other securities of any description;
- (10) to accumulate capital for any of the purposes of the Company, and to appropriate any of the Company's assets to specific purposes, either conditionally or unconditionally, and to admit any class or section of those who have dealings with the Company to any share in the profits thereof, or in the profits of any particular branch of the Company's business, or to any other special rights, privileges, advantages or benefits;
- (11) to issue any shares of the Company as fully paid up in consideration of any property acquired or to be acquired by, or services rendered to or to be rendered to, the Company;
- (12) to pay, satisfy or compromise any claims made against the Company which it may seem expedient to pay, satisfy or compromise, notwithstanding that the same may not be valid in law;
- (13) to enter into arrangements with any sovereign, state, government or authority (supreme, municipal, local or otherwise) and to obtain from any such sovereign, state, government or authority all rights,

concessions and privileges that may seem conducive to the Company's objects or any of them, and to oppose the grant to any other person or company of similar rights, concessions and privileges;

- (14) to oppose any sovereign, state, government or authority (supreme, municipal, local or otherwise) threatening or endeavouring to introduce legislation, regulation or decree which appears to the Company to be contrary to its interest or to natural justice;
- (15) to pay commission to any individual, body corporate, association or company in consideration of the subscription or any agreement to subscribe, whether absolutely or conditionally, for any shares in this Company or any other company in which this Company may be, or may be about to be, interested or in consideration of the procuring or an agreement to procure subscriptions, whether absolute or conditional, for any shares in this Company or in any such other company as aforesaid;
- (16) to give to any individual, body corporate, association or company subscribing or procuring subscriptions for the capital of, or rendering financial or other assistance to this Company or any company or undertaking in which the Company is interested, in addition to any other form of remuneration, the right to subscribe for and receive an allotment of any of the shares or other securities for the time being unissued of this Company, upon such terms as the Company may think expedient;
- (17) to draw, make, accept, endorse, discount, negotiate, issue and execute and to buy, sell and deal with bills of exchange, promissory notes and other negotiable or transferable instruments;
- (18) to amalgamate or enter into partnership or any joint purse or profit sharing arrangement with and to co-operate in any way with or assist or subsidise any company, firm or person, and to purchase or otherwise acquire and undertake all or any part of the business, property and liabilities of any person, body or company carrying on any business

which this Company is authorised to carry on or possessed of any property suitable for the purposes of the Company;

- (19) to promote or concur in the promotion of any company, the promotion of which shall be considered desirable;
- (20) to distribute in specie among the members by way of dividend or bonus or upon a return of capital any property of the Company, or any proceeds of sale or disposal of any property of the Company, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law;
- (21) to procure the Company to be recognised or registered in any place throughout the world, and to carry on the whole or any of the Company's business in any part of the world, whether or not the Company has established an office or is recognised or registered in such place, and as principals, agents, contractors, trustees or otherwise, and by or through trustees, nominees, agents or otherwise, and either alone or in conjunction with others;
- (22) to sell, lease, grant licences, easements and other rights over, and in any other manner deal with or dispose of, the undertaking, property, assets, rights and effects of the Company or any part thereof for such consideration as may be thought fit, and in particular for stocks, shares or securities of any other company, whether fully or partly paid up;
- (23) to grant pensions or gratuities to any employees or ex-employees and to officers or ex-officers (including Directors and ex-Directors) of the Company or its predecessors in business, or the relations, connections, or dependants of any such persons, and to establish or support associations, institutions, clubs, funds and trusts which may be considered calculated to benefit any such persons or otherwise advance the interests of the Company or of its members and to establish and contribute to any scheme for the purchase by trustees of shares in the Company to be held for the benefit of the Company's employees to enable them to purchase shares of the Company, and to formulate and

carry into effect any scheme for sharing the profits of the Company with its employees or any of them;

(24) to do all or any of the things and matters aforesaid in any part of the world, and either as principals, agents, trustees, contractors or otherwise, and by or through trustees, agents, or otherwise, and either alone or in conjunction with others;

(25) to do all such other things as may be considered to be incidental or conducive to the above objects or any of them;

and it is hereby declared that the word “company” in this clause, except where used in reference to this Company, shall be deemed wherever the context admits to include any partnership or other body of persons, whether incorporated or not incorporated, and whether domiciled in Guernsey or elsewhere, and further that the objects specified in each paragraph of this clause shall be regarded as independent objects and accordingly shall, except where otherwise expressed in such paragraphs, be in no way limited or restricted by reference to, or inference from, the terms of any other paragraph or from the name of the Company, and may be carried out in as full and ample a manner and construed in as wide a sense as if each of the said paragraphs defined the objects of a separate, distinct and independent company.

4. The Company shall have power to do anything which is incidental or conducive to the carrying on of any of the above objects, including but without prejudice to the generality of the foregoing, the power to borrow and raise money in any currency and to secure or discharge any debt or obligation of the Company by mortgaging or charging the undertaking and all or any of the property and assets (present and future) and the uncalled capital of the Company.
5. The liability of the members is limited to the amount for the time being remaining unpaid on the shares held by each of them respectively.

6. The share capital of the Company is U.S.\$1,000,000, divided into 10 Voting Shares of U.S.\$ 0.001 each and 999,999,990 Unclassified Shares of U.S.\$ 0.001 each<sup>v</sup>.
  - (1) The Company has power to increase or reduce its capital and to attach to any shares in the initial or increased or reduced capital any preferential, deferred, qualified or special rights, privileges or conditions or to subject the same to any restrictions or limitations.
  - (2) Furthermore, the rights for the time being attached to the shares in the initial capital and/or to any shares having preferential, deferred, qualified or special rights, privileges or conditions attached thereto, may be altered or dealt with in accordance with the Articles of Incorporation <sup>vi</sup>for the time being.
7. The shares shall be paid for according to the terms of allotment or otherwise as the Directors shall think fit.
8. Any shares in the capital of the Company may be issued in payment or part payment of the purchase consideration for any property purchased by the Company or in consideration of any services rendered or to be rendered to the Company by any person or company in assisting the Company to carry out any of its objects and for shares so issued no money payment shall be made or required, save in so far as by the terms or provisions under which any of such shares may be issued, a cash payment therefor may be required.
9. The signature of the Company may be either:
  - (1) “TETRAGON FINANCIAL GROUP MASTER FUND LIMITED”<sup>vii</sup>  
with the addition of the signature of one or more officers of the Company authorised generally or specifically for such purpose, or such other persons as the Directors may from time to time appoint; or
  - (2) if the Directors resolve that the Company shall have a common seal, the common seal of the Company affixed in such manner as the

Articles of Incorporation<sup>viii</sup> of the Company may from time to time provide;

as the Directors may from time to time determine either generally or in any particular case.

10. The Company is a non-cellular company within the meaning of section 2(1) of the Companies (Guernsey) Law 2008, as amended (the “**Companies Law**”).<sup>ix</sup>
11. The Company is a company with liability limited by shares within the meaning of section 2(2) of the Companies Law.<sup>x</sup>
12. Subject to the provisions of the Law, any provision of this memorandum of incorporation may be amended by ordinary or special resolution of the Company.<sup>xi</sup>

We, the persons whose names and addresses are hereunto subscribed, are desirous of being formed into a Company in pursuance of the above Memorandum of Incorporation<sup>xii</sup>, and we respectively agree to take the numbers of shares in the capital of the Company noted opposite our respective names.

Names, Addresses and Descriptions of Subscribers	Founder Shares <sup>xiii</sup>
OGIER NOMINEES (GUERNSEY) LIMITED Coutts House Le Truchot St. Peter Port Guernsey GY1 1WD	9 (sgd) <u>(William Simpson)</u> Authorised Signatory
REIGO NOMINEES (GUERNSEY) LIMITED Coutts House Le Truchot St. Peter Port Guernsey GY1 1WD	1 (sgd) <u>(William Simpson)</u> Authorised Signatory
Dated this 23rd day of June 2005 <b>WITNESS</b> to the above signatures:	
(sgd)	(Jacqueline Crispini)

Coutts House  
 Le Truchot  
 St. Peter Port  
 Guernsey

<sup>i</sup> Amended by a special resolution passed on 29 April 2010  
<sup>ii</sup> Amended by a special resolution passed on 29 April 2010  
<sup>iii</sup> Name changed with effect from 30 March 2007  
<sup>iv</sup> Name changed with effect from 30 March 2007  
<sup>v</sup> Amended by a conditional special resolution passed on 22 March 2007 (which became unconditional on 26 April 2007)  
<sup>vi</sup> Amended by a special resolution passed on 29 April 2010  
<sup>vii</sup> Name changed with effect from 30 March 2007  
<sup>viii</sup> Amended by a special resolution passed on 29 April 2010  
<sup>ix</sup> Inserted by a special resolution passed on 29 April 2010  
<sup>x</sup> Inserted by a special resolution passed on 29 April 2010  
<sup>xi</sup> Inserted by a special resolution passed on 29 April 2010  
<sup>xii</sup> Amended by a special resolution passed on 29 April 2010  
<sup>xiii</sup> Re-designated as Voting Shares by a conditional resolution passed on 22 March 2007 (which became unconditional on 26 April 2007)

**Company No: 43322**

**THE COMPANIES (GUERNSEY) LAW, 2008, AS AMENDED**

**COMPANY LIMITED BY SHARES**

**ARTICLES OF INCORPORATION**

**of**

**TETRAGON FINANCIAL GROUP MASTER FUND LIMITED**

**As adopted by special resolution on April 29th, 2010.**

**Preliminary**

**Exclusion of standard articles**

Standard articles of incorporation as may be prescribed by the States of Guernsey Commerce and Employment Department, or any successor, from time to time shall not apply to the Company.

