

**THE COMPANIES LAW**  
**EXEMPTED COMPANY LIMITED BY SHARES**

**AMENDED AND RESTATED**  
**MEMORANDUM OF ASSOCIATION**

**OF**

**OrchardWay P2P Credit Fund Ltd.**

(adopted by special resolution of the Members dated 10 July 2015)

1. The name of the Company is **OrchardWay P2P Credit Fund Ltd.**
2. The registered office of the Company shall be at the offices of DMS Corporate Services Ltd., PO Box 1344, Dms House, 20 Genesis Close, Grand Cayman, KY1-1108, Cayman Islands.
3. Subject to the following provisions of this Memorandum, the objects for which the Company is established are unrestricted.
4. Subject to the following provisions of this Memorandum, the Company shall have and be capable of exercising all the functions of a natural person of full capacity irrespective of any question of corporate benefit, as provided by Section 27(2) of the Companies Law.
5. Nothing in this Memorandum shall permit the Company to carry on a business for which a licence is required under the laws of the Cayman Islands unless duly licensed.
6. The Company shall not trade in the Cayman Islands with any person, firm or corporation except in furtherance of the business of the Company carried on outside the Cayman Islands; provided that nothing in this clause shall be construed as to prevent the Company effecting and concluding contracts in the Cayman Islands, and exercising in the Cayman Islands all of its powers necessary for the carrying on of its business outside the Cayman Islands.
7. The liability of each member is limited to the amount from time to time unpaid on such member's shares.
8. The share capital of the Company is US\$50,000 divided into 100 Management Shares of a nominal or par value of US\$0.01 each, and 4,999,900 Participating Non-Voting Redeemable Shares of nominal or par value of US\$0.01 each.
9. The Company may exercise the power contained in the Companies Law to deregister in the Cayman Islands and be registered by way of continuation in another jurisdiction.



**AMENDED AND RESTATED  
ARTICLES OF ASSOCIATION  
OF**

**ORCHARDWAY P2P CREDIT FUND LTD.**

(adopted by special resolution of the Members dated 10 July 2015)



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AMENDED AND RESTATED  
ARTICLES OF ASSOCIATION  
OF

ORCHARDWAY P2P CREDIT FUND LTD.

(adopted by special resolution of the Members dated 10 July 2015)

Table A

The regulations in Table A in the First Schedule to the Law (as defined below) do not apply to the Company.

INTERPRETATION

1. Definitions

1.1 In these Articles, the following words and expressions shall, where not inconsistent with the context, have the following meanings, respectively:

Accounting Date	subject to the provisions of these Articles, the 31 <sup>st</sup> Day of December;
AIFM	the person for the time being appointed by the Board as the alternative investment fund manager of all or any part of the Company's assets;
Articles	these Articles of Association as altered from time to time;
Auditor	the person or firm for the time being appointed as Auditor of the Company and shall include an individual or partnership;
Base Currency	the currency in which the Shares are offered;
Board	the board of directors appointed or elected pursuant to these Articles and acting at a meeting of directors at which there is a quorum or by written resolution in accordance with these Articles;



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Business Day	any Day determined by the Board to be a business day from time to time;
Chairman	the Chairman of the Board;
Company	the company for which these Articles are approved and confirmed;
Confidential Memorandum	any confidential private offering memorandum, prospectus, Cayman Islands supplement or other offering document or supplement thereto issued by the Company (or the Master Fund, as applicable), and where the company has issued more than one, references to 'Confidential Memorandum' shall (unless the context otherwise requires) refer to the Confidential Memorandum and supplements (if any) relating to the relevant offer and/or class of Shares;
Costs and Expenses	all fees, costs and expenses including, but not limited to, all stamp and other duties, taxes, government charges, brokerage fees, bank fees, handling fees, transfer fees, currency conversion costs, expenses, and registration fees;
Day	except where the context otherwise requires, a calendar day from midnight to midnight;
Dealing Day	(i) in relation to the subscription for Shares, the first Day of each Month following the initial issuance of Shares of the relevant class or series; and  (ii) in relation to the redemption of Shares, the last Day of each Month,  and in each case, such other Day or Days in addition thereto or in substitution therefor as may from time to time be determined by the Board either in any particular case or generally;
Dealing Time	the time by which an application for subscription or a Redemption Request must be received, which:  (i) in relation to the subscription for Shares is 5:00 p.m. Eastern time on the Business Day that is at least three (3) Business Days prior to the relevant



Dealing Day; and

(ii) in relation to the redemption of Shares is 5:00 p.m. Eastern time on the Day that is at least five (5) Business Days prior to the relevant Dealing Day,

and in each case, such other time and/or Business Day as the Board may from time to time determine either in any particular case or generally;

Director a director, including a sole director, for the time being of the Company and shall except where a contrary intention is expressed, include an alternate director;

FATCA (i) sections 1471 to 1474 of the United States Internal Revenue Code of 1986 and any associated legislation, regulations or guidance, or similar legislation, regulations or guidance enacted in any jurisdiction which seeks to implement similar tax reporting and/or withholding tax regimes;

(ii) any intergovernmental agreement, treaty, regulation, guidance or any other agreement between the Cayman Islands (or any Cayman Islands government body) and the United States, the United Kingdom or any other jurisdiction (including any government bodies in such jurisdiction), entered into in order to comply with, facilitate, supplement or implement the legislation, regulations or guidance described in (i); and

(iii) any legislation, regulations or guidance in the Cayman Islands that give effect to the matters outlined in (i) and (ii) above;

Holdback any amount (as determined by the Board from time to time) deducted from the proceeds of redemption of any shares and retained by the Company, and which will be paid to the Member redeeming such Shares, subject to any necessary adjustments, upon the finalisation of the audit of the Company for the year in which the redemption is made, or the





	expiration of some other time limit as determined by the Board in its sole and absolute discretion;
Initial Charge	a charge payable on the issue of Shares;
Investments	any and all investments as the Board may designate as such from time to time and as described in the Confidential Memorandum, whether held directly or indirectly through a special purpose vehicle or otherwise;
Law	the Companies Law of the Cayman Islands;
Management Fee	such management fee (if any) as may be determined by the Board from time to time;
Management Share	a share in the capital of the Company of a par value of US\$0.01 having the rights and being subject to the restrictions specified in the Memorandum and these Articles;
Master Fund	means HCG Digital Finance LP, a Delaware limited partnership;
Member	the person registered in the Register as the holder of one or more shares, or fractional shares, in the Company;
Memorandum	the Memorandum of Association of the Company as from time to time amended or restated;
Membership Rights	the rights, privileges and other benefits conferred on Members as such by or pursuant to these Articles;
Month	a calendar month;
Net Asset Value	the net asset value of the Company, or of a Share or class of Shares, as the context requires, determined in accordance with Article 5;
Officer	any person appointed by the Board to hold an office in the Company and includes the Secretary, but shall not include any Service Provider;
Ordinary Resolution	a resolution passed at a general meeting of the



	Company (or, if so specified, a meeting of Members holding a class of shares) by a simple majority of the votes cast by Members entitled to vote in person or by proxy, or a written resolution approved in writing by all of the Members entitled to vote;
paid-up	paid-up or credited as paid up;
Performance Fee	in relation to any class or series of Shares, such performance-based fee (if any) as may be determined by the Board from time to time;
Portfolio Manager	the person for the time being appointed by the Board or the AIFM as the portfolio manager of all or any part of the Company's assets;
Redemption Price	the price at which Shares of the relevant class or series may be redeemed determined in accordance with these Articles;
Redemption Request	a request in writing by a Member to redeem some or all of its Shares, specifying the number, class and series (if any) of Shares held by it to be redeemed by the Company in accordance with Article 4, such request to be in such form and including such information and attaching such supporting documents as the Board may determine;
Register	the Register of Members maintained by the Company in accordance with the Law;
Registered Office	the Registered Office of the Company for the time being;
Seal	the common seal or any official or duplicate seal of the Company;
Secretary	the person appointed to perform any or all of the duties of secretary of the Company and includes any deputy or assistant secretary and any person appointed by the Board to perform any of the duties of the Secretary;
Service Provider	any person appointed to provide professional services to the Company, which shall include



	without limitation, the Auditor, the AIFM, the Portfolio Manager and any administrator, custodian, prime broker and registrar of the Company;
Share	a share in the capital of the Company of any class, other than a Management Share, of a par value of US\$0.01 having the rights and being subject to the restrictions specified in the Memorandum and these Articles with respect to such shares and shall, where the context so permits, include a fraction of a share; and "Shares" shall be construed accordingly;
Special Resolution	(i) a resolution passed by a majority of at least two-thirds of such members as, being entitled to do so, vote in person or by proxy at a general meeting of which notice specifying the intention to propose a resolution as a special resolution has been duly given (and for the avoidance of doubt, unanimity qualifies as a majority); or  (ii) a written resolution passed by unanimous consent of all Members entitled to vote;
Special Rights	the rights attaching to Shares as set out in Article 2.1(b) or as created or constituted by the Board pursuant to Article 2.2;
Subscription Price	the price at which Shares of the relevant class or series may be subscribed for or purchased (excluding any Initial Charge) determined in accordance with these Articles;
Valuation Day	the last Business Day in each Month and/or such other Business Day or Business Days in addition thereto or in substitution therefor as may from time to time be determined by the Board, either in any particular case or generally; and
Valuation Time	the time at which the Net Asset Value shall be determined, being 5:00 p.m. Eastern time on each Valuation Day or such other time in addition thereto or in substitution therefor as may from time to time be determined by the Board either in any particular



case or generally.

- 1.2 In these Articles, where not inconsistent with the context:
- (a) words denoting the plural number include the singular number and *vice versa*;
  - (b) words denoting the masculine gender include the feminine and neuter genders;
  - (c) words importing persons include companies, firms, associations or bodies of persons whether corporate or not;
  - (d) the words:-
    - (i) "may" shall be construed as permissive; and
    - (ii) "shall" shall be construed as imperative;
  - (e) a reference to statutory provision shall be deemed to include any amendment or re-enactment thereof;
  - (f) the word "corporation" means corporation whether or not a company within the meaning of the Law; and
  - (g) unless otherwise provided herein, words or expressions defined in the Law shall bear the same meaning in these Articles.
- 1.3 In these Articles expressions referring to writing or its cognates shall, unless the contrary intention appears, include facsimile, printing, lithography, photography, electronic mail and other modes of representing words in visible form.
- 1.4 Headings used in these Articles are for convenience only and are not to be used or relied upon in the construction hereof.
- 1.5 Reference to Articles are references to Articles hereof and references to paragraphs are, unless otherwise stated, references to paragraphs of the Article in which the reference appears.
- 1.6 Any reference to "class" in relation to Shares in these Articles shall, where the company has issued Shares in sub-classes, mean "class or sub-class of Shares".



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## SHARES

### 2. Share Capital

2.1 The share capital of the Company shall be divided into shares with the following rights and restrictions:

- (a) 100 Management Shares, the holders of which shall, subject to the provisions of these Articles:
  - (i) be entitled to one vote for each Management Share held;
  - (ii) not be entitled to any dividends in respect of such Management Shares;
  - (iii) in the event of a winding-up or dissolution of the Company, whether voluntary or involuntary or for the purposes of a reorganisation or otherwise or upon any distribution of capital, be entitled, *pari passu* with the holders of Shares, to an amount equal to the par value of such Management Shares but to no other or further amount; and
  - (iv) not be subject to redemption or purchase of such Management Shares, whether at the option of the Company or the holder; and
- (b) 4,999,900 Shares, which may be divided into classes (and series designated within any class), the holders of which shall, subject to the provisions of these Articles:
  - (i) except in relation to a class meeting held pursuant to Article 2.8, not be entitled to vote;
  - (ii) be entitled to such dividends as the Board may from time to time declare;
  - (iii) in the event of a winding-up or dissolution of the Company, whether voluntary or involuntary or for the purposes of a reorganisation or otherwise or upon any distribution of capital, be entitled, *pari passu* with the holders of Management Shares, to an amount equal to the par value of such Shares and thereafter, subject to the provisions of these Articles, to share *pro rata* in the surplus assets (if any) of the Company, according to the Net Asset Value of their Shares; and
  - (iv) be entitled and subject to redemption or purchase of their Shares as provided in these Articles.



