

**THE COMPANIES (GUERNSEY) LAW, 2008, AS AMENDED  
COMPANY LIMITED BY SHARES  
AMENDED AND RESTATED  
ARTICLES OF INCORPORATION**

**of**

**PERSHING SQUARE HOLDINGS, LTD.**

**(as adopted by a Special Resolution of the Voting Shares and  
Ordinary Resolution of the Public Shares passed on 3 May 2023)**

**Registered on February 2, 2012 with registration number 54602**

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**Table of Contents**

1.	STANDARD ARTICLES.....	1
2.	INTERPRETATION.....	1
3.	AMENDMENTS .....	14
4.	SHARE CAPITAL.....	14
5.	ISSUE OF SHARES .....	20
6.	PRE-EMPTION ON ALLOTMENT AND ISSUE OF SHARES.....	20
7.	REPURCHASE OF SHARES .....	23
8.	COMMISSIONS.....	23
9.	KEY MAN EVENT .....	24
10.	COMPULSORY REDEMPTIONS BY THE COMPANY .....	24
11.	DETERMINATION OF NET ASSET VALUE.....	25
12.	SUSPENSION OF DETERMINATIONS OF NET ASSET VALUE .....	27
13.	VARIATION OF CLASS RIGHTS .....	27
14.	CLASS MEETINGS .....	29
15.	TRUSTS.....	29
16.	NOTIFICATION OF INTERESTS IN PUBLIC SHARES BY MEMBERS .....	29
17.	CERTIFICATES.....	30
18.	LIEN .....	30
19.	CALLS ON SHARES.....	31
20.	FORFEITURE AND SURRENDER OF SHARES .....	32
21.	PROHIBITED US PERSONS .....	33
22.	REGISTER OF MEMBERS.....	34
23.	TRANSFER AND TRANSMISSION OF SHARES .....	34
24.	EXCESS SHARES AND EXCESS PLAN SHARES .....	39
25.	UNTRACED SHAREHOLDERS .....	46
26.	ALTERATION OF CAPITAL .....	47
27.	GENERAL MEETINGS.....	48
28.	NOTICE OF GENERAL MEETINGS.....	49
29.	PROCEEDINGS AT GENERAL MEETINGS.....	50
30.	VOTES OF MEMBERS .....	51
31.	PROXIES.....	53
32.	WRITTEN RESOLUTIONS .....	54
33.	NUMBER, APPOINTMENT AND QUALIFICATION OF DIRECTORS .....	54
34.	REMUNERATION OF DIRECTORS .....	55

35.	INDEMNITIES .....	56
36.	INSURANCE.....	57
37.	REGISTERS OF DIRECTORS .....	57
38.	BORROWING POWERS OF THE BOARD.....	57
39.	OTHER POWERS AND DUTIES OF THE BOARD .....	57
40.	CONFLICTS OF INTEREST .....	59
41.	DISQUALIFICATION AND REMOVAL OF DIRECTORS .....	62
42.	PROCEEDINGS OF DIRECTORS.....	63
43.	EXECUTIVE DIRECTORS .....	64
44.	AGENT AND SERVICE PROVIDERS .....	64
45.	SECRETARY AND RESIDENT AGENT.....	65
46.	THE SEAL.....	65
47.	COMMON SIGNATURE .....	65
48.	AUTHENTICATION OF DOCUMENTS .....	65
49.	DIVIDENDS.....	66
50.	INVESTMENT ACCOUNTS .....	67
51.	RESERVES.....	68
52.	CAPITALISATION OF PROFITS.....	68
53.	ACCOUNTS AND REPORTS .....	69
54.	AUDITORS .....	71
55.	NOTICES AND OTHER COMMUNICATIONS.....	72
56.	WINDING UP .....	73
57.	DISCLOSURE OF THIRD PARTY BENEFICIAL INTERESTS IN SHARES .....	74
58.	DURATION.....	76
59.	DISCLOSURE OF ADDITIONAL INFORMATION.....	77
60.	MEMBER SPECIFIC COSTS.....	77
61.	JURISDICTION .....	77
62.	SEVERABILITY .....	77
63.	RESOLVING AMBIGUITY .....	78

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**1. STANDARD ARTICLES**

The standard articles of incorporation prescribed pursuant to Section 16(2) of the Law shall be excluded in their entirety.