**Interpretation**

1 In these Articles, unless the context otherwise requires, the following expressions shall have the following meanings:

**“Accounting Date”** means 31 December in each year or such other date as the Directors may from time to time determine;

**“Articles”** means the Articles of Incorporation of the

	Company as the same may be amended, supplemented or otherwise modified from time to time;
<b>“Auditors”</b>	means the auditor or auditors for the time being of the Company;
<b>“Companies Law”</b>	means the Companies (Guernsey) Law, 2008, as amended, as the same may be modified, re-enacted or consolidated, including any enactment made in substitution therefore from time to time;
<b>“Company”</b>	means the Company incorporated under the Companies Law in respect of which these Articles have been registered;
<b>“Directors”</b>	means the directors of the Company for the time being or, as the case may be, the directors assembled as a board or as a committee of the board;
<b>“Eligible Transferee”</b>	has the meaning set forth in Article 45(b);
<b>“Independent Director”</b>	means a Director who is determined by the Directors to satisfy in all material respects the standards for an “independent” director set forth in United Kingdom’s Financial Reporting Council’s Combined Code of Corporate Governance, as from time to time in effect;
<b>“Investment”</b>	means any share, stock, bond, debenture, debenture stock, loan, debt, loan stock, unit or sub-unit of a unit trust scheme, option, warrant, certificate of deposit, promissory note, bill, bearer depository receipt, note,

security or negotiable instrument or other instrument of any kind whatsoever issued, payable or repayable by, or any money in any currency or currencies including any money deposited or held on current or deposit account with, any person, body (whether or not incorporated), partnership, fund, trust, government, government department or agency of any country, state or territory in the world and any participation in a mutual fund or similar scheme, and any other property or assets including all forms of real and personal property and interests therein and insurance policies. Where any such Investment consists of the right to receive repayment of a loan or deposit, reference to purchasing or acquiring such Investment shall be taken to include the making of the loan or deposit or the taking of an assignment or otherwise acquiring the right to receive repayment thereof and references to disposing of or realising such Investment shall be taken to include receiving repayment of the loan or deposit or the making of an assignment or otherwise disposing of the right to receive repayment thereof;

**“Law”**

means every order in council, law, ordinance, statutory instrument or regulation for the time being in force concerning companies registered in Guernsey and affecting the Company (including, for the avoidance of

	doubt, the Companies Law) in each case as amended, extended or replaced from time to time;
<b>“Manager”</b>	means the person for the time being appointed and acting as manager of the Company pursuant to Article 5;
<b>“Member”</b>	means a person who is registered as the holder of a Share or Shares in the Register;
<b>“Memorandum”</b>	means the Memorandum of Incorporation of the Company , as the same may be amended, supplemented or otherwise modified from time to time;
<b>“month”</b>	means a calendar month;
<b>“Net Asset Value”</b>	with reference to the assets of the Company, means Net Asset Value calculated from time to time in accordance with the valuation principles adopted from time to time by the Directors, with the approval of a Resolution of the holders of Voting Shares;
<b>“Non-Voting Share”</b>	means a previously Unclassified Share of U.S.\$0.001 each in the capital of the Company designated as a Non-Voting Share and having the rights and being subject to the restrictions specified in these Articles;
<b>“notice”</b>	means a notice in writing unless otherwise specifically stated;
<b>“Office”</b>	means the registered office at any time of the Company;
<b>“paid up”</b>	shall include credited as paid up;
<b>“Register”</b>	means the register of Members of the

	Company to be kept pursuant to the provisions of the Companies Law;
<b>“Resolution”</b>	means an ordinary or, to the extent required by the Companies Law, special resolution, waiver resolution or unanimous resolution of the Company duly adopted at a general meeting or by written consent, in each case in accordance with the requirements of these Articles (including Article 64) and the Companies Law;
<b>“Seal”</b>	means the common seal of the Company, if any, which shall include any official seal adopted by the Directors pursuant to Article 98;
<b>“Secretary”</b>	means the secretary of the Company or other person appointed by the Directors to perform the duties of the secretary of the Company including a joint, assistant or deputy secretary;
<b>“Securities Act”</b>	means the U.S. Securities Act of 1933 and the rules promulgated thereunder, as amended from time to time;
<b>“Share”</b>	means a Non-Voting Share or a Voting Share;
<b>“Transfer Notice”</b>	has the meaning set forth in Article 45(b);
<b>“Treasury Shares”</b>	means Shares held by the Company as treasury shares for the purposes of the Companies Law;
<b>“Unclassified Share”</b>	means an unissued share of U.S.\$0.001 each in the capital of the Company available for issue as a Non-Voting Share;
<b>“Underlying Holder”</b>	any person other than a Member who has any

interest (directly or indirectly) in the Non-Voting Shares;

**“Vendor”**

has the meaning set forth in Article 45(b);

**“Voting Shares”**

means shares of U.S.\$0.001 each in the capital of the Company designated as Voting Shares and having the rights and being subject to the restrictions specified in these Articles.

2 In these Articles:

- (a) a reference to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision as the same may have been or may from time to time be amended, modified, extended, consolidated, re-enacted or replaced and shall include any subordinated legislation made thereunder;
- (b) references to “subsidiary” or “holding company” shall be construed in accordance with the Companies Law;
- (c) words denoting the singular include the plural and vice versa;
- (d) words denoting a gender include every gender;
- (e) references to persons shall include firms, corporations, partnerships, associations and other bodies of persons, whether corporate or not;
- (f) the word “may” shall be construed as permissive and the word “shall” shall be construed as imperative;
- (g) a reference to U.S. Dollars (or U.S.\$ or \$) is a reference to the lawful currency of the United States;
- (h) the word “signed” shall include a signature or a representation of a signature affixed by mechanical means;

- (i) the words “in writing” shall mean written, telexed, facsimiled, or otherwise electronically transmitted in a readable form, printed, photographed, lithographed or represented by any other substitute for writing or partly one or partly another;
- (j) the word “discretion” shall mean sole and absolute discretion and the expression “as the Directors may determine” shall mean as the Directors in their absolute discretion may determine;
- (k) subject to the above provisions any words defined in the Companies Law or the Interpretation (Guernsey) Law, 1948 shall bear the same meaning in these Articles; and
- (l) a reference to an Article, unless the context otherwise requires, is a reference to an Article of these Articles.

3 The headings in these Articles are intended for convenience only and shall not affect the construction of these Articles.

#### **Situation of Office of Company**

- 4 (a) The Office shall be at such address in the Island of Guernsey as the Directors shall from time to time determine.
- (b) The Company, in addition to the Office, may establish and maintain such other offices and places of business and agencies as the Directors may from time to time determine, *provided* that the Company shall not maintain an office or agency in the United Kingdom.

#### **The Manager**

- 5 (a) The holders of Voting Shares may by Resolution appoint a Manager to act as manager of the Company and the Directors may entrust to and confer upon the Manager any or all of the powers, duties, discretions and/or functions

otherwise exercisable by the Directors upon such terms and conditions, including the right to remuneration payable by the Company, and with such powers of delegation and such restrictions as they think necessary or desirable and either collaterally with or to the exclusion of the powers of the Directors.

- (b) In the event that the Manager shall resign or be dismissed or its appointment shall otherwise terminate, the holders of Voting Shares may by Resolution appoint a replacement Manager as soon as reasonably practicable thereafter.

### **Share Capital**

- 6 (a) The authorised share capital of the Company at the date of the adoption of these Articles is U.S.\$1,000,000.00 divided into 10 Voting Shares having a par value of U.S.\$0.001 each and 999,999,990 Unclassified Shares having a par value of U.S.\$0.001 each.
  - (b) Unclassified Shares may be issued as Non-Voting Shares as herein provided.
  - (c) Subject as herein provided, the Directors, upon the recommendation of the Manager and with the prior approval of a Resolution of the Voting Shares, may allot, issue or otherwise dispose of Non-Voting Shares or sell, transfer or cancel in accordance with the Companies Law any Treasury Shares held by the Company to such persons, at such times, for such consideration and on such terms and conditions (including redemption at the option of the Company) and generally in such a manner as they deem necessary or desirable. Members shall not have pre-emptive rights in the issue or allotment of Shares of any class.
- 7 (a) The share capital of the Company shall not be redeemable at the option of the holders thereof, but subject to the provisions of the Companies Law and these Articles, the Company may (i) acquire any of its own Shares and (ii) redeem in whole or in part any redeemable Non-Voting Shares held by a Member upon 24 hours written notice to such Member (or such shorter amount of time

agreed between the Company and such Member) at the price at which such shares were issued or such lesser amount as the Company and the Member may agree; *provided* that any Member holding Non-Voting Shares subject to redemption may deliver any Non-Voting Shares in satisfaction of such redemption.

(b) Subject to the provisions of the Companies Law, the Company and any of its subsidiaries may give financial assistance, as defined by section 330 of the Companies Law, directly or indirectly for the purpose of or in connection with the acquisition of its Shares.

(c) Subject to the provisions of the Companies Law, the Company may from time to time hold its own Shares as Treasury Shares.

8 Subject as herein provided, the Directors, upon the recommendation of the Manager, may grant options over Non-Voting Shares (including, without limitation, by way of granting phantom stock, stock appreciation rights or other similar rights) to such persons, at such times, for such consideration and on such terms and conditions and generally in such a manner as they deem necessary or desirable.

9 The Company may, but shall not be required to, issue fractions of Shares and any such fractional Shares shall rank *pari passu* in all respects with the other Shares of the same class issued by the Company.

10 The Company may exercise the powers of paying commissions and in such an amount or at such a percentage rate as the Directors may determine not exceeding 10% of the price at which the Shares are issued, which shall be set out in the relevant scheme particulars as published by the Company from time to time. Subject to the provisions of the Companies Law, any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid Shares or any combination thereof. The Company may also on any issue of Shares pay such brokerage as may be lawful.

- 11 Except as ordered by a court of competent jurisdiction or as required by the Law, no person shall be recognised by the Company as holding any Share upon any trust, and the Company shall not be bound by or recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Share, or (except as otherwise provided by these Articles or by law) any other right in respect of any Share, except an absolute right to the entirety thereof in the registered holder.