- 2.2 The first classes of Shares shall be “USD Class Shares”, “Euro Class Shares”, “GBP Class Shares” and “CHF Class Shares”, each of which may be issued in series.
- 2.3 The Board may, from time to time, create and constitute (or re-designate, as the case may be) such further class or classes of Shares (and designate series within any class of Shares) with such name or names, and with such preferred, deferred or other rights or such restrictions, whether in regard to dividends, fees, redemptions, access to information, voting or return of capital or otherwise, as the Board may determine.
- 2.4 Subject to these Articles and to any resolution of the Members to the contrary, and without prejudice to any rights previously conferred on the holders of any existing Shares or class of Shares, the Board shall have the power to issue (including the issue or grant of options, warrants and other rights, renounceable or otherwise in respect of Shares) any unissued Shares to such persons, at such times, for such consideration as it may from time to time determine, provided that no Share shall be issued at a discount except in accordance with the Law.
- 2.5 Where the Company has separate classes of Shares in issue the provisions of these Articles shall (except where the context otherwise requires) apply, *mutatis mutandis*, separately and independently to each class of Shares as if such class were the sole class created and established pursuant to these Articles.
- 2.6 The Board shall establish and maintain an account in the books of the Company in relation to each class of Shares and the following provisions shall apply to such accounts:
- (a) the proceeds from the allotment and issue of each class of Shares shall be applied in the books of the Company to the account established for that class of Shares, and the assets and liabilities and income and expenditure attributable thereto (including, without limitation, all hedging costs) shall be applied to such account subject to the provisions of this Article;
  - (b) save as otherwise in these Articles provided, the assets so held in each account shall be applied solely in respect of Shares of the class to which such account pertains;
  - (c) subject to the Law and these Articles, dividends as and when declared by the Board shall be paid to the holders of Shares of a class out of the relevant account;
  - (d) on a redemption of Shares of a class, the Redemption Price shall be paid to the holder redeeming such Shares out of the relevant account;



- (e) where any asset is derived from another asset (whether cash or otherwise), such derivative asset may be applied in the books of the Company to the account from which the related asset was derived and on each revaluation of an asset the increase or diminution in the value thereof (or the relevant portion of such increase or diminution in value) may be applied to the relevant account;
  - (f) in the case of any asset of the Company (or amount treated as a notional asset) which the Board does not consider is attributable to a particular account, the Board may determine the basis upon which any such asset shall be allocated among the accounts and the Board shall have power at any time and from time to time to vary such allocation;
  - (g) where the assets of the Company not attributable to any account give rise to any net profits, the Board may allocate the assets representing such net profits to such accounts as it may determine;
  - (h) the Board may determine the basis upon which any liability, including expenses, shall be allocated among the accounts (including conditions as to subsequent re-allocation thereof if circumstances so permit or require) and shall have power at any time and from time to time to vary such basis and charge expenses of the Company against either revenue or the capital of the accounts; and
  - (i) the Board may in the books of the Company transfer any assets (or amounts treated as notional assets) to and from accounts if, as a result of a creditor proceeding against certain of the assets of the Company or otherwise, a liability would be borne in a different manner from that in which it would have been borne under the preceding paragraph, or in any similar circumstances.
- 2.7 Notwithstanding anything herein, fully paid shares of the Company shall be free and clear of all and any liens and charges in favour of the Company.
- 2.8 The Board may determine, either whilst the Company is a going concern or during or in contemplation of a winding up, to alter, abrogate or vary the rights attaching to Shares, except that whenever the capital of the Company is divided into one or more different classes of shares, the Special Rights attaching to those Shares, may only be materially and adversely altered, abrogated or varied:
- (a) with the consent in writing of the holders of the majority of the issued shares of the class, or



- (b) with the sanction of a resolution passed at a separate meeting of the holders of the shares of the class by a majority of such holders who vote in person or by proxy, but not otherwise (unless otherwise provided by the terms of issue of the shares of that class, in which case the terms of issue shall prevail). To every such separate meeting all the provisions of these Articles relating to general meetings of the Company or to the proceedings thereat shall, *mutatis mutandis*, apply, except that:
    - (i) the necessary quorum shall be two persons at least holding or representing by proxy not less than one-third in nominal amount of the issued shares of the class (but so that if at any adjourned meeting of such holders a quorum as above defined is not present, those holders of shares of that class who are present shall be a quorum);
    - (ii) the holders of shares of that class shall, on a poll, have one vote in respect of every share of the class held by them respectively; and
    - (iii) any holder of shares of that class present in person or by proxy may demand a poll.
  - (c) For the purposes of convening a meeting pursuant to this Article, the Board may treat all the classes of shares as forming one class if it considers that all such classes would be affected in the same way by the proposals under consideration but in any other case shall treat them as separate classes.
  - (d) Notwithstanding paragraph 2.8(b)(i), where all the issued shares of a class are held by only one person, such person shall constitute the necessary quorum at any such separate meeting.
- 2.9 The rights conferred upon the holders of the shares of any class or series issued with preferred or other rights shall not, unless otherwise expressly provided by the terms and conditions of issue of the shares of that class or series, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.
- 2.10 Subject to the Law, the Company may from time to time by Ordinary Resolution alter the conditions of its Memorandum to:
- (a) increase its capital by such sum divided into shares of such amounts as the resolution shall prescribe;
  - (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) subdivide its shares or any of them into shares of an amount smaller than that fixed by the Memorandum; or
- (e) cancel shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

2.11 Subject to the Law, the Company may from time to time by Special Resolution reduce its share capital.

### 3. Issue of Shares

3.1 The Board may, on receipt by the Company (or its appointee) of an application in such form and with such information and supporting documents as the Board may require, issue Shares, PROVIDED THAT:

- (a) the issue of Shares pursuant to this Article shall be made as of the Dealing Day in respect of which the application is received, provided that the complete application (with all necessary information and supporting documents) and application moneys in cleared funds are received on or before the Dealing Time in respect of that Dealing Day (which the Board may determine to waive);
- (b) the issue of Shares shall be effected at not less than the Subscription Price determined in accordance with these Articles (plus any applicable Initial Charge) for cash or, if determined by the Board, for other non-cash consideration (or a combination of both) and the value of any such non-cash consideration shall be determined by the Board in accordance with the valuation rules contained in these Articles;
- (c) save with the prior approval of the Board in its discretion, no Share shall be issued (except those for which applications have been previously received and accepted) during any period when the subscription for Shares is suspended pursuant to these Articles;
- (d) no Share shall be issued at a price less than its par value;
- (e) the Board may satisfy any application for Shares by procuring the transfer to the applicant of fully paid Shares at the Subscription Price (and any Costs and Expenses associated with such transfer shall be the responsibility of the applicant);
- (f) payment shall be made in the Base Currency (or in such other currency as the Board may determine from time to time either in any particular case or generally) at such time and in such place and manner as the Board may



from time to time determine, failing which any allotment of Shares for which payment is due may be cancelled by the Board. Any payment received other than in the Base Currency will be converted into the Base Currency at such exchange rate or rates as the Board shall consider appropriate and all related Costs and Expenses shall be deducted therefrom prior to the issue of any Shares;

- (g) Shares shall be issued in such minimum numbers or values as the Board may specify from time to time either in any particular case or generally, provided further that the Board may waive this requirement in any particular case or generally; and
  - (h) fractions of a Share may be issued to such number of decimal places as the Board may determine and, if so issued, a fraction of a Share shall be subject to and carry the corresponding fraction of liabilities (whether with respect to nominal or par value, premium, contribution, calls or otherwise), limitations, preferences, privileges, qualifications, restrictions, rights (including, without prejudice to the generality of the foregoing, voting, dividend and distribution and participation rights) and other attributes of a whole Share. If more than one fraction of a Share of the same class is issued to or acquired by the same Member such fractions shall be accumulated. Any moneys representing a smaller fraction of a Share than the Board has determined to issue may be retained by the Company for its own benefit.
- 3.2 The Board may at any time reject any application for Shares in whole or in part without assigning any reason therefor.
- 3.3 The Board may, in respect of any Shares of any class issued on a particular Dealing Day, designate such Shares as a series of Shares of that class separate from those Shares of the relevant class issued on other Dealing Days.
- 3.4 Shares may be issued in classes or series at the Subscription Price as determined by the Board from time to time and the Subscription Price shall be exclusive of any Initial Charge.
- 3.5 The Board may levy an Initial Charge on the issue of Shares of any class, and may lower or waive such charge from time to time either generally or in respect of any specific Member, and may deduct from subscription proceeds received by the Company any Initial Charge. The Board may determine that any Initial Charge received by the Company may be paid by it to the AIFM, the Portfolio Manager or any other person.



- 3.6 The Company may on any issue of Shares pay such broker-dealer, placement agent fees, brokerage fees, Costs and Expenses, or other fees and commissions as may be lawful.
- 3.7 The Board shall establish and maintain an account for each series of Shares (if any), which account shall be designated by reference to such series, and the following provisions shall apply thereto:
- (a) an amount equal to the proceeds from the allotment and issue of each Share of each such series shall be applied in the books of the Company to the account established for that series and designated by reference to it, and the proportionate value of the assets and liabilities and income and expenditure attributable thereto shall be applied to such account subject to the provisions of this Article;
  - (b) the Company shall update the account maintained for each series on each Valuation Day;
  - (c) the Company shall calculate the Net Asset Value for each series of Shares in accordance with these Articles on each Valuation Day; and on the last Day of each fiscal year (or on such other Days as set out in the Confidential Memorandum) the Company shall calculate the portion of the Management Fee and Performance Fee, if any, for each separate series which shall be allocable in relation to that series; and
  - (d) any issued and outstanding series of a class of Shares in respect of which a Performance Fee is payable (other than the series of a class of Shares issued in connection with the initial issue of that class of Shares (the "Initial Series")) may be re-designated and converted into Shares of the Initial Series (by way of compulsory redemption and issue of the relevant Shares or such other lawful means as the Board may determine to be appropriate in the circumstances) (after payment of any Management Fee, and of any Performance Fee) at the end of each fiscal year (or on such other Days as set out in the Confidential Memorandum) at the prevailing Net Asset Value per Share of the Initial Series. Any compulsory redemption of Shares pursuant to this Article shall not require prior notice in writing to be given to, or the prior consent of, Members and, notwithstanding anything to the contrary in these Articles, may be carried out any time, including during any period where subscriptions for Shares, redemptions of Shares upon request by Members or the determination of the Net Asset Value is suspended.
- 3.8 The Board shall have power to impose such restrictions (whether on the issue, holding, redemption (including the payment of any redemption or purchase proceeds), purchase or transfer of Shares or otherwise) as it may think necessary.



for the purpose of ensuring that no legal or beneficial interest in any Shares in the Company is acquired or held by any person who is not, as determined by the Board, eligible to hold Shares or if, in the opinion of the Board, the acquisition or holding of Shares by such person:

- (a) might be in breach of the laws, regulations or requirements of any country or governmental or regulatory authority;
- (b) is in circumstances (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other persons, connected or not, or any other circumstances appearing to the Board to be relevant) which in the opinion of the Board might result in the Company (or the associates or agents of the Company) or the Members incurring any liability to taxation or suffering any other pecuniary disadvantage which the Company (or the associates or agents of the Company) or the Members might not otherwise have incurred or suffered or otherwise expose the Company or the Members to adverse pecuniary, legal, fiscal, tax, regulatory or material administrative consequences that the Company (or the associates or agents of the Company) or the Members might not otherwise have been exposed to;
- (c) might result in the Company or a Service Provider being required to comply with any registration or filing requirement in any jurisdiction with which it would not otherwise be required to comply or the Company or the Service Provider being in breach of the laws, regulations or requirements of any country or governmental authority;
- (d) might be harmful or injurious to the business or reputation of the Company or any of its Service Providers; or
- (e) is less in value (other than as a result of depreciation in the value of his holding) or lower in number than the minimum value or number determined by the Board from time to time.