**2. INTERPRETATION**

2.1 In these Articles the following words shall bear the following meanings if not inconsistent with the subject or context:

<b>Words</b>	<b>Meanings</b>
<b>£</b>	the lawful currency of the United Kingdom.
<b>Accounting Date</b>	subject to the Law, the last day of December of each year, or such other date as the Board at any time determines.
<b>Accounts</b>	either (a) individual accounts prepared in accordance with Section 243 of the Law or (b) consolidated accounts prepared in accordance with Section 244 of the Law.
<b>Adverse Consequences</b>	the treatment of the Company as a “controlled foreign corporation” under Section 957 of the US Internal Revenue Code.
<b>Affiliate</b>	with respect to any specified person:  (a) any person that directly or indirectly controls, is directly or indirectly controlled by or is directly or indirectly under common control with such specified person;

- (b) any person that serves as a director or officer (or in any similar capacity) of such specified person; and
- (c) any person with respect to which such specified person serves as a general partner or trustee (or in any similar
- (d) capacity),

and the term **Affiliated** shall have a correlative meaning.

For the purposes of this definition, control (including **controlling, controlled by and under common control with**) means the direct or indirect power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

**Articles**

the articles of incorporation of the Company,

as amended from time to time.

**Beneficiary**

with respect to any Trust, the charitable organisation that is specified in the trust instrument for that Trust or is named as beneficiary of that Trust in accordance with the provisions of such trust instrument, provided that no Beneficiary shall be a US Person or a Plan or be Constructively Owned by any US Person.

**Board**

the Directors at any time acting as the board of directors of the Company in accordance with these Articles or the Law, or, as the case may be, the Directors assembled as a committee established in accordance with Article 39.3.

**Business Day**

any weekday, except Saturday and Sunday, on which banks in New York and the city or cities in which any stock exchange on which the Public Shares are traded is or are, as the case may be, located are open for normal banking business or as is otherwise specified by the Board.

<b>Certificated</b>	a unit of a security which is not in Uncertificated form.
<b>Company</b>	Pershing Square Holdings, Ltd.
<b>Constructive Ownership</b>	ownership of shares by a Person whether the interest in such shares is held directly or indirectly (including through a nominee), and shall include shares that would be treated as owned within the meaning of (i) Section 958(a) of the US Internal Revenue Code and (ii) Section 318 of the US Internal Revenue Code, as modified by Section 958(b) of the US Internal Revenue Code, and the terms <b>Constructive Owner</b> , <b>Constructively Owns</b> , <b>Constructively Own</b> , and <b>Constructively Owned</b> shall have correlative meanings.
<b>Default Notice</b>	has the meaning given in Article 16.5.
<b>Default Shares</b>	has the meaning given in Article 16.5.
<b>Defaulting Member</b>	has the meaning given in Article 16.5.
<b>Dematerialised Instruction</b>	an instruction sent by means of the Guernsey Regulations or through a Relevant System in relation to Uncertificated shares.
<b>Direction Notice</b>	has the meaning given in Article 57.4.
<b>Direction Notice Default Shares</b>	has the meaning given in Article 57.4.1(a).
<b>Director</b>	a director of the Company at any time.
<b>Dividend</b>	has the meaning given in the Law.
<b>DTR 5</b>	Chapter 5 of the Disclosure Guidance and Transparency Rules of the FCA Handbook.
<b>EEA State</b>	A state which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992 (as it has effect from time to time).
<b>Electronic Means</b>	has the meaning given in the Law.
<b>ERISA</b>	the US Employee Retirement Income Security Act of 1974, as amended.

<b>Excess Plan Shares</b>	shares of any class (as defined for purposes of ERISA) held by one or more Plans in an amount equal to or exceeding the Plan Limit for that class and any Public Shares acquired or held by a Plan except for any Public Shares issued by conversion to such Plan on 13 October 2014.
<b>Excess Shares</b>	shares in excess of the applicable Ownership Limit.
<b>Exchange Act</b>	the US Securities Exchange Act of 1934, as amended.
<b>Existing Holder</b>	any Person if such Person is a US Person that Constructively Owns shares of the Company in excess of the Ownership Limit (determined without respect to the limitation in respect of Specified Persons and Specified Shares in the definition of Ownership Limit) as of the close of business on the day before the publication of notice of the 2023 annual general meeting (the “relevant date”), so long as, but only so long as, such Person Constructively Owns shares of the Company in excess of the Ownership Limit (determined without respect to the limitation in respect of Specified Persons and Specified Shares in the definition of Ownership Limit), and provided that such Person notifies the Company of such Constructive Ownership in accordance with Article 24.5.
<b>Family Member</b>	means a spouse (or any former spouse), parent, widow, widower, cohabitee, sibling, child or grandchild (including such child or grandchild by adoption or step child).
<b>Financial Year</b>	subject to the Law, the period commencing on the day immediately following an Accounting Date and ending on and including the next succeeding Accounting Date.
<b>FCA Handbook</b>	the UK Financial Conduct Authority’s Handbook of rules and guidance.
<b>GAAP</b>	has the meaning given in Article 11.9.
<b>Group Companies</b>	has the meaning given in Article 36.