### **Modification of Rights**

- 12 The special rights attached to the Non-Voting Shares may not be varied or abrogated either while the Company is a going concern or during or in contemplation of a winding up without (i) the approval by Resolution of the Voting Shares and (ii) if such change is adverse to the rights of the Non-Voting Shares, the approval by Resolution of the Non-Voting Shares. The special rights attached to the Voting Shares may not be varied or abrogated either while the Company is a going concern or during or in contemplation of a winding up without the approval by Resolution of the Voting Shares. Except as provided by this Article or as may be required by the Law, the Non-Voting Shares shall not be entitled to vote on any matter.
- 13 The special rights conferred upon the holders of Non-Voting Shares shall be deemed not to be varied by:
- (i) the creation, allotment, issue, redemption or purchase of further Non-Voting Shares or any class ranking senior to or *pari passu* therewith as to dividends, on liquidation or otherwise; or
  - (ii) the creation, allotment, issue or purchase of Voting Shares; or
  - (iii) the creation of Unclassified Shares; or
  - (iv) the exercise by the Directors of their discretion under Article 34 or, if the Company shall be wound up, by the exercise by a liquidator of his powers under Articles 130 and 132.

## **Certificates and Register of Members**

- 14 (a) The Directors shall be under no obligation to issue share certificates unless a Member shall so request. Any Shares issued from time to time in uncertificated form shall nevertheless form part of a single class with the certificated Shares of the same class for all purposes hereunder.
- (b) If a share certificate is issued and is defaced, worn out, lost or destroyed, such share certificate, at the option of the Directors, 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, and (in the case of defacement or wearing out) upon delivery of the old certificate.
- 15 The Company shall keep the Register at the Office in accordance with the Companies Law. The Company shall be entitled to appoint one or more sub-registrars, transfer agents and paying agents from time to time.
- 16 The Company shall not be bound to register more than four persons as the joint holders of any Shares. 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 Article 65 and to the following provisions:
- (a) the joint holders of any Shares shall be liable, severally, as well as jointly, in respect of all payments which ought to be made in respect of such Shares;
- (b) any one of such joint holders may give an effectual receipt for any dividend, bonus, return of capital or other payment payable to such joint holders;
- (c) only the first-named of the joint holders of a Share shall be entitled to delivery of the certificate relating to such Share or to receive notices from the Company to attend general meetings of the Company, and any notice given to

the first-named of joint holders shall be deemed to be notice given to all the joint holders.

### **Disclosure of Interests**

- 17 (a) The Directors (or any other person appointed by them, including the Manager) have power by notice in writing to require any Member or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder) to disclose to the Company the identity of any person other than the Member (an interested party) who has any interest in the Non-Voting Shares held by the Member and the nature of such interest and any documents relating to the interest of the Member and/or an interested party as the Directors deem necessary (including for the purpose of verifying the identity of the Member and/or interested party and the date and other details of the transaction as a result of which the interest arose). Any such notice shall require any information in response to such notice to be given in writing within such reasonable time as the Directors (or any person appointed by them, including the Manager) shall determine being not longer than seven days.
- (b) The Company may maintain a register of interested parties to which the provisions of Section 123 of the Companies Law shall apply mutatis mutandis as if the register of interested parties was the Register, and, whenever in pursuance of a requirement imposed on a Member or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder) as aforesaid, the Company is informed of an interested party, the identity of the interested party and the nature of the interest shall be promptly inscribed therein, together with the date of the request.
- 18 (a) If any Member or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder) has

been duly served with a notice given by the Directors in accordance with Article 17 and is in default for the prescribed period in supplying to the Company the information thereby required, then the Directors may, in their absolute discretion at any time thereafter (provided always that not less than seven days have expired since the date the notice under Article 17 has been served), serve a notice (a “direction notice”) upon such Member or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder) as follows:

- (i) a direction notice 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 or for the person to whom the notice is addressed; the Member in respect of those Shares shall not be entitled to vote or be treated as in issue at a general meeting or meeting of the holders of any class of Shares of the Company either personally or by proxy or to exercise any other right conferred by membership in relation to meetings of the Company or of the holders of any class of Shares of the Company; and
- (ii) where the default Shares represent at least 0.25% of the issued Shares of the class concerned, then the direction notice may additionally direct that, in respect of the default Shares:
  - (A) any dividend or part thereof or other amount which would otherwise be payable in respect of such Shares shall be withheld by the Company without any liability to pay interest thereon when such money is finally paid to the Member in respect of those Shares, and the Member in respect of those Shares shall not be entitled to elect, pursuant to Article 104, to receive Shares instead of a dividend; and

- (B) no transfer other than an approved transfer (as set out in paragraph (e)(iii) of this Article) of the default Shares held by such Member shall be registered unless: (1) the Member is not himself in default as regards supplying the information requested; and (2) when presented for registration the transfer is accompanied by a certificate by the Member in a form satisfactory to the Directors to the effect that, after due and careful enquiry, the Member is satisfied that no person in default as regards supplying such information is interested in any of the Shares the subject of the transfer.
- (b) The Company shall send to each other person appearing to be interested in the Shares that are 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.
- (c) If Non-Voting Shares are issued to a Member as a result of that Member holding other Shares in the Company and if the Non-Voting Shares in respect of which the new Shares are issued are default Shares in respect of which the Member or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder) is for the time being subject to particular restrictions, the new Shares shall on issue become subject to the same restrictions whilst held by or for the person to whom the notice is addressed as such default shares. For this purpose, Shares which the Company procures to be offered to Members pro rata (or pro rata ignoring fractional entitlements and Shares not offered to certain Members by reason of legal or practical problems associated with offering Shares outside Guernsey) shall be treated as Shares issued as a result of a Member holding other Shares in the Company.
- (d) Any direction notice shall have effect in accordance with its terms for as long as the default, in respect of which the direction notice was issued, continues but shall cease to have effect in relation to any Shares which are transferred

by such Member by means of an approved transfer as set out in paragraph (e)(iii) of this Article. As soon as practical after the direction notice has ceased to have effect (and in any event within seven days thereafter) the Directors shall procure that the restrictions imposed by paragraphs (a) and (c) above shall be removed and that dividends withheld pursuant to paragraph (a)(ii)(A) above are paid to the relevant Member or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder).

- (e) For the purpose of this Article:
  - (i) a person shall be treated as appearing to be interested in any Shares if the Member holding such Shares or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder) has given to the Company a notification which either (A) names such person as being so interested or (B) fails to establish the identities of those interested in the Shares, and (after taking into account the said notification and any other relevant notification) the Company knows or has reasonable cause to believe that the person in question is or may be interested in the Shares;
  - (ii) the prescribed period in respect of any particular Member or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder) is seven days from the date of service of the said notice in accordance with these Articles;
  - (iii) a transfer of Shares is an approved transfer if but only if:
    - (A) it is a transfer of Shares to an offeror by way or in pursuance of acceptance of a public offer made to acquire all the issued shares in the capital of the Company not already owned by the

offeror or any connected person of the offeror in respect of the Company; or

(B) the Directors are satisfied that the transfer is made pursuant to a sale of the whole of the beneficial ownership of the Shares to a party unconnected with the Member or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder) and with other persons appearing to be interested in such Shares; or

(C) the transfer results from a sale made through a stock exchange on which the Company's shares are listed or normally traded.

For the purposes of this paragraph any person referred to in Article 84(b) in relation to Directors shall, mutatis mutandis, be included amongst the persons who are connected with the Member or any person appearing to be interested in such shares.

(f) Any Member or Underlying Holder (or other person who the Directors or such appointed person reasonably believe to be an Underlying Holder) who has given notice of an interested party in accordance with these Articles who subsequently ceases to have any party interested in his Shares or has any other person interested in his Shares shall notify the Company in writing of the cessation or change in such interest and the Directors shall promptly amend the register of interested parties accordingly.

### **Lien on Partly Paid Non-Voting Shares**

19 In the event that the Company shall issue any partly paid Non-Voting Shares, the Company shall have a first and paramount lien on every partly paid Non-Voting Share for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that Non-Voting Share. The Directors may at any time declare any Non-Voting Share to be wholly or in part exempt from the provisions of this

Article. The Company's lien on a Non-Voting Share shall extend to any amount payable in respect of it.

- 20 The Company may sell in such manner as the Directors determine any Non-Voting Shares 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 fourteen days after notice has been given to the holder of the Non-Voting Share or to the person entitled to it in consequence of the death or bankruptcy of the holder demanding payment and stating that if the notice is not complied with the Non-Voting Shares may be sold.
- 21 To give effect to a sale the Directors may authorise in writing any person to transfer the Non-Voting Shares on behalf of the holder thereof (or any person who is automatically entitled to the Non-Voting Shares by transmission or by law) to or in accordance with the directions of the purchaser, or to cause the same to occur. The title of the transferee to the Non-Voting Shares shall not be affected by any irregularity in or invalidity of the sale proceedings.
- 22 The net proceeds of the sale after payment of the costs 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 the certificate for the Non-Voting Shares sold and subject to a like lien for any moneys not presently payable as existed upon the Non-Voting Shares before the sale) be paid to the person entitled to the Non-Voting Shares at the date of the sale.

#### **Calls on Partly Paid Non-Voting Shares and Forfeiture**

- 23 Subject to the terms of allotment, the Directors may make calls upon the Members in respect of any moneys unpaid on their Non-Voting Shares and each Member shall (subject to receiving at least fourteen days' notice specifying when and where payment is to be made) pay to the Company, as required by the notice, the amount called on his Non-Voting Shares. A call may be required to be paid by instalments. A call may, before receipt by the Company of any sum due thereunder, be revoked in whole or part and payment of a call may be postponed in whole or part. A person

upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the Non-Voting Shares in respect whereof the call was made.