#### 4. Redemption, Surrender and Treasury Shares

- 4.1 Subject to acceptance by the Board of a Redemption Request in its sole and absolute discretion, the Memorandum, these Articles, the relevant Confidential Memorandum and the Law, and subject as hereinafter provided, the Company shall on receipt by it from a Member (the "redeeming Member") of a signed Redemption Request (i) redeem or purchase all or any portion of such Shares registered in the redeeming Member's name at the Redemption Price determined in accordance with these Articles, or (ii) procure the purchase thereof at not less than such Redemption Price and at the same time and under the same conditions.



as apply to redemption under the provisions of these Articles, and upon such redemption or purchase the following provisions shall apply:

- (a) subject as hereinafter provided, the redemption or purchase of Shares pursuant to this Article shall be effected (i) as of the Dealing Day in respect of which a Redemption Request is received and accepted, provided that the Redemption Request is received on or before the Dealing Time in respect of that Dealing Day, or (ii) on such other Day or time as the Board may determine;
- (b) where a share certificate has been issued in respect of any Shares to be redeemed or purchased, the share certificate must be lodged with the Company (or its duly authorised agent) prior to the Company making any payment under this Article; however, the Board may at its option dispense with the production of any share certificate which has become lost or destroyed on compliance by the redeeming Member with the provisions of these Articles pertaining to lost or destroyed share certificates generally and on a redemption or purchase of part only of a redeeming Member's Shares, the redeeming Member shall be entitled to receive upon written request and without payment a share certificate for the balance of the Shares held by him;
- (c) no redemption or purchase of part only of the holding of any Member may be made if as a result thereof such Member would hold less than the minimum number or value of Shares as the Board may specify from time to time, unless the Board determines to lower or waive such minimum holding requirement from time to time either in any particular case or generally. If any Redemption Request would reduce the number or aggregate value of the remaining Shares held by the redeeming Member to below the minimum number or value then specified by the Board as being the minimum number or value of Shares that may be held, the Redemption Request may be rejected, by the Board, or treated as a request to redeem the entire shareholding of such redeeming Member;
- (d) a redeeming Member shall not be entitled to withdraw a Redemption Request without the consent of the Board;
- (e) save with the prior approval of the Board in its discretion (and without prejudice to the Board's right of compulsory redemption pursuant to these Articles), no Shares shall be redeemed or purchased at the request of a Member and no payment of any redemption or purchase proceeds to any Member shall be made during any period when the redemption of Shares is suspended pursuant to these Articles. During the period of suspension the redeeming Member may, if permitted by the Board in its discretion



withdraw his Redemption Request. Any withdrawal of a redemption Request under the provisions of this Article shall be made in writing and shall only be effective if actually received by the Company before termination of the said period of suspension. If the Redemption Request is not so withdrawn, the redemption or purchase of the said Shares shall be made on the Dealing Day next following the end of the said period of suspension;

- (f) the Board may impose a minimum on the number or value of Shares that may be redeemed by a redeeming Member in any one Dealing Day from time to time either in any particular case or generally;
- (g) where Shares have been acquired on more than one date, they shall be redeemed or purchased on a "first in, first out" basis (such that the earliest class or series of Shares of such class issued to the redeeming Member shall be redeemed or purchased first at the Redemption Price for Shares of such class or series, until the redeeming Member no longer owns any Shares attributable to such class or series), or on such other basis as the Board may from time to time determine either in any particular case or generally;
- (h) the Board may at any time and from time to time establish reserves or Holdbacks for estimated accrued Costs and Expenses, liabilities and contingencies, which could reduce the amount of a payment upon redemption;
- (i) subject as hereinafter provided, payment shall be made to the redeeming Member in the Base Currency in respect of the redemption or purchase of Shares (or in such currency as the Board shall determine from time to time either in any particular case or generally), unless the Board determines to pay the Redemption Price (or any part thereof) by way of transfer of assets *in specie*;
- (j) any amount payable to a redeeming Member shall be paid in accordance with the terms set out in the Confidential Memorandum following (i) receipt of the original duly completed Redemption Request (including, for the avoidance of doubt, all information and supporting documents required by the Board) and, (ii) where a share certificate is in issue in respect of the Shares being redeemed, the lodging of said certificate with the Company, taking into account such delays as may be occasioned by, inter alia, the suspension of the redemption of Shares or the suspension of the payment of any redemption or purchase proceeds and extending the period (if any) for payment thereof pursuant to these Articles or the Confidential Memorandum;



- (k) payment for Shares redeemed or purchased hereunder shall be made to the redeeming Member by a cheque, draft, wire transfer or other means of payment posted (at the risk of the redeeming Member) or otherwise paid to the redeeming Member in the manner and on such other terms as may be determined by the Board from time to time (and all Costs and Expenses payable in relation to a redemption or purchase shall be deducted from the Redemption Price). If a redeeming Member requests payment in a currency other than the Base Currency, the Board may, subject to receipt of any necessary exchange control or other governmental consent and at the risk of the redeeming Member and on his paying any Costs and Expenses thereby involved, arrange for the conversion of the sum to which the redeeming Member is entitled into such currency as he requests at such exchange rate or rates as the Board shall consider appropriate;
- (l) on any redemption or purchase of Shares, the Board shall have the power to divide *in specie* the whole or any part of the assets of the Company and appropriate such assets in satisfaction or part satisfaction of the Redemption Price and any other sums payable on redemption or purchase as is herein provided, as it may determine. Such assets may include, without limitation, both Investments as well as interests in special purpose entities that have been formed for the purposes of liquidating Investments or otherwise. Where assets are to be delivered in satisfaction or part satisfaction of the Redemption Price or other sums payable on redemption or purchase as aforesaid, the Board shall select the assets to be so delivered, the value of which shall be calculated as at the Valuation Time on the appropriate Dealing Day applying the valuation rules set out in Article 5, unless otherwise determined by the Board. The aggregate amount of the value of the assets to be transferred to a redeeming Member pursuant to this Article and any cash to be paid to the redeeming Member shall be equivalent to the amount which would have been payable to the redeeming Member pursuant hereto had the redemption or purchase of the redeeming Member's Shares not been effected by a delivery of assets *in specie*. All Costs and Expenses which would otherwise have been payable by the Company in respect of any such transfer of assets to a redeeming Member shall be discharged by or on account of the redeeming Member;
- (m) on any redemption or purchase of Shares, the Board may make payment of the Redemption Price by the issuance of Shares of another class or series to the Member redeeming such Shares; and
- (n) the Board may waive or vary the notice requirements or permit redemptions or purchases of Shares under such other circumstances and on



such terms and conditions as it may deem appropriate either in any particular case or generally.

- 4.2 Notwithstanding the foregoing, the Board may, in its sole and absolute discretion, reject or delay the acceptance of any Redemption Request in whole or in part.
- 4.3 The Redemption Price for each Share for any Dealing Day shall be the Net Asset Value per Share of the relevant class and/or series (as determined in accordance with these Articles) as at the Valuation Time on that Dealing Day after payment of any applicable Management Fee or Performance Fee.
- 4.4 The Board may when determining the Redemption Price per Share of any class or series, deduct from the Net Asset Value per Share of the relevant class or series (before making any rounding adjustment) an amount, for the account of the Company, which it considers to be an appropriate allowance to reflect fiscal and sales charges and other Costs and Expenses which the Company would incur in realising assets or closing out positions in order to meet the relevant Redemption Request and to reflect any discrepancy between the book valuation of the Investment made and the realised value of such Investment.
- 4.5 Any Holdback relating to a redemption of Shares (whether by a Member or by the Board pursuant to its right of compulsory redemption) shall be paid to the Member concerned, subject to any necessary adjustments, upon the finalisation of the audit of the Company for the fiscal year in which the redemption is made, or upon the expiration of some other time limit as determined by the Board.
- 4.6 With effect from the Dealing Day in respect of which a Redemption Request for any Share is received and accepted, the Member concerned shall (save as provided below) cease to be entitled to any rights in respect of such Share and accordingly his name shall be removed from the Register with respect thereto. For the avoidance of doubt, notwithstanding that the name of the Member remains on the Register pending determination of the Redemption Price and payment of any redemption or purchase proceeds, a Member requesting the redemption of all or any part of his Shares on any particular Dealing Day shall, with effect from that Dealing Day (i) be treated as a creditor of the Company (and not as a Member) in respect of the Redemption Price, and will rank accordingly in the event of a winding up of the Company; and (ii) have no rights as a Member in respect of the Shares being redeemed, save for the right to receive the Redemption Price in accordance with these Articles and the right to receive any dividend which has been declared in respect of such Shares prior to that Dealing Day and, in particular, will not have the right to convene, requisition, receive notice of, attend or vote at any general meetings of the Company.





- 4.7 A person who becomes aware that he is holding or owning Shares in breach of any of the restrictions in these Articles is required forthwith either to deliver to the Company a Redemption Request in respect of his Shares in accordance with these Articles or transfer the same to a person who is not disqualified from holding or owning Shares pursuant to these Articles.
- 4.8 Subject to the Memorandum, these Articles and the Law, and subject as hereinafter provided, the Board may compulsorily redeem or purchase all or any of the Shares of any Member (or give notice to such person requiring the redemption or transfer of such Shares in accordance with the provisions of these Articles) at any time (including during any period when the redemption of Shares upon request by Members is suspended) and for any or no reason whatsoever upon at least thirty Days' prior written notice (provided that, the Board may compulsorily redeem or purchase all or any of the Shares of any Member (or give notice to such person requiring the redemption or transfer of such Shares in accordance with the provisions of these Articles) with or without notice at any time if, the Board determines, in its sole and absolute discretion, that, without such redemption or re-purchase (i) the assets of the Company or the Master Fund are reasonably likely to be characterised as "plan assets" for the purposes of ERISA or would be subject to ERISA, the U.S. Internal Revenue Code of 1986, as amended (the "Code") or any applicable similar law, whether or not such plan is subject to ERISA, the Code, or the applicable provisions of any similar law, (ii) the Board would become a fiduciary with respect to the assets of any existing or contemplated ERISA partner, pursuant to ERISA, the Code, or the applicable provisions of any similar law, or otherwise, or (iii) a material adverse tax, legal or regulatory effect on the Company, the Master Fund, the AIFM or the Portfolio Manager, and their respective affiliates, the other Members, or any investment by the Company or future investments is likely to result). The Board may charge any Member receiving notice of such a compulsory redemption or purchase any Costs and Expenses associated therewith. The Dealing Day in relation to a compulsory redemption or purchase pursuant to this Article 4.8 shall be such date as may be determined by the Board and the net redemption proceeds to be received by the Member concerned shall be calculated in the same manner as that for redemption on the request of a Member.
- 4.9 Payment of the proceeds payable pursuant to a redemption or purchase of any Shares under these Articles shall be deposited for the account of the Member concerned as determined by the Board from time to time. Upon the deposit of such redemption or purchase moneys as aforesaid, the Member concerned shall have no further interest in such Shares or any claim against the Company in respect thereof.



