

Company Number: 1483801



**TERRITORY OF THE BRITISH VIRGIN ISLANDS**

**THE BVI BUSINESS COMPANIES ACT**

**AMENDED AND RESTATED**

**MEMORANDUM OF ASSOCIATION**

**AND**

**ARTICLES OF ASSOCIATION**

**OF**

**FIX PRICE GROUP LTD**

**(formerly Meridan Management Ltd)**

**Incorporated on the 26<sup>th</sup> day of May 2008**

**Amended and Restated on the 29<sup>th</sup> day of July 2016**

**Amended and Restated on the 29<sup>th</sup> day of December 2016**

**Amended and Restated on the 4<sup>th</sup> day of July 2017**

**Amended and Restated on the 18<sup>th</sup> day of November 2020**

**Amended and Restated on the 20<sup>th</sup> day of November 2020**

**Amended and Restated on the 26<sup>th</sup> day of February 2021**

**Amended and Restated on the 9<sup>th</sup> day of March 2021**

**Conyers Trust Company (BVI) Limited**

Commerce House

Wickhams Cay 1

Road Town

Tortola VG1110

British Virgin Islands

**Territory of the British Virgin Islands**

**The BVI Business Companies Act**

**Memorandum of association**

**of**

**Fix Price Group Ltd**

**A company limited by shares**

**1 Name**

The name of the Company is Fix Price Group Ltd.

**2 Type of Company**

The Company is a company limited by shares.

**3 Registered office and Registered Agent**

3.1 The first registered office of the Company is at Craigmuir Chambers, Road Town, Tortola, British Virgin Islands, the office of the first registered agent.

3.2 The first registered agent of the Company is Harneys Corporate Services Limited of Craigmuir Chambers, P.O. Box 71, Road Town, Tortola, British Virgin Islands.

3.3 The Company may by Resolution of Directors or a Resolution of Members change the location of its registered office or change its registered agent.

3.4 Any change of registered office or registered agent will take effect upon the Registrar of Corporate Affairs registering a notice of change filed under section 92 of the Act.

**4 Capacity and power**

4.1 The Company has, subject to the Act and any other British Virgin Islands legislation for the time being in force, irrespective of corporate benefit:

(a) full capacity to carry on or undertake any business or activity, do any act or enter into any transaction; and

(b) for the purposes of paragraph (a), full rights, powers and privileges.

4.2 There are no limitations on the business that the Company may carry on.

## **5 Number and classes of shares**

The Company is authorised to issue an unlimited number of ordinary shares of no par value (**Shares**).

## **6 Designations, powers and preferences of shares**

6.1 Each Share in the Company confers upon the Member:

- (a) the right to one vote at a meeting of the Members of the Company or on any Resolution of Members;
- (b) the right to an equal share in any dividend paid by the Company; and
- (c) the right to an equal share in the distribution of the surplus assets of the Company on its liquidation.

6.2 The directors may at their discretion by Resolution of Directors redeem, purchase or otherwise acquire all or any of the Shares subject to Regulation 10 of the Articles.

## **7 Variation of rights**

The rights attached to Shares as specified in Clause 6 may only, whether or not the Company is being wound up, be varied with the consent in writing of the holders of a simple majority of the issued Shares or with the sanction of a resolution passed by a simple majority of the votes cast at a separate meeting of the holders of the Shares.

## **8 Rights not varied by the issue of shares *pari passu***

The rights conferred upon the holders of the Shares shall not be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith or in priority thereto.

## **9 Registered shares**

9.1 The Company shall issue registered shares only.

9.2 The Company is not authorised to issue bearer shares, convert registered shares to bearer shares or exchange registered shares for bearer shares.

## **10 Transfer of shares**

The Company shall, upon receipt of an instrument of transfer complying with Regulation 5 of the Articles, enter the name of the transferee of a Share in the register of members unless the directors resolve to refuse or delay the registration of the transfer in compliance with the Articles.

## 11 Amendment of memorandum and articles:

11.1 The Company may amend its Memorandum or Articles by:

- (a) a Resolution of Members; or
- (b) a Resolution of Directors, save that no amendment may be made by a Resolution of Directors:
  - (i) to restrict the rights or powers of the Members to amend the Memorandum or Articles;
  - (ii) to change the percentage of Members required to pass a Resolution of Members to amend the Memorandum or Articles; and/or
  - (iii) in circumstances where the Memorandum or Articles cannot be amended by the Members.

## 12 Definitions and interpretation

12.1 In this Memorandum of Association and the Articles, if not inconsistent with the subject or context:

**Act** means the BVI Business Companies Act, 2004, including any amendments, modifications, extensions, re-enactments or renewals thereto or thereof and any regulations made thereunder;

**Affiliate** means any person that, directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with another person;

**Articles** means the Articles of Association of the Company;

**Board** means the board of directors of the Company;

**Chairman of the Board** has the meaning specified in Regulation 16.8;

**Control** means in relation to any person, the possession, directly or indirectly, of: (a) the power to direct, or cause the direction of, the management and policies of that person; or (b) such securities (or other rights) as confer on the holder thereof the right to exercise in excess of fifty per cent. (50%) in number of all votes exercisable in a general meeting or similar body of all the members or equivalent stakeholders of such person (and **Controls** and **Controlled** shall have a corresponding meaning);

**defaulters** has the meaning specified in Regulation 6.3(e);

**default Shares** has the meaning specified in Regulation 6.3(e)(i);

**Distribution** in relation to a distribution by the Company means the direct or indirect transfer of an asset, other than Shares, to or for the benefit of a Member or the incurring of a debt to or for the benefit of the Member, in each case in relation to Shares held by a Member, or the entitlements to distributions of a Member who is not a shareholder, and whether by means of a purchase of an asset, the purchase, redemption or other acquisition of Shares, a transfer of indebtedness or otherwise, and includes a dividend;

**Drag Along Notice** has the meaning specified in Regulation 7.1;

**Eligible Person** means individuals, corporations, trusts, the estates of deceased individuals, partnerships and unincorporated associations of persons;

**Exempted Transaction** means (a) any Transfer of Shares to any Founder Party from any other Founder Party; (b) any acquisition of an interest in Shares (including, without limitation, by means of entry into a voting arrangement) by a Founder Party from any other Founder Party; and (c) any Transfer or issue of Shares to any Founder Party or any acquisition of interest in Shares (including, without limitation, by means of entry into a voting arrangement) by a Founder Party, provided that, prior to such Transfer, issue or acquisition, such Founder Party has an interest in Shares that (taken together with the interests in Shares held by all other Founder Parties) carries fifty per cent. (50%) or more of the voting rights in the Company;

**Fair Value** means, in respect of any transaction or series of transactions: (i) the total amount of any cash consideration payable in connection with such transaction or series of transactions; and/or (ii) where some or all of the consideration for such transaction or series of transactions is in the form of non-cash consideration, the fair market value of such non-cash consideration, as determined by the Independent Committee in their sole discretion or by any advisor, appraiser or valuer as may be appointed by the Independent Committee from time to time;

**Founder Party** means Artem Khachatryan (a founder of the Company), Sergey Lomakin (a founder of the Company), Luncor Overseas S.A. (a company incorporated in the British Virgin Islands), SBP Foundation (a foundation formed in the Principality of Liechtenstein), LF Group DMCC (a company incorporated in the United Arab Emirates), Eristelon Holdings Ltd (a company incorporated in the British Virgin Islands) and any entity Controlled, individually or jointly, by any of the foregoing;

**Holder** means any person with an interest in Shares;

**Independent Committee** has the meaning specified in Regulation 17.1;

**Independent Director** has the meaning specified in Regulation 13.2(a);

**interest(s) in Share(s)** shall have the meaning given in the UK Takeover Code, and shall include depository receipts relating to Shares, and option rights relating to Shares or other interests in Shares;

**London Stock Exchange** means the London Stock Exchange plc or any successor body carrying on its functions;

**Member** means an Eligible Person whose name is entered in the register of members of the Company as the holder of one or more Shares or fractional Shares;

**Memorandum** means this Memorandum of Association of the Company;

**Moscow Exchange MICEX-RTS** means OJSC "Moscow Exchange MICEX-RTS" or any successor body carrying on its functions;

**Offer** has the meaning specified in Regulation 6.1;

**Registrar of Corporate of Affairs** means the Registrar of Corporate Affairs of the British Virgin Islands;

**relevant system** means a relevant system as defined in the Uncertificated Securities Regulations 2001 (SI 2001/3755) of the United Kingdom, including for the avoidance of doubt the CREST system of the United Kingdom;

**Related Party Transaction** has the meaning given to that term in Chapter 11 of the Listing Rules published by the Financial Conduct Authority of the United Kingdom;

**Resolution of Directors** means either: (a) a resolution approved at a duly convened and constituted meeting of directors of the Company or of a committee of directors of the Company by the affirmative vote of a majority of the directors present at the meeting; or (b) a resolution consented to in writing by a majority of of the directors for the time being or by a majority of members for the time being of a committee of directors of the Company, as the case may be;

**Resolution of Members** means either: (a) a resolution approved at a duly convened and constituted meeting of the Members of the Company by the affirmative vote of a majority of the votes of the Shares entitled to vote thereon which were present at the meeting and were voted; or (b) a resolution consented to in writing by Members holding a majority of the votes of Shares entitled to vote thereon;