- 24 A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.
- 25 The joint holders of a Non-Voting Share shall be jointly and severally liable to pay all calls in respect thereof without the benefit of any right conferred by the droit de division and/or the droit de discussion.
- 26 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 Non-Voting Share or in the notice of the call or at such rate not exceeding 10% per annum as the Directors may determine, but the Directors may waive payment of the interest wholly or in part.
- 27 The Company may accept from a Member the whole or a part of the amount remaining unpaid on Non-Voting Shares held by him although no part of that amount has been called up. Non-Voting Shares shall not be treated as paid up until all amounts that may be called have been paid in full.
- 28 Subject to the terms of allotment, the Directors may make arrangements on the issue of Non-Voting Shares for a difference between the holders in the amounts and times of payment of calls on their Non-Voting Shares.
- 29 If a call remains unpaid after it has become due and payable, the Directors may give to the person from whom it is due not less than fourteen days' notice requiring payment of the amount unpaid, together with any interest which may have accrued. The notice shall name the place where payment is to be made and shall state that, if the notice is not complied with, the Non-Voting Shares in respect of which the call was made will be liable to be forfeited.

- 30 If the notice is not complied with, any Non-Voting Share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the Directors, and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited Non-Voting Shares and not paid before the forfeiture.
- 31 A forfeited Non-Voting Share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the Directors determine, either to the person who was before the forfeiture the holder or to any other person, and at any time before sale, re-allotment or other disposition, the forfeiture may be cancelled on such terms as the Directors think fit. Where, for the purposes of its disposal, a forfeited Non-Voting Share is to be transferred to any person, the Directors may authorise some person to execute an instrument of transfer of the Share to that person.
- 32 A person any of whose Non-Voting Shares have been forfeited shall cease to be a Member in respect of them and shall surrender to the Company for cancellation the certificate (if issued) for the Non-Voting Shares forfeited but shall remain liable to the Company for all moneys which, at the date of forfeiture, were presently payable by him to the Company in respect of those Non-Voting Shares with interest at the rate at which interest was payable on those moneys before the forfeiture or at such rate not exceeding 10% per annum as the Directors may determine from the date of forfeiture until payment, but the Directors may waive payment wholly or in part or enforce payment without any allowance for the value of the Non-Voting Shares at the time of forfeiture or for any consideration received on their disposal.
- 33 A declaration under oath by a Director or the Secretary that a Non-Voting Share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Non-Voting Share and the declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the Non-Voting Share, and the person to whom the Non-Voting Share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his title to the Non-Voting Share be affected by any

irregularity in or invalidity of the proceedings in reference to the forfeiture or disposal of the Non-Voting Share.

### **Transfer of Shares**

- 34 (a) Non-Voting Shares shall not be transferable except pursuant to regulations that the Directors may adopt in their discretion. Without limiting the generality of the foregoing, the Directors may provide restrictions on transfer that they think reasonable or desirable:
- (i) for the purpose of ensuring that no Shares in the Company are acquired or held by any person in breach of the law or requirements of any country or governmental authority; and
  - (ii) for the purpose of prohibiting the ownership of Shares by persons by reason of their residence, domicile or establishment in certain countries or territories or investment or tax status within such countries or territories.
- (b) In the event any Shares may be transferred, a Member may transfer a Share pursuant to any instrument of transfer in any usual form or in any other form which the Directors may approve, and such instrument of transfer shall be executed by or on behalf of the transferor.
- (c) In the event any Shares may be transferred, every instrument of transfer in respect of a Share shall be left at the Office or such other place as the Directors may prescribe with the certificate of every Share to be transferred (if any) and such other evidence as the Directors may reasonably require to prove the title of the transferor or his right to transfer the Shares; and the instrument of transfer and certificate (if any) shall remain in the custody of the Directors but shall be at all reasonable times produced at the request and expense of the transferor or transferee or their respective representatives. If requested, a new certificate shall be delivered free of charge to the transferee

after the transfer is registered and, when necessary, a balance certificate shall be delivered if required by him in writing.

- 35 The transferor of a Share is deemed to remain the holder of the Share until the name of the transferee is entered in the Register in respect of it.
- 36 Subject to any regulations adopted by the Directors, the Directors may refuse to register any transfer (i) which would be contrary to any restrictions adopted pursuant to Article 34 or the provisions of Article 45 or (ii) of any Share which is not fully paid or on which the Company has a lien.
- 37 Subject to any regulations adopted by the Directors, the Directors may refuse to register a transfer of a Share unless the instrument of transfer is:
- (a) lodged at the Office or at such other place as the Directors may appoint and is accompanied by the certificate (if issued) for the Shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;
  - (b) in respect of only one class of Shares; and
  - (c) in favour of not more than four transferees.
- 38 If the Directors refuse to register a transfer of a Share, they shall, within two months after the date on which the instrument of transfer was lodged with the Company, send to the transferor and the transferee a notice of the refusal.
- 39 Any procedures for the registration of transfers of Shares may be suspended at such times and for such periods (not exceeding thirty days in any year) as the Directors may determine.
- 40 The Company shall be entitled to retain any instrument of transfer which is registered, but any instrument of transfer which the Directors refuse to register shall

(except in the case of fraud) be returned to the person lodging it when notice of the refusal is given.

- 41 There shall be paid to the Company in respect of the registration of any probate, letters of administration, certificate of marriage or death, power of attorney or other document relating to or affecting the title to any Shares, such fee as the Directors may from time to time require or prescribe.

### **Transmission of Shares**

- 42 If a Member dies, the survivors or survivor where he was a joint holder, and the executors or administrators of the deceased where he was a sole or only surviving holder, shall be the only persons recognised by the Company as having title to his interest in the Shares, but nothing in this Article shall release the estate of the deceased holder, whether sole or joint, from any liability in respect of any Shares solely or jointly held by him.

- 43 Any person becoming entitled to a Share in consequence of the death, bankruptcy or incapacity of a Member shall, upon producing such evidence of his title as the Directors may require, have the right either to be registered himself as the holder of the Share or to make such transfer thereof in accordance with the provisions of these Articles as the deceased, bankrupt or incapacitated Member could have made. If he elects to become the holder, he shall give notice to the Company to that effect. If he elects to transfer the Share he shall execute an instrument of transfer of the Share to the transferee. All of the limitations, restrictions and provisions of these Articles relating to the transfer of Shares shall apply to the notice or instrument of transfer as if it were an instrument of transfer executed by the Member and the death, bankruptcy or incapacity of the Member had not occurred.

- 44 The Directors may at any time give notice to a person that becomes entitled to a Share in consequence of the death, bankruptcy or incapacity of a Member, requiring such person to elect either to be registered himself or to transfer the Share, and if the notice is not complied with within ninety days, the Directors may thereafter withhold

all dividends or other monies payable or other rights due in respect of the Share until the requirements of the notice have been complied with.

### **Compulsory Transfer of Non-Voting Shares**

- 45 (a) The Directors may compel the transfer of any Non-Voting Shares in accordance with paragraph (b) below if it shall come to the notice of the Company or the Manager that such Shares are owned directly or beneficially either by:
- (i) any person in breach of any law or requirement of any country or governmental authority by virtue of which such person is not qualified to hold such Shares; or
  - (ii) by any person who shall belong to or be comprised within any class of persons stipulated from time to time for the purposes of this Article by the Company as being ineligible to own Shares; or
  - (iii) by any person so as to constitute legal regulatory fiscal tax or pecuniary disadvantage to the Company; or
  - (iv) any person whose ownership would be prohibited pursuant to regulations adopted by the Directors pursuant to Article 34.
- (b) If it shall come to the notice of the Directors that any Non-Voting Shares are owned by any person identified in clauses (i) through (iv) of paragraph (a) above, the Directors may serve written notice (a “**Transfer Notice**”) upon such person (or any one of such persons where Shares are registered in joint names) appearing in the register as the holder (the “**Vendor**”) of any of the Shares concerned (the “**Relevant Shares**”), requiring the Vendor within 21 days (or such extended time as in all the circumstances the Directors shall consider reasonable) to transfer (and/or procure the disposal of interests in) the Relevant Shares to another person who, in the sole and conclusive

determination of the Directors, would not fall within subparagraphs (i), (ii), (iii) or (iv) of paragraph (a) above (an “**Eligible Transferee**”). On and after the date of such Transfer Notice, and until registration of a transfer of the Relevant Shares to which it relates pursuant to the provisions of paragraph (b) or paragraph (c) of this Article, the rights and privileges attaching to the Relevant Shares shall be suspended and not capable of exercise.

- (c) If, within 21 days after the giving of a Transfer Notice (or such extended time as in all the circumstances the Directors shall consider reasonable), the Transfer Notice has not been complied with to the satisfaction of the Directors, the Company may sell the Relevant Shares on behalf of the holder thereof by instructing a broker to sell them at the best price reasonably obtainable at the time of sale to one or more Eligible Transferees. To give effect to a sale, the Directors may authorise in writing any person to transfer the Relevant Shares on behalf of the holder thereof (or any person who is automatically entitled to the Shares by transmission or by law), to or in accordance with the directions of the purchaser, or to cause the same to occur. The purchaser is not bound to see to the application of the purchase money and the title of the transferee is not affected by any irregularity in or invalidity of the proceedings connected to the sale. The net proceeds of the sale of the Relevant Shares, after payment of the Company’s costs of the sale, shall be received by the Company, whose receipt shall be good discharge for the purchase moneys, and shall belong to the Company and, upon their receipt, the Company shall become indebted to the former holder of the Relevant Shares, or the person who is automatically entitled to the Relevant Shares by transmission or by law, for an amount equal to the net proceeds of transfer, and, in the case of certificated shares, upon surrender by him or them of the certificate for the Relevant Shares which the Vendor shall forthwith be obliged to deliver to the Company. The Company is deemed to be a debtor and not a trustee in respect of that amount for the member or other person. No interest is payable on that amount and the Company is not required to

account for money earned on it. The amount may be employed in the business of the Company or as it thinks fit. The Company may register or cause the registration of the transferee as holder of the Relevant Shares, and thereupon the transferee shall become absolutely entitled thereto.

- (d) A person who becomes aware that he is holding or owning Shares in breach of any law of any country or governmental authority, by virtue of which he is not qualified to hold such Shares, or that he is a person who belongs to or is comprised within any class of persons stipulated from time to time for the purposes of this Article by the Company, shall forthwith transfer all his Shares to a person qualified or permitted to own the same. Every such request shall be accompanied by the certificate or certificates for (if issued) the Shares to which it refers.
- (e) The exercise by the Manager of the power conferred by paragraph (a) of this Article shall not be questioned or invalidated in any case on the ground that there was insufficient evidence of ownership of Shares by any person or that the true ownership of any Shares was otherwise than appeared to the Manager at the relevant date, *provided* that the said power shall have been exercised in good faith.