- 4.10 Notwithstanding any other provision of the Memorandum or these Articles, the Board shall have the power to:
- (a) suspend the redemption rights of any Member if the Board deems it necessary to do so to comply with any anti-money laundering law or regulations or any other laws or regulations applicable to the Company or a Service Provider to the Company; or
  - (b) delay, defer or withhold the payment of the proceeds payable on the redemption or purchase of any Shares of any Member for such period of time as the Board may determine, including permanently, but only if the Board determines that it is appropriate or necessary to do so in order to comply with or otherwise avoid a breach of the Proceeds of Crime Law, or any regulation, code of practice, or guidance note promulgated thereunder, or any similar or other legislation applicable to any Service Provider, directly or indirectly, in any jurisdiction or where the exercise of such power is considered necessary, applicable or appropriate to avoid a breach or violation by any person of any laws or regulations (including, but not limited to, where the Member concerned fails to or delays in providing any information or documents for verification purposes). Neither the Company nor the Directors shall be liable to any Member for any loss or damages arising as a result of the Board exercising its power pursuant to this Article.
- 4.11 If the Board has determined that special circumstances have arisen which may include, but shall not be limited to, default or delay in payments to the Company by other persons, including, without limitation, the Master Fund, the Company shall be entitled to delay or defer payment of redemption or purchase proceeds if raising funds would in the *bona fide* determination of the Board be unduly burdensome to the Company or adversely affect the interests of the other Members.
- 4.12 In order to give effect to any of the restrictions in these Articles, the Company may require any Member at any time to furnish such information and make such declarations as the Board may require. A requisition for information under this Article by the Company shall not in any way affect the Company's right to compulsorily redeem or purchase the Shares of the Member in accordance with Article 4.8.
- 4.13 Without prejudice to any other power of the Board to compulsorily redeem or purchase Shares, the Board may, without notice, compulsorily redeem or purchase all or any Shares of a Member at the end of a fiscal year (or such other period as may be determined by the Board) in order to pay any applicable Performance Fee.



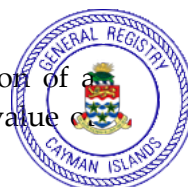
- 4.14 The Company may accept the surrender for no consideration of any fully paid share (including a redeemable share) unless, as a result of the surrender, there would no longer be any issued shares of the company other than shares held as treasury shares.
- 4.15 The Company is authorised to hold treasury shares in accordance with the Law.
- 4.16 The Board may designate as treasury shares any of its shares that it purchases or redeems, or any shares surrendered to it, in accordance with the Law.
- 4.17 Shares held by the Company as treasury shares shall continue to be classified as treasury shares until such shares are either cancelled or transferred in accordance with the Law.

**5. Determination of Net Asset Value**

- 5.1 The Net Asset Value per Share of each class or series (if any) shall be determined by the Board as at the Valuation Time on each Valuation Day, on such other occasions as may be required by these Articles and on such other occasions as the Board may from time to time determine.
- 5.2 The Net Asset Value of the Company shall be calculated in United States Dollars or such other currency as may be determined by the Board from time to time.
- 5.3 The Net Asset Value per Share will be rounded to such number of decimal places as the Board may determine.
- 5.4 The Net Asset Value per Share of each class or series (if any) of Shares at any Valuation Time shall be calculated by first determining the Net Asset Value of the Company as a whole and then determining the Net Asset Value of the relevant class and/or series of Shares as follows:
  - (a) The Net Asset Value of the Company is equal to the value of all the assets of the Company less all its liabilities. The assets of the Company include Investments held by or on behalf of the Company, cash available to the Company, amounts paid in advance by the Company and amounts receivable by the Company which are attributable to the period up to the relevant Valuation Time. Liabilities of the Company include the Management Fee and the Performance Fee, if any, expenses and commissions accrued in the period up to the Valuation Time and not yet paid, amounts received by the Company in advance and redemption or purchase proceeds payable by the Company relating to a prior Valuation Day.



- (b) The Net Asset Value of each class of Shares is equal to the Net Asset Value of the Investments held by or on behalf of the Company in respect of that class of Shares plus the value of any cash balances or other assets of the Company allocated or attributable to that class of Shares less all liabilities of the Company allocated or attributable to that class of Shares. The Net Asset Value of each class of Shares is calculated on each Valuation Day, prior to taking account of any subscriptions and redemptions of Shares of the relevant class taking place on the Dealing Day with respect to the relevant Valuation Day. The Net Asset Value per Share of each class of Shares is calculated on each Valuation Day by dividing the Net Asset Value of that class of Shares by the number of outstanding Shares of the class in issue on the relevant Valuation Day and rounding the resulting amount off to such number of decimal places as the Board may determine.
  - (c) Where the Board determines that series shall be issued, the initial Net Asset Value of a series of Shares shall equal the aggregate Subscription Price of the Shares of that series issued at the initial offering price and such amount shall be entered into the account of that series. Thereafter, on each Valuation Day, the Net Asset Value of each series of Shares shall be determined by allocating any increase or decrease in the Net Asset Value of the relevant class of Shares since the previous Valuation Day among the series of Shares in such class *pro rata* in accordance with the Net Asset Value of each series of Shares as at the previous Valuation Day. Any fees determined with respect to a particular series of Shares will be debited against the Net Asset Value of that series.
  - (d) Where applicable, the Net Asset Value per Share of each series of Shares is calculated on each Valuation Day by dividing the Net Asset Value of that series of Shares by the number of outstanding Shares of the series in issue on the relevant Valuation Day and rounding the resulting amount off to such number of decimal places as the Board may determine.
- 5.5 Any written determination as to the Net Asset Value per Share of any class and series or as to the Subscription Price or Redemption Price therefor given in good faith by or on behalf of the Board shall be final and binding on the Company and all of the Members absent manifest error.
- 5.6 The Board shall establish for each class of Shares an account to be called the "Share Premium Account" and shall carry to the credit of the account from time to time a sum equal to the amount or value of the premium paid on the issue of any such Shares.
- 5.7 There shall be debited to the Share Premium Account on the redemption of a Share the amount by which the Redemption Price exceeds the nominal value of



such Share redeemed, provided however that the Board may determine that such sum or any part thereof may be paid out of the profits of the Company which would otherwise be available for dividend or otherwise as provided in the Law.

- 5.8 The Company shall at all times comply with the provisions of the Law in relation to the Share Premium Account, the premiums attaching to Shares, the capital redemption reserve funds and the redemption of the Shares.
- 5.9 For the purpose of calculating the number of Shares in issue or deemed to be in issue, Shares for which applications have been duly made shall be deemed to be not in issue on the relevant Valuation Day and Shares to be redeemed or purchased in accordance with these Articles shall be deemed to be in issue on the relevant Valuation Day.
- 5.10 For the purpose of calculating the value of the assets of the Company:
- (a) the Company's investment in the Master Fund shall generally be valued in accordance with the net asset value calculation provided to the Company by the Master Fund or its duly authorised agent;
  - (b) the value of any cash on hand or on deposit, bills, demand notes, accounts receivable, prepaid expenses, cash dividends and interest declared or accrued and not yet received shall be deemed to be the full amount thereof unless the Board shall have determined that any such deposit, bill, demand note or account receivable is not worth the full amount thereof in which event the value thereof shall be deemed to be such value as the Board shall deem to be the reasonable value thereof;
  - (c) preliminary expenses (including the expenses incurred in connection with the initial issue of Shares) may be amortised over a period of sixty (60) months (or such other period as the Board may determine from time to time) and will be included as an asset at cost less amounts written off;
  - (d) any value (whether of a security or cash) otherwise than in the Base Currency shall be converted into the Base Currency at the rate (whether official or otherwise) which the Board shall deem appropriate to the circumstances having regard *inter alia* to any premium or discount which it considers may be relevant and to costs of exchange.
- 5.11 Notwithstanding the foregoing, the Board may permit some other method of valuation to be used if it considers that such valuation better reflects the fair value of an asset.



- 5.12 The determination in good faith by the Board of the value of an asset in a circumstance where fair market value cannot be readily ascertained will be final and binding upon the Members.
- 5.13 The Board may make such modifications to the means of calculating the Net Asset Value as it may from time to time consider reasonable to ensure that such calculations accord with good accounting practice.

**6. Suspension of Subscriptions, Redemptions and Determination of Net Asset Value**

- 6.1 The Board may at any time suspend all or any of (i) subscriptions for Shares, (ii) redemptions of Shares at the request of Members, (iii) the payment of any redemption or purchase proceeds to any Member and extend the period (if any) for the payment thereof, irrespective of whether the Board suspends redemptions of Shares pursuant to paragraph (ii), or (iv) the determination of the Net Asset Value of the Company or any class of Shares, for the whole or any part of a period:
- (a) where the Master Fund has rejected a corresponding withdrawal request by the Company or has delayed the payment of withdrawal proceeds to the Company; or
- (b) when the Board otherwise determines in good faith that it is in the best interests of the Company or the Members to do so.
- 6.2 Any suspension pursuant to Article 6.1 shall take effect at such time as the Board shall declare but not later than the close of business on the Business Day next following the declaration, and thereafter there shall be no (i) subscriptions for Shares, (ii) redemptions of Shares at the request of Members, (iii) payment of any redemption or purchase proceeds to any Member and extension of the period (if any) for the payment thereof) or (iv) determination of the Net Asset Value of the Company (or any class of Shares), until the Board shall declare the suspension at an end, except that such suspension shall terminate in any event on the first Business Day on which (i) the condition giving rise to the suspension shall have ceased to exist; and (ii) no other condition under which suspension is authorised under Article 6.1 shall exist.
- 6.3 Each declaration by the Board pursuant to this Article shall be consistent with such official rules and regulations (if any) relating to the subject matter thereof as shall have been promulgated by any authority having jurisdiction over the Company and as shall be in effect at the time. To the extent not inconsistent with such official rules and regulations, the determination of the Board shall be conclusive.



- 6.4 The Board shall promptly notify all affected Members of any suspension, and shall promptly notify such Members upon termination of such suspension.

## 7. Investment and Borrowing Powers

- 7.1 In carrying on the business of the Company, the Board shall be entitled to acquire, hold, deal in and dispose of any Investment in such manner, at such times, and in such amounts as the Board shall think fit. Without prejudice to the generality of the foregoing, Investments may be held by or on behalf of the Company, directly or indirectly through a wholly or partially-owned special purpose entity that has been formed for the purpose of holding Investments or otherwise.
- 7.2 The Board may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and may issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or any third party.