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

**Securities** means Shares and debt obligations of every kind of the Company, and includes, without limitation, options, warrants and rights to acquire Shares or debt obligations;

**Stock Exchange** means the London Stock Exchange, the Moscow Exchange MICEX-RTS and/or such other exchange(s) or any successor body carrying on its functions as to which the Board has approved the admission to trading, or listing, of Shares or other Securities;

**Suspension Notice** has the meaning specified in Regulation 6.3(e);

**Transfer** means (i) a transfer, conveyance, sale, contribution or assignment of any legal or beneficial interest; (ii) the creation of any direct or indirect economic or derivative interest (or any analogous interest) of any nature whatsoever, whether conditional or not; (iii) creating or permitting a lien; and/or (iv) a transfer by law, transmission or settlement as a result of an individual's death, incapacity, bankruptcy or analogous insolvency proceedings in any jurisdiction applicable to such individual;

**Treasury Share** means a Share that was previously issued but was repurchased, redeemed or otherwise acquired by the Company and not cancelled in accordance with the Act;

**UK Companies Act** means the Companies Act 2006 of the United Kingdom, including any amendments, modifications, extensions, re-enactments or renewals thereto or thereof and any regulations made thereunder;

**UK Corporate Governance Code** means the UK Corporate Governance Code 2018 published by the United Kingdom Financial Reporting Council, as amended, modified updated and supplemented from time to time;

**UK Takeover Code** means the City Code on Takeovers and Mergers of the United Kingdom; and

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

12.2 In the Memorandum and the Articles, unless the context otherwise requires a reference to:

- (a) a **Regulation** is a reference to a regulation of the Articles;
- (b) a **Clause** is a reference to a clause of the Memorandum;
- (c) voting by Member is a reference to the casting of the votes attached to the Shares held by the Member voting;
- (d) the Act, the Memorandum or the Articles is a reference to the Act or those documents as amended;
- (e) the *ejusdem generis* rule of construction shall not apply and any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be

construed as illustrative and shall not limit the sense of the words preceding those terms;

- (f) the singular includes the plural and vice versa; and
- (g) where the context so requires, all references to Shares shall be construed as references to Shares and any securities representing interests in Shares.

12.3 Any words or expressions defined in the Act unless the context otherwise requires bear the same meaning in the Memorandum and Articles unless otherwise defined herein.

12.4 Headings are inserted for convenience only and shall be disregarded in interpreting the Memorandum and Articles.

Signed for HARNEYS CORPORATE SERVICES LIMITED of Craigmuir Chambers, Road Town, Tortola, British Virgin Islands for the purpose of incorporating a BVI Business Company under the laws of the British Virgin Islands on 26 May 2008:

Incorporator

Sgd. Andrew Swapp  
Andrew Swapp  
Authorised Signatory  
HARNEYS CORPORATE SERVICES LIMITED





**Territory of the British Virgin Islands**

**The BVI Business Companies Act**

**Articles of Association**

**of**

**Fix Price Group Ltd.**

**A company limited by shares**

**1 Registered Shares**

- 1.1 Save if it is requested to issue a certificate to a depository (or its nominee), the Company shall not issue certificates in respect of Shares, but any Member may request the Company to provide such Member with an extract from the register of members showing that Member's shareholding. If a depository (or its nominee) does require the Company to issue a Share certificate, such certificate shall be issued under the Company's seal alone (without signature) or as otherwise approved by the Board.
- 1.2 If several Eligible Persons are registered as joint holders of any Shares, any one of such Eligible Persons may give an effectual receipt for any Distribution.
- 1.3 The Company shall keep a register (the **register of members**) containing:
- (a) the names and addresses of the persons who hold Shares;
  - (b) the number of Shares held by each Member;
  - (c) the date on which the name of each Member was entered in the register of members; and
  - (d) the date on which any Eligible Person ceased to be a Member.
- 1.4 The register of members may be in any such form as the directors may approve, but if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents. Until the directors otherwise determine, the magnetic, electronic or other data storage form shall be the original register of members.
- 1.5 The register of members shall not be maintained in the United Kingdom.

**2 Depository Interests**

- 2.1 The directors shall, subject always to applicable law and regulation and the facilities and requirements of any relevant system and these Articles, have the power to implement and/or approve any arrangements they may, in their absolute discretion, think fit in relation to

(without limitation) the evidencing of title to and transfer of interests in Shares in the form of depository receipts or interests or similar interests, instruments or securities, and to the extent such arrangements are so implemented (but subject always to applicable law), no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with the holding or transfer of such interests pursuant to such arrangements. Subject to applicable law and regulation and the requirements of any relevant system, the directors may from time to time take such actions and do such things as they may, in their absolute discretion, think fit in relation to the operation of any such arrangements.

- 2.2 Subject always to the Act and any other applicable laws and regulations and the facilities and requirements of any relevant system concerned and these Articles, the Board may from time to time take such actions and do such things as they may, in their discretion, think fit in relation to the operation of any such arrangements, including, without limitation, treating holders of any depository interests or similar interests relating to Shares as if they were the holders directly thereof for the purposes of compliance with any obligations imposed by these Articles. Without limitation to the foregoing, the Board may, subject to applicable law and the requirements of any relevant system approve arrangements with the Depository that allow the holders of depository interests to direct the Depository to vote and otherwise exercise the rights of the underlying shares represented by those depository interests.
- 2.3 Shares held by the Depository and/or which are subject to a relevant system shall not be regarded as forming a separate class from shares of that class.

### **3 Share issuance and authorised shares**

- 3.1 Shares and other Securities may be offered, issued and/or allotted, and options to acquire Shares or other Securities may be granted at such times, to such Eligible Persons, for such consideration and on such terms as the directors may by Resolution of Directors determine. Without limitation to the foregoing, the Board may (i) offer, allot, issue or grant options, warrants or other rights over shares; (ii) grant restricted share units, phantom awards, share appreciation rights and other equity awards and interests; (iii) otherwise dispose of the shares and equity interests of the Company, in each case to such persons, at such times, for such consideration (which may be money or otherwise) and upon such other terms and conditions as the Company may by Resolution of Directors determine. Without limitation to the foregoing, the Board may issue shares and other equity interests subject to such contractual restrictions and limitations as is agreed with the relevant Member, which contractual restrictions and limitations shall be enforceable by the Company against such Member in accordance with their terms.
- 3.2 Section 46 of the Act (*Pre-emptive rights*) does not apply to the Company.
- 3.3 A Share may be issued for consideration in any form, including money, a promissory note, real property, personal property (including goodwill and know-how), services rendered or a contract for future services.

- 3.4 No Shares may be issued for a consideration other than money, unless a Resolution of Directors has been passed stating:
- (a) the amount to be credited for the issue of the Shares; and
  - (b) that, in their opinion, the present cash value of the non-money consideration and money consideration, if any, is not less than the amount to be credited for the issue of the Shares.
- 3.5 A Share is deemed to be issued when the name of the Member is entered in the register of members in respect thereof.
- 3.6 The Company may from time to time by Resolution of Directors, and without prior notice to or obtaining the approval of any Member, amend the Memorandum and these Articles to authorise the issuance by the Company of any additional class or classes of shares with or without par value (each an **Additional Class of Shares**) and specify the rights, privileges, restrictions and conditions attaching to each such Additional Class of Shares, as the Board may determine in their sole and absolute discretion. Without limitation to the foregoing, the Board may by Resolution of Directors determine (a) the number of shares constituting an Additional Class of Shares and the distinctive designation of that class; (b) the dividend and other distribution rights of the Additional Class of Shares and, if applicable, the preference rate and/or coupon and priority of distributions; (c) whether the Additional Class of Shares shall have voting rights and, if so, the terms and conditions of such voting rights, including, without limitation, the number of votes they have per share and whether they shall vote separately or together as a single class with the Shares and/or any other class or classes of shares; (d) whether the Additional Class of Shares shall have conversion and/or exchange rights and privileges and, if so, the terms and conditions of such conversion and/or exchange; (e) whether the Additional Class of Shares shall be redeemable and, if so, the terms and conditions of such redemption; (f) whether the Additional Class of Shares shall impose conditions and restrictions upon the business and affairs of the Company and/or any of its subsidiaries or the right to approve and/or veto certain matters; (g) the rights of the shares of that Additional Class of Shares in the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, including, without limitation, any liquidation preference; and (h) any other relative, participating, optional or other special rights, privileges, powers, qualifications, limitations or restrictions of that Additional Class of Shares, including, without limitation, any right to appoint and/or remove one or more directors of the Company. The authorisation and issuance by the Company of any Additional Class of Shares and any attendant amendments to this Memorandum and the Articles shall be deemed not to constitute a variation of any class rights attaching to the Shares or any other class or classes of shares of the Company then in issue. No Resolution of Members or other approval of the Members or any one of them shall be required for such authorisation and issuance or the attendant amendments to the Memorandum and the Articles.

