

**THE COMPANIES ACT (AS AMENDED)**

**OF THE CAYMAN ISLANDS  
COMPANY LIMITED BY SHARES**

**ELEVENTH AMENDED AND RESTATED**

**MEMORANDUM AND ARTICLES OF ASSOCIATION**

**OF**

**SHELF DRILLING, LTD.**

**(Adopted by Special Resolution Dated 12 June 2024)**



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OF THE CAYMAN ISLANDS  
COMPANY LIMITED BY SHARES**

**ELEVENTH AMENDED AND RESTATED  
MEMORANDUM OF ASSOCIATION  
OF  
SHELF DRILLING, LTD.**

**(Adopted by Special Resolution Dated 12 June 2024)**

- 1 The name of the Company is **Shelf Drilling, Ltd.**
- 2 The Registered Office of the Company shall be at the offices of Centralis (Cayman) Limited, One Capital Place, 3<sup>rd</sup> Floor, George Town, Grand Cayman, Cayman Islands, or at such other place within the Cayman Islands as the Directors may decide.
- 3 The objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by the laws of the Cayman Islands.
- 4 The liability of each Member is limited to the amount unpaid on such Member's shares.
- 5 The share capital of the Company is US\$2,780,634.73 divided into 278,063,473 shares of a par value of US\$0.01 each; provided always that subject to the Companies -Act (as amended) of the Cayman Islands and the Articles of Association, the Company shall have power to redeem (other than Common Shares) or purchase any of its shares and to sub-divide or consolidate the said shares or any of them and to issue all or any part of its capital whether original, redeemed, increased or reduced with or without any preference, priority, special privilege or other rights or subject to any postponement of rights or to any conditions or restrictions whatsoever and so that unless the conditions of issue shall otherwise expressly provide every issue of shares whether stated to be ordinary, preference or otherwise shall be subject to the powers on the part of the Company hereinbefore provided.
- 6 The Company has power to register by way of continuation as a body corporate limited by shares under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.
- 7 Capitalised terms that are not defined in this Memorandum of Association bear the respective meanings given to them in the Articles of Association of the Company.



**THE COMPANIES ACT (AS AMENDED)  
OF THE CAYMAN ISLANDS  
COMPANY LIMITED BY SHARES**

**ELEVENTH AMENDED AND RESTATED  
ARTICLES OF ASSOCIATION  
OF  
SHELF DRILLING, LTD.**

**(Adopted by Special Resolution Dated 12 June 2024)**

**1 Interpretation**

1.1 In the Articles Table A in the First Schedule to the Statute does not apply and, unless there is something in the subject or context inconsistent therewith:

<b>"Affiliate"</b>	means, with respect to any Person, any officer, director, managing director, general partner, trustee, or manager of such Person, or any other Person directly or indirectly controlling, controlled by or under common control with such first Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlling", "controlled by" and "under common control with") means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise. For the purposes of these Articles, neither the Company nor any of its Subsidiaries will be taken to be an Affiliate of any Member or any Principal Shareholder.
<b>"Articles"</b>	means these articles of association of the Company, as amended or substituted from time to time.
<b>"Auditor"</b>	means the person for the time being performing the duties of auditor of the Company (if any).
<b>"Business Day"</b>	means any day that is not a Saturday, Sunday or other day on which the commercial banks in New York, New York or Sydney, Australia are authorized or required by law to remain closed.



<b>"Castle Harlan"</b>	means, CHP V AIV Pool 1, Ltd., a Cayman Islands exempted company, CHP V AIV Pool 2, Ltd., a Cayman Islands exempted company, and CHP V SD Co-Invest, LP, a Cayman Islands exempted limited partnership.
<b>"Class" or "Classes"</b>	means any class or classes of Shares as may from time to time be issued by the Company.
<b>"Co-Investor"</b>	means with respect to any Member, any Equityholder of such Member or any other unaffiliated third party to whom such Member has transferred any Shares.
<b>"Common Share"</b>	means a share in the capital of the Company that is designated as a Common Share.
<b>"Company"</b>	means the above named company.
<b>"Directors"</b>	means the directors for the time being of the Company.
<b>"Dividend"</b>	means any dividend (whether interim or final) resolved to be paid on Shares pursuant to the Articles.
<b>"Electronic Record"</b>	has the same meaning as in the Electronic Transactions Act.
<b>"Electronic Transactions Act"</b>	means the Electronic Transactions Act (2003 Revision) of the Cayman Islands, as amended.
<b>"Equityholder"</b>	means, with respect to any entity, the partners, members, shareholders and other equity owners of such entity.
<b>"Exchange"</b>	means Oslo Børs, a stock exchange operated by Oslo Børs ASA.
<b>"Governmental Authority"</b>	means any court, government or political subdivision or department thereof, any governmental or regulatory body, board, bureau, arbitrator or alternative dispute resolution body, administrative agency or commission, securities exchange or other governmental agency or instrumentality of competent jurisdiction.
<b>"Law"</b>	means any international, foreign, national, federal, state, provincial or local (or other political subdivision) statute, law (including common law), ordinance, Order, rule, directive, decree, judicial or administrative determination or interpretation, judgment, code, regulation or binding requirement of any Governmental Authority.
<b>"Member"</b>	has the same meaning as in the Statute.
<b>"Memorandum"</b>	means the memorandum of association of the Company.



<b>"Order"</b>	means any award, decision, injunction, judgment, order, ruling, subpoena or verdict entered, issued, made or rendered by any court, administrative agency or other Governmental Authority or any arbitrator.
<b>"Ordinary Resolution"</b>	means a resolution passed by the holders of more than 50% of the Shares as, being entitled to vote on the subject matter of the resolution, who vote in person or, where proxies are allowed, by proxy at a general meeting, and includes a unanimous written resolution. In computing the majority when a poll is demanded regard shall be had to the number of votes to which each Member is entitled by the Articles.
<b>"Person"</b>	means an individual, corporation, partnership, limited liability company, association, trust or other entity or organisation, including a Governmental Authority.
<b>"Principal Shareholder"</b>	<p>means Castle Harlan, collectively, for as long as each such Person or its Affiliates hold any Shares; provided that the Shares held by such Principal Shareholder's Affiliates and Co-Investors (to the extent that such Shares are controlled by such Principal Shareholder or one or more entities that form part of such Principal Shareholder, as applicable) shall be deemed to be held by such Principal Shareholder for purposes of calculating the number of Shares held by such Principal Shareholder and determining whether such Principal Shareholder holds the requisite percentage of issued and outstanding Shares to exercise the applicable rights, and be subject to the applicable obligations, set out in these Articles.</p> <p>For the purposes of a Principal Shareholder serving a notice pursuant to Article 31, such notice shall be executed by each entity that forms part of such Principal Shareholder group.</p>
<b>"Register of Members"</b>	means the register of Members maintained in accordance with the Statute and includes (except where otherwise stated) any branch or duplicate register of Members or any listed shares register (as defined in the Statute).
<b>"Registered Office"</b>	means the registered office for the time being of the Company.
<b>"Seal"</b>	means the common seal of the Company and includes every duplicate seal.
<b>"Share"</b>	means a share in the capital of the Company and includes a fraction of a share in the Company.
<b>"Special Resolution"</b>	means a resolution passed by the holders of more than two-thirds of the Shares as, being entitled to be voted on the subject matter of the resolution, who vote in person or, where proxies are allowed, by proxy at a general meeting, and includes



unanimous written resolution. In computing the majority when a poll is demanded regard shall be had to the number of votes to which each Member is entitled by the Articles.

**"Statute"** means the Companies Act (as amended) of the Cayman Islands.

**"Subsidiary"** of any Person means another Person in which such first Person holds, directly or indirectly, such number of the voting securities, or other voting ownership or voting partnership interests, as is sufficient to elect at least a majority of its board of directors or other governing body (or, if there are no such voting interests, 50% or more of the equity interests).