## 8. Share Certificates

- 8.1 Share certificates shall not generally be issued. However, a Member may request in writing and at no charge one share certificate under the common seal (if any) or a facsimile thereof of the Company or bearing the signature (or a facsimile thereof) of a Director or the Secretary or a person expressly authorised to sign specifying the number and, where appropriate, the class of all of the shares held by such Member. Upon payment of such reasonable out-of-pocket expenses as the Board shall from time to time determine, a Member is entitled, upon request in writing, to several certificates, each of one or more of his shares. The Board may by resolution determine, either in any particular case or generally, that any or all signatures on certificates may be printed thereon or affixed by mechanical means.
- 8.2 If any share certificate shall be proved to the satisfaction of the Board to have been worn out, lost, mislaid, or destroyed the Board may cause a new certificate to be issued and request an indemnity for the lost certificate if it sees fit.
- 8.3 Share certificates may not be issued in bearer form.

## REGISTRATION OF SHARES

## 9. Register of Members

- 9.1 The Board shall cause to be kept in one or more books a Register which may be kept in or outside the Cayman Islands or at such other place as the Board may



determine and at such place as the Board shall appoint and shall enter therein the following particulars:

- (a) the name and address of each Member, the number, and (where appropriate) the class and/or series of shares held by such Member and the amount paid or agreed to be considered as paid on such shares;
  - (b) the date on which each person was entered in the Register; and
  - (c) the date on which any person ceased to be a Member.
- 9.2 The Company shall not be bound to register more than four persons as the joint holders of any share or shares (except in the case of executors or trustees of a deceased Member).
- 9.3 The Board may cause to be kept in any country or territory one or more branch registers of such category or categories of members as the Board may determine from time to time and any branch register shall be deemed to be part of the Company's Register of Members.

#### 10. Registered Holder Absolute Owner

- 10.1 The Company shall be entitled to treat the registered holder of any share as the absolute owner thereof and accordingly shall not be bound to recognise any equitable claim or other claim to, or interest in, such share on the part of any other person.
- 10.2 No person shall be entitled to recognition by the Company as holding any share upon any trust and the Company shall not be bound by, or be compelled in any way to recognise, (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any other right in respect of any share except an absolute right to the entirety of the share in the holder. If, notwithstanding this Article, notice of any trust is at the holder's request entered in the Register or on a share certificate in respect of a share, then, except as aforesaid:
- (a) such notice shall be deemed to be solely for the holder's convenience;
  - (b) the Company shall not be required in any way to recognise any beneficiary, or the beneficiary, of the trust as having an interest in the share or shares concerned;
  - (c) the Company shall not be concerned with the trust in any way, as to the identity or powers of the trustees, the validity, purposes or terms of the





trust, the question of whether anything done in relation to the shares may amount to a breach of trust or otherwise; and

- (d) the holder shall keep the Company fully indemnified against any liability or expense which may be incurred or suffered as a direct or indirect consequence of the Company entering notice of the trust in the Register or on a share certificate and continuing to recognise the holder as having an absolute right to the entirety of the share or shares concerned.

## 11. Transfer of Registered Shares

11.1 Shares may not be pledged, assigned, hypothecated, sold, exchanged, transferred or disposed of (each a "transfer") without prior written consent of the Board, which consent may be given or withheld in its sole and absolute discretion. In connection with any transfer, the Board may request that the transferee provide such information and execute such documentation as they determine. Subject to the foregoing and to such other of the restrictions of these Articles as may be applicable, any Member may transfer all or any of his shares by instrument in writing in a usual common form or in any other form which the Board may approve. Such instrument may be on the back of the share certificate (if issued) and need not be under seal. The transferor shall be deemed to remain the holder of such shares until the name of the transferee is entered in the Register in respect thereof. An instrument of transfer need not be signed by or on behalf of the transferee. Any attempt to transfer shares without the prior approval of the Board shall be invalid and may subject such shares to compulsory redemption.

11.2 No transfer of shares may be made if:

- (a) as a result of such transfer either the transferor or the transferee of such shares would hold less than the minimum number (or the minimum value) of shares as the Board may from time to time specify; or
- (b) such transfer would in the opinion of the Board result in any person acquiring or holding shares in breach of any restrictions imposed by the Board under these Articles.

11.3 The Board may refuse to recognise any instrument of transfer unless it is deposited at the Registered Office or such other place as the Board may appoint, accompanied by the share certificate, if any, in respect of the shares to which it relates and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.



- 11.4 The registration of transfers may be suspended at such times and for such periods as the Board may from time to time determine provided always that such registration shall not be suspended for more than thirty Days in any year.
- 11.5 All instruments of transfer which shall be registered shall be retained by the Company, but any instrument of transfer which the Board may decline to register shall (except in the case of fraud) be returned to the person depositing the same.

## 12. Transmission of Registered Shares

- 12.1 In the case of the death of a Member, the survivor or survivors where the deceased Member was a joint holder, and the legal personal representatives of the deceased Member where the deceased Member was a sole holder, shall be the only persons recognised by the Company as having any title to the deceased Member's interest in the shares. Nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by such deceased Member with other persons. For the purpose of this Article, legal personal representative means the executor or administrator of a deceased Member or such other person as the Board may decide as being properly authorised to deal with the shares of a deceased Member.
- 12.2 Any person becoming entitled to a share in consequence of the death or bankruptcy of a Member or otherwise by operation of law upon producing such evidence as the Board may deem sufficient, may be registered as a Member in respect of such shares, or may, subject to these Articles, transfer such shares to some other person by executing an instrument of transfer in a usual common form or any other form which the Board may approve.
- 12.3 If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered, he shall testify his election by executing to such person a transfer of such share. All the limitations, restrictions and provisions of these Articles relating to the right to transfer and the registration of transfers of shares shall be applicable to any such transfer as aforesaid as if the death or bankruptcy of the Member had not occurred and the transfer were a transfer executed by such Member.
- 12.4 A person becoming entitled to a share in consequence of the death, or bankruptcy or otherwise by operation of law of a Member shall be entitled to receive and may give a discharge for all dividends and other moneys payable on or in respect of the share, but he shall not be entitled to receive notice of or to attend or vote at meetings of the Company, or, save as aforesaid, to any of the rights or privileges of Member until he shall have become a Member in respect of the share.



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## DIVIDENDS AND CAPITALISATION

### 13. Dividends

- 13.1 The Board may, subject to these Articles and the Law, at such times and at such intervals as it may think fit, declare dividends and other distributions to be paid to the Members in accordance with their respective rights and priorities as set out in these Articles. Dividends and distributions may be paid in cash or *in specie*.
- 13.2 Dividends may be declared and paid out of profits of the Company, realised or unrealised, or from any reserve set aside from profits which the Board determines is no longer needed. Dividends and distributions may also be declared and paid out of the Share Premium Account or any other fund or account which can be authorised for this purpose in accordance with the Law.
- 13.3 The Board may determine that a dividend or distribution shall be paid wholly or partly by the distribution of specific assets (which may consist of the shares or securities of any other entity) and may settle all questions concerning such distribution. Without limiting the generality of the foregoing, the Board may fix the value of such specific assets, may determine that cash payments shall be made to some Members in lieu of specific assets and may vest any such specific assets in trustees on such terms as the Board thinks fit.
- 13.4 Subject to the rights of persons, if any, entitled to Shares with special rights as to dividends, all dividends or other distributions declared or paid to the holders of any class of Share shall be declared and paid to such holders in proportion to the value of the Shares held by them.
- 13.5 The Board may fix any date as the record date for determining the Members entitled to receive any dividend or other distribution, but, unless so fixed, the record date shall be the date of the Directors' resolution declaring same.
- 13.6 The Board may deduct from the dividends or distributions payable to any Member all monies due from such Member to the Company on account of calls or otherwise.
- 13.7 All unclaimed dividends may be invested or otherwise made use of by the Board for the benefit of the Company until claimed. Any dividend unclaimed by a Member twelve years after the dividend declaration date shall be forfeited and revert to the Company.
- 13.8 No dividend shall bear interest against the Company.



**14. Power to Set Aside Profits**

- 14.1 The Board may, before declaring a dividend, set aside out of the surplus or profits of the Company, such amount as it thinks proper as a reserve to be used to meet contingencies or for equalising dividends or for any other purpose. Pending application, such sums may be employed in the business of the Company or invested, and need not be kept separate from other assets of the Company. The Board may also, without placing the same to reserve, carry forward any profit which it decides not to distribute.
- 14.2 The Board may on behalf of the Company exercise all the powers and options conferred on the Company by the Law in regard to the Company's Share Premium Account.

**15. Method of Payment**

- 15.1 Any dividend, interest, or other monies payable in cash in respect of the shares may be paid by wire transfer, cheque or draft sent through the post directed to the Member at such Member's address in the Register, or to such person and to such address as the holder may in writing direct.
- 15.2 In the case of joint holders of shares, any dividend, interest or other monies payable in cash in respect of shares may be paid by a cheque, draft, wire transfer or other means of payment posted (at the risk of the redeeming joint holders) or otherwise directed to the address of the holder first named in the Register, or to such person and to such address as the joint holders may in writing direct. If two or more persons are registered as joint holders of any shares any one can give an effectual receipt for any dividend paid in respect of such shares.

**16. Capitalisation**

- 16.1 The Board may resolve that it is desirable to capitalise any undivided profits or share premium or surplus of the Company (including profits carried and standing to any capital or other reserve or reserves) relating to the Company, and accordingly appropriate the profits or sum resolved to be capitalised to the Members holding Shares of the relevant class in the proportion in which such profits or sum would have been divisible amongst them had the same been applied or been applicable in making the payment of dividends and to apply such profits or sum on their behalf, either in or towards paying up the amounts, if any, for the time being unpaid on any Shares of the relevant class held by such Members respectively, or in paying up in full unissued Shares of the relevant class of a nominal amount equal to such profits or sum, such Shares to be allotted and distributed, credited as fully paid up, to and amongst such Members in the proportion aforesaid, or partly in one way and partly in the other provided that



Share Premium Account relating to that class may, for purposes of this Article, only be applied in the paying up of unissued Shares of the same class to be issued to Members holding Shares of the relevant class as fully paid Shares.

- 16.2 Whenever such a resolution as aforesaid shall have been passed, the Board shall make all appropriations and applications of the profits or sum resolved to be capitalised thereby, and all allotments and issues of fully paid Shares, if any, and generally shall do all acts and things required to give effect thereto, with full power to the Board to make such provision by the issue of fractional Shares or by payment in cash or otherwise as they think fit for the class of Shares becoming distributable in fractions and also to authorise any person to enter on behalf of all the Members entitled to the benefit of such appropriations and applications into an agreement with the Company providing for the allotment to them respectively, credited as fully paid up, of any further Shares to which they may be entitled upon such capitalisation, and any agreement made under such authority shall be effective and binding on all such Members.

## MEETINGS OF MEMBERS

### 17. Annual General Meetings

The Company may in each year hold a general meeting as its annual general meeting. Any annual general meeting of the Company may be held at such time and place as the Chairman of the Company (if there is one) (the "Chairman") or any two Directors or any Director and the Secretary or the Board shall appoint.

### 18. Extraordinary General Meetings

- 18.1 General meetings other than annual general meetings shall be called extraordinary general meetings.
- 18.2 The Chairman or any two Directors or any Director and the Secretary or the Board may convene an extraordinary general meeting whenever in their judgment such a meeting is necessary.

### 19. Requisitioned General Meetings

- 19.1 The Board shall, on the requisition of Members holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up share capital of the Company as at the date of the deposit carries the right to vote at general meetings, forthwith proceed to convene an extraordinary general meeting. To be effective the requisition shall state the objects of the meeting, shall be in writing signed by the requisitionists, and shall be deposited at the Registered Office. The



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

- 19.2 If the Board does not within twenty-one Days from the date of the requisition duly proceed to call an extraordinary general meeting, the requisitionists, or any of them representing more than one half of the total voting rights of all of them, may themselves convene an extraordinary general meeting; but any meeting so called shall not be held more than ninety Days after the requisition. An extraordinary general meeting called by requisitionists shall be called in the same manner, as nearly as possible, as that in which general meetings are to be called by the Board.