<b>Guernsey Regulations</b>	the Uncertificated Securities (Guernsey) Regulations, 2009 (as amended from time to time).
<b>Indemnified Party</b>	has the meaning given in Article 35.1.
<b>Independent Director</b>	a Director who is not Affiliated with the Investment Manager (other than solely as a result of his or her status as a Director of the Company) and who satisfies the independence criteria (if any) of the Listing Rules or any other rules applicable to any stock exchange on which the Public Shares are listed.
<b>Insured</b>	has the meaning given in Article 36.
<b>Interested Party</b>	has the meaning given in Article 57.1.
<b>Investment Account</b>	has the meaning given in Article 50.1.
<b>Investment Management Agreement</b>	the investment management agreement between the Company and the Investment Manager, as amended from time to time.
<b>Investment Manager</b>	Pershing Square Capital Management, L.P. or any other person appointed and at any time acting as investment manager or investment advisor of the Company, as applicable.
<b>Key Man Event</b>	the death or permanent disability of William A. Ackman or withdrawal by him as managing member of the general partner of the Investment Manager.
<b>Law</b>	the Companies (Guernsey) Law, 2008, as amended from time to time.
<b>Liquidator</b>	a liquidator appointed pursuant to the Law, including joint liquidators.
<b>Listing Rules</b>	the listing rules of the UK Financial Conduct Authority made under Section 73A of the UK Financial Services and Markets Act 2000, as amended from time to time.
<b>Management Fees</b>	any management fees paid or payable by the Company to the Investment Manager as the same



	shall be calculated and paid in accordance with the Investment Management Agreement.
<b>Management Shareholder</b>	a Member holding a Management Share.
<b>Management Shares</b>	the Management Shares of no par value in the capital of the Company carrying the voting and other rights set out in these Articles and convertible into Public Shares on the terms described in these Articles.
<b>Member</b>	a registered holder of a share in the capital of the Company.
<b>Memorandum</b>	the memorandum of incorporation of the Company, as amended from time to time.
<b>Net Asset Value</b>	the amount determined pursuant to these Articles as being the net asset value of the Company or of any shares or any class of shares, as the context requires.
<b>Non-Transfer Event</b>	<p>an event or circumstance, other than a purported Transfer, with the result that</p> <p>(A) any Plan would hold Excess Plan Shares, including any redemption or repurchase by the Company of its shares; or</p> <p>(B) any Person would Constructively Own shares in excess of the Ownership Limit, including (a) the granting of any option or entering into any agreement for the sale, transfer, or other disposition of shares, (b) the sale, transfer, assignment or other disposition of any securities or rights convertible into or exchangeable for shares, (c) a Person purchasing or otherwise acquiring an interest in a Person which Constructively Owns shares, (d) a Person entering into a relationship or transaction with another Person as a result of which the first mentioned Person Constructively Owns shares that are owned or Constructively Owned by the second mentioned Person or vice versa, (e) a redemption, repurchase, restructuring or similar transaction with respect to a person that Constructively Owns shares, (f) a fluctuation in the value of shares of a class of shares relative to the value of shares of another</p>

class of shares or (g) any redemption or repurchase by the Company of its shares; provided, however, that a Non-Transfer Event also includes an event, including a purported Transfer, to the extent that such event, but for the provisions of Article 24.10.3 or Article 24.6, would result in a Transfer to a Specified Person being void *ab initio* or Specified Shares being designated as Shares-in-Trust.

<b>Offer</b>	has the meaning given in the UK Takeover Code.
<b>Office</b>	the registered office of the Company at any time.
<b>Operator</b>	the authorised operator (as defined in the Guernsey Regulations) of a Relevant System.
<b>Ordinary Resolution</b>	a resolution passed by a simple majority of the Members (or a class of Members) entitled to vote thereon as an ordinary resolution in accordance with section 176 of the Law.
<b>Ownership Limit</b>	a US Person's Constructive Ownership of 9.5 per cent. of (a) the value of the Public Shares or (b) the voting power of all classes of stock of the Company entitled to vote, in each case as may be adjusted pursuant to Article <b>Error! Reference source not found.</b> ; provided that Specified Shares Constructively Owned by Specified Persons are not subject to the Ownership Limit.
<b>Performance Fee</b>	any performance fees paid or payable by the Company to the Investment Manager as the same shall be calculated and paid in accordance with the Investment Management Agreement.
<b>Permitted Management Shareholder</b>	any Person who is a member, partner, officer, manager or employee of the Investment Manager or any of its Affiliates, or any Affiliate or family member (including for these purposes parents and children) of any such Person, or any trust the beneficiary or beneficiaries of which include any of the foregoing Persons.
<b>Permitted Transferee</b>	any Person designated as a Permitted Transferee in accordance with the provisions of Article 24.7.5.