**"Treasury Share"** means a Share held in the name of the Company as a treasury share in accordance with the Statute.

## 1.2 In the Articles:

- (a) words importing the singular number include the plural number and vice versa;
- (b) words importing the masculine gender include the feminine gender;
- (c) words importing persons include corporations as well as any other legal or natural person;
- (d) "written" and "in writing" include all modes of representing or reproducing words in visible form, including in the form of an Electronic Record;
- (e) "shall" shall be construed as imperative and "may" shall be construed as permissive;
- (f) references to provisions of any law or regulation shall be construed as references to those provisions as amended, modified, re-enacted or replaced;
- (g) any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (h) the term "and/or" is used herein to mean both "and" as well as "or." The use of "and/or" in certain contexts in no respects qualifies or modifies the use of the terms "and" or "or" in others. The term "or" shall not be interpreted to be exclusive and the term "and" shall not be interpreted to require the conjunctive (in each case, unless the context otherwise requires);
- (i) headings are inserted for reference only and shall be ignored in construing the Articles;
- (j) sections 8 and 19(3) of the Electronic Transactions Law shall not apply;
- (k) the term "clear days" in relation to the period of a notice means that period excluding the day when the notice is received or deemed to be received and the day for which it is given or on which it is to take effect; and
- (l) the term "holder" in relation to a Share means a person whose name is entered in the Register of Members as the holder of such Share.



**2 [Not Used]**

**3 Shares**

**Issue of Shares**

- 3.1 The Shares of the Company consist of Common Shares, and such other classes or series of shares as may be authorized, from time to time, in accordance with these Articles.
- 3.2 Subject to the provisions of these Articles, and, if any, in the Memorandum (and to any direction that may be given by the Company in general meeting) and without prejudice to any rights attached to any existing Shares, the Directors may allot, issue, grant options over or otherwise dispose of Shares (including fractions of a Share) with or without preferred, deferred or other rights or restrictions, whether in regard to Dividend or other distribution, voting, return of capital or otherwise and to such persons, at such times and on such other terms as they think proper, and may also (subject to the Statute and the Articles) vary such rights; provided that in no event shall the Directors allot, issue or grant options over any Common Shares, whether in a single transaction or as a series of transactions, in a number that exceeds twenty per cent. of the aggregate number of then-issued and outstanding Common Shares unless such issuance, allotment or grant has first been approved by an Ordinary Resolution.
- 3.3 The Company shall not issue Shares to bearer.

**4 Specific Rights Attaching to Common Shares**

**Common Share Dividends**

- 4.1 At any time, the holders of Common Shares may be paid dividends of the Company out of amounts lawfully available for distribution, as and to the extent declared by the board of Directors in accordance with, and subject to, the provisions of Article 43.

**Return of Capital on Liquidation to the Holders of Common Shares**

- 4.2 On a return of capital on liquidation or winding up of the Company the holders of Common Shares shall be entitled to return of capital in accordance with Article 48.

**Voting Rights**

- 4.3 The Common Shares shall confer upon such Shareholders the right to receive notice of and to attend and to vote at any general meeting of the Company and each holder of a Common Share shall be entitled at such general meeting to exercise one vote per Common Share held as provided in Article 25.



5 [Not Used]

6 [Not Used]

7 [Not Used]

8 [Not Used]

9 [Not Used]

**10 Register of Members**

10.1 The Company shall maintain or cause to be maintained the Register of Members in accordance with the Statute.

10.2 The Directors may determine that the Company shall maintain one or more branch registers of Members in accordance with the Statute. The Directors may also determine which register of Members shall constitute the principal register and which shall constitute the branch register or registers, and to vary such determination from time to time.

**11 Closing Register of Members or Fixing Record Date**

11.1 The Directors may fix in advance or arrears a date as the record date for any such determination of Members entitled to notice of, or to vote at any meeting of the Members or any adjournment thereof, or for the purpose of determining the Members entitled to receive payment of any Dividend or other distribution, or in order to make a determination of Members for any other purpose.

11.2 If no such record date is fixed for the determination of Members entitled to notice of, or to vote at, a meeting of Members or Members entitled to receive payment of a Dividend or other distribution, the date on which notice of the meeting is sent or the date on which the resolution of the Directors resolving to pay such Dividend or other distribution is passed, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Article, such determination shall apply to any adjournment thereof.

**12 Certificates for Shares**

12.1 The holders of Common Shares shall only be entitled to a share certificate if the Directors resolve that share certificates shall be issued. Share certificates representing Shares, if any, shall be in such form as the Directors may determine. Share certificates shall be signed by one or more Directors or other person authorised by the Directors. The Directors may authorise certificates to be issued with the authorised signature(s) affixed by mechanical process. All certificates for Shares shall be consecutively numbered or otherwise identified and shall specify the Shares to which they relate. All certificates surrendered to the Company for transfer shall be cancelled and subject to these Articles no new certificate shall be issued until the former certificate representing a like number of relevant Shares shall have been surrendered and cancelled.

12.2 The Company shall not be bound to issue more than one certificate for Shares held jointly by more than one person and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.

12.3 If a share certificate is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and on the payment of such expenses reasonably incurred by





the Company in investigating evidence, as the Directors may prescribe, and (in the case of defacement or wearing out) upon delivery of the old certificate.

- 12.4 Every share certificate sent in accordance with these Articles will be sent at the risk of the Member or other person entitled to the certificate. The Company will not be responsible for any share certificate lost or delayed in the course of delivery.

### **13 Transfer of Shares**

- 13.1 Except as provided in these Articles, and any rules or regulations applicable to any Common Shares traded on the Exchange, Shares are transferable subject to the consent of the Directors who may, in their absolute discretion, decline to register any transfer of Shares without giving any reason; provided that the Directors shall consent to any transfer made in accordance with the terms of these Articles relating to the transfer of any Common Shares (or any beneficial rights to Common Shares) traded on the Exchange. If the Directors refuse to register a transfer they shall notify the transferee within 20 days of such refusal. For the avoidance of doubt, nothing in this Article 13.1 shall permit the Directors to decline to give full effect to a transfer of Common Shares (or any beneficial rights to Common Shares) that are traded on the Exchange.

- 13.2 The instrument of transfer of any Share, other than Common Shares (or any beneficial rights to Common Shares) traded on the Exchange, shall be in writing and shall be executed by or on behalf of the transferor (and if the Directors so require, signed by or on behalf of the transferee). The transferor shall be deemed to remain the holder of a Share until the name of the transferee is entered in the Register of Members. Transfers of Common Shares (or any beneficial rights to Common Shares) traded on the Exchange shall be effected in accordance with any rules or regulations applicable to such Shares.

### **14 Redemption, Repurchase and Surrender of Shares**

- 14.1 Subject to the provisions of the Statute: (a) the Company may issue Shares that are to be redeemed or are liable to be redeemed at the option of the Member or the Company; provided that the issue of any such Shares, and their terms of redemption (if any), are approved by Special Resolution; and (b) the redemption of such Shares shall be effected in such manner and upon such other terms as the Company may, by Special Resolution, determine before the issue of the Shares.
- 14.2 Subject to the provisions of the Statute, the Company may purchase its own Shares (including any redeemable Shares) in such manner and on such other terms as the Directors may agree with the relevant Member.
- 14.3 The Company may make a payment in respect of the redemption or purchase of its own Shares in any manner permitted by the Statute, including out of capital.
- 14.4 The Directors may accept the surrender for no consideration of any fully paid Share.

### **15 Treasury Shares**

- 15.1 The Directors may, prior to the purchase, redemption or surrender of any Share, determine that such Share shall be held as a Treasury Share.
- 15.2 The Directors may determine to cancel a Treasury Share or transfer a Treasury Share on such terms as they think proper (including, without limitation, for nil consideration).

### **16 Variation of Rights of Shares**

- 16.1 All or any of the rights attached to any class of Shares (unless otherwise provided by the terms of issue of the Shares of that class) may, whether or not the Company is being wound up, be varied



without the consent of the holders of the issued and outstanding Shares of that class where such variation is considered by the Directors not to have a material adverse effect upon such rights; otherwise, any such variation shall be made only with the consent in writing of the holders of not less than two thirds of the issued and outstanding Shares of that class, or with the sanction of a resolution passed by a majority of not less than two thirds of the votes cast at a separate meeting of the holders of the Shares of that class. For the avoidance of doubt, the Directors reserve the right, notwithstanding that any such variation may not have a material adverse effect, to obtain consent from the holders of Shares of the relevant class. To any such meeting all the provisions of the Articles relating to general meetings shall apply *mutatis mutandis*, except that the necessary quorum shall be Persons holding or representing by proxy at least two-thirds of the issued and outstanding Shares of the class and that any holder of Shares of the class present in person or by proxy may demand a poll.