## 20. Notice

- 20.1 At least twenty one Days' notice of an annual general meeting shall be given to each Member entitled to attend and vote thereat, stating the date, place and time at which the meeting is to be held and if different, the record date for determining Members entitled to attend and vote at the general meeting, and, as far as practicable, the other business to be conducted at the meeting.
- 20.2 At least twenty one Days' notice of an extraordinary general meeting shall be given to each Member entitled to attend and vote thereat, stating the date, place and time at which the meeting is to be held and the general nature of the business to be considered at the meeting.
- 20.3 The Board may fix any date as the record date for determining the Members entitled to receive notice of and to vote at any general meeting but, unless so fixed, as regards the entitlement to receive notice of a meeting or notice of any other matter, the record date shall be the date of despatch of the notice and, as regards the entitlement to vote at a meeting, and any adjournment thereof, the record date shall be the date of the original meeting.
- 20.4 A general meeting shall, notwithstanding that it is called on shorter notice than that specified in these Articles, be deemed to have been properly called if it is so agreed by (i) all the Members entitled to attend and vote thereat in the case of an annual general meeting; and (ii) in the case of an extraordinary general meeting, by seventy-five percent of the Members entitled to attend and vote thereat.
- 20.5 The accidental omission to give notice of a general meeting to, or the non-receipt of a notice of a general meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

## 21. Giving Notice and Access

- 21.1 A notice may be given by the Company to a Member:



- (a) by delivering it to such Member in person, in which case the notice shall be deemed to have been served upon such delivery; or
- (b) by sending it by post to such Member's address in the Register of Members, in which case the notice shall be deemed to have been served seven days after the date on which it is deposited, with postage prepaid, in the mail; or
- (c) by sending it by courier to such Member's address in the Register of Members, in which case the notice shall be deemed to have been served two days after the date on which it is deposited, with courier fees paid, with the courier service; or
- (d) by transmitting it by electronic means (including facsimile and electronic mail, but not telephone) in accordance with such directions as may be given by such Member to the Company for such purpose, in which case the notice shall be deemed to have been served at the time that it would in the ordinary course be transmitted; or
- (e) by publication of an electronic record of it on a website and notification of such publication (which shall include the address of the website, the place on the website where the document may be found, and how the document may be accessed on the website), such notification being given by any of the methods set out in paragraphs (a) through (d) hereof, in which case the notice shall be deemed to have been served at the time when the instructions for access and the posting on the website are complete.

21.2 Any notice required to be given to a Member shall, with respect to any shares held jointly by two or more persons, be given to whichever of such persons is named first in the Register of Members and notice so given shall be sufficient notice to all the holders of such shares.

21.3 In proving service under paragraphs 22.1(b), (c) and (d), it shall be sufficient to prove that the notice was properly addressed and prepaid, if posted or sent by courier, and the time when it was posted, deposited with the courier, or transmitted by electronic means.

## 22. Postponement of General Meeting

The Board may postpone any general meeting called in accordance with these Articles provided that notice of postponement is given to each Member before the time for such meeting. Fresh notice of the date, time and place for the postponed meeting shall be given to each Member in accordance with these Articles.



**23. Electronic Participation in Meetings**

Members entitled to attend and vote at a general meeting may participate in that general meeting by such telephonic, electronic or other communication facilities or means as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

**24. Quorum at General Meetings**

24.1 At any general meeting two or more persons present in person and representing in person or by proxy in excess of 25% of the total issued voting shares in the Company throughout the meeting shall form a quorum for the transaction of business, provided that if the Company shall at any time have only one Member, one Member present in person or by proxy shall form a quorum for the transaction of business at any general meeting held during such time.

24.2 If within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same Day one week later, at the same time and place or to such other Day, time or place as the Board may determine.

24.3 In the event that a quorum is not present at the adjourned meeting, the meeting shall be dissolved.

**25. Chairman to Preside**

Unless otherwise agreed by a majority of those attending and entitled to vote thereat, the Chairman, if there is one, shall act as chairman at all meetings of the Members at which such person is present. In his absence a chairman shall be appointed or elected by those present at the meeting and entitled to vote.

**26. Voting on Resolutions**

26.1 Subject to the Law and these Articles, any question proposed for the consideration of the Members at any general meeting shall be decided by the affirmative votes of a majority of the votes cast in accordance with these Articles.

26.2 At any general meeting a resolution put to the vote of the meeting shall, in the first instance, be voted upon by a show of hands and, subject to any rights or restrictions for the time being lawfully attached to any class of shares and subject to these Articles, every Member present in person and every person holding a valid proxy at such meeting shall be entitled to one vote and shall cast such vote by raising his hand.

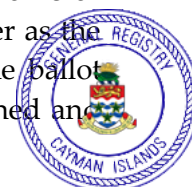




- 26.3 At any general meeting if an amendment is proposed to any resolution under consideration and the chairman of the meeting rules on whether or not the proposed amendment is out of order, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.
- 26.4 At any general meeting a declaration by the chairman of the meeting that a question proposed for consideration has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in a book containing the minutes of the proceedings of the Company shall, subject to these Articles, be conclusive evidence of that fact.

**27. Power to Demand a Vote on a Poll**

- 27.1 Notwithstanding the foregoing, a poll may be demanded by the chairman of the meeting or at least one Member.
- 27.2 Where a poll is demanded, subject to any rights or restrictions for the time being lawfully attached to any class of shares, every person present at such meeting shall have one vote for each share of which such person is the holder or for which such person holds a proxy and such vote shall be counted by ballot as described herein, or in the case of a general meeting at which one or more Members are present by telephone, electronic or other communication facilities or means, in such manner as the chairman of the meeting may direct and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded and shall replace any previous resolution upon the same matter which has been the subject of a show of hands. A person entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.
- 27.3 A poll demanded for the purpose of electing a chairman of the meeting or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and in such manner during such meeting as the chairman of the meeting may direct. Any business other than that upon which a poll has been demanded may be conducted pending the taking of the poll.
- 27.4 Where a vote is taken by poll, each person physically present and entitled to vote shall be furnished with a ballot paper on which such person shall record his vote in such manner as shall be determined at the meeting having regard to the nature of the question on which the vote is taken, and each ballot paper shall be signed or initialled or otherwise marked so as to identify the voter and the registered holder in the case of a proxy. Each person present by telephone, electronic or other communication facilities or means shall cast his vote in such manner as the chairman of the meeting shall direct. At the conclusion of the poll, the ballot papers and votes cast in accordance with such directions shall be examined and



counted by a committee of not less than two Members or proxy holders appointed by the chairman of the meeting for the purpose and the result of the poll shall be declared by the chairman of the meeting.

## 28. Voting by Joint Holders of Shares

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

## 29. Instrument of Proxy

- 29.1 A Member may be represented at a meeting of Members by a proxy (who need not be a Member) who may speak and vote on behalf of the Member.
- 29.2 An instrument appointing a proxy shall be in such form as the Board may from time to time determine or such other form as the chairman of the meeting shall accept as properly evidencing the wishes of the Member appointing the proxy.
- 29.3 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed, or a notarially certified copy of such power of attorney, or other authority shall be deposited at or sent by facsimile transmission or by electronic mail in portable document format to the Registered Office or at such other place as is specified in the notice of meeting or in the instrument of proxy issued by the Company before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.
- 29.4 The Board may at the expense of the Company send, by post or otherwise, to the Members instruments of proxy (with or without stamped envelopes for their return) for use at any general meeting or at any meeting of any class of Members either in blank or nominating in the alternative any one or more of the Directors or any other persons. If, for the purpose of any meeting, invitations to appoint as a proxy a person or one of a number of persons specified in the invitations are issued at the expense of the Company, such invitations shall be issued to all (and not to some only) of the Members entitled to be sent a notice of the meeting and vote thereat by proxy.
- 29.5 A vote given in accordance with the terms of an instrument of proxy shall be valid, notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the share in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity



revocation or transfer shall have been received by the Company at the Registered Office before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.

29.6 A Member who is the holder of two or more shares may appoint more than one proxy to represent him and vote on his behalf in respect of different shares.

29.7 The decision of the chairman of any general meeting as to the validity of any appointment of a proxy shall be final.

### **30. Representation of Corporate Member**

30.1 A corporation which is a Member may, by written instrument, authorise such person or persons as it thinks fit to act as its representative at any meeting and any person so authorised shall be entitled to exercise the same powers on behalf of the corporation which such person represents as that corporation could exercise if it were an individual Member, and that Member shall be deemed to be present in person at any such meeting attended by its authorised representative or representatives.

30.2 Notwithstanding the foregoing, the chairman of the meeting may accept such assurances as he thinks fit as to the right of any person to attend and vote at general meetings on behalf of a corporation which is a Member.

### **31. Adjournment of General Meeting**

31.1 The chairman of a general meeting may, with the consent of a majority in number of those present at any general meeting at which a quorum is present, and shall if so directed by such majority, adjourn the meeting. Unless the meeting is adjourned to a specific date, place and time announced at the meeting being adjourned, fresh notice of the date, place and time for the resumption of the adjourned meeting shall be given to each Member entitled to attend and vote thereat, in accordance with these Articles.

31.2 No business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place and notice of the adjourned meeting shall, if necessary, be given in accordance with these Articles.

### **32. Written Resolutions**

32.1 Subject to these Articles, anything which may be done by resolution of the Company in general meeting or by resolution of a meeting of any class of the Members may be done without a meeting by written resolution in accordance with this Article.



- 32.2 A written resolution is passed when it is signed by (or in the case of a Member that is a corporation, on behalf of) all the Members, or all the Members of the relevant class thereof, entitled to vote thereon and may be signed in as many counterparts as may be necessary.
- 32.3 A resolution in writing made in accordance with this Article is as valid as if it had been passed by the Company in general meeting or by a meeting of the relevant class of Members, as the case may be, and any reference in any Article to a meeting at which a resolution is passed or to Members voting in favour of a resolution shall be construed accordingly.
- 32.4 A resolution in writing made in accordance with this Article shall constitute minutes for the purposes of the Law.
- 32.5 For the purposes of this Article, the date of the resolution is the date when the resolution is signed by (or in the case of a Member that is a corporation, on behalf of) the last Member 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, a reference to such date.

### **33. Directors Attendance at General Meetings**

The Directors shall be entitled to receive notice of, attend and be heard at any general meeting.

## **DIRECTORS AND OFFICERS**

### **34. Election of Directors**

- 34.1 The Directors shall be elected or appointed in writing in the first place by the subscribers to the Memorandum or by a majority of them. There shall be no shareholding qualification for Directors unless prescribed by Special Resolution.
- 34.2 The Board may from time to time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, subject to any upper limit on the number of Directors prescribed pursuant to these Articles.
- 34.3 The Company may from time to time by Ordinary Resolution appoint any person to be a Director.

### **35. Number of Directors**

The Board shall consist of not less than one Director or such number in excess thereof as the Board may determine. Any provisions in these Articles requiring the approval of more



than one Director shall be capable of being approved by one Director in the event that there is only one Director on the Board at that time.

**36. Term of Office of Directors**

An appointment of a Director may be on terms that the Director shall automatically retire from office (unless he has sooner vacated office) at the next or a subsequent annual general meeting or upon any specified event or after any specified period; but no such term shall be implied in the absence of express provision.