<b>Person</b>	an individual, corporation, partnership, limited liability company, estate, trust, a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the US Internal Revenue Code, association, private foundation within the meaning of Section 509(a) of the US Internal Revenue Code, joint stock corporation, or other entity.
<b>Plan</b>	any entity (a) that is an “employee benefit plan” subject to ERISA, (b) that is a plan, individual retirement account or other arrangement that is subject to Section 4975 of the US Internal Revenue Code or (c) whose underlying assets are considered to include “plan assets” of any such plan, account or arrangement.
<b>Plan Limit</b>	twenty-five (25) per cent. (or such other percentage as may be specified in applicable ERISA regulations from time to time) of the aggregate number of outstanding shares of any class (as defined for purposes of ERISA).
<b>Prohibited Owner</b>	(A) any Plan that, but for the provisions of Article 24.8, would own Excess Plan Shares (but such a Plan will be considered a Prohibited Owner only with respect to such Excess Plan Shares) and, if appropriate to the extent the context requires, any Person who would own record title to such Excess Plan Shares and (B) with respect to any purported Transfer or Non-Transfer Event, any Person who, but for the provisions of Article <b>Error! Reference source not found.</b> , would Constructively Own shares in excess of the Ownership Limit (but such Person will be considered a Prohibited Owner only with respect to those shares in excess of the applicable Ownership Limit) and, if appropriate to the extent the context requires, any Person who would own record title to shares that the Prohibited Owner would have so Constructively Owned.
<b>Prohibited US Person</b>	has the meaning given in Article 21.1.
<b>Public Shareholder</b>	a Member holding a Public Share.

<b>Public Shares</b>	the ordinary shares in the capital of the Company carrying the voting and other rights set out in these Articles.
<b>Redemption Price</b>	with respect to any shares being redeemed, the Net Asset Value of such shares calculated as at the relevant Valuation Day, after adjusting for any accrual of Management Fees and Performance Fees due.
<b>Register</b>	the register of Members kept pursuant to the Law.
<b>Relevant Electronic Address</b>	has the meaning given in the Law.
<b>Relevant System</b>	any computer-based system and its related facilities and procedures that is provided by an Operator and by means of which title to a security can be evidenced and transferred in accordance with the Guernsey Regulations and/or these Articles, without a written instrument.
<b>Restriction Termination Date</b>	the first day after the date on which the Board determines that it is no longer in the best interests of the Company to maintain the Ownership Limit or Plan Limit or the prohibition on the acquisition and holding of Public Shares by Plans pursuant to these Articles, as applicable, as notified by the Board to shareholders.
<b>Seal</b>	the common seal of the Company.
<b>Secretary</b>	any person designated by the Board to perform any of the duties of a secretary and includes a joint, assistant, deputy or temporary secretary or other person appointed to perform the duties of a secretary.
<b>Share Price</b>	with respect to any share on any day, (a) if such share is not a Public Share, the fair value of such share or (b) if such share is a Public Share, the value of such share based on the trading price per Public Share on any stock exchange on which the Public Shares are listed, in each case as determined in good faith by the Board.
<b>Shares-in-Trust</b>	any shares designated as Shares-in-Trust pursuant to Article 24.7.

<b>Special Resolution</b>	a resolution passed by a majority of not less than 75 per cent. of the Members (or a class of Members) entitled to vote thereon as a special resolution in accordance with section 178 of the Law.
<b>Special Voting Share</b>	the non-redeemable special voting share of no par value in the capital of the Company carrying the voting and other rights set out in these Articles.
<b>Specified Matter</b>	any matter specified from time to time by the Listing Rules which requires that a shareholder vote is taken and decided by applicable resolution solely of the holders of the Public Shares.
<b>Specified Person</b>	(A) the Investment Manager or a member, partner, officer, manager, employee or Affiliate of the Investment Manager or any person in an affiliated relationship (as determined by the Investment Manager) with any of the foregoing (but in any case including any person in a relationship described in Section 318(a)(1) of the US Internal Revenue Code with any of the foregoing), and any Person: (a) who is a Family Member of any of the foregoing; (b) that is a charitable organization of which any of the foregoing is a trustee or director; or (c) who is a recipient of a Transfer of shares as a personal representative or beneficiary of any of the foregoing who is an individual in the case of his or her death; and (B) any Existing Holder.
<b>Specified Shares</b>	any shares Constructively Owned by a Specified Person.
<b>Transfer</b>	for the purposes of Article 24: (a) (as a noun) any issuance, sale, transfer, gift, assignment, devise or other disposition of shares, whether voluntary or involuntary, whether of record, constructively or beneficially, and whether by operation of law or otherwise; and (b) (as a verb) the correlative meaning.
<b>Trust</b>	any separate trust or trusts (including the trust known as PS Holdings Excess Share Trust One) created pursuant to Article 24.2 and, in each case administered in accordance with the terms of Article 24.7, for the benefit of a Beneficiary and in