- 16.2 For the purposes of a separate class meeting in accordance with Article 16.1, the Directors may treat two or more or all the classes of Shares as forming one class of Shares if the Directors consider that such class of Shares would be affected in the same way by the proposals under consideration, but in any other case shall treat them as separate classes of Shares.
- 16.3 The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.

## 17 Commission on Sale of Shares

The Company may, in so far as the Statute permits, pay a commission to any person in consideration of his subscribing or agreeing to subscribe (whether absolutely or conditionally) or procuring or agreeing to procure subscriptions (whether absolutely or conditionally) for any Shares. Such commissions may be satisfied by the payment of cash and/or the issue of fully or partly paid-up Shares. The Company may also on any issue of Shares pay such brokerage as may be lawful.

## 18 Non Recognition of Trusts

The Company shall not be bound by or compelled to recognise in any way (even when notified) any equitable, contingent, future or partial interest in any Share (for the avoidance of doubt, this does not prohibit the issuance of fractional Shares), or (except only as is otherwise provided by these Articles or the Statute) any other rights in respect of any Share other than an absolute right to the entirety thereof in the holder.

## 19 Transmission of Shares

- 19.1 If a Member dies the survivor or survivors (where he was a joint holder) or his legal personal representatives (where he was a sole holder), shall be the only persons recognised by the Company as having any title to his Shares. The estate of a deceased Member is not thereby released from any liability in respect of any Share, for which he was a joint or sole holder.
- 19.2 Any person becoming entitled to a Share in consequence of the death or bankruptcy or liquidation or dissolution of a Member (or in any other way than by transfer) may, upon such evidence being produced as may be required by the Directors, elect, by a notice in writing sent by him to the Company, either to become the holder of such Share or to have some person nominated by him registered as the holder of such Share. If he elects to have another person registered as the holder of such Share he shall sign an instrument of transfer of that Share to that person. The Directors shall, in either case, have the same right to decline or suspend registration as they would have had



in the case of a transfer of the Share by the relevant Member before his death or bankruptcy or liquidation or dissolution, as the case may be.

- 19.3 A person becoming entitled to a Share by reason of the death or bankruptcy or liquidation or dissolution of a Member (or in any other case than by transfer) shall be entitled to the same Dividends, other distributions and other advantages to which he would be entitled if he were the holder of such Share. However, he shall not, before becoming a Member in respect of a Share, be entitled in respect of it to exercise any right conferred by membership in relation to general meetings of the Company and the Directors may at any time give notice requiring any such person to elect either to be registered himself or to have some person nominated by him be registered as the holder of the Share (but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by the relevant Member before his death or bankruptcy or liquidation or dissolution or any other case than by transfer, as the case may be). If the notice is not complied with within ninety days of being received or deemed to be received (as determined pursuant to these Articles) the Directors may thereafter withhold payment of all Dividends, other distributions, bonuses or other monies payable in respect of the Share until the requirements of the notice have been complied with.

## **20 Amendments of Memorandum and Articles of Association and Alteration of Capital**

- 20.1 Subject to the provisions of these Articles, the Company may by Ordinary Resolution:
- (a) increase its share capital by such sum as the Ordinary Resolution shall prescribe and with such rights, priorities and privileges annexed thereto, as the Company in general meeting may determine;
  - (b) consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares;
  - (c) convert all or any of its paid-up Shares into stock, and reconvert that stock into paid-up Shares of any denomination;
  - (d) by subdivision of its existing Shares or any of them divide the whole or any part of its share capital into Shares of smaller amount than is fixed by the Memorandum or into Shares without par value; and
  - (e) cancel any Shares that at the date of the passing of the Ordinary Resolution have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the Shares so cancelled.
- 20.2 All new Shares created in accordance with the provisions of the preceding Article shall be subject to the same provisions of these Articles with reference to the payment of calls, liens, transfer, transmission, forfeiture and otherwise as the Shares in the original share capital.
- 20.3 Subject to the provisions of the Statute and the provisions of these Articles as regards the matters to be dealt with by Ordinary Resolution, the Company may by Special Resolution:
- (a) change its name;
  - (b) alter or add to these Articles;
  - (c) alter or add to the Memorandum with respect to any objects, powers or other matters specified therein; and
  - (d) reduce its share capital or any capital redemption reserve fund.



## **21 Offices and Places of Business**

Subject to the provisions of the Statute, the Company may by resolution of the Directors change the location of its Registered Office. The Company may, in addition to its Registered Office, maintain such other offices or places of business as the Directors determine.

## **22 General Meetings**

- 22.1 All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 22.2 The Company shall, in each year, hold a general meeting as its annual general meeting, and shall specify the meeting as such in the notices calling it. Any annual general meeting shall be held at such time and place as the Directors shall appoint and if no other time and place is prescribed by them, it shall be held at the Registered Office within fifteen months of the date of the prior year's annual general meeting. At these meetings the report of the Directors (if any) shall be presented.
- 22.3 The Directors may call general meetings, and they shall on a Members' requisition forthwith proceed to convene an extraordinary general meeting of the Company.
- 22.4 A Members' requisition is a requisition of Members holding at the date of deposit of the requisition not less than ten per cent in par value of the issued and outstanding Shares which as at that date carry the right to vote at general meetings of the Company.
- 22.5 The Members' requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the Registered Office, and may consist of several documents in like form each signed by one or more requisitionists.
- 22.6 If there are no Directors as at the date of the deposit of the Members' requisition or if the Directors do not within twenty-one days from the date of the deposit of the Members' requisition duly proceed to convene a general meeting to be held within a further twenty-one days, the requisitionists, or any of them representing more than one-half of the total voting rights of all of the requisitionists, may themselves convene a general meeting, but any meeting so convened shall be held no later than the day which falls three months after the expiration of the said twenty-one day period.
- 22.7 A general meeting convened as aforesaid by requisitionists shall be convened in the same manner as nearly as possible as that in which general meetings are to be convened by Directors.

## **23 Notice of General Meetings**

- 23.1 At least fourteen clear days' notice shall be given of any general meeting. Every notice shall specify the place, the day and the hour of the meeting and the general nature of the business to be conducted at the general meeting and shall be given in the manner hereinafter mentioned or in such other manner if any as may be prescribed by the Company, provided that a general meeting of the Company shall, whether or not the notice specified in this Article has been given and whether or not the provisions of these Articles regarding general meetings have been complied with, be deemed to have been duly convened if it is so agreed:
- (a) in the case of an annual general meeting, by all of the Members entitled to attend and vote thereat; and
  - (b) in the case of an extraordinary general meeting, by a majority in number of the Members having a right to attend and vote at the meeting, together holding not less than ninety five per cent in par value of the Shares giving that right.



23.2 The accidental omission to give notice of a general meeting to, or the non receipt of notice of a general meeting by, any person entitled to receive such notice shall not invalidate the proceedings of that general meeting.

## **24 Proceedings at General Meetings**

24.1 No business shall be transacted at any general meeting unless a quorum is present. The quorum for any general meeting shall be one Member present in person or by proxy or (in the case of a corporation or other non-natural person) by its duly authorised representative or proxy.

24.2 A person may participate at a general meeting by conference telephone or other communications equipment by means of which all the persons participating in the meeting can communicate with each other; provided that such person participating by conference telephone or other communications equipment is not present at the time in Australia, the United Kingdom or any other jurisdiction designated by the board of Directors. Participation by a person in a general meeting in this manner is treated as presence in person at that meeting.

24.3 A resolution of the Members (including a Special Resolution) in writing (in one or more counterparts) signed by or on behalf of all of the Members for the time being entitled to receive notice of and to attend and vote at general meetings (or, being corporations or other non-natural persons, signed by their duly authorised representatives) shall be as valid and effective as if the resolution had been passed at a general meeting of the Company duly convened and held.