**37. Alternate Directors**

37.1 At any general meeting, the Members may elect a person or persons to act as a Director in the alternative to any one or more Directors or may authorise the Board to appoint such Alternate Directors.

37.2 Unless the Members otherwise resolve, any Director may appoint a person or persons to act as a Director in the alternative to himself by notice deposited with the Secretary.

37.3 Any person elected or appointed pursuant to this Article shall have all the rights and powers of the Director or Directors for whom such person is elected or appointed in the alternative, provided that such person shall not be counted more than once in determining whether or not a quorum is present.

37.4 An Alternate Director shall be entitled to receive notice of all Board meetings and to attend and vote at any such meeting at which a Director for whom such Alternate Director was appointed in the alternative is not personally present and generally to perform at such meeting all the functions of such Director for whom such Alternate Director was appointed.

37.5 An Alternate Director's office shall terminate –

- (a) in the case of an alternate elected by the Members:
  - (i) on the occurrence in relation to the Alternate Director of any event which, if it occurred in relation to the Director for whom he was elected to act, would result in the termination of that Director; or
  - (ii) if the Director for whom he was elected in the alternative ceases for any reason to be a Director, provided that the alternate removed in these circumstances may be re-appointed by the Board as an alternate to the person appointed to fill the vacancy; and
- (b) in the case of an alternate appointed by a Director:



- (i) on the occurrence in relation to the Alternate Director of any event which, if it occurred in relation to his appointor, would result in the termination of the appointor's directorship; or
- (ii) when the Alternate Director's appointor revokes the appointment by notice to the Company in writing specifying when the appointment is to terminate; or
- (iii) if the Alternate Director's appointor ceases for any reason to be a Director.

37.6 If an Alternate Director is himself a Director or attends a Board meeting as the Alternate Director of more than one Director, his voting rights shall be cumulative.

37.7 Unless the Board determines otherwise, an Alternate Director may also represent his appointor at meetings of any committee of the Board on which his appointor serves; and the provisions of this Article shall apply equally to such committee meetings as to Board meetings.

37.8 Save as provided in these Articles an Alternate Director shall not, as such, have any power to act as a Director or to represent his appointor and shall not be deemed to be a Director for the purposes of these Articles.

### **38. Removal of Directors**

The Company may from time to time by Ordinary Resolution remove any Director from office, whether or not appointing another in his stead.

### **39. Vacancy in the Office of Director**

The office of Director shall be vacated if the Director:

- (a) is removed from office pursuant to these Articles;
- (b) dies or becomes bankrupt, or makes any arrangement or composition with his creditors generally;
- (c) is or becomes of unsound mind or an order for his detention is made under the Mental Health Law of the Cayman Islands or any analogous law of a jurisdiction outside the Cayman Islands; or
- (d) resigns his office by notice to the Company.



**40. Remuneration of Directors**

The remuneration (if any) of the Directors shall, subject to any direction that may be given by the Company in general meeting, be determined by the Board as it may from time to time determine and shall be deemed to accrue from day-to-day. The Directors may also be paid all travel, hotel and other expenses properly incurred by them in attending and returning from Board meetings, any committee appointed by the Board, general meetings, or in connection with the business of the Company or their duties as Directors generally.

**41. Defect in Appointment**

All acts done in good faith by the Board, any Director, a member of a committee appointed by the Board, any person to whom the Board may have delegated any of its powers, or any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director or person acting as aforesaid, or that he was or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director or act in the relevant capacity.

**42. Directors to Manage Business**

42.1 The business of the Company shall be managed and conducted by the Board. In managing the business of the Company, the Board may exercise all such powers of the Company as are not, by the Law or by these Articles, required to be exercised by the Company in general meeting subject, nevertheless, to these Articles and the Law.

42.2 Without limiting the generality of the foregoing, the Board may:

- (a) appoint, suspend, or remove any manager, secretary, clerk, agent or employee of the Company and may fix their remuneration and determine their duties;
- (b) procure that the Company pay all expenses incurred in promoting and incorporating the Company;
- (c) appoint one or more Directors to the office of managing director or chief executive officer of the Company, who shall, subject to the control of the Board, supervise and administer all of the general business and affairs of the Company;
- (d) promote, incorporate, establish or form a special purpose entity for the purpose of holding or liquidating Investments or otherwise;
- (e) by power of attorney, appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Board, to be a



attorney of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board) and for such period and subject to such conditions as it may think fit and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board may think fit and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions so vested in the attorney;

- (f) appoint any person or persons as a Service Provider, which may, subject to the control of the Board, exercise all or any of the duties, powers and discretions exercisable by the Board on such terms and conditions as the Board sees fit and the Board shall fix their remuneration and determine their duties;
- (g) appoint a person to act as manager of the Company's day-to-day business and may entrust to and confer upon such manager such powers and duties as it deems appropriate for the transaction or conduct of such business;
- (h) authorise any person or persons to act on behalf of the Company for any specific purpose and in connection therewith to execute any agreement, document, deed or instrument on behalf of the Company;
- (i) delegate any of its powers (including the power to sub-delegate) to any person on such terms and in such manner as the Board sees fit;
- (j) disclose confidential information relating to the Company or to any Member where required by the laws or regulations of any jurisdiction or in connection with any legal proceedings to which the Company is a party;
- (k) enter into any side letter or other agreement to induce any person to invest in the Company (and any amendments to such agreements and all agreements contemplated thereby) without any further act, approval or vote of any person;
- (l) present any petition and make any application in connection with the liquidation or reorganisation of the Company; and
- (m) in connection with the issue of any share, pay such commission and brokerage as may be permitted by law.

#### 43. Committees

- 43.1 The Board may, subject to these Articles, establish any committees, local boards or agencies for managing any of the affairs of the Company, either in the Cayman Islands or elsewhere.





Islands or elsewhere and may appoint any persons to be members of such committees, local boards or agencies, and may fix their remuneration and may delegate to any such committee, local board or agency any of the powers, authorities and discretions vested in the Directors, with power to sub-delegate, and may authorise the members of any local board, or any of them, to fill any vacancies therein, and to act notwithstanding vacancies, and any such appointment or delegation may be made upon such terms and subject to such conditions as the Board may think fit, and the Board may remove any persons so appointed, and may annul or vary any such delegation, but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.

- 43.2 The meetings and proceedings of each committee shall be governed mutatis mutandis by these Articles regulating the proceedings of Directors so far as the same are not superseded by any provisions in the resolution establishing the committee.

#### **44. Officers**

The Officers, if any, shall be appointed by the Board and shall hold office for such time as the Board shall from time to time determine.

#### **45. Duties of Officers**

The Officers shall have such powers and perform such duties in the management, business and affairs of the Company as may be delegated to them by the Board from time to time.

#### **46. Remuneration of Officers**

The Officers shall receive such remuneration as the Board may determine.

#### **47. Conflicts of Interest**

- 47.1 Any Director, or any Director's firm, partner or any company with whom any Director is associated, may act in any capacity for, be employed by or render services to the Company on such terms, including with respect to remuneration, as may be agreed between the parties. Nothing herein contained shall authorise a Director or a Director's firm, partner or company to act as Auditor to the Company.
- 47.2 A Director who is directly or indirectly interested in a contract or proposed contract with the Company (an "Interested Director") shall declare the nature of such interest.



47.3 An Interested Director who has complied with the requirements of the foregoing Article may:

- (a) vote in respect of such contract or proposed contract; and/or
- (b) be counted in the quorum for the meeting at which the contract or proposed contract is to be voted on,

and no such contract or proposed contract shall be void or voidable by reason only that the Interested Director voted on it or was counted in the quorum of the relevant meeting and the Interested Director shall not be liable to account to the Company for any profit realised thereby.

#### 48. Indemnification and Exculpation of Directors and Officers

48.1 The Directors, Secretary and other Officers (such term to include any person appointed to any committee by the Board) acting in relation to any of the affairs of the Company or any subsidiary thereof, and the liquidator or trustees (if any) acting in relation to any of the affairs of the Company or any subsidiary thereof and every one of them (whether for the time being or formerly), and their heirs, executors, administrators and personal representatives (each an "indemnified party") shall be indemnified and secured harmless out of the assets of the Company from and against all actions, costs, charges, losses, damages and expenses which they or any of them shall or may incur or sustain by or by reason of any act done, concurred in or omitted in or about the execution of their duty, or supposed duty, or in their respective offices or trusts, and no indemnified party shall be answerable for the acts, receipts, neglects or defaults of the others of them or for joining in any receipts for the sake of conformity, or for any bankers or other persons with whom any monies or effects belonging to the Company shall or may be lodged or deposited for safe custody, or for insufficiency or deficiency of any security upon which any monies of or belonging to the Company shall be placed out on or invested, or for any other loss, misfortune or damage which may happen in the execution of their respective offices or trusts, or in relation thereto, PROVIDED THAT this indemnity shall not extend to any matter in respect of any wilful default, actual fraud or dishonesty in relation to the Company which may attach to any of the indemnified parties. Each Member agrees to waive any claim or right of action such Member might have, whether individually or by or in the right of the Company, against any Director or Officer on account of any action taken by such Director or Officer, or the failure of such Director or Officer to take any action in the performance of his duties with or for the Company or any subsidiary thereof, PROVIDED THAT such waiver shall not extend to any matter in respect of any wilful default, actual fraud or dishonesty in relation to the Company which may attach to such Director or Officer.



48.2 The Company may purchase and maintain insurance for the benefit of any Director or Officer of the Company against any liability incurred by him in his capacity as a Director or Officer of the Company or indemnifying such Director or Officer in respect of any loss arising or liability attaching to him by virtue of any rule of law in respect of any negligence, default, breach of duty or breach of trust of which the Director or Officer may be guilty in relation to the Company or any subsidiary thereof.

48.3 The Company shall be permitted to advance funds to any indemnified party for legal expenses and other costs incurred as a result of any legal action to which it is entitled to indemnification, if such indemnified party agrees to repay the advanced funds (plus interest) to the Company, as applicable, in cases in which it is subsequently determined that such indemnified party is not entitled to indemnification, subject to the determination of the Directors that such advance payment is appropriate.

## MEETINGS OF THE BOARD OF DIRECTORS

### 49. Board Meetings

The Board may meet for the transaction of business, adjourn and otherwise regulate its meetings as it sees fit. A resolution put to the vote at a meeting of the Board shall be carried by the affirmative votes of a majority of the votes cast and in the case of an equality of votes the chairman of the meeting shall have a second or casting vote.

### 50. Notice of Board Meetings

A Director may, and the Secretary on the requisition of a Director shall, at any time summon a Board meeting. Notice of a Board meeting shall be deemed to be duly given to a Director if it is given to such Director verbally (including in person or by telephone) or otherwise communicated or sent to such Director by post, electronic means or other mode of representing words in a visible form at such Director's last known address or in accordance with any other instructions given by such Director to the Company for this purpose.

### 51. Electronic Participation in Meetings

Directors may participate in any Board meeting by means of such telephonic, electronic or other communication facilities or means as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.



**52. Representation of Director**

- 52.1 A Director which is a corporation may, by written instrument, authorise such person or persons as it thinks fit to act as its representative at any meeting and any person so authorised shall be entitled to exercise the same powers on behalf of the corporation which such person represents as that corporation could exercise if it were an individual Director, and that Director shall be deemed to be present in person at any such meeting attended by its authorised representative or representatives.
- 52.2 Notwithstanding the foregoing, the chairman of the meeting may accept such assurances as he thinks fit as to the right of any person to attend and vote at Board meetings on behalf of a corporation which is a Director.
- 52.3 A Director who is not present at a Board meeting, and whose Alternate Director (if any) is not present at the meeting, may be represented at the meeting by a proxy duly appointed, in which event the presence and vote of the proxy shall be deemed to be that of the Director. All the provisions of these Articles regulating the appointment of proxies by Members shall apply equally to the appointment of proxies by Directors.