	accordance with the trust instrument for the applicable Trust.
<b>Trustee</b>	Trident Trust Company (Guernsey) Limited (registration number 20743) or any successor or additional trustee designated by the Board to act as trustee of any Trust provided that no Person or entity that is a US Person or an Affiliate of either the Company or any Prohibited Owner may be so appointed.
<b>UK Takeover Code</b>	the City Code on Takeovers and Mergers.
<b>Uncertificated</b>	a unit of a security, title to which is recorded on the relevant register of securities as being held in uncertificated form and title to which may be transferred by means of a Relevant System in accordance with the Guernsey Regulations.
<b>United Kingdom or UK</b>	the United Kingdom of Great Britain and Northern Ireland.
<b>United States or US</b>	the United States of America, its territories and possessions, any state of the United States of America and the District of Columbia.
<b>Unsound Mind or Incapable</b>	a person in respect of whom an order has been made by any court or official having jurisdiction (whether in Guernsey or elsewhere) that such person is or may be suffering from a mental disorder or is incapable (physically or otherwise) of minding such person's affairs.
<b>US Dollars or \$</b>	the lawful currency of the United States.
<b>US Internal Revenue Code</b>	the US Internal Revenue Code of 1986.
<b>US Investment Company Act</b>	the United States Investment Company Act of 1940, as amended.
<b>US Person</b>	a person who is a "US Person" within the meaning of Regulation S under the US Securities Act and, for the purpose of Article <b>Error! Reference source not found.</b> , the meaning of "Ownership Limit," the meaning of "Existing Holder" and the meaning of "Beneficiary" only, a "United States

Person” as such term is defined in Section 7701(a)(30) of the US Internal Revenue Code.

**US Securities Act**

the US Securities Act of 1933, as amended.

**Valuation Day**

the Business Day or Business Days the Board determines either generally or in a particular case as a day or days for the determination of the Net Asset Value.

**VoteCo**

PS Holdings Independent Voting Company Limited, a limited liability company established under the laws of Guernsey having registered number 56033 and its successor or any permitted transferee of the Special Voting Share at any time.

**Voting Shares**

shares in the capital of the Company carrying the power to vote on resolutions in general meetings of the Company, which consist of, subject to Article 4.8.5, the Special Voting Share, the Public Shares and the Management Shares. For the avoidance of doubt, any such Voting Shares that are designated Excess Shares or Excess Plan Shares shall continue to be Voting Shares.

- 2.2 The singular includes the plural and vice versa.
- 2.3 The words “including”, “includes” and derivatives thereof shall be deemed to be followed by the words “without limitation”.
- 2.4 The masculine includes the feminine and vice versa.
- 2.5 Words importing persons include corporations, partnerships, limited partnerships, limited liability companies and similar legal persons and “legal persons” shall mean the same.
- 2.6 A reference to “days” is to calendar days.
- 2.7 A reference to a “general meeting” is to an annual general meeting or an extraordinary general meeting, as applicable.
- 2.8 A reference to “shares” includes the Voting Shares, as well as any other shares, classes of shares and any fraction of a share or any securities issued pursuant to these Articles at any time, as the context requires.
- 2.9 References to a “holder” in relation to a share in the capital of the Company is to the Member whose name is entered in the register as the holder of that share.