24.4 The Directors may, at any time prior to the time appointed for the meeting to commence, appoint any person to act as chairman of a general meeting of the Company or, if the Directors do not make any such appointment, the chairman, if any, of the board of Directors shall preside as chairman at such general meeting. If there is no such chairman, or if he shall not be present within fifteen minutes after the time appointed for the meeting to commence, or is unwilling to act, the Directors present shall elect one of their number to be chairman of the meeting.

24.5 If no Director is willing to act as chairman or if no Director is present within fifteen minutes after the time appointed for the meeting to commence, the Members present shall choose one of their number to be chairman of the meeting.

24.6 The chairman may, with the consent of a meeting (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

24.7 When a general meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Otherwise it shall not be necessary to give any such notice of an adjourned meeting.

24.8 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, the chairman demands a poll, or any other Member or Members collectively present in person or by proxy (or in the case of a corporation or other non-natural person, by its duly authorised representative or proxy) and holding at least ten percent in par value of the Shares giving a right to attend and vote at the meeting demand a poll.

24.9 Unless a poll is duly demanded and the demand is not withdrawn a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost or not carried by a particular majority, an entry to that effect in the minutes of the proceedings of the meeting shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

24.10 The demand for a poll may be withdrawn.



- 24.11 Except on a poll demanded on the election of a chairman or on a question of adjournment, a poll shall be taken as the chairman reasonably directs, and the result of the poll shall be deemed to be the resolution of the general meeting at which the poll was demanded.
- 24.12 A poll demanded on the election of a chairman, on a question of adjournment or on any other question shall be taken forthwith.
- 24.13 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 second or casting vote.

## **25 Votes of Members**

- 25.1 Subject to a matter requiring a separate vote of the holders of any class of Shares under these Articles or the Statute, the holders of the Common Shares will vote together on all matters as a single class.
- 25.2 Subject to any rights or restrictions attached to any Shares, including pursuant to Article 3, on a show of hands every Member who (being an individual) is present in person or by proxy or, if a corporation or other non-natural person is present by its duly authorised representative or by proxy, shall have one vote and on a poll every Member present in any such manner shall have one vote for every Share of which he is the holder.
- 25.3 In the case of joint holders the vote of the senior holder who tenders a vote, whether in person or by proxy (or, in the case of a corporation or other non-natural person, by its duly authorised representative or proxy), shall be accepted to the exclusion of the votes of the other joint holders, and seniority shall be determined by the order in which the names of the holders stand in the Register of Members.
- 25.4 A Member of unsound mind, or in respect of whom an order has been made by any court, having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, receiver, curator bonis, or other person on such Member's behalf appointed by that court, and any such committee, receiver, curator bonis or other person may vote by proxy.
- 25.5 No person shall be entitled to vote at any general meeting unless he is registered as a Member on the record date for such meeting nor unless all calls or other monies then payable by him in respect of Shares have been paid.
- 25.6 No objection shall be raised as to the qualification of any voter except at the general meeting or adjourned general meeting at which the vote objected to is given or tendered and every vote not disallowed at the meeting shall be valid. Any objection made in due time in accordance with this Article shall be referred to the chairman whose decision shall be final and conclusive.
- 25.7 On a poll or on a show of hands votes may be cast either personally or by proxy (or in the case of a corporation or other non-natural person by its duly authorised representative or proxy). A Member may appoint more than one proxy or the same proxy under one or more instruments to attend and vote at a meeting. Where a Member appoints more than one proxy the instrument of proxy shall state which proxy is entitled to vote on a show of hands and shall specify the number of Shares in respect of which each proxy is entitled to exercise the related votes.
- 25.8 On a poll, a Member holding more than one Share need not cast the votes in respect of his Shares in the same way on any resolution and therefore may vote a Share or some or all such Shares either for or against a resolution and/or abstain from voting a Share or some or all of the Shares and, subject to the terms of the instrument appointing him, a proxy appointed under one or more instruments may vote a Share or some or all of the Shares in respect of which he is appointed either for or against a resolution and/or abstain from voting a Share or some or all of the Shares in respect of which he is appointed.





## 26 Proxies

- 26.1 The instrument appointing a proxy shall be in writing and shall be executed under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation or other non natural person, under the hand of its duly authorised representative. A proxy need not be a Member.
- 26.2 The Directors may, in the notice convening any meeting or adjourned meeting, or in an instrument of proxy sent out by the Company, specify the manner by which the instrument appointing a proxy shall be deposited and the place and the time (being not later than the time appointed for the commencement of the meeting or adjourned meeting to which the proxy relates) at which the instrument appointing a proxy shall be deposited. In the absence of any such direction from the Directors in the notice convening any meeting or adjourned meeting or in an instrument of proxy sent out by the Company, the instrument appointing a proxy shall be deposited physically at the Registered Office not less than 48 hours before the time appointed for the meeting or adjourned meeting to commence at which the person named in the instrument proposes to vote.
- 26.3 [Not used.]
- 26.4 The chairman may in any event at his discretion declare that an instrument of proxy shall be deemed to have been duly deposited. An instrument of proxy that is not deposited in the manner permitted, or which has not been declared to have been duly deposited by the chairman, shall be invalid.
- 26.5 The instrument appointing a proxy may be in any usual or common form (or such other form as the Directors may approve) and may be expressed to be for a particular meeting or any adjournment thereof or generally until revoked. An instrument appointing a proxy shall be deemed to include the power to demand or join or concur in demanding a poll.
- 26.6 Votes given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Share in respect of which the proxy is given unless notice in writing of such death, insanity, revocation or transfer was received by the Company at the Registered Office before the commencement of the general meeting, or adjourned meeting at which it is sought to use the proxy.

## 27 Corporate Members

Any corporation or other non-natural person which is a Member may in accordance with its constitutional documents, or in the absence of such provision by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as the corporation could exercise if it were an individual Member.

## 28 Shares that May Not be Voted

Shares in the Company that are beneficially owned by the Company shall not be voted, directly or indirectly, at any meeting and shall not be counted in determining the total number of issued and outstanding Shares at any given time.



## 29 Directors

There shall be a board of Directors consisting of at least three persons and no more than eleven persons (exclusive of alternate Directors); provided that, subject to the provisions of Articles 31.1 to 31.4, these limits may be increased or decreased by Ordinary Resolution.

## 30 Powers of Directors

- 30.1 Subject to the provisions of the Statute, the Memorandum and these Articles and to any directions given by Special Resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the Memorandum or 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. A duly convened meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.
- 30.2 All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments and all receipts for monies paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Directors shall determine by resolution.
- 30.3 The Directors acting by unanimous resolution on behalf of the Company may pay a gratuity or pension or allowance on retirement to any Director who has held any other salaried office or place of profit with the Company or to his widow or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.
- 30.4 The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and assets (present and future) and uncalled capital or any part thereof and to issue debentures, debenture stock, mortgages, bonds and other such securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

## 31 Appointment and Removal of Directors

- 31.1 For as long as a Principal Shareholder holds at least 14% of the issued and outstanding Common Shares, such Principal Shareholder may appoint up to two individuals as Directors.
- 31.2 For as long as a Principal Shareholder holds at least 7% but less than 14% of the issued and outstanding Common Shares, such Principal Shareholder may appoint one individual as a Director.
- 31.3 Subject to Article 31.4, each Principal Shareholder may appoint, replace or remove Directors appointed in accordance with Articles 31.1 and 31.2 by written notice to the Company; provided that such Principal Shareholder may not appoint or replace any such Directors if such Principal Shareholder's ownership of Common Shares is below the threshold specified in such Articles at any time after the time of such appointment. The appointment, replacement or removal shall take effect when the notice is delivered to the Company, unless the notice indicates a later effective time.
- 31.4 In the event that any Director appointed in accordance with Article 31.1 or 31.2 for any reason ceases to serve as a Director, the Principal Shareholder that appointed such individual shall have the right to appoint a different individual pursuant to Articles 31.1 or 31.2 to fill the vacant directorship; provided that such Principal Shareholder may not appoint or replace any such Director if such Principal Shareholder's ownership of Common Shares is below the threshold specified in such Articles at the relevant time. If any Principal Shareholder ceases at any point in time to hold the requisite percentage of the issued and outstanding Common Shares necessary to appoint the number of Directors that had previously been appointed by such Principal Shareholder, then the





Principal Shareholders shall cause the appropriate number of Directors appointed by such Principal Shareholder to immediately be removed as Directors by written notice to the Company [and the authorised number of Directors shall be reduced by the number of Directors who are so removed]; provided that if after the removal of such Directors, such Principal Shareholder would still have the power to appoint one Director, then such Principal Shareholder shall be permitted to decide which of its designees are removed as Directors.