### **Untraced Members**

46 The Company may sell the Shares of a Member or of a person entitled by transmission at the best price reasonably obtainable at the time of sale, if:

- (a) during a period of not less than 12 years before the date of publication of the advertisements referred to in paragraph (c) of this Article (or, if published on two different dates, the first date) (the “relevant period”) at least three cash dividends have become payable in respect of the Share;
- (b) throughout the relevant period, no cheque, warrant or money order payable on the Share has been presented by the holder of, or the person entitled by

transmission to, the Share to the paying bank of the relevant cheque, warrant or money order, no payment made by the Company by any other means permitted by Article 103 has been claimed or accepted and, so far as any Director at the end of the relevant period is then aware, the Company has not, at any time during the relevant period, received any communication from the holder of, or person entitled by transmission to, the Share;

- (c) on expiry of the relevant period, the Company has given notice of its intention to sell the Share by advertisement in a daily newspaper circulating widely in each of Guernsey and Jersey and in a newspaper circulating in the area of the address of the holder of, or person entitled by transmission to, the Share shown in the Register; and
- (d) the Company has not, so far as the Directors are aware, during a further period of three months after the date of the advertisements referred to in paragraph (c) of this Article (or the later advertisement if the advertisements are published on different dates) and before the exercise of the power of sale, received a communication from the holder of, or person entitled by transmission to, the Share.

47 Where a power of sale is exercisable over Shares pursuant to Article 46 (“Sale Shares”), the Company may at the same time also sell any additional Shares issued in right of such Sale Shares or in right of such any additional Shares previously so issued, *provided* that the requirements of paragraphs (b) to (d) of Article 46 (as if the words “throughout the relevant period” were omitted from paragraph (b) and the words “on expiry of the relevant period” were omitted from paragraph (d)) shall have been satisfied in relation to the additional Share.

48 To give effect to a sale pursuant to Article 46 or Article 47, the Directors may authorise a person to transfer Shares in the name and on behalf of the holder of, or person entitled by transmission to, such Shares, or to cause the transfer of such Shares, to the purchaser or his nominee. The purchaser is not bound to see to the

application of the purchase money and the title of the transferee is not affected by an irregularity or invalidity in the proceedings connected with the sale of the Shares.

- 49 The Company shall be indebted to the Member or other person entitled by transmission to the Shares for the net proceeds of sale and shall carry any amount received on sale to a separate account. The Company is deemed to be a debtor and not a trustee in respect of that amount for the Member or other person. Any amount carried to the separate account may either be employed in the business of the Company or invested as the Directors may think desirable. No interest is payable on that amount and the Company is not required to account for money earned on it.

#### **Net Asset Value Determinations**

- 50 The Net Asset Value of the Company shall be determined on a month-end basis and as at such other times as the Directors may require. The Net Asset Value shall be calculated on the basis of the valuation principles adopted from time to time by the Directors with the approval by Resolution of the Voting Shares.

#### **Variation of Share Capital**

- 51 The Company may, by Resolution of the Voting Shares, increase the share capital by such sum, to be divided into Shares of such amount as the resolution shall describe.
- 52 The Company may by Resolution of the Voting Shares:
- (i) consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares;
  - (ii) sub-divide its Shares, or any of them, into Shares of smaller amount than is fixed by the Memorandum, *provided*, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced Share shall be the same as it was in the case of the Share from which the reduced Share is derived;

- (iii) cancel any Shares which, at the date of the passing of the Resolution, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the Shares so cancelled;
- (iv) 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 current on the date of the resolution or on such other dates as may be specified therein and
- (v) 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.

53 Subject to the provisions of the Law, the Company may from time to time reduce the Company's share capital, any capital redemption reserve or any share premium account in any way.

### **General Meetings**

54 To the extent required by the Companies Law, the Company shall hold an annual general meeting each year. Annual general meetings shall be held at such time and place in Guernsey or any other place as may be determined by the Directors, *provided* that such meetings shall not be held in the United Kingdom.

55 All general meetings other than annual general meetings shall be called extraordinary general meetings.

56 An extraordinary general meeting ~~Law~~ may be called or convened in accordance with the Companies Law. Any such extraordinary general meeting shall be held in Guernsey.

## Notice of General Meetings

- 57 All meetings shall be called on such notice as shall be required by the Companies Law, which shall specify the day, time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such. A meeting may be called by shorter notice if it is so agreed by all the Members entitled to attend and vote thereat.
- 58 (a) Subject to the provisions of these Articles and to any restrictions imposed on any Shares, a notice of a general meeting shall be given to all Members, to all persons entitled to a Share in consequence of the death, bankruptcy or incapacity of a Member and to the Directors, the Manager and the Auditors. Holders of Non-Voting Shares, Directors, the Manager and the Auditors shall be entitled to receive notice of and attend and speak at any general meeting of the Company. Unless a matter is to be presented on which holders of Non-Voting Shares are entitled to vote pursuant to Article 12, only holders of Voting Shares may vote at a meeting of Members.
- (b) The notice of meeting may also specify a time (which shall not be more than 48 hours before the time fixed for the meeting or any adjourned meeting) by which a person must be entered on the Register in order to have the right to attend or vote at the meeting. Changes to entries on the Register after the time so specified in the notice shall be disregarded in determining the rights of any person to so attend or vote.
- (c) 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 (which may not be more than 21 days before the date on which the notices of meeting were sent) shall be the persons who are entitled to receive notice.
- 59 (a) The accidental omission to give notice to, or the non-receipt of notice by, any person entitled to receive notice shall not invalidate the proceedings at any general meeting.

- (b) If the Directors consider that it is impractical or unreasonable for any reason to hold a general meeting at the time or place specified in the notice calling the general meeting, they may move and/or postpone the general meeting to another time and/or place. When a meeting is so moved and/or postponed, notice of the time and place of the moved and/or postponed meeting shall (if practical) be placed in a United Kingdom national newspaper and in a daily newspaper circulating widely in Guernsey and Jersey. Notice of the business to be transacted at such moved and/or postponed meeting is not required. The Board must take reasonable steps to ensure that members trying to attend the general meeting at the original time and/or place are informed of the new arrangements for the general meeting. Proxy forms can be delivered until 48 hours before the rearranged meeting. Any postponed and/or moved meeting may also be postponed and/or moved under this Article 59(b).

### **Proceedings at General Meetings**

- 60 No business shall be transacted at any general meeting unless a quorum is present. Without prejudice to section 232 (Application to Class Meetings) of the Companies Law the holders of a majority of the Shares in issue of each class entitled to vote at the meeting shall be a quorum for such meeting for the purpose of passing a Resolution by that class. A representative of a corporation authorised pursuant to Article 71 and present at any meeting of the Company or at any meeting of the holders of any class of Shares in the Company shall be deemed to be a Member for the purpose of counting towards a quorum. The absence of a quorum does not prevent the appointment of a Chairman in accordance with these Articles, which shall not be treated as part of the business of the meeting.
- 61 If, within half an hour from the time appointed for the meeting or such longer interval as the Chairman of the meeting may determine, a quorum is not present or if during a meeting such a quorum ceases to be present, the meeting, if convened on the requisition of or by Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same time and place or to such

other day and such other time and place as the Chairman may determine. If a quorum is not present within five minutes (or such longer time as the Chairman decides) from the time fixed to start such adjourned meeting, the adjourned meeting shall be dissolved.

62 At any general meeting, the chairman (if any) of the Board or, if he is absent or unwilling, one of the other Directors who is appointed for that purpose by the Directors or (failing appointment by the Directors) by the members present, shall preside as chairman of the meeting. If none of the Directors are present or are present but unwilling to preside, the Members present and entitled to vote at a meeting shall choose one of their number to be preside as chairman of the meeting.

63 (a) There shall be no requirement to make available for inspection at any time during a meeting a list of names, addresses or shareholdings of the Members.

(b) The only matters that may be considered at a general meeting are those specified in the notice of that meeting.

64 (a) At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless before or on the declaration of the result of the show of hands a poll is duly demanded. Subject to the provisions of the Companies Law, a poll may be demanded:

(i) by the chairman; or

(ii) by at least two Members having the right to vote on the resolution; or

(iii) by a Member or Members representing not less than one tenth of the total voting rights of all the Members having the right to vote on the resolution,

and a demand by a person as proxy for a Member shall be the same as a demand by the Member.

- (b) Unless a poll is duly demanded (and not subsequently withdrawn) a declaration by the chairman that a resolution has or has not been passed or has been passed with a particular majority or an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- (c) The demand for a poll may be withdrawn before the poll is taken but only with the consent of the chairman. A demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- (d) A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be Members) and fix a day, time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- (e) A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such day, time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- (f) No notice need be given of a poll not taken forthwith if the day, time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven days' notice shall be given specifying the day, time and place at which the poll is to be taken.

- (g) In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall not be entitled to a casting vote in addition to any other vote he may have.
- (h) Subject to any rights or restrictions attached to any Shares and the provisions of the Articles:
  - (i) on a show of hands every Member who is present in person (or in the case of corporations, present by a duly authorised representative) or by proxy shall have one vote; and
  - (ii) on a poll every Member who is present in person (or in the case of corporations, present by a duly authorised representative) or by proxy shall have one vote for every Share of which he is the holder.
- (i) A Resolution shall be passed (i) if it is approved by the holders of at least a majority of the Shares in issue of the class or classes entitled to vote thereon as shown in the Register as of the close of business on the record date specified in the notice of the meeting, unless a greater percentage shall be required by law and (ii) if the matter would require approval by way of a special resolution, waiver resolution or unanimous resolution under the Companies Law, the applicable requirements of the Companies Law are also satisfied.

65 In the case of joint holders of a Share, the vote of the senior holder who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the Share.