- 2.10 A reference to a “subsidiary” or a “holding company” shall be construed in accordance with Section 531 of the Law.
- 2.11 A reference to “securities” includes any equity, equity-linked and/or debt securities of any kind and/or derivatives of any kind, or any other financial investment (long or short or the equivalent thereof), or any other instrument of any kind.
- 2.12 A reference to any law includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.
- 2.13 A reference to a document includes, unless the context otherwise requires, references to an electronic communication.
- 2.14 A reference to an instrument means, unless the contrary is stated, a written document having tangible form and not comprised in an electronic communication.
- 2.15 Expressions referring to writing include facsimile, e-mail and similar modes of electronic communication representing or reproducing words, and “written” shall be construed accordingly.
- 2.16 References to a notice or other document being sent to or by a person include references to such notice or other document, or a copy of such notice or other document, being sent, given, delivered, issued or made available to, or served on, that person in writing unless otherwise specifically stated, and sending shall be construed accordingly.
- 2.17 References to a person being entitled to carry out any function or act under or pursuant to these Articles shall not be construed as meaning such person must carry out such function or act.
- 2.18 Subject to the above, any words defined in the Law shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.
- 2.19 Where a section of the Law is referred to and that section is amended or renumbered or supplemented, then the reference shall be deemed to refer to the same section, as amended, renumbered or supplemented. Except as otherwise expressly provided in these Articles, a reference to any legislation or legislative or regulatory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified, re-enacted or replaced, or to any substantially equivalent successor legislation, as the case may be.
- 2.20 Headings are inserted for convenience only and do not affect the construction of these Articles.
- 2.21 In these Articles, (a) powers of delegation shall not be restrictively construed but the widest interpretation shall be given to them, (b) no power of delegation shall be limited by the existence or, except where expressly provided by the terms of delegation, the exercise of



that or any other power of delegation and (c) except where expressly provided by the terms of delegation, the delegation of a power shall not exclude the concurrent exercise of that power by any other body or person who is for the time being authorised to exercise it under these Articles or under another delegation of the power.

2.22 In these Articles, the powers of the Board to effect any consolidation or division or to agree to the terms of any subdivision or merger (including any split-up, stock split, reverse stock split or other similar recapitalisation or reorganisation) of all or any of the Company's issued and/or unissued share capital and to deal with any fractions arising therefrom shall be given the widest possible interpretation and not restrictively construed.

2.23 In the event of any conflict between these Articles and any mandatory provision of the Law, the latter shall prevail.

### **3. AMENDMENTS**

Subject to Article 13, these Articles shall only be amended (whether in whole or in part) with the approval of both (i) a Special Resolution of the Voting Shares, voting together as a single class and (ii) an Ordinary Resolution of the Public Shares.

### **4. SHARE CAPITAL**

4.1 The share capital of the Company shall be represented by one Special Voting Share and an unlimited number of (a) Public Shares, (b) Management Shares and (c) such other shares or classes of shares as determined by the Board pursuant to Article 5.1.

4.2 Except as otherwise expressly provided in these Articles and the Law, the Public Shares, the Special Voting Share, the Management Shares and, if applicable and to the extent provided by the terms of issue, any other shares or classes of shares issued pursuant to Article 5.1, shall be taken together as a single class, with the number of votes in respect of every Share as provided for in Article 4.10, for purposes of voting at general meetings of the Company and approving written resolutions of the Company.

4.3 All shares of the Company, upon allotment and issue, shall be denominated in US Dollars (or such other currency or currencies as the Board determines).

4.4 To the fullest extent permitted by applicable law, any resolution put to the vote at any general meeting of the Company (including at a variation of class rights meeting in accordance with and pursuant to Article 13) shall be decided by a poll and not a show of hands and for every such resolution the chairman shall be deemed to have demanded a poll in accordance with Article 29.8, and any actual or deemed demand for such a poll by the chairman under this Article shall not be withdrawn under any circumstances.

4.5 With respect to any general meeting or class meeting at which, or on any resolution on which, the Public Shareholders and/or the Management Shareholders, as the case may be, are entitled to vote, the Board shall notify such Members in advance of any such meeting or proposed resolution of the Net Asset Value of such shares, as determined by the Board or a duly authorised agent of the Company as at the close of business on the latest Valuation

Day falling prior to the record date for such meeting, for purposes of calculating the voting rights exercisable in accordance with Article 4.10.1(d).

- 4.6 At any general meeting at which a resolution is proposed on which the Special Voting Share may vote the Company will, in advance of VoteCo casting its vote on the relevant resolution, advise VoteCo of the number of votes cast by proxy by the holders of the Public Shares and the Management Shares in favour, against or withheld on that resolution.

4.7 *Public Shares*

4.7.1 Dividends

The holders of the Public Shares are entitled to receive, and participate in, any Dividends or other distributions (if any) of the Company attributable to the Public Shares and resolved by the Board to be distributed in respect of any accounting period or other income or right to participate therein in accordance with Article 49.

4.7.2 Winding up

On a winding up, the holders of the Public Shares shall be entitled to the surplus assets attributable to the Public Shares remaining after payment of all the creditors of the Company in accordance with Article 56.2. Notwithstanding anything to the contrary in these Articles, any vote of the Members to wind up the Company pursuant to and in accordance with Article 56 is to be treated as a variation of the rights attaching to the Public Shares as a class and subject to the provisions of Article 13.1.