- 31.5 Subject to the provisions of Articles 31.1 to 31.4 and to Article 31.6, and to any maximum number imposed by Article 29, the Company may by Ordinary Resolution appoint any person as a Director of the Company and may in like manner remove from office any person so appointed.
- 31.6 The Chief Executive Officer of the Company (who shall be appointed and may be removed by the Directors) may be appointed as a Director. If the Chief Executive Officer ceases to serve as Chief Executive Officer, then he or she shall be immediately removed as a Director and the new Chief Executive Officer, if any, may be appointed as a Director.
- 31.7 For so long as a Principal Shareholder holds at least 7% of the issued and outstanding Common Shares, it shall be entitled to designate one observer (a "**Board Observer**") to participate in all meetings, including telephonic meetings, of the Directors and all committees that the Directors may establish. No Board Observer shall have any voting rights with respect to any action brought by the Directors or any fiduciary obligations to the Company or the Shareholders. Notwithstanding the foregoing, Board Observers shall not be entitled to attend any portion of a meeting of the Directors or any committee thereof that would constitute, or be deemed to constitute, a waiver of the attorney-client privilege. Board Observers shall be entitled to receive all materials provided to the Directors or any committee thereof in preparation for meetings unless the provision of such materials would constitute, or be deemed to constitute, a waiver of the attorney-client privilege. Board Observers shall receive notice of all actions taken by the Directors or any committee thereof, whether such action is taken at a meeting. Each Board Observer shall be bound by the same confidentiality obligations as the Directors. Each such Principal Shareholder may cause its Board Observer to resign and/or appoint a replacement Board Observer from time to time by giving written notice to the Company.

### **32 Vacation of Office of Director**

The office of a Director shall be vacated if:

- (a) the Director gives notice in writing to the Company that he resigns the office of Director; or
- (b) the Director dies; or
- (c) the Director is found to be or becomes of unsound mind; or
- (d) the Director is removed in accordance with Article 31.

### **33 Proceedings of Directors**

- 33.1 The quorum for the transaction of the business of the Directors shall be a majority in voting power of all the Directors from time to time being present at a meeting of the Directors held in accordance with these Articles. If a quorum shall not be present at any meeting of the Directors, the Directors present at such meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.
- 33.2 A person who holds office as an alternate Director shall, if his appointor is not present, be counted in the quorum. A Director who also acts as an alternate Director shall, if his appointor is not present, count twice towards the quorum.



- 33.3 All meetings of the Directors or any committee of Directors shall be held outside Australia, the United Kingdom and any other jurisdiction designated by the Directors and subject to the guidelines adopted or to be adopted by the Directors.
- 33.4 Subject to the provisions of the Articles, the Directors may regulate their proceedings as they deem appropriate. Any matter requiring the vote or consent of the Directors or a committee thereof shall (subject to any express provision of these Articles) require approval of a majority of the voting power of the Directors or members of such committee.
- 33.5 Each Director shall have one vote; provided, however, that any Director appointed by a Principal Shareholder shall be entitled to cast more than one vote under the following circumstances: (i) if any Director appointed by a Principal Shareholder pursuant to Article 31.1 is not present at such meeting or is unable to vote, then one Director appointed by such Principal Shareholder who is present at the meeting shall be given an aggregate number of additional votes equal to the aggregate number of absent Directors and Directors unable to vote appointed by such Principal Shareholder (and such Directors who are absent or unable to vote shall be deemed to have given a proxy to vote at such meeting to any other such Director who is present at such meeting and able to vote and was appointed by the same Principal Shareholder to serve as a Director); or (ii) if any Principal Shareholder has the right under Article 31.1 to appoint up to two Directors, but has not appointed one such Director, then any Director appointed by such Principal Shareholder shall be given one additional vote.
- 33.6 A Director who is also an alternate Director shall be entitled in the absence of his appointor to a separate vote on behalf of his appointor in addition to his own vote.
- 33.7 A person may participate in a meeting of the Directors or committee of Directors by conference telephone or other communications equipment by means of which all the persons participating in the meeting can communicate with each other at the same time; provided that such person participating by conference telephone or other communications equipment is not present at the time in Australia, the United Kingdom or any other jurisdiction designated by the board of Directors. Participation by a person in a meeting in this manner is treated as presence in person at that meeting. Unless otherwise determined by the Directors the meeting shall be deemed to be held at the place where the chairman is located at the start of the meeting.
- 33.8 [Not used.]
- 33.9 Unless notice is waived: (i) in writing by each Director (or their alternates) that did not receive such notice; or (ii) by the attendance at the relevant meeting of such Director(s) that did not receive such notice for any purpose other than solely to protest the inadequacy of such notice:
- (a) a schedule of regular meetings of the Directors may be adopted by the Directors from time to time (in accordance with Article [33.4]), such meetings to be held at such places and times as determined by the Directors; provided that notice of the adoption of a schedule of regular meetings of the board of Directors, if any, shall be given to any Directors (or Board Observers) who were not present at the meeting at which such schedule was adopted; and
  - (b) special meetings of the Directors may be called by any two Directors. Any such meeting shall be held on such date, at such place and at such time as the Directors calling such meeting shall specify in the notice of the meeting which shall be delivered to each other Director (and each Board Observer) at least 96 hours prior to such meeting (unless waived (i) in writing by each Director and Board Observer that did not receive such notice or (ii) by the attendance at such meeting of each such Director and Board Observer, as applicable, that did not receive such notice for any purpose other than solely to protest the inadequacy



of such notice). The purpose of and business to be transacted at such special meeting must be specified in the notice (or waiver of notice) of such meeting.

To any such notice of a meeting of the Directors the provisions of Article 47.1 relating to the giving of notices by the Company to the Members shall apply *mutatis mutandis*.

- 33.10 Unless the Directors have appointed a chairman of the board, the Directors present at any meeting may choose one of their number to act as the chairman solely for such meeting.
- 33.11 All acts done by any meeting of the Directors or of a committee of the Directors (including any person acting as an alternate Director) shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Director or alternate Director, and/or that they or any of them were disqualified, and/or had vacated their office and/or were not entitled to vote, be as valid as if every such person had been duly appointed and/or not disqualified to be a Director or alternate Director and/or had not vacated their office and/or had been entitled to vote, as the case may be.
- 33.12 A Director but not an alternate Director may be represented at any meetings of the board of Directors by a proxy appointed in writing by him. The proxy shall count towards the quorum and the vote of the proxy shall for all purposes be deemed to be that of the appointing Director.

#### **34 Written Resolutions**

- 34.1 Anything which may be done by resolution at a meeting of the Directors may, without a meeting and without any previous notice being required, be done by written resolution signed by all of the Directors in accordance with this Article 34.
- 34.2 A written resolution may be signed by (or in the case of a Director that is a corporation, on behalf of) all of the Directors in as many counterparts as may be necessary.
- 34.3 A written resolution made in accordance with this Article 34 is as valid as if it had been passed by the Directors in a directors' meeting, and any reference in any Article to a meeting at which a resolution is passed or to Directors voting in favour of a resolution shall be construed accordingly.
- 34.4 A resolution in writing made in accordance with this Article 34 shall constitute minutes for the purposes of the Act.
- 34.5 For the purposes of this Article 34, the date of the written resolution is the date when the resolution is signed by (or in the case of a Director that is a corporation, on behalf of) the last Director to sign and any reference in any Article to the date of passing of a resolution is, in relation to a resolution made in accordance with this Article 34, a reference to such date.

#### **35 Directors' Interests**

- 35.1 A Director or alternate Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms as to remuneration and otherwise as the Directors may determine.
- 35.2 A Director or alternate Director may act by himself or by, through or on behalf of his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director or alternate Director.