**53. Quorum at Board Meetings**

The quorum necessary for the transaction of business at a meeting of the Board shall be two Directors, provided that if there is only one Director for the time being in office the quorum shall be one.

**54. Board to Continue in the Event of Vacancy**

The Board may act notwithstanding any vacancy in its number.

**55. Chairman to Preside**

Unless otherwise agreed by a majority of the Directors attending, the Chairman, if there be one, shall act as chairman at all meetings of the Board at which such person is present. In his absence a chairman shall be appointed or elected by the Directors present at the meeting.

**56. Written Resolutions**

- 56.1 Anything which may be done by resolution of the Directors may, without a meeting and without any previous notice being required, be done by resolution in writing signed by, or in the case of a Director that is a corporation whether or not a company within the meaning of the Law, on behalf of, all the Directors. For the



avoidance of doubt, an Alternate Director shall have authority to sign written resolutions on behalf of his or her appointing Director.

- 56.2 A resolution in writing may be signed by, or in the case of a Director that is a corporation whether or not a company within the meaning of the Law, on behalf of, all the Directors in as many counterparts as may be necessary.
- 56.3 A resolution in writing made in accordance with this Article is as valid as if it had been passed by the Board in a meeting of the Board, 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.
- 56.4 A resolution in writing made in accordance with this Article shall constitute minutes for the purposes of the Law.
- 56.5 For the purposes of this Article, the date of the resolution is the date when the resolution is signed by, or 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, a reference to such date.

## 57. Register of Directors and Officers

- 57.1 The Board shall cause to be kept in one or more books at the Registered Office a Register of Directors and Officers in accordance with the Law and shall enter therein the following particulars with respect to each Director and Officer:
- (a) first name and surname; and
  - (b) address.
- 57.2 The Board shall, within the period of thirty (30) Days from the occurrence of:
- (a) any change in the Directors and Officers; or
  - (b) any change in the particulars contained in the Register of Directors and Officers,

cause to be entered on the Register of Directors and Officers the particulars of such change and the date on which such change occurred, and shall notify the Registrar of Companies of any such change that takes place.

## 58. Validity of Prior Acts of the Board

No regulation or alteration to these Articles made by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation or alteration had not been made.



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## CORPORATE RECORDS

### 59. Minutes

The Board shall cause minutes to be duly entered in books provided for the purpose:

- (a) of all elections and appointments of Officers;
- (b) of the names of the Directors present at each Board meeting and of any committee appointed by the Board; and
- (c) of all resolutions and proceedings of general meetings of the Members, Board meetings, meetings of managers and meetings of committees appointed by the Board.

### 60. Register of Mortgages and Charges

- 60.1 The Board shall cause to be kept the Register of Mortgages and Charges required by the Law.
- 60.2 The Register of Mortgages and Charges shall be open to inspection in accordance with the Law, at the Registered Office on every business day in the Cayman Islands, subject to such reasonable restrictions as the Board may impose, so that not less than two hours in each such business day be allowed for inspection.

### 61. Form and Use of Seal

- 61.1 The Company may adopt a Seal in such form as the Board may determine. The Board may adopt one or more duplicate Seals for use in or outside the Cayman Islands, and, if the Board thinks fit, a duplicate Seal may bear on its face the name of the country, territory, district or place where it is to be issued.
- 61.2 The Seal (if any) may, but need not, be affixed to any document, deed or instrument and if the Seal is to be affixed, it shall only be used by the authority of the Directors or of a committee of the Board authorised by the Board in that behalf; and, until otherwise determined by the Board, the Seal, if it is to be affixed, shall be affixed in the presence of a Director or the Secretary or an assistant Secretary or some other person authorised for this purpose by the Board or the committee of the Directors.
- 61.3 Notwithstanding the foregoing, the Seal (if any) may without further authority be affixed by way of authentication to any document required to be filed with the Registrar of Companies in the Cayman Islands, and may be so affixed by any Director, Secretary or assistant Secretary of the Company or any other person or institution having authority to file the document as aforesaid.



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## ACCOUNTS

### 62. Books of Account

- 62.1 The Board shall cause to be kept proper books of account including, where applicable, material underlying documentation including contracts and invoices, and with respect to:-
- (a) all sums of money received and expended by the Company and the matters in respect of which the receipt and expenditure takes place;
  - (b) all sales and purchases of goods by the Company; and
  - (c) all assets and liabilities of the Company.
- 62.2 Such books of account shall be kept and proper books of account shall not be deemed to be kept with respect to the matters aforesaid if there are not kept, at such place as the Board thinks fit, such books as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.
- 62.3 Such books of account shall be retained for a minimum period of five years from the date on which they are prepared.
- 62.4 No Member (not being a Director) shall have any right of inspecting any account or book or document of the Company.
- 62.5 Every balance sheet contained in the financial statements shall be signed on behalf of the Board by one of the Directors. The Directors' report, if any, and Auditor's report shall be attached to the financial statements and such reports shall be open to inspection by any Member.

### 63. Financial Year End

The financial year end of the Company may be determined by resolution of the Board and failing such resolution shall be the Accounting Date in each year.

## AUDITS

### 64. Appointment of Auditor

- 64.1 The Auditor of the Company shall be appointed by the Board for such period and on such terms as the Board may think fit.
- 64.2 The Auditor may be a Member but no Director, Officer or employee of the Company shall, during his continuance in office, be eligible to act as an Auditor of the Company.



**65. Remuneration of Auditor**

The remuneration of the Auditor shall be as determined by the Board.

**66. Duties of Auditor**

The Auditor shall make a report to the Members on the accounts examined by him and on every set of financial statements laid before the Company in general meeting, or circulated to Members, pursuant to this Article during the Auditor's tenure of office.

**67. Access to Records**

67.1 The Auditor shall at all reasonable times have access to the Company's books, accounts and vouchers and shall be entitled to require from the Company's Directors and Officers such information and explanations as the Auditor thinks necessary for the performance of the Auditor's duties and, if the Auditor fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of their audit, he shall state that fact in his report to the Members.

67.2 The Auditor shall be entitled to attend any general meeting at which any financial statements which have been examined or reported on by him are to be laid before the Company and to make any statement or explanation he may desire with respect to the financial statements.

**VOLUNTARY WINDING-UP AND DISSOLUTION**

**68. Winding-Up**

68.1 If the Company shall be wound up the liquidator shall apply the assets of the Company in satisfaction of creditors' claims in such manner as he thinks fit.

68.2 The assets available for distribution among the Members shall then be applied in the following priority:

(a) first, in the payment to the holders of each class of Shares and the Management Shares of a sum equal to the par value of the Shares of such class and the Management Shares held by such persons respectively, provided that there are sufficient assets available to enable such payment to be made; and

(b) second, in the payment to the holders of each class of Shares of any balance then remaining, such payment being made in proportion to the number and Net Asset Value of Shares of the relevant class held.





68.3 If the Company shall be wound up (whether the liquidation is voluntary or by or under the supervision of the Court) the liquidator may, with the authority of a resolution passed in general meeting, divide among the Members in specie the whole or any part of the assets of the Company, and whether or not the assets shall consist of property of one kind or shall consist of properties of different kind, and he may for such purposes set such value as he deems fair upon any one or more class or classes of property, and may determine how such division shall be carried out as between the Members or different classes of Members. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trust for the benefit of Members as the liquidator, with the like authority, shall think fit, and the liquidation of the Company may be closed and the Company dissolved, but so that no Member shall be compelled to accept any shares in respect of which there is a liability.

## 69. FATCA

69.1 Where the Company is or may become subject to any withholding(s) under FATCA, as a result of the failure of a Member to provide the Company with the necessary information to avoid such withholding(s), the Company may take any action or pursue any available remedy whether legal or equitable, in the sole discretion of the Directors, in relation to such Member to ensure that such withholding is economically borne by the relevant Member.

69.2 In order to comply with FATCA and if necessary, to reduce any risk that the Company or Members are subject to withholding taxes pursuant to FATCA or incur any costs or liabilities associated with FATCA, the Directors acting in their sole discretion, may undertake any of the following actions: including, but not limited to:

- (a) compulsorily redeem any or all of the Shares held by a Member either (a) where the Member fails to provide (in a timely manner) to the Company, or any agent or delegate of the Company, including but not limited to, the AIFM or the Portfolio Manager, any information requested by the Company or such agent or delegate pursuant to FATCA; or (b) where there has otherwise been non-compliance by the Member with FATCA whether caused, directly or indirectly, by the action or inaction of such Member, or any related person, or otherwise;
- (b) deduct from, or hold back, compulsory redemption or repurchase proceeds, or dividend payments, in order to:
  - (i) comply with any requirement to apply and collect withholding tax pursuant to FATCA;



- (ii) allocate to a Member an amount equal to any withholding tax imposed on the Company as a result of the Member's, or any related person's action or inaction (direct or indirect), or where there has otherwise been non-compliance by the Company with FATCA;
  - (iii) ensure that any FATCA related withholding, fines, interest, penalties, costs, debts, expenses, obligations, losses or liabilities (whether external, or internal, to the Company) are recovered from the Member(s) whose action or inaction (directly or indirectly, including the action or inaction of any person related to such Member) gave rise or contributed to such costs or liabilities;
- (c) in order to give effect to the requirements imposed upon the Company by FATCA, the Directors may:
- (i) create separate classes and/or series of Shares ("FATCA Shares"), with such rights and terms as the Directors may in its sole discretion determine, and following the compulsory redemption of some or all of a Member's Shares may immediately apply such redemption proceeds in subscribing for such number of FATCA Shares as the Directors determines; and/or
  - (ii) re-name any number of Shares (whether issued or unissued) as FATCA Shares, create a separate account with respect to such FATCA Shares and apply any FATCA related costs, debts, expenses, obligations or liabilities (whether external, or internal, to the Company) to such separate account; and/or
  - (iii) allocate any FATCA costs, debts, expenses, obligations, liabilities or withholding tax among separate accounts on a basis determined solely by the Directors; and/or
  - (iv) adjust the Net Asset Value per Share of any relevant Shares (including any FATCA Share).

69.3 Notwithstanding any other clause of these Articles, in order to comply with FATCA, the Directors shall be entitled to release and/or disclose on behalf of the Company to the Cayman Islands Tax Information Authority or equivalent authority and any other foreign government body as required by FATCA, any information in its or its agents' or delegates' possession regarding a Member including, without limitation, financial information concerning the Member's investment in the Company, and any information relating to any shareholders, principals, partners, beneficial owners (direct or indirect) or controlling persons (direct or indirect) of such Member. The Company may also authorise any third



party agent, including but not limited to, the AIFM or the Portfolio Manager, to release and/or disclose such information on behalf of the Company.

## CHANGES TO CONSTITUTION

### 70. Changes to Articles

Subject to the Law and to the conditions contained in its Memorandum, the Company may, by Special Resolution, alter or add to its Articles.

### 71. Changes to the Memorandum of Association

Subject to the Law and these Articles, the Company may from time to time by Special Resolution alter its Memorandum with respect to any objects, powers or other matters specified therein.

### 72. Discontinuance

The Board may exercise all the powers of the Company to transfer by way of continuation the Company to a named country or jurisdiction outside the Cayman Islands pursuant to the Law.