66 A Member in respect of whom an order has been made by any court having jurisdiction (whether in Guernsey or elsewhere) in matters concerning mental disorder may vote by his attorney, curator, receiver or other person authorised in that behalf appointed by such court and any such attorney, curator, receiver or other

person may on a poll vote by proxy, *provided* that such evidence as the Directors may require of the authority of the person claiming to vote shall have been deposited at the Office or at such other place as is specified in accordance with the Articles for the deposit of instruments of proxy not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which such person claims to vote.

- 67 No Member shall, unless the Directors otherwise determine, be entitled to vote at any general meeting or by written consent, or have its Shares treated as in issue for that purpose, unless all calls or other sums presently payable by such Member, in respect of Shares in the Company of which he is the holder or one of the joint holders, have been paid.
- 68 No objection shall be raised to the qualification of any voter (including any proxy), except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.
- 69 (a) At any general meeting of Shares of a class, votes may be given either personally or by proxy. Subject to the Companies Law, the Directors shall be authorised to approve the form and requirements of any proxy.
- (b) (i) The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority shall be:
- (A) delivered to the Office or at such other place as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the Company not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote;

- (B) given by email or any other electronic method to the address of the Company specified for that purpose in the notice of the meeting or in the instrument of proxy issued by the Company not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and subject to the need to deposit any power of attorney or other authority (if any) under which an instrument of proxy is signed, an instrument so given shall be deemed to be duly deposited. However any power of attorney or other authority (if any) under which an instrument of proxy is executed, or a notarially certified copy of such power or authority shall not be given by email or any other electronic method;
- (C) in the case of a poll taken more than 48 hours after it is demanded, delivered as required by paragraph (A) or (B) of this Article not less than 24 hours before the time appointed for the taking of the poll; or
- (D) in the case of a poll not taken immediately but taken not more than 48 hours after it was demanded, the time at which it was demanded,

and in default and unless the Board directs otherwise, the instrument of proxy shall not be treated as valid.

- (ii) No instrument appointing a proxy shall be valid after the expiration of 12 months from the date named in it as the date of its execution, except at an adjourned meeting or on a poll demanded at a meeting or an adjourned meeting in cases where the meeting was originally held within 12 months from such date. Notwithstanding this Article, the Directors may, at their discretion, accept the appointment of a proxy at

any time prior to holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote.

- (iii) Without limiting the foregoing, in relation to any shares which are held in uncertificated form, the Board may from time to time permit appointments of a proxy to be made by means of an uncertificated proxy instruction and may in a similar manner permit supplements to, or amendments or revocations of, any such uncertificated proxy instruction to be made by like means. The Board may in addition prescribe the method of determining the time at which any such uncertificated proxy instruction (and/or other instruction or notification) is to be treated as received by the Company or a participant acting on its behalf. The Board may treat any such uncertificated proxy instruction which purports to be or is expressed to be sent on behalf of a holder of a share as sufficient evidence of the authority of the person sending that instruction to send it on behalf of that holder.

70 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or incapacity of the principal or the revocation or determination of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the Share in respect of which the instrument of proxy is given, *provided* that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the Company at the 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 the poll demanded 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.

71 Any corporation which is a Member may by resolution of its directors or other governing body or officers authorised by such body, authorise such person as it thinks

desirable to act as its representative at any meeting of the Company or at any meeting of the holders of Shares of any class in the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member, and such corporation shall for the purposes of these Articles be deemed to be present in person at any such meeting if a person so authorised is present thereat.

### **Actions by Written Consent Without a Meeting**

72 Subject to the requirements of the Companies Law,

- (i) A Resolution passed by written consent shall be valid and effective as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the same form, each duly executed by or on behalf of one or more Members.
- (ii) A Resolution will be passed by a class of Shares by written consent in lieu of a general meeting if the Company shall receive consents approving such Resolution from holders of the percentage of Shares of that class that would have been required to vote in favour if put to a vote at a general meeting at which all Members of that class entitled to vote were present in person, even though it may be fewer than all shareholders of the relevant class.
- (iii) The Directors may specify a record date for the determination of holders entitled to vote by written Resolution. A written Resolution is passed on the date the requisite vote for passing such Resolution is received.

## **Directors**

- 73 Unless otherwise determined by Resolution of the Voting Shares, the number of Directors shall be seven. At no time shall a majority of Directors be residents of the United Kingdom.
- 74 Except as provided in this Article 74, not less than a majority of Directors shall be Independent Directors. If at any time the Directors shall cease to consist of a majority of Independent Directors as a result of the death, resignation or removal of an Independent Director or otherwise, such vacancy shall be filled promptly in accordance with these Articles and, pending the filling of such vacancy, the Directors may consist of less than a majority of Independent Directors. Notwithstanding the generality of the foregoing, a Director who is not an Independent Director shall not be required to resign as a Director as a result of an Independent Director's death, resignation or removal in accordance with these Articles.
- 75 A Director need not be a Member, but shall be entitled to receive notice of and attend all general meetings of the Company and all meetings of any class of Members of the Company.

## **Powers of Directors**

- 76 (a) Subject to the provisions of the Companies Law, the Memorandum and these Articles and to any directions given by Resolution of the holders of Voting Shares, the business of the Company shall be managed by the Directors, who may exercise all the powers of the Company in any part of the world. No alteration of the Memorandum or these Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Directors by these Articles, and a meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.

(b) Subject to the Companies Law, every discretion vested in the Directors shall be absolute and uncontrolled, and every power vested in them shall be exercisable at their absolute and uncontrolled discretion, and the Directors shall have the same discretion in deciding whether or not to exercise any such power.

77 Subject to any limits contained in Resolutions adopted by the Voting Shares, the Directors may exercise all the powers of the Company to borrow or raise money and secure any debt or obligation of or binding on the Company in any manner, including by the issue of debentures (perpetual or otherwise) and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, pledge or lien upon the whole or any part of the Company's property or assets (whether present or future) and also by a similar mortgage, charge, pledge or lien to secure and guarantee the performance of any obligation or liability undertaken by the Company or any third party.

#### **Authority to Delegate**

78 The Directors may, by power of attorney signed by any person duly authorised for that purpose or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers. In addition, and without limiting the foregoing, the Directors may delegate to the Manager or any other persons the powers and authorities granted to them hereunder and the administration of any rules or regulations adopted by them pursuant hereto.

#### **Appointment and Retirement of Directors**

79 Subject to the Companies Law and these Articles, the holders of Voting Shares by Resolution shall have power at any time, and from time to time, to

- (i) appoint any person to be a Director, either to fill a vacancy or as an additional Director (subject to the eligibility requirements hereof and any requirements of the Companies Law), and
- (ii) remove any person from office as Director for any reason

and there shall be no requirement for the appointment or removal of two or more Directors to be considered separately.

A person must not be appointed a Director unless he has in writing consented to being a Director of the Company and declared that he is not ineligible under the Companies Law.

Directors shall hold office only until the next following annual general meeting and shall then be eligible for re-election.

- 80 A Director may retire from office as a Director by giving notice in writing to that effect to the Company at the Office, which notice shall be effective upon such date as may be specified in the notice, and if not specified therein, upon delivery to the Office.

### **Disqualification and Removal of Directors**

- 81 Without prejudice to the provisions regarding retirement contained in the Articles, the office of a Director shall be vacated if:
- (a) he ceases to be a Director by virtue of any provision of the Law or becomes prohibited by law from, or is disqualified from, being a Director; or
  - (b) he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
  - (c) he resigns his office by notice to the Company; or
  - (d) he becomes of unsound mind; or

- (e) he is given notice by all other Directors (not being less than two in number) to vacate office; or
- (f) he is absent from meetings of the Directors for four successive meetings without leave expressed by a resolution of the Directors and the Directors resolve that his office should be vacated; or
- (g) the Company so resolves by Resolution of the Voting Shares; or
- (h) he becomes a resident of United Kingdom and, as a result thereof, a majority of the Directors are residents of the United Kingdom.

### **Remuneration of Directors**

82 The Directors shall be entitled to such remuneration as the Company may by Resolution of the Voting Shares determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

### **Directors' Expenses**

83 The Directors may be paid all travelling, hotel and other expenses reasonably incurred by them in connection with their attendance at meetings of Directors or committees of Directors or general meetings or separate meetings of the holders of any class of Shares of the Company or otherwise in connection with the discharge of their duties.

### **Directors' Appointments and Interests**

84 Provided that he has disclosed to the Directors the nature and extent of any interests of his in accordance with the Companies Law, 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;
- (c) shall not, subject as provided hereafter, by reason of his office, be accountable to the Company for any benefit which he 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 void or voidable on the ground of any such interest or benefit or because such Director is present at or participates in the meeting of the Directors or a committee thereof that approves such transaction or arrangement, *provided* that (i) the material facts as to the interest that such Directors in such transaction or arrangement have been disclosed or are known to the Directors or such committee thereof and the Directors or such committee thereof in good faith authorises the transaction or arrangement and (ii) the approval of such transaction or arrangement includes the votes of a majority of the Directors that are not interested in such transaction or such transaction is otherwise found by the Directors (before or after the fact) to be fair to the Company as of the time it is authorised and *provided further* that the Directors may authorise the Manager in advance to enter into any such transaction on behalf of the Company in accordance with the terms of a management agreement; and
- (d) 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 though he were not a director of the Company.

85 For the purposes of the preceding Article:

- (a) a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any

transaction or arrangement with a specified person or class of persons shall be deemed to be sufficient disclosure of his interest in any such transaction or arrangement; and

- (b) an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

### **Proceedings of Directors**

86 Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think necessary or desirable. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. All meetings of Directors shall take place outside of the United Kingdom. The affirmative vote of five Directors shall constitute a resolution of the Directors, *provided* that a quorum is present, and all questions arising at a meeting shall be decided by such vote.

87 The quorum for the transaction of the business of the Directors shall be five. Any Director enabled to participate in the proceedings of a meeting of the Directors or any committee by means of a communication device (including a telephone) which allows all of the other Directors present at such meeting to hear at all times such Director and such Director to hear at all times all other Directors present at such meeting (in each case whether in person or by means of such type of communication device) shall be deemed to be present at such meeting and shall be counted when reckoning a quorum, *provided* that the number of Directors physically present in the United Kingdom participating in the meeting by means of such a communication device must be less than a majority of the Directors present.