- 35.3 A Director or alternate Director may be or become a director or other officer of or otherwise interested in any company promoted by the Company or in which the Company may be interested as a shareholder, a contracting party or otherwise, and no such Director or alternate Director shall be accountable to the Company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company.
- 35.4 No person shall be disqualified from the office of Director or alternate Director or prevented by such office from contracting with the Company, either as vendor, purchaser or otherwise, nor shall any such contract or any contract or transaction entered into by or on behalf of the Company in which any Director or alternate Director shall be in any way interested be or be liable to be avoided, nor shall any Director or alternate Director so contracting or being so interested be liable to account to the Company for any profit realised by or arising in connection with any such contract or transaction by reason of such Director or alternate Director holding office or of the fiduciary relationship thereby established. A Director (or his alternate Director in his absence) shall be at liberty to vote in respect of any contract or transaction which he is interested provided that the nature of the interest of any Director or alternate Director in any such contract or transaction shall be disclosed by him at or prior to its consideration and any vote thereon.
- 35.5 A general notice that a Director or alternate Director is a shareholder, director, officer or employee of any specified firm or company and is to be regarded as interested in any transaction with such firm or company shall be sufficient disclosure for the purposes of voting on a resolution in respect of a contract or transaction in which he has an interest, and after such general notice it shall not be necessary to give special notice relating to any general transaction.

## **36 Minutes**

The Directors shall cause minutes to be made in books kept for the purpose of all appointments of officers made by the Directors, all proceedings at meetings of the Company or the holders of any class of Shares and of the Directors, and of committees of the Directors, including the names of the Directors or alternate Directors present at each meeting.

## **37 Delegation of Directors' Powers**

- 37.1 The Directors may delegate any of their powers, authorities and discretions, including the power to sub-delegate, to any committee consisting of one or more Directors. They may also delegate to any managing director or any Director holding any other executive office such of their powers, authorities and discretions as they consider desirable to be exercised by him provided that an alternate Director may not act as managing director and the appointment of a managing director shall be revoked forthwith if he ceases to be a Director. Any such delegation may be made subject to any conditions the Directors may impose and either collaterally with or to the exclusion of their own powers and any such delegation may be revoked or altered by the Directors. Subject to any such conditions, the proceedings of a committee of Directors shall be governed by these Articles regulating the proceedings of Directors, so far as they are capable of applying.
- 37.2 The Directors may establish any committees, local boards or agencies or appoint any person to be a manager or agent for managing the affairs of the Company and may appoint any person to be a member of such committees, local boards or agencies. Any such appointment may be made subject to any conditions the Directors may impose, and either collaterally with or to the exclusion of their own powers and any such appointment may be revoked or altered by the Directors. Subject to any such conditions, the proceedings of any such committee, local board or agency shall be governed by the Articles regulating the proceedings of Directors, so far as they are capable of applying.



- 37.3 The Directors may by power of attorney or otherwise appoint any person to be the agent of the Company on such conditions as the Directors may determine, provided that the delegation is not to the exclusion of their own powers and may be revoked by the Directors at any time.
- 37.4 The Directors may by power of attorney or otherwise appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or authorised signatory of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under the Articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney or other appointment may contain such provisions for the protection and convenience of persons dealing with any such attorneys or authorised signatories as the Directors may think fit and may also authorise any such attorney or authorised signatory to delegate all or any of the powers, authorities and discretions vested in him.
- 37.5 The Directors may appoint such officers of the Company (including, for the avoidance of doubt and without limitation, any secretary) as they consider necessary on such terms, at such remuneration and to perform such duties, and subject to such provisions as to disqualification and removal as the Directors may think fit. Unless otherwise specified in the terms of his appointment an officer of the Company may be removed by resolution of the Directors or Members. An officer of the Company may vacate his office at any time if he gives notice in writing to the Company that he resigns his office.

### **38 Alternate Directors**

- 38.1 Any Director (but not an alternate Director) may by writing appoint any other Director, or any other person willing to act, to be an alternate Director and by writing may remove from office an alternate Director so appointed by him.
- 38.2 An alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member, to attend and vote at every such meeting at which the Director appointing him is not personally present and generally to perform all the functions of his appointor as a Director in his absence.
- 38.3 An alternate Director shall cease to be an alternate Director if his appointor ceases to be a Director.
- 38.4 Any appointment or removal of an alternate Director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors.
- 38.5 Subject to the provisions of these Articles, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and shall not be deemed to be the agent of the Director appointing him.

### **39 No Minimum Shareholding**

The Company in general meeting may fix a minimum shareholding required to be held by a Director, but unless and until such a shareholding qualification is fixed a Director is not required to hold Shares.

### **40 Remuneration of Directors**

- 40.1 Directors shall be entitled to prompt reimbursement by the Company of all reasonable out-of-pocket expenses (including travel expenses) incurred in the course of the performance of their duties, and shall otherwise be entitled to such compensation for their services in their capacity as Directors as the Company may approve by Ordinary Resolution from time to time.



40.2 The Directors may by resolution approve additional remuneration to any Director for any services which in the opinion of the Directors go beyond his ordinary routine work as a Director. Any fees paid to a Director who is also counsel, attorney or solicitor to the Company, or otherwise serves it in a professional capacity shall be in addition to his remuneration as a Director.

**41 [Not Used]**

**42 Seal**

42.1 The Company may, if the Directors so determine, have a Seal. The Seal shall only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors. Every instrument to which the Seal has been affixed shall be signed by at least one person who shall be either a Director or some officer of the Company or other person appointed by the Directors for the purpose.

42.2 The Company may have for use in any place or places outside the Cayman Islands a duplicate Seal or Seals each of which shall be a facsimile of the common Seal of the Company and, if the Directors so determine, with the addition on its face of the name of every place where it is to be used.

42.3 A Director or officer, representative or attorney of the Company may without further authority of the Directors affix the Seal over his signature alone to any document of the Company required to be authenticated by him under seal or to be filed with the Registrar of Companies in the Cayman Islands or elsewhere wheresoever.

**43 Dividends, Distributions and Reserve**

43.1 Subject to the Statute and these Articles and except as otherwise provided by the rights and restrictions attached to any Shares: (a) the Directors may resolve to pay Dividends and other distributions on Shares in issue and authorise payment of the Dividends or other distributions out of the funds of the Company lawfully available therefor; and (b) a Dividend shall be deemed to be an interim Dividend unless the terms of the resolution pursuant to which the Directors resolve to pay such Dividend specifically state that such Dividend shall be a final Dividend. No Dividend or other distribution shall be paid except out of the realised or unrealised profits of the Company, out of the share premium account or as otherwise permitted by the Statute.

43.2 Subject to the Statute and this Article and except as otherwise provided by the rights and restrictions attached to any Shares, the Company by Ordinary Resolution may declare dividends, but no dividend shall exceed the amount recommended by the Directors.

43.3 Except as otherwise provided by the rights and restrictions attached to any Shares, all Dividends and other distributions shall be declared and paid according to the amounts paid up on the Shares on which the Dividend and other distribution is paid and except as otherwise provided by the rights attached to any Shares, all Dividends and other distributions shall be apportioned and paid proportionately according to the amounts paid up on the Shares during any portion or portions of the period in respect of which the Dividend and other distribution is paid. 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.

43.4 The Directors may deduct from any Dividend or other distribution payable to any Member all sums of money (if any) then payable by him to the Company on account of calls or otherwise.

43.5 The Directors may resolve that any Dividend or other distribution be paid wholly or partly by the distribution of specific assets and in particular (but without limitation) by the distribution of shares, debentures, or securities of any other company or in any one or more of such ways and where any





difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and in particular may issue fractional Shares and may fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Members upon the basis of the value so fixed in order to adjust the rights of all Members and may vest any such specific assets in trustees in such manner as may seem expedient to the Directors.