## **4 Forfeiture**

- 4.1 Shares that are not fully paid on issue are subject to the forfeiture provisions set forth in this Regulation.
- 4.2 A written notice of call specifying the date for payment to be made shall be served on any Member who defaults in making payment in respect of Shares provided that such notice shall not be made where the relevant Member is providing services in accordance with a contract for future services entered into as consideration for the issuance of the relevant Shares to that Member.
- 4.3 The written notice of call referred to in Regulation 4.2 shall name a further date not earlier than the expiration of 14 calendar days from the date of service of the notice on or before which the payment required by the notice is to be made and shall contain a statement that in the event of non-payment at or before the time named in the notice the Shares, or any of them, in respect of which payment is not made will be liable to be forfeited.
- 4.4 Where a written notice of call has been issued pursuant to Regulation 4.2 and the requirements of the notice have not been complied with, the directors may, at any time before tender of payment, forfeit and cancel the Shares to which the notice relates.
- 4.5 The Company is under no obligation to refund any moneys to a Member whose Shares have been cancelled pursuant to Regulation 4.4 and that Member shall be discharged from any further obligation to the Company.

## **5 Transfer of Shares**

- 5.1 Shares may be transferred by a written instrument of transfer signed by the transferor and containing the name and address of the transferee, which shall be sent to the Company for registration.
- 5.2 The Board may, in their absolute discretion, refuse to register the transfer of a Share that is not a fully paid Share provided that exercise of such powers does not prevent dealings in partly paid or nil paid Shares generally or disturb the market in the Shares.
- 5.3 The Board may, subject to the rules of any relevant system, refuse to register a transfer of Shares (whether fully paid or not) in favour of more than four persons jointly or made to or by an infant or a person who has been declared legally incompetent.
- 5.4 The transfer of a Share is effective when the name of the transferee is entered on the register of members in respect thereof.
- 5.5 The register of members may be closed at such times and for such periods as the Board may from time to time determine, not exceeding in whole 30 days in each year, upon notice being given as may be required by the Act and the rules or practice of the relevant Stock Exchange(s).

5.6 If the directors of the Company are satisfied that an instrument of transfer relating to Shares has been signed but that the instrument has been lost or destroyed, they may resolve by Resolution of Directors:

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

5.7 Subject to the Memorandum, the personal representative, executor or administrator of a deceased Member, the guardian of an incompetent Member or the trustee of a bankrupt Member shall be recognised by the Company as entitled to exercise such Member's rights as a member of the Company (including to transfer Shares) on behalf of that Member or deceased Member provided that they provide to the Board such evidence as the Board may request as to their due appointment as such in the relevant competent jurisdiction.

## 6 Mandatory Tender Offer

6.1 Save in respect of any Exempted Transaction or as otherwise provided below:

- (a) no Transfer or issue of Shares shall be registered by the Company; and
- (b) no person may acquire an interest in Shares (including by means of entry into a voting arrangement with another Holder),

if the result of such Transfer, issue or acquisition would be that the proposed acquirer (taken together with any person acting in concert with him, but (without prejudice to Regulation 6.4 below) excluding always any depository holding legal title to Shares for the purposes of the issuance of depository receipts), would have an interest(s) in Shares that would together carry:

- (i) thirty per cent. (30%) or more of the voting rights in the Company; or
- (ii) where such proposed acquirer (taken together with any person acting in concert with him) already has an interest(s) in Shares that together carry thirty per cent. (30%) or more, but not more than fifty per cent. (50%) of the voting rights in the Company, more than such existing voting rights,

unless such proposed acquirer has made or simultaneously makes an offer to all Members to purchase all such Members' Shares (the **Offer**). For the purposes of Regulation 6.1, (A) the total "voting rights in the Company" shall be calculated excluding Shares held by the Company or any subsidiary thereof; and (B) for the avoidance of doubt, the proposed acquirer shall not be deemed to have an interest(s) in Shares solely as a result of receiving an irrevocable commitment to accept an Offer or otherwise to vote in favour of a merger, combination, scheme of arrangement or plan of arrangement pursuant to which the proposed acquirer would acquire Control of the Company.

- 6.2 Regulation 6.1 shall not apply to an Exempted Transaction.
- 6.3 The following provisions shall apply in respect of the requirement to make an Offer in Regulation 6.1:
- (a) Unless otherwise approved by Independent Committee, the Offer, if conditioned, must be conditional only on:
    - (i) the proposed acquirer (taken together with any person acting in concert with him) receiving acceptances of the Offer in respect of interests in such number of Shares that the settlement of such acceptances would result in the proposed acquirer together with any person acting in concert with him having more than fifty per cent. (50%) of the voting rights in the Company; upon such acceptances having been received the Offer will become wholly unconditional, and the proposed acquirer must announce that such has occurred (specifying the number of Shares in respect of which it has received such acceptances, and the percentage the proposed acquirer's total interests in Shares represent of the total number of issued Shares); and/or
    - (ii) regulatory filings or approvals that are required by law or regulation as a precondition to the consummation of the Offer, subject to the prior approval of the Board.
  - (b) The Offer must be made on the same terms to all holders of Shares (other than the offeror itself). The price per Share of the Offer shall be in cash and at not less than the highest price paid by such proposed acquirer (or by any person determined by the Board to be acting in concert with him) (or the cash equivalent, as determined by the Independent Committee, of any non-cash consideration transferred or paid by such acquirer or any such person) for any interest in Shares in the 12 months immediately preceding the date of the Offer or during the offer period (but, for the avoidance of doubt, ignoring any price payable pursuant to section 179 of the Act), subject to such adjustment and/or determination by the Independent Committee as the Independent Committee may determine is fair and reasonable in the circumstances.
  - (c) Offers made under this Regulation must be made in writing and announced, and must be open for acceptance for a period of not less than 21 calendar days from the making of the Offer (and, where the Offer becomes unconditional, must remain open for acceptance for not less than 14 calendar days after the date on which it would otherwise have expired). The Offer may not become unconditional more than 60 calendar days after the date that it is made, unless the Independent Committee otherwise agrees, and the expiry of an Offer must be announced by the proposed acquirer.
  - (d) An Offer shall not be required under this Regulation 6 solely as a result of a person's interest in Shares bearing an increased percentage of the voting rights in the

Company due to a Share repurchase, redemption or other acquisition by the Company or any subsidiary thereof or any surrender of shares to the Company (in each case whether such Shares are subsequently held in treasury or cancelled) being effected.

(e) If at any time the Board or Independent Committee is satisfied that any Holder is or was required by Regulation 6.1 to extend an Offer to the holders of all issued Shares but has failed to do so or has not acted in accordance with any other provision of Regulation 6 or Regulation 8 (including to provide information requested by the Board pursuant to Regulation 6.5 or to ascertain compliance with this Regulation 6 or Regulation 8), then the Board may, within 21 days of being so satisfied, by notice (a **Suspension Notice**) to such Holder and any other Holder acting in concert with such Holder (together the **defaulters**) or to any depository through which interests in such Shares are held, direct that:

- (i) the defaulters shall not be entitled to vote (or direct the voting of) the Shares the acquisition of interests in which should not have been registered or effected without an offer being made under this Regulation 6 or (in case of any other breach) such of the Shares in which they have interests as the Board may determine (the **default Shares**) (whether by written resolution or at a general meeting either personally or by proxy) or to exercise any other right conferred by membership in the Company in relation to such default Shares;
- (ii) except in a liquidation of the Company, no payment shall be made of any sums due from the Company on the default Shares, whether in respect of capital or dividend or otherwise, and the Company shall not meet any liability to pay interest on any such payment when it is paid to the Members;
- (iii) no other Distribution shall be made in respect of the default Shares; and
- (iv) the defaulters may not transfer any of the default Shares or any interest therein unless such is (x) pursuant to acceptance of an Offer or (y) a transfer which the Board is satisfied is a bona fide sale of the whole of the beneficial ownership of the relevant defaulter's interest in the default Shares to a party unconnected with any defaulter,

and the rights attaching to any default Shares shall be suspended and/or modified accordingly, and such default Shares shall be subject to such additional restrictions, as set out in this Regulation, for so long as the Suspension Notice in respect of those default Shares remains in effect, irrespective of whether the Holder in question is a Member. The Board shall only be entitled to withdraw a Suspension Notice (A) if satisfied that neither the relevant Holder nor any person acting in concert with it has any interest in the default Shares, (B) if approved in advance by Resolution of the Members

(excluding the defaulters), (C) where the Suspension Notice was given in respect of a failure to extend an Offer where so required, if an Offer has been made in accordance (save as to timing) with this Regulation 6 and/or (d) where the Suspension Notice was given in respect of any other breach, such breach is remedied.