4.7.3 Voting

The holders of the Public Shares shall have the right to receive notice of and to attend and vote at general meetings of the Company and each holder of Public Shares being present in person or by proxy or (if a legal person) by a duly authorised representative at a meeting shall have the number of votes in respect of every Public Share as provided for in Article 4.10.

4.7.4 Conversion

- (a) A Public Shareholder who is a Permitted Management Shareholder (but not any other Public Shareholder) shall have the right to convert, in whole or in part, his or her Public Shares into Management Shares on an aggregate Net Asset Value for Net Asset Value basis monthly as of the final Valuation Day in that month.
- (b) Conversion is only exercisable by a Public Shareholder by such Public Shareholder giving to the Company a written notice in such form and by such time as the Board at any time determines, including providing such proof as the Board requires regarding the eligibility of that Public Shareholder to hold Management Shares.

- (c) If the determination of the Net Asset Value of the Management Shares or the Public Shares is suspended beyond the day on which it would normally occur by reason of a declaration by the Board pursuant to Article 12 or any other provision of these Articles, the right of a Public Shareholder to have such Public Shareholder's Public Shares converted pursuant to this Article shall be similarly suspended and during the period of suspension the Board shall be entitled not to proceed with such conversion. If the Company decides to proceed with such conversion, such conversion of the Public Shares specified in the Public Shareholder's conversion notice shall be effected on the first day on which the conversion of the Public Shares are not suspended (if such day is a Valuation Day) or on the next following Valuation Day (if such day is not a Valuation Day).
- (d) Conversion of Public Shares into the requisite proportion, as determined by the Board, of Management Shares pursuant to this Article shall be treated as taking effect on the relevant Valuation Day. Where a certificate is to be issued in respect of the Management Shares issued on such Conversion, no such certificate shall be issued until the Company shall have received the certificate or certificates, if any, or such other evidence of title as the Board requires representing the relevant number of Public Shares so converted with such other documentation as the Board requires, including, for the avoidance of doubt, any documentation required in connection with the removal of the relevant Shares from a Relevant System.
- (e) Upon such conversion, the Board shall be entitled to require a Public Shareholder to pay to the Company a charge to be determined by the Board. The Board shall be entitled to differentiate between Public Shareholders as to the amount of such charge.
- (f) Conversion of the Public Shares may be effected in such manner permitted by applicable legislation as the Board shall from time to time determine.

#### 4.8 *Special Voting Share*

##### 4.8.1 Dividends

The holder of the Special Voting Share is entitled to receive, and participate in, any Dividends or other distributions (if any) of the Company attributable to the Special Voting Share and resolved by the Board to be distributed in respect of any accounting period or other income or right to participate therein in accordance with Article 49.

##### 4.8.2 Winding up

On a winding up, the holder of the Special Voting Share shall be entitled to the surplus assets attributable to the Special Voting Share remaining after payment of all the creditors of the Company in accordance with Article 56.2.

#### 4.8.3 Voting

The holder of the Special Voting Share shall have the right to receive notice of and to attend and vote at general meetings of the Company and, if present in person or by proxy or by a duly authorised representative at a meeting, shall have the number of votes in respect of the Special Voting Share as provided for in Article 4.10.

#### 4.8.4 Issue

The Company may only issue a single Special Voting Share to VoteCo. The Company shall not issue any additional Special Voting Shares to any person.

#### 4.8.5 Cessation

- (a) If, as a result of acceptances received in respect of an Offer, any person would hold Public Shares or Management Shares carrying 75 per cent. or more of the voting rights attaching to the Public Shares and the Management Shares, the voting rights, as set out in Article 4.10.1(a), attaching to the Special Voting Share shall immediately cease to apply with effect from the time and date on which that Offer is declared wholly unconditional (save, for the avoidance of doubt, in respect of any condition to the Offer requiring the cessation of the voting rights attaching to the Special Voting Share).
- (b) In the event that the voting rights cease to attach to the Special Voting Share, in accordance with Article 4.8.5(a), only the Public Shares and the Management Shares shall comprise the Voting Shares.

### 4.9 *Management Shares*

#### 4.9.1 Dividends

Management Shareholders are entitled to receive, and participate in, any Dividends or other distributions of the Company attributable to the Management Shares and resolved by the Board to be distributed in respect of any accounting period or other income or right to participate therein in accordance with Article 49.

#### 4.9.2 Winding up

On a winding up, Management Shareholders shall be entitled to the surplus assets attributable to the Management Shares remaining after payment of all the creditors of the Company in accordance with Article 56.2.