- 43.6 Except as otherwise provided by the rights attached to any Shares: (a) Dividends and other distributions may be paid in any currency; and (b) the Directors may determine the basis of conversion for any currency conversions that may be required and how any costs involved are to be met.
- 43.7 The Directors may, before resolving to pay any Dividend or other distribution, set aside such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors, be applicable for any purpose of the Company and pending such application may, at the discretion of the Directors, be employed in the business of the Company.
- 43.8 Any Dividend, other distribution, interest or other monies payable in cash in respect of Shares may be paid in any manner as the Directors may determine, including by inter-bank transfer, electronic form, electronic means or other means approved by the Directors directly to an account (of a type approved by the Directors) nominated in writing by the Member, or by cheque or warrant or other similar financial instrument made payable to the Member entitled to it and sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of the holder who is first named on the Register of Members or to such person and to such address as such holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any Dividends, other distributions, bonuses, or other monies payable in respect of the Share held by them as joint holders. Different methods of payment may apply to different Members or groups of Members.
- 43.9 No Dividend or other distribution payable in respect of a Share shall bear interest against the Company unless otherwise provided by the rights attached to such Share.
- 43.10 Any Dividend or other distribution which cannot be paid to a Member (including because the Directors determine that payments will be made by electronic transfer to an account (of a type approved by the Directors) nominated by a Member, but no such account is nominated by the Member or an electronic transfer into a nominated account is rejected or refunded) and/or remains unclaimed after six months from the date on which such Dividend or other distribution becomes payable may, in the discretion of the Directors, be paid into a separate account in the Company's name, provided that the Company shall not be constituted as a trustee in respect of that account and the Dividend or other distribution shall remain as a debt due to the Member. Any Dividend or other distribution which remains unclaimed after a period of six years from the date on which such Dividend or other distribution becomes payable shall be forfeited and shall revert to the Company.
- 43.11 The Company shall be entitled to cease sending dividend warrants and cheques by post or otherwise to a Member if those instruments have been returned undelivered to, or left uncashed by, that Member on at least two consecutive occasions, or, following one such occasion, reasonable enquiries have failed to establish the Member's new address. The entitlement conferred on the Company under this Article in respect of any Member shall cease if the Member claims a Dividend or cashes a dividend warrant or cheque.

#### **44 Capitalisation**

The Directors may at any time capitalise any sum standing to the credit of any of the Company's reserve accounts or funds (including the share premium account and capital redemption reserve



fund) or any sum standing to the credit of the profit and loss account or otherwise available for distribution; appropriate such sum to Members in the proportions in which such sum would have been divisible amongst such Members had the same been a distribution of profits by way of Dividend or other distribution; and apply such sum on their behalf in paying up in full unissued Shares for allotment and distribution credited as fully paid-up to and amongst them in the proportion aforesaid. In such event the Directors shall do all acts and things required to give effect to such capitalisation, with full power given to the Directors to make such provisions as they think fit in the case of Shares becoming distributable in fractions (including provisions whereby the benefit of fractional entitlements accrue to the Company rather than to the Members concerned). The Directors may authorise any person to enter on behalf of all of the Members interested into an agreement with the Company providing for such capitalisation and matters incidental or relating thereto and any agreement made under such authority shall be effective and binding on all such Members and the Company.

#### **45 Books of Account**

- 45.1 The Directors shall cause proper books of account (including, where applicable, material underlying documentation including contracts and invoices) to be kept with respect to all sums of money received and expended by the Company and the matters in respect of which the receipt or expenditure takes place, all sales and purchases of goods by the Company and the assets and liabilities of the Company. Such books of account must be retained for a minimum period of five years from the date on which they are prepared. Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.
- 45.2 The Directors shall determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by Statute or authorised by the Directors or by the Company in general meeting.
- 45.3 The Directors may cause to be prepared and to be laid before the Company in general meeting profit and loss accounts, balance sheets, group accounts (if any) and such other reports and accounts as may be required by law.

#### **46 Audit**

- 46.1 The Directors may appoint an Auditor of the Company who shall hold office on such terms as the Directors determine.
- 46.2 Every Auditor of the Company shall have a right of access at all times to the books and accounts and vouchers of the Company and shall be entitled to require from the Directors and officers of the Company such information and explanation as may be necessary for the performance of the duties of the Auditor.
- 46.3 Auditors shall, if so required by the Directors, make a report on the accounts of the Company during their tenure of office at the next annual general meeting following their appointment in the case of a company which is registered with the Registrar of Companies as an ordinary company, and at the next extraordinary general meeting following their appointment in the case of a company which is registered with the Registrar of Companies as an exempted company, and at any other time during their term of office, upon request of the Directors or any general meeting of the Members.





## 47 Notices

- 47.1 All notices, requests, claims, demands and other communications given to Members or the Company shall be in writing and shall be delivered by hand, sent by facsimile or sent, postage prepaid, return receipt requested, by registered, certified or express mail or overnight courier service and shall be deemed given when so delivered by hand or facsimile (if received prior to 5:00 pm in the place of receipt and such day is a Business Day in the place of receipt, otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt), or if mailed, three calendar days after mailing (one Business Day in the case of express mail or overnight courier service), to the Company or Members at the last addresses given by such Member to the Company.
- 47.2 A notice may be given by the Company to the person or persons which the Company has been advised are entitled to a Share or Shares in consequence of the death or bankruptcy of a Member in the same manner as other notices which are required to be given under these Articles and shall be addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description at the address supplied for that purpose by the persons claiming to be so entitled, or at the option of the Company by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.
- 47.3 Notice of every general meeting shall be given in any manner authorised by these Articles to every holder of Shares carrying an entitlement to receive such notice on the record date for such meeting except that in the case of joint holders the notice shall be sufficient if given to the joint holder first named in the Register of Members and every person upon whom the ownership of a Share devolves by reason of his being a legal personal representative or a trustee in bankruptcy of a Member where the Member but for his death or bankruptcy would be entitled to receive notice of the meeting, and no other person shall be entitled to receive notices of general meetings.

## 48 Winding Up

- 48.1 The Company shall not commence voluntary winding up without the approval of a Special Resolution.
- 48.2 If the Company shall be wound up, the liquidator shall apply the assets of the Company in satisfaction of creditors' claims in such manner and order as such liquidator thinks fit. Subject to the rights attaching to any Shares, in a winding up:
- (a) if the assets available for distribution amongst the Members shall be insufficient to repay the whole of the Company's issued and outstanding share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the Members in proportion to the par value of the Shares held by them; or
  - (b) if the assets available for distribution amongst the Members shall be more than sufficient to repay the whole of the Company's issued and outstanding share capital at the commencement of the winding up, the surplus shall be distributed amongst the Members in proportion to the par value of the Shares held by them at the commencement of the winding up subject to a deduction from those Shares in respect of which there are monies due, of all monies payable to the Company for unpaid calls or otherwise.
- 48.3 Subject to Article 48.1, if the Company shall be wound up, the liquidator may, subject to the rights attaching to any Shares and with the sanction of a Special Resolution, divide among the Members in kind the whole or any part of the assets of the Company (whether such assets shall consist of property of the same kind or not) and may for that purpose value any assets and determine how the division shall be carried out as between the Members or different classes of Members. The



liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the Members as the liquidator, with the like sanction, shall think fit, but so that no Member shall be compelled to accept any asset upon which there is a liability.