- 6.4 For the purposes of Regulations 6, 7 and 8, the terms “acting in concert” and “offer period” and “interest(s) in Share(s)” shall have the meaning given in the UK Takeover Code, as amended from time to time, and a person who acquires an interest in depository receipts relating to Shares shall be taken for the purpose of these Regulations to have acquired an interest in the underlying Shares (and the depository holding legal title to the underlying Shares shall not be deemed to have acquired such Shares by reason of holding them for the purposes of the issuance of depository receipts). Further, and for the avoidance of doubt and without prejudice to the above, the term “interest(s) in Share(s)” includes depository receipts relating to Shares, and option rights relating to Shares or other interests in Shares (including depository receipts relating to Shares).
- 6.5 The Board and any Independent Committee shall have the power to require Members and Holders (or those it has reasonable grounds to suspect are Holders) to provide it within 14 calendar days of request with such information (and corroborating evidence and documentation) as it may require in connection with this Regulation 6 and Regulation 8 (including to determine whether a person has an interest in Shares and/or is acting in concert with another person and to establish what percentage of the voting rights in the Company are held by that person and those acting in concert with him and/or to determine whether there is an Exempted Transaction, and including any information which would be required to be provided pursuant to a notice served in accordance with section 793 of the UK Companies Act). This power is without prejudice to the obligations of Members and Holders pursuant to Regulation 8. The Company may make requests under this Regulation to Holders via the depository for any relevant Share deposit programme.
- 6.6 The Independent Committee shall have full power, authority and discretion to interpret and implement this Regulation 6 and to waive part or full compliance with the same and to condition any such waiver as it sees fit (including, without limitation, by requiring Member approvals as a condition to a waiver), provided that all Members and Holders of the same class must be afforded equivalent treatment. Each decision of the Independent Committee shall be final and non-appealable. The Independent Committee shall (unless it reasonably resolves otherwise in light of the relevant prevailing facts and circumstances) have reference to the published notes, guidance and practice statements relating to the UK Takeover Code (and the precedent practice of the Panel, Executive, Appeal Board and each of the other advisory, interpretive or decision-making bodies referred to in the UK Takeover Code, and their respective committees) when acting in relation to this Regulation 6. Since this Regulation 6 is for the benefit of the Company and the Members and Holders as a whole, the Board shall (in the absence of fraud, gross negligence or wilful misconduct) have no liability to any Member, any person who has any interest in Shares, or any other person for the



manner in which they exercise or refrain from exercising any powers or discretions under this Regulation 6 or for any determination which the Board makes (in good faith) as to the application of the provisions of this Regulation 6 to any particular circumstances.

## **7 Squeeze-out**

- 7.1 If the proposed acquirer (taken together with any person acting in concert with him), pursuant to acceptances of an Offer (whether made pursuant to Regulation 6.1 or otherwise), has acquired or has contracted to acquire an interest(s) in Shares that would together with any other Shares or interests in Shares held by the proposed acquirer (or persons acting in concert with it) carry ninety per cent. (90%) or more of the voting rights in the Company, the proposed acquirer may give irrevocable notice (a **Drag Along Notice**) to all other Members requiring such other Members to accept the Offer, and such other Members (and any person which becomes a Member following delivery of such Drag Along Notice pursuant to the exercise of a pre-existing option or right to acquire Shares, who shall be deemed to have been delivered the Drag Along Notice immediately upon becoming a Member) shall be deemed to have accepted such Offer and shall accordingly be obliged to transfer their Shares (and deliver executed instruments of transfer) at the same time as the other Shares sold under the Offer (or, if later, seven calendar days after the date of the Drag Along Notice being given or deemed delivered). For the avoidance of doubt Section 176 and Section 179 of the Act shall apply to the Company in addition to the provisions of this Regulation 7.1, and this Regulation 7.1 is without prejudice to the same.
- 7.2 If any Member does not on completion of the sale of any Shares pursuant to this Regulation 7 execute transfer(s) in respect of all the Shares in respect of which that Member accepted, or was deemed to have accepted, an Offer, that Member shall be deemed to have irrevocably appointed the Company to be his agent and attorney to execute all necessary transfer(s) on his behalf and against receipt by the Company (on trust for such Member) of the purchase monies or any other consideration payable for the relevant Shares deliver such transfer(s) to the proposed acquirer (or as it may direct) and the Board shall forthwith register the proposed acquirer (or its nominee) as the holder thereof and, after the proposed acquirer (or its nominee) has been registered as the holder, the validity of such proceedings shall not be questioned by any such person.

## **8 Disclosure Requirements**

- 8.1 Any person who, at any time, owns, holds or has interest(s) in Shares (directly or indirectly) representing five per cent. (5%) or more of the Shares outstanding from time to time is required:
- (a) to notify the Company of the number of Securities held by such Member;
  - (b) to notify the Company of any increases or decreases in the percentage of Shares held or owned by such Member (or in which such Member is interested) of one per cent (1%) or more; and

- (c) to give such further information as may be required in accordance with Regulation 8.3.
- 8.2 The Company may, by notice in writing (a **Disclosure Notice**), require a person whom the Company knows to be or has reasonable cause to believe is or, at any time during the 3 (three) years immediately preceding the date on which the Disclosure Notice is issued, to have been interested in shares:
- (a) to confirm that fact or (as the case may be) to indicate whether or not it is the case; and
- (b) to give such further information as may be required in accordance with Regulation 8.3.
- 8.3 A Disclosure Notice may (without limitation) require the person to whom it is addressed:
- (a) to give particulars of his status, domicile, nationality and residency;
- (b) to give particulars of his own past or present interest in any shares (held by him at any time during the 3 (three) year period specified in Regulation 8.1);
- (c) to disclose the identity of any other person who has a present interest in the shares held by him;
- (d) where the interest is a present interest and any other interest in any shares subsisted during that 3 (three) year period at any time when his own interest subsisted, to give (so far as is within his knowledge) such particulars with respect to that other interest as may be required by the Disclosure Notice; and
- (e) where his interest is a past interest to give (so far as is within his knowledge) like particulars of the identity of the person who held that interest immediately upon his ceasing to hold it.
- 8.4 Any Disclosure Notice shall require any information in response to such notice to be given within the prescribed period (which is 14 (fourteen) calendar days after service of the notice or 7 (seven) days if the shares concerned represent 0.25 (nought point two five) per cent. or more in number of the issued shares of the relevant class) or such other reasonable period as the Board may determine.
- 8.5 Where the Member on which a Disclosure Notice is served is a Depositary acting in its capacity as such, the obligations of the Depositary as a Member shall be limited to disclosing to the Company such information relating to any person appearing to be interested in the shares held by it, as has been recorded by it pursuant to the arrangements entered into by the Company or approved by the Board pursuant to which it was appointed as a Depositary.
- 8.6 If any Member is in default in supplying to the Company the information required by the Company within the prescribed period or such other reasonable period as the Board determines, Regulation 6.3(e) shall apply.

## **9 Distributions**

- 9.1 The Board may authorise a Distribution (including by way of dividend) at a time and of an amount they think fit if they are satisfied, on reasonable grounds, that, immediately after the Distribution, the value of the Company's assets will exceed its liabilities and the Company will be able to pay its debts as they fall due.
- 9.2 Dividends may be paid in money, debentures, shares, or other property. The Board may make all such valuations, adjustments and arrangements and issue all certificates or documents of title as may seem to it to be expedient with a view to facilitating the Distribution and may vest assets in trustees on trust for the persons entitled to the dividend as may seem to the Board to be expedient. Where any difficulty arises in respect of such Distribution, the Board may settle it as it thinks expedient, and in particular may authorise any person to sell and transfer any fractions or may ignore fractions altogether.
- 9.3 The Company may pay any dividend, interest or other amount payable in cash in respect of any Share by cheque, dividend warrant or money order or by direct debit or a bank or other funds transfer system or by such other method as the holder or joint holders of the Share in respect of which the payment is made may by notice direct. In respect of Shares (or interests in Shares) traded on relevant system(s), the Company may also pay any such dividend, interest or other amount and send electronic tax vouchers in respect of any such dividend interest or other amount by means of the relevant system concerned (subject always to the facilities and requirements of that relevant system). Payment of the cheque, warrant or order, the collection of funds from or transfer of funds by a bank in accordance with such direct debit or bank or other transfer or, in respect of Shares (or interests in Shares) traded on relevant system(s), the making of payment in accordance with the facilities and requirements of the relevant system concerned shall be a good discharge by the Company.
- 9.4 Notice in writing of any dividend that may have been declared shall be given to each Member in accordance with Regulation 27. Every cheque, warrant or order is sent at the risk of the person entitled to the payment and shall be made payable to or to the order of the person or persons entitled or to such other person as the holder or joint holders may by notice direct. All dividends unclaimed for three years after notice shall have been given to a Member may be forfeited by Resolution of Directors for the benefit of the Company.
- 9.5 No dividend shall bear interest as against the Company and no dividend shall be paid on Treasury Shares.
- 9.6 The Board may deduct from any dividend or other amounts payable to a person in respect of a Share, either alone or jointly with any other person, all amounts due from him, either alone or jointly with any other person, to the Company in respect of a Share.