88 The continuing Directors or the only continuing Director may act notwithstanding any vacancies in their number, 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 calling a general meeting of Voting Shares to elect Directors.

- 89 The holders of Voting Shares shall by Resolution appoint one of the Directors to be the Chairman of the board of Directors and may at any time remove him from that office. Unless he is unwilling to do so, the Director so appointed shall preside at every meeting of Directors at which he is present, but if there is no Director holding that office, or if the Director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the Directors present may appoint one of their number to be Chairman of the meeting.
- 90 All acts done by a meeting of Directors, or of a committee of Directors, or by a person acting as a Director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, are as valid as if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.
- 91 A resolution in writing signed by not less than five Directors (or a majority of a committee of Directors) shall be as valid and effectual as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held and may consist of several documents in the like form each signed by one or more Directors.
- 92 A Director may vote in respect of any transaction, arrangement or proposed transaction or arrangement in which he has an interest which he has disclosed in accordance with these Articles and the Companies Law, and if he does vote, his vote shall be counted, and he shall be counted towards a quorum at any meeting of the Directors at which any such transaction or arrangement or proposed transaction or arrangement shall come before the Directors for consideration.
- 93 Where proposals are under consideration concerning the appointment of two or more Directors to offices or employment with the Company or any body corporate in which the Company is interested, the proposals may be divided and considered in relation to each Director separately, and each of the Directors concerned shall be

entitled to vote and be counted in the quorum in respect of each resolution, except that concerning his own appointment.

### **Committees; Delegation**

94 The Directors shall establish and shall maintain at all times an Audit Committee consisting solely of Independent Directors. The Audit Committee shall be responsible for assisting and advising the Directors with matters relating to:

- (i) the Company's accounting and financial reporting processes;
- (ii) the integrity and audits of the Company's financial statements;
- (iii) the qualifications, performance and independence of the Company's independent accountants;
- (iv) the qualifications, performance and independence of any third party that provides valuations for the Company's investments; and
- (v) recommending to shareholders the firm of independent accountants to be engaged to conduct audits.

The Audit Committee will also be responsible for reviewing and making recommendations with respect to the plans and results of each audit engagement with the Company's independent accountants, the audit and non-audit fees charged by the Company's independent accountants and the adequacy of the Company's internal accounting controls. The Audit Committee shall act by a vote of a majority of its members then appointed and shall meet only outside the United Kingdom.

95 The Directors may delegate any of their powers to any other committee consisting of one or more Directors or other persons approved by a Resolution of the Voting Shares. Any such committee shall act by a majority of its members then appointed and shall meet only outside of the United Kingdom.

## **Secretary**

96 Subject to the provisions of the Companies Law, a Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think necessary or desirable, and any Secretary so appointed may be removed by them.

## **Minutes**

97 The Secretary shall cause minutes to be made in books kept for the purpose in accordance with the Companies Law.

## **The Seal**

98 (a) The Seal (if any) shall only be used by the authority of the Directors or of a committee of Directors authorised by the Directors. The Directors may determine who shall sign any instrument to which the Seal is affixed and, unless otherwise so determined, it shall be signed by a Director and by the Secretary or by a second Director.

(b) Subject to the provisions of the Law, the Directors may determine to have:

(i) an official seal for use in any country, territory or place outside the Island of Guernsey, which shall be a facsimile of the common seal of the Company. Any such official seal shall in addition bear either the name of the country in which it is to be used or the words “branch seal”;

(ii) an official seal for use only in connection with the sealing of securities issued by the Company, and such official seal shall be a facsimile of the common seal of the Company but shall in addition bear the word “securities”.

## **Dividends**

- 99 Subject to the provisions of the Companies Law and the Articles, the Directors may, upon the recommendation of the Manager, declare periodic dividends from time to time in respect of Non-Voting Shares, in accordance with the respective rights of the Members subject to the approval of the Voting Shares by Resolution.
- 100 No dividend shall be declared or paid on the Voting Shares.
- 101 Except as otherwise provided by the rights attached to Shares and this Article 101, all dividends shall be declared and paid according to the amounts paid up on the Shares (other than in advance of calls) on which the dividend is paid. Except as provided in this Article 101, all dividends shall be apportioned and paid proportionately to the amounts paid up on the Shares during any portion or portions of the period in respect of which the dividend is paid, but, if any Share is issued on terms providing that it shall rank for dividend as from a particular date, that Share shall rank for dividend accordingly.
- 102 Any resolution declaring a dividend on Shares may specify that the same shall be payable to the persons registered as the holders of Shares of the class concerned at the close of business on a particular date, notwithstanding that it may be a date prior to that on which the resolution is passed, and thereupon the dividend shall be payable to such persons in accordance with their respective holdings so registered, but without prejudice to the rights *inter se* in respect of such dividend of transferors and transferees of any Shares.
- 103 A dividend may, if approved as set forth in Article 99 and specified in the Manager's recommendation, direct that it shall be satisfied wholly or partly by the distribution of assets or paid in additional shares, rights, warrants or other securities of the Company or any other person.
- 104 Subject to the Companies Law, the Directors may, with the authority of a Resolution of the Voting Shares, allot to holders of Non-Voting Shares who have elected to

receive them further Non-Voting Shares, credited as fully paid, instead of cash in respect of all (or some part) or any dividend specified by such Resolution (as “scrip dividend”), subject to any conditions, restrictions or other arrangements that the Directors may, in their absolute discretion, think necessary or desirable, in accordance with the following provisions:

- (a) The Resolution may specify a particular dividend (whether or not already declared) or may specify all or any dividends declared within a specified period;
- (b) The basis of allotment shall be decided by the Directors so that, as nearly as may be considered convenient, the value of the further Non-Voting Shares, including any fractional entitlement, is equal to the amount of the cash dividend which would otherwise have been paid, calculated in such manner as determined by or in accordance with the Resolution; and
- (c) The Directors shall give notice to the holders of Shares of their rights of election in respect of the scrip dividend and shall specify the procedure to be followed in order to make the election.

105 Any dividend or other moneys payable in respect of a Share may be paid by cheque or warrant (or cabled or telexed to a bank at the Member’s request and expense) sent by post to the registered address of the person entitled or, if two or more persons are the holders of the Share or are jointly entitled to it by reason of the death, bankruptcy or incapacity of the holder, to the registered address of the one of those persons who is first named in the Register or to such person and to such address as the person or persons entitled may in writing direct (and in default of which direction to that one of the persons jointly so entitled as the Directors shall in their discretion determine). Every cheque or warrant shall be made payable to the order of the person or persons entitled or to such other person as the person or persons entitled may in writing direct, and payment of the cheque or warrant shall be a good discharge to the

Company. Any joint holder or other person jointly entitled to a Share as aforesaid may give receipts for any dividend or other moneys payable in respect of the Share.

- 106 The Company may deduct from any dividend or other moneys payable to any Member 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 in relation to Shares.
- 107 All unclaimed dividends may be invested or otherwise made use of by the Company for the benefit of the Company until claimed. No dividends shall bear interest against the Company. The payment by the Company of any unclaimed dividend or other moneys payable on or in respect of a Share into a separate account shall not constitute the Company a trustee in respect thereof.
- 108 Any dividend which has remained unclaimed for three years from the date when it became due for payment shall, if the Directors so resolve, be forfeited and cease to remain owing by the Company.

### **Capitalisation of Profits**

- 109 Subject to the provisions of the Companies Law, the holders of Voting Shares may by Resolution, resolve that it is desirable to capitalise any part of the amount for the time being:
- (i) standing to the credit of any of the Company's reserve accounts (including capital reserve and share premium account); or
  - (ii) standing to the credit of the profit and loss account; or
  - (iii) which is otherwise available for distribution to holders of Shares and not required for payment of dividend on any Shares with a right to dividend;

and accordingly that such sum or sums be set free for distribution amongst the Members who would have been entitled thereto if it had been distributed by way of

dividend and in the same proportion, on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any Non-Voting Shares held by such Members respectively or in paying up in full unissued Non-Voting Shares to be allotted and distributed (credited as fully paid up) to and amongst such Members in the proportion aforesaid, or partly in the one way and partly in the other, but the share premium account, capital reserve and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued Shares to be allotted to Members credited as fully paid up.

- 110 Whenever such a Resolution as aforesaid shall have been passed by the Voting Shares, the Directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid Shares, if any, and generally shall do all acts and things required to give effect thereto, with full power to the Directors to make such provision by payment in cash or otherwise as they think necessary or desirable in relation to Shares becoming distributable in fractions and to authorise any person to enter, on behalf of all the Members entitled thereto, into an agreement with the Company providing for the allotment to them respectively, credited as fully paid up, of any further Shares to which they may be entitled upon such capitalisation or (as the case may require) for the payment up by the Company on their behalf by the application thereto of their respective proportions of the profits resolved to be capitalised or of the amounts or any part of the amounts remaining unpaid on their existing Shares, and any agreement made under such authority shall be effective and binding on all such Members.

### **Share Premium**

- 111 The Directors may establish and maintain, in respect of Non-Voting Shares, an account to be called the share premium account and may carry to the credit of such account from time to time the sums required to be credited thereto, in accordance with the provisions of these Articles.

## **Reserve Accounts**

112 The Directors may establish a reserve account and, before the declaration of a dividend on Non-Voting Shares, may set aside any part of the profits of the Company and carry to the credit of the reserve account such sums as they think proper, which shall, at the discretion of the Directors, be applicable for any purpose to which the profits or reserves may be properly applied and pending such application may at the like discretion be employed in the business of the Company and invested in such Investments as the Directors may from time to time think necessary or desirable.