## 49 Indemnity and Insurance

- 49.1 To the maximum extent permitted by applicable Law, no Director shall be liable to the Company, any Member or any other Person for losses sustained or liabilities incurred as a result of any act or omission, including any breach of a duty (fiduciary or otherwise), that such Director may have taken or omitted with respect to the Company, such Member, or such other Person, unless there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of such act or omission, and taking into account the acknowledgments and agreements set forth in these Articles, such Director engaged in wilful misconduct or actual fraud.
- 49.2 Every Director (each an "**Indemnified Director**") shall be indemnified and held harmless by the Company (but only to the extent of the Company's assets), to the fullest extent permitted by applicable Law, from and against any and all losses, liabilities and expenses (including taxes; penalties; judgments; fines; amounts paid or to be paid in settlement; costs of investigation and preparations; and reasonable fees, expenses and disbursements of attorneys (as incurred), whether or not the dispute or proceeding involves the Company or any Director or Member) incurred or suffered by any such Indemnified Director in connection with the activities of the Company or its subsidiaries; provided that, such Indemnified Director shall not be so indemnified and held harmless if there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter for which such Indemnified Director is seeking indemnification or seeking to be held harmless hereunder, such Indemnified Director engaged in wilful misconduct or actual fraud. An Indemnified Director shall not be denied indemnification in whole or in part under this Article 49.2 because such Indemnified Director had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by these Articles.
- 49.3 Every officer of the Company (each an "**Indemnified Officer**", and collectively with the Indemnified Directors, the "**Indemnified Persons**") shall be indemnified and held harmless by the Company (but only to the extent of the Company's assets), to the fullest extent permitted by applicable Law, from and against any and all losses, liabilities and expenses (including taxes, penalties, judgments, fines, amounts paid or to be paid in settlement; costs of investigation and preparations and reasonable fees, expenses and disbursements of attorneys (as incurred), whether or not the dispute or proceeding involves the Company or any Director or Member) incurred or suffered by any such Indemnified officer in connection with the activities of the Company or its subsidiaries; provided that, such Indemnified officer shall not be so indemnified and held harmless if there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter for which such Indemnified Officer is seeking indemnification or seeking to be held harmless hereunder, such Indemnified Officer engaged in wilful misconduct or actual fraud or failed to act in good faith and in a manner such Indemnified Officer reasonably believed to be in the best interests of the Company. An Indemnified Officer shall not be denied indemnification in whole or in part under this Article 49.3 because such Indemnified Officer had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by these Articles.
- 49.4 An Indemnified Person shall be fully protected in relying in good faith, and shall incur no liability in acting or refraining from acting, upon the records of the Company and upon such resolutions, certificates, instruments, information, opinions, reports, statements, notices, requests, consents, orders, bonds, debentures, signatures or writings reasonably believed by it to be genuine and presented to the Company and may rely on a certificate signed by an officer, agent or



representative of any Person as to matters the Indemnified Person reasonably believes are within the professional or expert competence of such Person and who has been selected with reasonable care by or on behalf of the Company, including such documents, certificates, information, opinions, reports or statements as to the value and amount of the assets, liabilities, income, loss or any other facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid, in each case, unless there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of such reliance, action or inaction, such Indemnified Director engaged in wilful misconduct or actual fraud or such Indemnified Officer engaged in wilful misconduct or actual fraud or failed to act in good faith and in a manner such Indemnified Officer reasonably believed to be in the best interests of the Company, as applicable.

- 49.5 The Company shall advance to an Indemnified Person the reasonable, documented expenses incurred by such Indemnified Person for which such Indemnified Person could reasonably be expected to be entitled to indemnification under this Article 49 in defending any civil, criminal, administrative or investigative action, suit or proceeding in advance of the final disposition of such action, suit or proceeding upon receipt by the Company of the written affirmation of such Indemnified Person of its good faith belief that it is entitled to indemnification hereunder and an undertaking by such Indemnified Person to repay any such advances if it is subsequently determined that such Indemnified Person is not entitled to be indemnified hereunder.
- 49.6 Certain of the Indemnified Persons ("**Third-Party Indemnitees**") have certain rights to indemnification, advancement of expenses or insurance provided by a Member or certain of its Affiliates (collectively, the "**Third-Party Indemnitors**"). To the extent lawfully permitted (and by the terms of any other agreement between the Company and a Third-Party Indemnitee), (a)(i) the Company is the indemnitor of first resort (i.e., its obligations to each Third-Party Indemnitee are primary and any obligation of the Third-Party Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by any Third-Party Indemnitee are secondary) and (ii) the Company shall be required to advance the full amount of expenses incurred by any Third-Party Indemnitee and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement, without regard to any rights that a Third-Party Indemnitee may have against the Third-Party Indemnitors and (b) the Company irrevocably waives, relinquishes and releases the Third-Party Indemnitors from any and all claims for contribution, subrogation or any other recovery of any kind in respect of any of the matters described in clause (a) of this sentence for which any Third-Party Indemnitee has received indemnification or advancement from the Company. No advancement or payment by any Third-Party Indemnitor on behalf of any Third-Party Indemnitee with respect to any claim for which a Third-Party Indemnitee has sought indemnification from the Company shall affect the foregoing, and the Third-Party Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of such Third-Party Indemnitee against the Company.
- 49.7 The rights to indemnification and advancement of expenses provided by this Article 49 shall be in addition to any other rights to which an Indemnified Person may be entitled under any agreement, as a matter of law or otherwise, both as to actions in such Indemnified Person's capacity as an Indemnified Person hereunder and as to actions in any other capacity, and shall continue as to an Indemnified Person who has ceased to serve in such capacity as an Indemnified Person and shall inure to the benefit of the heirs, successors, assigns and administrators of such Indemnified Person.
- 49.8 Any indemnification or advance of expenses under this Article 49 shall be made only against a written request therefore submitted by or on behalf of the Person seeking such indemnification or advance. All expenses (including reasonable attorneys' fees) incurred by such Person in



connection with successfully establishing such Person's right to indemnification or advance of expenses under this Article 49, in whole or in part, shall also be indemnified by the Company.

- 49.9 Each Indemnified Person may consult with outside legal counsel approved by the Company in connection with any matter the subject of this Article 49, which approval shall not be unreasonably withheld, and any action or omission taken or suffered reasonably and in good faith in reliance and accordance with the written opinion or advice of such counsel will be conclusive evidence that such action or omission does not constitute wilful misconduct or actual fraud or in the case of an Indemnified Officer failure to act in good faith and in a manner such Indemnified Officer reasonably believed to be in the best interests of the Company, as applicable.
- 49.10 Unless there is a specific finding that an Indemnified Person's actions constituted engaging in wilful misconduct or actual fraud or in the case of an Indemnified Officer failure to act in good faith and in a manner such Indemnified Officer reasonably believed to be in the best interests of the Company, as applicable, (or, in any such case, where any such finding is an essential element of a judgment or order), the termination of any action, suit or proceeding by judgment, order or settlement, or upon a plea of nolo contendere or its equivalent, will not, of itself, create a presumption for the purposes of this Article 49 as to whether or not such Indemnified Person engaged in wilful misconduct or actual fraud or in the case of an Indemnified Officer failed to act in good faith and in a manner such Indemnified Officer reasonably believed to be in the best interests of the Company, as applicable.
- 49.11 The obligations of the Company to the Indemnified Persons provided in this Article 49 or arising under Law are solely the obligations of the Company, and no personal liability whatsoever shall attach to, or be incurred by, any Indemnified Person or any Member for such obligations, to the fullest extent permitted by applicable Law. Where the foregoing provides that no personal liability shall attach to or be incurred by an Indemnified Person, any claims against or recourse to such Indemnified Person for or in connection with such liability, whether arising in common law or equity or created by rule of law, statute, constitution, contract or otherwise, are expressly released and waived under this Article 49, to the fullest extent permitted by applicable Law.
- 49.12 The provisions of this Article 49 will inure to the benefit of the successors, assigns, heirs, and personal representatives of the Indemnified Persons.
- 49.13 The Directors will promptly notify the Principal Shareholders of any payment made by the Company to any Indemnified Person in respect of indemnification pursuant to this Article 49.
- 49.14 The Directors may authorise the Company to enter into any deed poll, indemnity agreement or other agreement to extend the benefit of the provisions of this Article 49 to any Indemnified Person and/or Third-Party Indemnitor.
- 49.15 The Company may purchase and maintain insurance for the benefit of any Indemnified Person against any liability which, by virtue of any rule of law, would otherwise attach to such person in respect of any negligence, default, breach of duty or breach of trust of which such person may be guilty in relation to the Company.

## **50 Financial Year**

Unless the Directors otherwise prescribe, the financial year of the Company shall end on 31st December in each year and, following the year of incorporation, shall begin on 1st January in each year.

## **51 Transfer by Way of Continuation**

If the Company is exempted as defined in the Statute, it shall, and subject to the provisions of the Statute and with the approval of a Special Resolution and the Directors, have the power to register



by way of continuation as a body corporate under the Laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.

## **52 Mergers and Consolidations**

- 52.1 The Company shall, with the approval of a Special Resolution and the Directors, have the power to merge or consolidate with one or more constituent companies (as defined in the Statute), upon such terms as the Directors may determine.