## **10 Repurchase and Redemption of Shares and Treasury Shares**

- 10.1 The Company may purchase, redeem or otherwise acquire and hold its own Shares, save that the Company may not purchase, redeem or otherwise acquire its own Shares without the consent of the Member whose Shares are to be purchased, redeemed or otherwise acquired unless the Company is permitted by the Act or any other provision in the Memorandum or Articles to purchase, redeem or otherwise acquire the Shares without such consent.
- 10.2 A redemption, repurchase or other acquisition of Shares may be (a) in respect of one or more Members and is not required to be pro rata in any respect; (b) may be in respect of all or some of the shares of any Member; (c) may be in respect of only one or certain classes of shares and is not required to be pro rata or in any respect of all classes of shares; and (d) may be effected on one or more occasions.
- 10.3 The purchase, redemption or other acquisition by the Company of its own Shares is deemed not to be a Distribution where:
- (a) the Company purchases, redeems or otherwise acquires the Shares pursuant to a right of a Member to have his Shares redeemed or to have his Shares exchanged for money or other property of the Company, or
  - (b) the Company purchases, redeems or otherwise acquires the Shares by virtue of the provisions of section 176 or 179 of the Act.
- 10.4 Sections 60, 61 and 62 of the Act shall not apply to the Company.
- 10.5 Shares that the Company purchases, redeems or otherwise acquires pursuant to this Regulation may be cancelled or held as Treasury Shares except to the extent that such Shares are in excess of fifty per cent. (50%) of the issued Shares in which case such excess shall be cancelled.
- 10.6 All rights and obligations attaching to a Treasury Share are suspended and shall not be exercised by the Company while it holds the Share as a Treasury Share, and accordingly no dividend or Distribution shall be payable on a Treasury Shares, and for the purposes of voting (including quorum) and the exercise of pre-emption rights Treasury Shares shall be treated as neither in issue nor outstanding.
- 10.7 Treasury Shares may be disposed of by the Company on such terms and conditions (not otherwise inconsistent with the Memorandum and Articles) as the Company may by Resolution of Directors determine.
- 10.8 Where Shares are held by another body corporate of which the Company holds, directly or indirectly, shares having more than fifty per cent. (50%) of the votes in the election of directors of the other body corporate, all rights and obligations attaching to the Shares held by the other body corporate are suspended and shall not be exercised by the other body corporate.

## **11 Mortgages and charges of Shares**

- 11.1 A Member may by an instrument in writing mortgage or charge his Shares.
- 11.2 There shall be entered in the register of members at the written request of the Member:
- (a) a statement that the Shares held by him are mortgaged or charged;
  - (b) the name of the mortgagee or chargee; and
  - (c) the date on which the particulars specified in subparagraphs 11.2(a) and 11.2(b) are entered in the register of members.
- 11.3 Where particulars of a mortgage or charge are entered in the register of members, such particulars may be cancelled:
- (a) with the written consent of the named mortgagee or chargee or anyone authorised to act on his behalf; or
  - (b) upon evidence satisfactory to the directors of the discharge of the liability secured by the mortgage or charge and the issue of such indemnities as the directors shall consider necessary or desirable.
- 11.4 Whilst particulars of a mortgage or charge over Shares are entered in the register of members pursuant to this Regulation, subject at all times to applicable law and/or regulation:
- (a) no transfer of any Share the subject of those particulars shall be effected; and
  - (b) the Company may not purchase, redeem or otherwise acquire any such Share, without the written consent of the named mortgagee or chargee.

## **12 Meetings and consents of Members**

- 12.1 An Annual General Meeting of the Company shall be held in each year in addition to any other meetings which may be held in that year, and such meeting shall be specified as the Annual General Meeting in the notices calling it. Not more than 18 months shall elapse between the date of one Annual General Meeting and the date of the next.
- 12.2 The Board may, by a Resolution of Directors, convene a meeting of the Members at such times and in such manner and places within or outside the British Virgin Islands as the Board considers necessary or desirable.
- 12.3 Upon the written request of a Member or Members entitled to exercise thirty per cent. (30%) or more of the voting rights in respect of the matter for which the meeting is requested the Board shall convene a meeting of Members.

12.4 When convening a meeting of Members, the Board shall give not less than:

- (a) in respect of each Annual General Meeting, 21; and
- (b) in respect of each other meeting of Members, 10,

calendar days' written notice of the meeting to:

- (i) those Members whose names on the date the notice is given appear as Members in the register of members of the Company and are entitled to vote at the meeting; and
- (ii) all directors.

As determined in the reasonable discretion of the Board, materials will be circulated to Members before the relevant meeting.

12.5 The Board, when convening a meeting of Members, may fix as the record date for determining those Members that are entitled to vote at the meeting the date on which notice is given of the meeting, or such other date as may be specified in the notice, being a date not earlier than the date of the notice.

12.6 A meeting of Members held in contravention of the requirement to give notice is valid if Members holding at least ninety per cent. (90%) of the total voting rights on all the matters to be considered at the meeting have waived notice of the meeting and, for this purpose, the presence of a Member at the meeting shall constitute waiver in relation to all the Shares which that Member holds.

12.7 The inadvertent failure of the Board, when it convenes a meeting, to give notice of a meeting to a Member or another director, or the fact that a Member or a director has not received notice, does not invalidate the meeting.

12.8 A Member may be represented at a meeting of Members by a proxy who may speak and vote on behalf of the Member.

12.9 The instrument appointing a proxy shall be produced at the place designated for the meeting before the time for holding the meeting at which the person named in such instrument proposes to vote (and the Board may require any such proxy to be provided to the Company not less than 48 hours prior to the commencement of the relevant meeting, and, if any such requirements is not satisfied, any late-provided proxy may, at the discretion of the chairman of the meeting, be rejected).

12.10 The instrument appointing a proxy shall be in substantially the following form or such other form as the Board shall approve or the chairman of the meeting shall accept as properly evidencing the wishes of the Member appointing the proxy.

[Name of Company]

I/We being a Member of the above Company **hereby appoint** ..... of ..... or failing him ..... of ..... to be my/our proxy to vote for me/us at the meeting of Members to be held on the ..... day of ....., 20[ ] and at any adjournment thereof.

(Any restrictions on voting to be inserted here.)

Signed this ..... day of ....., 20[ ].

.....  
Member

12.11 The following applies where Shares are jointly owned:

- (a) if two or more persons hold Shares jointly each of them may be present in person or by proxy at a meeting of Members and may speak as a Member;
- (b) if only one of the joint owners is present in person or by proxy he may vote on behalf of all joint owners; and
- (c) if two or more of the joint owners are present in person or by proxy they must vote as one and in the event of disagreement between any of the joint owners of Shares then the vote of the joint owner whose name appears first (or earliest) in the register of members in respect of the relevant Shares shall be recorded as the vote attributable to the Shares.

12.12 A Member shall be deemed to be present at a meeting of Members if he participates by telephone or other electronic means and all Members participating in the meeting are able to hear each other.

12.13 If the Board determines it is prudent for the health and safety of any participant, the Board may prohibit Members from physically attending a meeting of Members and only allow attendance to the meeting by telephone or other electronic means (provided all Members participating in the meeting are able to hear each other).

12.14 A meeting of Members is duly constituted if, at the commencement of the meeting, there are present in person or by proxy Members entitled to exercise at least thirty per cent. (30%) of the votes on the matters to be considered at the meeting.

12.15 If within thirty minutes from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to the next calendar day in the jurisdiction in which the meeting was to

have been held at the same time and place, and if at the adjourned meeting a quorum is not present within thirty minutes, the meeting shall be dissolved.

- 12.16 At every meeting of Members, the Chairman of the Board shall preside as chairman of the meeting. If there is no Chairman of the Board or if the Chairman of the Board is not present at the meeting, then the chairman shall be either (a) the person designated by the Chairman of the Board as his nominee for such purposes or any other person approved by the Board; or (b) if there is no Chairman of the Board or no such person has been designated, the Members present shall choose one of their number to be the chairman. If the Members are unable to choose a chairman for any reason, then the person representing the greatest number of voting Shares present in person or by proxy at the meeting shall preside as chairman failing which the person representing the second greatest number of voting Shares present in person or by proxy at the meeting shall preside.
- 12.17 The chairman may, with the consent of the meeting, adjourn any meeting from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. The chairman may, without the consent of the meeting, interrupt or adjourn a meeting from time to time and from place to place or for an indefinite period if he decides that it has become necessary to do so in order to (a) secure the proper and orderly conduct of the meeting; (b) give all persons entitled to do so a reasonable opportunity of speaking and voting at the meeting; or (c) ensure that the business of the meeting is properly dealt with. Whenever a meeting is adjourned for 14 days or more or for an indefinite period, at least seven days' notice, specifying the place, date and time of the adjourned meeting shall be given as in the case of an original meeting.
- 12.18 The chairman shall take such action as he thinks fit to promote the orderly conduct of general meetings. The decision of the chairman on points of order, matters of procedure or arising incidentally out of the business of the meeting shall be final and conclusive, as shall be his determination, in good faith, whether any point or matter is of such a nature.
- 12.19 At any meeting of the Members the chairman is responsible for deciding in such manner as he considers appropriate whether any resolution proposed has been carried or not and the result of his decision shall be announced to the meeting and recorded in the minutes of the meeting. If the chairman has any doubt as to the outcome of the vote on a proposed resolution, or if called upon to do so by a Member present in person or by proxy, he shall cause a poll to be taken of all votes cast upon such resolution. If the chairman fails to take a poll then any Member present in person or by proxy who disputes the announcement by the chairman of the result of any vote may immediately following such announcement demand that a poll be taken and the chairman shall cause a poll to be taken. If a poll is taken at any meeting, the result shall be announced to the meeting and recorded in the minutes of the meeting. On a poll votes may be given in person or by proxy and a Shareholder entitled to more than one vote need not, if he votes, use all of his votes or cast all the votes he uses in the same way.