## **Capital reserve**

- 113 (a) The Directors may establish a non-distributable reserve to be called the “capital reserve” and may either carry to the credit of such reserve from time to time, or apply in providing for depreciation or contingencies, all capital profits arising on the sale, transfer, conversion, payment off or realisation of any investments or other capital assets of the Company in excess of the book value thereof, all other capital profits and all unrealised appreciation of investments or other assets representing or in the nature of accretion to capital assets. Any losses realised on the sale, transfer, conversion, payment off or realisation of any investments or other capital assets and provisions in respect of the diminution in value or depreciation in the value of capital assets will be carried to the debit of the capital reserve, except in so far as the Directors may in their discretion decide to make good the same out of other funds of the Company.
- (b) Subject to the Law, where any asset, business or property is bought by the Company as from a past date, whether such date be before or after the formation of the Company, profits and losses as from such date may at the discretion of the Directors in whole or in part be carried to the revenue account and treated for all purposes as profits and losses of the Company. Subject as aforesaid if any shares or securities are purchased cum dividend or

interest (or, in the case of debt securities with a fixed final repayment date, at a discount to the final capital repayment amount), such dividend or interest (or, in the case of debt securities with a fixed final repayment date purchased at a premium to the final capital repayment amount, such discount amortised over the period to the final repayment date) may, at the discretion of the Directors, be treated as revenue, and it will not be obligatory to capitalise all or part of the same.

- (c) The Directors may determine whether any amount received by the Company is to be dealt with as income or capital or partly one and partly the other, and whether any cost, liability or expense (including any costs incurred or sums expended in connection with the management of the assets of the Company and any finance costs (including, without limitation, any interest payable by the Company in respect of its borrowings)) is to be treated as a cost, liability or expense chargeable to capital or to revenue or partly one and partly the other, and, to the extent the Directors determine that any such cost, liability or expense should be apportioned to capital, the Directors may debit or charge the same to the capital reserve.
- (d) Any reserves or other sums arising on the reduction or cancellation of any share premium account or capital redemption reserve of the Company will not be treated as capital for the purposes of the Articles and will not be carried to the credit of the capital reserve.
- (e) All sums carried and standing to the capital reserve may be applied for any of the purposes to which sums standing to any revenue reserve are applicable, except and provided that no part of the capital reserve or any other moneys in the nature of accretion to capital may, in any event, be transferred to the revenue account or otherwise applied in paying dividends on any shares in the Company's capital.

- (f) Notwithstanding any other provision of the Articles, the Company is not prohibited from redeeming or purchasing its own shares out of its capital profits or other amounts standing to the capital reserve.

### **Accounts**

- 114 The Directors shall cause to be kept proper accounts of the Company in accordance with the Companies Law.
- 115 The books of account shall be kept at the Office, or at such other place as the Directors think necessary or desirable, and shall always be open to inspection by the Directors. No Member (other than a Director) shall have any right of inspecting any account or book or document of the Company, except as conferred by the Companies Law or as authorised by the Directors.
- 116 The Directors shall, in accordance with the provisions of the Companies Law, cause to be prepared in respect of the Company such profit and loss accounts, balance sheets, group accounts (if any) and reports as are specified in the Companies Law made up to the Accounting Dates for the Company and such other dates as the Directors may determine, which, in the case of the profit and loss accounts, balance sheets and reports for the Company made up to the Accounting Date, shall be laid before the Company in general meeting.
- 117 To the extent and in the manner required by the Companies Law, the Directors shall cause a copy of every account, balance sheet and report, which are laid before the Company in general meeting in accordance with Article 116, to be sent to every person entitled to receive notices in accordance with Article 121, *provided* that this Article shall not require a copy of these documents to be sent to more than one of the joint holders of any Shares.
- 118 Every account of the Directors, when audited and approved by any general meeting, shall be conclusive except as regards any error discovered therein within three months next after the approval thereof. Whenever such an error is discovered within

that period, the accounts shall forthwith be corrected and thereupon shall be conclusive.

## **Audit**

- 119 (a) The Company shall, at each annual general meeting by Resolution of the holders of Voting Shares, appoint Auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.
- (b) The Directors may fill any casual vacancy in the office of Auditors, but while any such vacancy continues, the surviving or continuing Auditors, if any, may act.
- (c) The remuneration of any Auditors appointed by the holders of Voting Shares shall be fixed by the Voting Shares by Resolution, upon the recommendation of the Audit Committee.
- (d) The Auditors shall examine such books, accounts and vouchers as may be necessary for the performance of their duties.
- (e) The Auditors shall make a report to the Members on the accounts in respect of the Company made up to each Accounting Date and each report shall state:
- (i) whether or not they have obtained all the information and explanations they have required; and
  - (ii) whether in their opinion the balance sheet referred to in the report is properly drawn so as to exhibit a true and fair view of the state of the Company's affairs; and
  - (iii) whether the accounts have been prepared in accordance with approved accounting standards.

## Notices

- 120 Any notice to be given to or by any person pursuant to these Articles shall be in writing, except that a notice calling a meeting of the Directors or any committee thereof need not be in writing.
- 121 Subject to the provisions of these Articles and to any restrictions imposed on any Shares, notices of every general meeting shall be given in any manner herein authorised to every Member and to:
- (a) all persons entitled to a Share in consequence of the death, bankruptcy or incapacity of a Member;
  - (b) each Director;
  - (c) the Auditors;
  - (d) the Manager; and
  - (e) such other persons as the Directors shall at any time and from time to time determine.
- 122 The Company may give any notice to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at his registered address or by any other method permitted by the Companies Law. In the case of joint holders of a Share, all notices shall be given to the joint holder whose name stands first in the Register in respect of the joint holding, and notice so given shall be sufficient notice to all the joint holders.
- 123 A Member present, either in person or by proxy, at any meeting of the Company or of the holders of any class of Shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

- 124 Every person who becomes entitled to a Share shall be bound by any notice in respect of that Share which, before his name is entered in the Register, has been duly given to a person from which he derives his title.
- 125 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be received on the fifth day following that on which the envelope containing it was posted and in respect of any notice given by any other method permitted by the Companies Law such notice shall be deemed to be received in accordance with the provisions of the Companies Law.
- 126 A notice may be given by the Company to the persons entitled to a Share in consequence of the death, bankruptcy or incapacity of a Member by sending or delivering it, in any manner authorised by these Articles for the giving of notice to a Member, addressed to them by name, or by the title of representatives of the deceased or trustee of the bankrupt or curator of the Member 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 incapacity had not occurred. If more than one person would be entitled to receive a notice in consequence of the death, bankruptcy or incapacity of a Member, notice given to any one of such persons shall be sufficient notice to all such persons.
- 127 Any summons, notice, order or other documents required to be sent to or served upon the Company, or upon any officer of the Company may be sent or served by leaving the same and sending it through the post in a prepaid letter envelope or wrapper, addressed to the Company or to such officer at the Office.

### **Destruction of documents**

- 128 The Company shall be entitled to destroy all instruments of transfer of Shares which have been registered at any time after the expiration of ten years from the date of registration thereof and all dividend mandates and notifications of change of address

at any time after the expiration of six years from the date of recording thereof, and it shall conclusively be presumed in favour of the Company that every entry in the Register purporting to have been made on the basis of an instrument of transfer or other document so destroyed was a valid and effective instrument duly and properly registered and that every other document hereinbefore mentioned had been reflected in accordance with the recorded particulars thereof in the books or records of the Company, *provided* always that:

- (a) the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
- (b) nothing herein contained shall be construed as imposing upon the Company any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances which would not attach to the Company in the absence of this Article;
- (c) references herein to the destruction of any document include references to the disposal thereof in any manner.

### **Record Dates**

129 Notwithstanding any other provision of the Articles, but subject to the rights attached to Shares, the Company may fix any date as the record date for a dividend, distribution, allotment or issue. The record date may be on or at any time before or after a date on which the dividend, distribution, allotment or issue is declared, made or paid.

### **Winding Up**

130 Subject to the Companies Law, the Company shall only be wound up upon the adoption of a Resolution by the Voting Shares. If the Company shall be wound up, the liquidator shall, subject to the Companies Law, apply the assets of the Company

in such manner and order as he thinks necessary or desirable in satisfaction of creditors' claims.

- 131 The assets available for distribution among the Members shall then be applied in the following priority:
- (a) First, in payment to the holders of Non-Voting Shares, a sum equal to the nominal amount paid up thereon.
  - (b) Second, in payment to the holders of the Voting Shares, sums up to the nominal amount paid up thereon.
  - (c) Third, in payment to the holders of Non-Voting Shares, any balance then remaining, such payment being made in proportion to the number of Shares held.
- 132 If the Company shall be wound up, the liquidator may, with the authority of a Resolution of the Voting Shares and any other sanction required by the Companies Law, divide among the Members 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, may for such purposes set such value as he thinks fair upon any one or more class or classes of property and, subject to Article 131, may determine how such division shall be carried out as between the Members or different classes of Members. The liquidator may with the like authority vest any part of the assets in trustees upon such trusts for the benefit of Members as the liquidator shall think necessary or desirable, and the liquidation of the Company may be closed and the Company dissolved but so that no Member shall be compelled to accept any Shares in respect of which there is liability.

### **Indemnity**

- 133 In so far as the Companies Law allows, every present or former Director or officer of the Company shall be indemnified out of the assets and profits of the Company

against any loss or liability incurred by him by reason of being or having been such a Director or officer except such (if any) as they may incur by or through their own wilful act, neglect or default respectively *provided* that this Article shall be deemed not to provide for, or entitle any person to, indemnification to the extent that it would cause this Article, or any part of it, to be treated as void under the Companies Law. The Directors may, exercise all the powers of the Company to purchase or maintain for any Director or officer or former Director or officer of the Company any such insurance as is permitted by the Companies Law, in respect of any liability which would otherwise attach to such Director or officer or former Director or officer.

### **Evidence of Signing**

134 The Directors or any delegate may rely on any facsimile or other electronic image or electronic communication as sufficient evidence of the signing of any document by a Director or shareholder, and any such determination in good faith by the Directors or their delegate shall be final and binding.

### **Amendments**

135 Subject to the requirements of the Companies Law and Article 12, these Articles may only be amended by Resolution of the Voting Shares.