- 12.20 Subject to the specific provisions contained in this Regulation for the appointment of representatives of Members other than individuals, the right of any individual to speak for or represent a Member shall be determined by the law of the jurisdiction where, and by the documents by which, the Member is constituted or derives its existence. In case of doubt, the directors may in good faith seek legal advice and unless and until a court of competent jurisdiction shall otherwise rule, the directors may rely and act upon such advice without incurring any liability to any Member or the Company.
- 12.21 Any Member other than an individual may by resolution of its directors or other governing body authorise such individual as it thinks fit to act as its representative at any meeting of Members, and the individual so authorised shall be entitled to exercise the same rights on behalf of the Member which he represents as that Member could exercise if it were an individual.
- 12.22 The chairman of any meeting at which a vote is cast by proxy or on behalf of any Member other than an individual may at the meeting but not thereafter call for a notarially certified copy of such proxy or authority which shall be produced within seven calendar days of being so requested or the votes cast by such proxy or on behalf of such Member shall be disregarded.
- 12.23 Directors of the Company may attend and speak but not (in their capacity as directors) vote at any meeting of Members.
- 12.24 An action that may be taken by the Members at a meeting may also be taken by a Resolution of Members consented to in writing, without the need for any prior notice. If any Resolution of Members is adopted otherwise than by the unanimous written consent of all Members, a copy of such resolution shall forthwith be sent to the Company and the Company shall within a reasonable time send a copy of such written resolution to all Members that have not consented to such resolution. The consent may be in the form of counterparts, each counterpart being signed by one or more Members. The resolution shall take effect on the earliest date upon which Members holding a sufficient number of votes of Shares to constitute a Resolution of Members have consented to the resolution in writing.

### **13 Directors**

- 13.1 The number of directors shall be seven (7) or such other number as approved by Resolution of Directors or Resolution of Members.
- 13.2 The Board shall consist of:
- (a) at least three (3) independent directors nominated and elected pursuant to Regulation 13.4 (the **Independent Directors**)

- (b) four (4) directors (or such other number as approved by Resolution of Directors or Resolution of Members) nominated and elected pursuant to Regulations 13.5 and 13.6.
- 13.3 No person shall be elected as a director of the Company unless he has consented in writing to act as a director.
- 13.4 The Independent Directors shall be elected by Resolution of Directors from amongst candidates nominated by the directors and determined by them to be independent, taking into account the indicative criteria for independence set forth in the UK Corporate Governance Code. The Independent Directors shall be elected on such terms (which must include provision for a term of office) as the directors shall specify.
- 13.5 All other directors shall be elected by Resolution of Members or by Resolution of Directors.
- 13.6 Candidates for director may be (a) proposed by the Board, (b) a director putting himself forward for retirement at a meeting of Members and consenting to being proposed for re-election; or (c) a person proposed by one or more Members to be a candidate for director, provided that (i) the proposing Member(s) together hold at least thirty per cent. (30%) of the voting Shares, and (ii) such Member(s) have delivered to the Company (no later than 7, and no earlier than 30, calendar days before the relevant general meeting) (A) a letter signed by such Member(s) stating that they propose such person for election as director, (B) written confirmation from such person that he is willing to be elected, (C) a summary curriculum vitae (containing a summary of relevant experience, as well as address and contact details) for such person, and (D) a certified or notarised copy of such person's passport and evidence of his residential address.
- 13.7 Each director holds office for the term, if any, fixed by the Resolution of Members or Resolution of Directors electing him, or until his earlier death, resignation or removal.
- 13.8 Any director may be removed from office, with or without cause:
- (a) by a Resolution of Members at a meeting of the Members called for the purpose of removing the director or for purposes including the removal of the director; or
- (b) by a Resolution of Directors adopted in accordance with these Articles (provided always that the director subject to a proposed removal may be excluded from any meeting of the directors convened for this purpose).
- 13.9 Notice of a meeting called under Regulation 13.8 shall state that the purpose of the meeting is, or the purposes of the meeting include, the removal of a director.
- 13.10 The office of director shall be vacated if:
- (a) the director shall have absented himself from meetings of the Board for a consecutive period of 12 months and the other directors resolve that his office shall be vacated;

- (b) he ceases to be a director by virtue of any provision of law or becomes prohibited or is disqualified from being a director in accordance with any law or any rule or regulation of the Stock Exchange on which the Shares are then listed or quoted; or
  - (c) he dies or becomes of unsound mind or incapable.
- 13.11 The directors may at any time elect any person to be a director either to fill a vacancy or as an addition to the existing directors. Where the directors elect a person as director to fill a vacancy, the term for which such person is elected shall not exceed the term that remained in respect of the person who has ceased to be a director at the time such person ceased to hold office, and the director so elected shall be deemed to resign as such at the first general meeting following his election by Resolution of Directors, at which general meeting each such director shall be put forth for re-election by Resolution of Members. A vacancy in relation to directors occurs if a director dies, resigns or otherwise ceases to hold office prior to the expiration of his term of office.
- 13.12 Without prejudice to Regulation 13.2(a), if at any time there are fewer than three (3) Independent Directors (whether as a result of any Independent Director having been removed pursuant to Regulation 13.8 or vacating office pursuant to Regulation 13.10, having resigned or otherwise), the remaining directors of the Company shall forthwith (and in any event not later than 3 months following the date upon which the relevant vacancy occurred) appoint a replacement Independent Director pursuant to Regulation 13.4.
- 13.13 The Company shall keep a register of directors containing:
- (a) the names and addresses of the persons who are directors of the Company;
  - (b) the date on which each person whose name is entered in the register was elected as a director of the Company;
  - (c) the date on which each person named as a director ceased to be a director of the Company; and
  - (d) such other information as may be prescribed by the Act.
- 13.14 The register of directors may be kept in any such form as the directors may approve, but if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents. Until a Resolution of Directors determining otherwise is passed, the magnetic, electronic or other data storage shall be the original register of directors.
- 13.15 The directors may, by a Resolution of Directors upon the recommendation of the remuneration committee (howsoever titled) of the Board (or absent such committee, by Resolution of Directors), with no director eligible to vote on his own emoluments, fix the emoluments of directors with respect to services to be rendered in any capacity to the Company. The Company shall reimburse to each director the costs and expenses (including

travel and accommodation expenses) of that director reasonably incurred in the discharge of his/her duties.

13.16 A director is not required to hold a Share as a qualification to office.

#### **14 Powers of directors**

14.1 The business and affairs of the Company shall be managed by, or under the direction or supervision of, the directors of the Company. The directors of the Company have all the powers necessary for managing, and for directing and supervising, the business and affairs of the Company. The directors may exercise all such powers of the Company as are not by the Act or by the Memorandum or the Articles required to be exercised by the Members.

14.2 Each director shall exercise his powers for a proper purpose and shall not act or agree to the Company acting in a manner that contravenes the Memorandum, the Articles or the Act. Each director, in exercising his powers or performing his duties, shall act honestly and in good faith in what the director believes to be the best interests of the Company.

14.3 Any director which is a body corporate may appoint any individual as its duly authorised representative for the purpose of representing it at meetings of the directors, with respect to the signing of consents or otherwise.

14.4 The continuing directors may act notwithstanding any vacancy in their body.

14.5 The directors may by Resolution of Directors exercise all the powers of the Company to incur indebtedness, liabilities or obligations and to secure indebtedness, liabilities or obligations whether of the Company or of any third party.

14.6 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as shall from time to time be determined by Resolution of Directors.

14.7 Section 175 of the Act shall not apply to the Company.

#### **15 Authority of Directors, President and other Officers to Sign Documents.**

Each director, the president, the treasurer, the secretary, the general counsel and each other person authorised by Resolution of Directors (an “**Authorised Person**”) may (acting jointly with any other Authorised Person) execute bonds, mortgages, deeds, powers of attorney, contracts requiring a seal, bank account opening documents and all other contracts, agreements and documents to be entered into by the Company that the Authorised Person reasonably believes are within the scope of his or her express or implied authority to act on behalf of the Company. Where there is any doubt as to the scope of such authority, the document shall not be executed by an Authorised Person until approved by Resolution of Directors.

## 16 Proceedings of directors

- 16.1 Any one director of the Company may call a meeting of the directors by sending a written notice to each other director.
- 16.2 The directors of the Company may meet at such times and in such manner and places within or outside the British Virgin Islands as the notice calling the meeting provides (subject to a contrary Resolution of Directors).
- 16.3 A director is deemed to be present at a meeting of directors if he participates by telephone or other electronic means and all directors participating in the meeting are able to hear each other.
- 16.4 A director shall be given not less than:
- (a) five calendar days' notice of meetings of directors (excluding the day on which notice is given and the day on which the meeting is held); or
  - (b) twenty-four (24) hours' notice of meetings of directors where the Chairman determines that the urgency of the matters to be considered by that meeting warrants such shorter notice period (an **emergency meeting**),

but a meeting of directors held at shorter notice shall be valid if all the directors entitled to vote at the meeting who do not attend waive notice of the meeting (which waiver may be by standing instruction), and for this purpose the presence of a director at a meeting shall constitute waiver by that director. The inadvertent failure to give notice of a meeting to a director, or the fact that a director has not received the notice, does not invalidate the meeting.

- 16.5 A meeting of directors is duly constituted for all purposes if at the commencement of the meeting there are present in person or by alternate not less than one-half of the total number of directors, provided that for an emergency meeting the quorum is a majority of the total number of directors, unless in each case there are only two directors in which case the quorum is two. In the case of a tied vote at any meeting of directors, the Chairman of the Board shall have a casting vote.
- 16.6 A director may by a written instrument appoint an alternate who need not be a director and the alternate shall be entitled to attend meetings and sign written Resolutions of Directors in the absence of the director who appointed him and to vote or consent in place of the director (in addition to his own vote or consent, if he is also a director) until the appointment lapses or is terminated. Each director who appointed the alternate shall be treated as present at a meeting attended by his alternate for the purposes of any quorum or voting provision (in addition to the alternate, if he is also a director). The Company shall repay to an alternate director expenses incurred by him in the performance of his duties if the Company would have been required to repay the expenses to him had he been a director. An alternate

director is entitled to be indemnified by the Company to the same extent as if he were a director.

- 16.7 If the Company has only one director the provisions herein contained for meetings of directors do not apply and such sole director has full power to represent and act for the Company in all matters as are not by the Act, the Memorandum or the Articles required to be exercised by the Members. In lieu of minutes of a meeting the sole director shall record in writing and sign a note or memorandum of all matters requiring a Resolution of Directors. Such a note or memorandum constitutes sufficient evidence of such resolution for all purposes.
- 16.8 The Chairman of the Board shall be elected by Resolution of Directors (the **Chairman of the Board**). At meetings of directors at which the Chairman of the Board is present, he shall preside as chairman of the meeting. If there is no Chairman of the Board or if the Chairman of the Board (or his alternate) is not present, the directors present shall choose one of their number to be chairman of the meeting. If the directors are unable to choose a chairman for any reason, then the oldest individual Director present (and for this purpose an alternate director shall be deemed to be the same age as the director that he represents) shall take the chair.
- 16.9 An action that may be taken by the directors or a committee of directors at a meeting may also be taken by a Resolution of Directors or a resolution of a committee of directors consented to in writing by all of the directors for the time being or by all of the members for the time being of the committee, as the case may be, without the need for any notice. The consent may be in the form of counterparts each counterpart being signed by one or more directors. The resolution shall take effect on the earliest date upon which all of the directors for the time being or by all of the members for the time being of the committee, as the case may be, have consented to the resolution in writing.
- 16.10 All acts done in good faith by any meeting of the Board or of a committee of the Board or by any person acting as a director, alternate director or committee are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any director or person acting or that they or any of them were disqualified from holding office or had ceased to hold office or were not entitled to vote, as valid as if every such person had been duly appointed and was qualified to be and had continued to be a director, alternate director or member of a committee and entitled to vote.
- 16.11 The Board shall cause minutes to be made of all appointments of officers and committees made by the Board and of any remuneration fixed by the Board and the names of the directors present at all meetings of the Board and committees of the Board and all resolutions and proceedings of such meetings; any such minutes of any meeting, if purporting to be signed by the chairman of the meeting, or by the chairman of the next succeeding meeting shall be conclusive evidence without any further proof of the matters stated in them.

## 17 Committees

- 17.1 The directors may, by Resolution of Directors, designate one or more committees, each consisting of one or more directors, and delegate one or more of their powers, including the power to affix the Seal, to the committee. Without limitation to the foregoing, the directors may, by Resolution of Directors, appoint a committee comprised solely of two or more Independent Directors (any such committee being an **Independent Committee**). The Board shall form an Independent Committee if approval or an existence of an Independent Committee is required under these Articles.
- 17.2 The directors have no power to delegate to a committee of directors any of the following powers (save as otherwise set out in the Memorandum or the Articles):
- (a) to amend the Memorandum or the Articles;
  - (b) to designate committees of directors;
  - (c) to delegate powers to a committee of directors;
  - (d) to appoint directors;
  - (e) to appoint an agent;
  - (f) to approve a plan of merger, consolidation or arrangement;
  - (g) to make a declaration of solvency or to approve a liquidation plan; or
  - (h) the powers specified in section 110 and section 131(2) of the Act.
- 17.3 Regulations 17.2(b) and 17.2(c) do not prevent a committee of directors, where authorised by the Resolution of Directors appointing such committee or by a subsequent Resolution of Directors, from appointing a sub-committee and delegating powers exercisable by the committee to the sub-committee.
- 17.4 The meetings and proceedings of each committee of directors consisting of two or more directors shall be governed *mutatis mutandis* by the provisions of the Articles regulating the proceedings of directors so far as the same are not superseded by any provisions in the Resolution of Directors establishing the committee.
- 17.5 A director who is a member of a committee of directors may by a written instrument appoint an alternate for such purposes who need not be a director and the alternate shall be entitled to attend meetings of that committee of directors in the absence of the director who appointed him and to vote or consent in place of the director (in addition to his own vote or consent, if he is also a member of that committee of directors) until the appointment lapses or is terminated. Each director who appointed the alternate shall be treated as present at a meeting attended

by his alternate for the purposes of any quorum or voting provision (in addition to the alternate, if he is also a member of a committee of directors).

## **18 Officers and agents**

- 18.1 The Company may by Resolution of Directors appoint officers of the Company at such times as may be considered necessary or expedient. Such officers may consist of a Chairman of the Board of Directors, a Chief Executive Officer, a Chief Financial Officer, one or more vice-presidents and secretaries and such other officers as may from time to time be considered necessary or expedient.
- 18.2 The officers shall perform such duties as are prescribed at the time of their appointment subject to any modification in such duties as may be prescribed thereafter by a Resolution of Directors. In the absence of any specific prescription of duties it shall be the responsibility of the Chairman of the Board to preside at meetings of directors and Members, the Chief Executive Officer to manage the day to day affairs of the Company, the vice-presidents to act in order of seniority in the absence of the Chief Executive Officer but otherwise to perform such duties as may be delegated to them by the Chief Executive Officer, the secretaries to maintain the register of members, minute books and records (other than financial records) of the Company and to ensure compliance with all procedural requirements imposed on the Company by applicable law, and the Chief Financial Officer to be responsible for the financial affairs of the Company.
- 18.3 The emoluments of all officers shall be fixed by Resolution of Directors.
- 18.4 The officers of the Company shall hold office until their death, resignation or removal (unless otherwise provided by the terms of their appointment). Any officer elected or appointed by the directors may be removed at any time, with or without cause, by Resolution of Directors. Any vacancy occurring in any office of the Company may be filled by Resolution of Directors.
- 18.5 The directors may, by a Resolution of Directors, appoint or, in the case of an attorney, approve the appointment by written instrument of any person, including a person who is a director, to be an agent or attorney of the Company. An agent or attorney of the Company may have such powers and authority of the directors, including the power and authority to affix the Seal, as are set forth in the Articles or in the Resolution of Directors appointing the agent or, in the case of an attorney, the instrument appointing such attorney, except that no agent or attorney shall have any power or authority with respect to the matters specified in Regulation 17.2. The Resolution of Directors appointing an agent or the instrument appointing an attorney may authorise the agent or the attorney, as the case may be, to appoint one or more substitutes or delegates to exercise some or all of the powers conferred on the agent or attorney by the Company. The directors may remove an agent or attorney appointed by the Company and may revoke or vary a power conferred on him.



## **19 Conflict of interests, disclosure of interests**

19.1 A director shall, forthwith after becoming aware of the fact that he is interested in any contract, arrangement or transaction entered into or to be entered into by the Company, disclose the interest to all other directors of the Company, unless the transaction or proposed transaction (a) is between the director and the Company and (b) is to be entered into in the ordinary course of the Company's business and on usual terms and conditions. An interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge is not treated as his interest.

19.2 Such disclosure may be effected:

- (a) at the meeting of the Board at which the question of entering into the contract, arrangement or transaction is first taken into consideration, if he knows his interest then exists;
- (b) at the next meeting of the Board after he knows that he is or has become interested;  
or
- (c) in writing to all directors.

Disclosure made to all other directors to the effect that a director is a member, director or officer of another named entity or has a fiduciary relationship with respect to the entity or a named individual and is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered into with that entity or individual, is a sufficient disclosure of interest in relation to that transaction.

19.3 Without prejudice to Regulation 20, a director who is interested in a contract, arrangement or transaction entered into or to be entered into by the Company may vote on a matter relating to the contract, arrangement or transaction, attend a meeting of directors at which a matter relating to the contract, arrangement or transaction arises and be included among the directors present at the meeting for the purposes of a quorum and sign a document on behalf of the Company, or do any other thing in his capacity as director that relates to the contract, arrangement or transaction.

19.4 Without prejudice to Regulations 19.1, 19.3 and 20, a director, notwithstanding his office:

- (a) may hold any other office or place of profit with the Company (except that of auditor) in conjunction with his office of director and on such terms as to remuneration and otherwise as the Board may arrange. Any director may act by himself or through his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for such professional services;
- (b) may enter into or otherwise be interested in a contract, arrangement or transaction with the Company or in which the Company is otherwise interested which cannot reasonably be regarded as likely to give rise to a conflict of interest;

- (c) may be a shareholder or director or other officer of or employed by or a party to a contract, transaction, arrangement or proposal with or be otherwise interested in a company:
  - (i) promoted by the Company or in which the Company is otherwise interested; or
  - (ii) in relation to which it cannot reasonably be regarded as likely that a conflict of interest will arise;
- (d) may enter into or otherwise be interested in a contract, arrangement, transaction the entry into which by that director was authorised by Resolution of Members or Resolution of Directors (which authorisation may be subject to such conditions and limitations as set out in the resolutions); and
- (e) unless otherwise agreed, and subject to compliance with the Act, is not liable to account to the Company for any remuneration, profit or other benefit received by him by virtue of such office, employment, contract, arrangement or transaction and no such contract, arrangement or transaction shall be liable to be avoided on the grounds of any such interest or benefit.

## **20 Related Party Transactions**

- 20.1 Subject to Regulation 20.2, the Company shall not enter into or agree to any Related Party Transaction unless such Related Party Transaction has been approved by an Independent Committee.
- 20.2 A Related Party Transaction shall not require the approval of the Independent Committee if:
  - (a) it is a transaction made in the ordinary course of business of the Company or any of its subsidiaries; or
  - (b) the Fair Value of the transaction (including a series of connected transactions) does not exceed five million United States Dollars (US\$5,000,000).

## **21 Indemnification**

- 21.1 Subject to the limitations hereinafter provided the Company shall indemnify against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person who:
  - (a) is or was a party or is threatened to be made a party to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a director of the Company; or

- (b) is or was, at the request of the Company, serving as a director of, or in any other capacity is or was acting for, another company or a partnership, joint venture, trust or other enterprise.
- 21.2 The indemnity in Regulation 21.1 only applies if the person acted honestly and in good faith with a view to the best interests of the Company and, in the case of criminal proceedings, the person had no reasonable cause to believe that his conduct was unlawful.
- 21.3 The decision of the directors as to whether the person acted honestly and in good faith and with a view to the best interests of the Company and as to whether the person had no reasonable cause to believe that his conduct was unlawful is, in the absence of fraud, sufficient for the purposes of the Articles, unless a question of law is involved.
- 21.4 The termination of any proceedings by any judgment, order, settlement, conviction or the entering of a *nolle prosequi* does not, by itself, create a presumption that the person did not act honestly and in good faith and with a view to the best interests of the Company or that the person had reasonable cause to believe that his conduct was unlawful.
- 21.5 The Company may purchase and maintain insurance in relation to any person who is or was a director, officer or liquidator of the Company, or who at the request of the Company is or was serving as a director, officer or liquidator of, or in any other capacity is or was acting for, another company or a partnership, joint venture, trust or other enterprise, against any liability asserted against the person and incurred by the person in that capacity, whether or not the Company has or would have had the power to indemnify the person against the liability as provided in the Articles.

## **22 Records**

- 22.1 The Company shall keep the following documents at the office of its registered agent:
- (a) the Memorandum and the Articles;
  - (b) the register of members, or a copy of the register of members;
  - (c) the register of directors, or a copy of the register of directors; and
  - (d) copies of all notices and other documents filed by the Company with the Registrar of Corporate Affairs in the previous 10 years.
- 22.2 If the Company maintains only a copy of the register of members or a copy of the register of directors at the office of its registered agent, it shall:
- (a) within 15 days of any change in either register, notify the registered agent in writing of the change; and

- (b) provide the registered agent with a written record of the physical address of the place or places at which the original register of members or the original register of directors is kept.
- 22.3 The Company shall keep the following records at the office of its registered agent or at such other place or places, within or outside the British Virgin Islands, as the directors may determine:
- (a) minutes of meetings and Resolutions of Members;
  - (b) minutes of meetings and Resolutions of Directors and committees of directors;
  - (c) an impression of the Seal, if any; and
  - (d) the records and underlying documentation of the Company.
- 22.4 Where any original records referred to in this Regulation are maintained other than at the office of the registered agent of the Company, and the place at which the original records is changed, the Company shall provide the registered agent with the physical address of the new location of the records of the Company within 15 days of the change of location.
- 22.5 The records kept by the Company under this Regulation shall be in written form or either wholly or partly as electronic records complying with the requirements of the Electronic Transactions Act.

## **23 Registers of charges**

- 23.1 The Company shall maintain at the office of its registered agent a register of charges in which there shall be entered the following particulars regarding each mortgage, charge and other encumbrance created by the Company:
- (a) the date of creation of the charge;
  - (b) a short description of the liability secured by the charge;
  - (c) a short description of the property charged;
  - (d) the name and address of the trustee for the security or, if there is no such trustee, the name and address of the chargee;
  - (e) unless the charge is a security to bearer, the name and address of the holder of the charge; and
  - (f) details of any prohibition or restriction contained in the instrument creating the charge on the power of the Company to create any future charge ranking in priority to or equally with the charge.

## **24 Continuation**

The Company may by Resolution of Members or Resolution of Directors continue as a company incorporated under the laws of a jurisdiction outside the British Virgin Islands in the manner provided under those laws.

## **25 Seal**

25.1 The Company may have more than one Seal and references herein to the Seal shall be references to every Seal which shall have been duly adopted by Resolution of Directors. The directors shall provide for the safe custody of the Seal and for an imprint thereof to be kept at the registered office. Except as otherwise expressly provided herein the Seal when affixed to any written instrument shall be witnessed and attested to by the signature of any one director or other person so authorised from time to time by Resolution of Directors. Such authorisation may be before or after the Seal is affixed, may be general or specific and may refer to any number of sealings. The directors may provide for a facsimile of the Seal and of the signature of any director or authorised person which may be reproduced by printing or other means on any instrument and it shall have the same force and validity as if the Seal had been affixed to such instrument and the same had been attested to as hereinbefore described.

## **26 Audit**

26.1 The Company may, by Resolution of Directors (or by resolution of any audit committee of the Board, howsoever titled), call for the accounts to be examined by auditors, in which event the remaining provisions of this Regulation 26 shall apply to the appointment and activities of the auditors.

26.2 Every auditor of the Company shall have a right of access at all times to the books of account of the Company, and shall be entitled to require from the directors and officers of the Company such information and explanations as he thinks necessary for the performance of his duties as an auditor.

26.3 The auditors of the Company shall be entitled to receive notice of and to attend any meetings of members of the Company at which the Company's profit and loss account and balance sheet are to be presented.

## **27 Notices**

27.1 Any notice, information or written statement to be given by the Company to Members may be given by personal service or by mail (and/or electronic communication, including email) addressed to each Member at the address (including electronic address) shown in the register of members.

- (a) Any letter shall be sent by post stamped first class (or by airmail if posted to a Member located overseas) and addressed to such Member at the postal address in the register of members or shall be left at that address in an envelope addressed to that Member.
- (b) Any notice or document to be sent to a Member may be sent by reference to the register of members as it stands at any time within the period of 15 days before the notice or document is sent and no change in the register of members after that time shall invalidate the sending of the notice or document.
- (c) In the case of joint holders of a Share, a notice or other document shall be sent to whichever of them is named first in the register of members and notice or other document sent in this way is sufficiently sent to all the joint holders.
- (d) Any notice or other document sent addressed to a Member at his registered address is deemed to be received, if personally delivered, at the time of delivery or, if sent by post, on the third calendar day after the letter is posted or, in the case of a notice or other document contained in an electronic communication, at the expiration of 48 hours after the time it is sent. In proving service it is sufficient to prove that the letter was properly addressed and, if sent by post, stamped and posted. Proof that a notice or other document contained in an electronic communication was sent shall be conclusive evidence that the notice or other document was received.

27.2 Any notice to be given by the Company to a Holder (or to a person the Company believes to be a Holder) may be given by personal service or by mail addressed to such person at:

- (a) the address last notified to the Company, with a copy sent at the same time to the Member which holds the Share(s) in which the relevant person is believed to have an interest (the **related Member**), provided that the accidental failure to send a copy of a notice to such related Member, or the non-receipt by such related Member of the copy, does not invalidate or otherwise affect the validity of the delivery of such notice; or
- (b) where the relevant person has not notified the Company of his address, at the address (if any) at which the Company reasonably believes that person to be contactable, or to (and in any case with a copy sent at the same time to) the related Member.

The provisions of Regulation 27.1(a) to (d) inclusive shall apply in respect of any such notice, *mutatis mutandis*.

27.3 Any summons, notice, order, document, process, information or written statement to be served on the Company may be served by leaving it, or by sending it by registered mail addressed to the Company, at its registered office, or by leaving it with, or by sending it by registered mail to, the registered agent of the Company.

27.4 Service of any summons, notice, order, document, process, information or written statement to be served on the Company may be proved by showing that the summons, notice, order, document, process, information or written statement was delivered to the registered office or the registered agent of the Company.

**28 Voluntary winding up**

Subject to the Act, the Company may by a Resolution of Members and by a Resolution of Directors appoint a voluntary liquidator.

Signed for HARNEYS CORPORATE SERVICES LIMITED of Craigmuir Chambers, Road Town, Tortola, British Virgin Islands for the purpose of incorporating a BVI Business Company under the laws of the British Virgin Islands on 26 May 2008:

Incorporator

Sgd. Andrew Swapp

Andrew Swapp

Authorised Signatory

HARNEYS CORPORATE SERVICES LIMITED