#### 4.9.3 Voting

The holders of the Management Shares shall have the right to receive notice of and to attend and vote at general meetings of the Company and each holder of

Management Shares being present in person or by proxy or (if a legal person) by a duly authorised representative at a meeting shall have the number of votes with respect to each Management Share as provided for in Article 4.10.

#### 4.9.4 Issue

The Company shall not issue Management Shares otherwise than to any Person who, upon issuance of such Management Shares, is a Permitted Management Shareholder.

#### 4.9.5 Conversion

- (a) A Management Shareholder shall have the right to convert, in whole or in part, his or her Management Shares into Public Shares on an aggregate Net Asset Value for Net Asset Value basis monthly as of the final Valuation Day in that month.
- (b) Conversion is only exercisable by a Management Shareholder by such Management Shareholder giving to the Company a written notice in such form and by such time as the Board at any time determines.
- (c) If the determination of the Net Asset Value of the Management Shares or the Public Shares is suspended beyond the day on which it would normally occur by reason of a declaration by the Board pursuant to Article 12 or any other provision of these Articles, the right of a Management Shareholder to have such Management Shareholder's Management Shares converted pursuant to this Article shall be similarly suspended and during the period of suspension the Board shall be entitled not to proceed with such conversion. If the Company decides to proceed with such conversion, such conversion of the Management Shares specified in the Management Shareholder's conversion notice shall be effected on the first day on which the conversion of the Management Shares are not suspended (if such day is a Valuation Day) or on the next following Valuation Day (if such day is not a Valuation Day).
- (d) Conversion of Management Shares into the requisite proportion, as determined by the Board, of Public Shares pursuant to this Article shall be treated as taking effect on the relevant Valuation Day. Where a certificate is to be issued in respect of the Public Shares issued on such Conversion, no such certificate shall be issued until the Company shall have received the certificate or certificates, if any, or such other evidence of title as the Board requires representing the relevant number of Management Shares so converted with such other documentation as the Board requires, including, for the avoidance of doubt, any documentation required in connection with the Public Shares' admission to a Relevant System.
- (e) Upon such conversion, the Board shall be entitled to require a Management Shareholder to pay to the Company a charge to be determined by the Board.

The Board shall be entitled to differentiate between Management Shareholders as to the amount of such charge.

- (f) Conversion of the Management Shares may be effected in such manner permitted by applicable legislation as the Board shall from time to time determine.

#### 4.10 *Voting rights*

4.10.1 Subject to Article 4.10.2, at any general meeting of the Company or on any written resolution of the Company, when all classes of shares vote together pursuant to Article 4.2:

- (a) the Special Voting Share shall carry such number of votes so as to carry, on each matter put to a vote of Members attending a general meeting by proxy or in person or by written resolution (other than any Specified Matter or any other matter for which a different rule is stated in these Articles or pursuant to applicable law), such number of votes as is equal to 50.1 per cent. of the total number of votes of the aggregate number of Voting Shares entitled to vote on that matter;
- (b) on any resolution on which the holder of the Special Voting Share is entitled to vote, the holder of the Special Voting Share shall not be required to exercise all of the votes attaching to the Special Voting Share in the same manner and shall be entitled, in its sole discretion, to cast any proportion of such votes either in favour, against or to withhold some or all of its votes on any given resolution;
- (c) each Public Share and Management Share shall carry such number of votes so that the aggregate number of Public Shares and Management Shares, voting together for a resolution, shall together carry, on each matter put to a vote of Members attending a general meeting by proxy or in person or by written resolution (other than any Specified Matter or any other matter for which a different rule is stated in these Articles or pursuant to applicable law), such number of votes as is equal to 49.9 per cent. of the total number of votes of the aggregate number of Voting Shares entitled to vote on that matter; and
- (d) subject at all times to the 49.9 per cent. deemed limit set out in Article 4.10.1 (c) each Public Share shall carry one vote and each Management Share shall carry such number of votes so that the total number of votes of the Public Shares and Management Shares in issue entitled to vote on that matter shall be apportioned among such Public Shares and Management Shares pro rata in accordance with their respective Net Asset Values as determined by the Board for this purpose.

#### 4.10.2 Specified Matters and other matters reserved for Public Shareholders

For so long as the Company is subject to the Listing Rules, only the Public Shares shall vote on any resolution relating to a Specified Matter. On any matter (including, for so long as the Company is subject to the Listing Rules, any Specified Matter) on which only the Public Shareholders may vote pursuant to these Articles or applicable law, each Public Share shall carry one (1) vote.

#### 4.10.3 Classes

For the avoidance of doubt, the calculation of voting rights attributable to shares in a particular class in accordance with their respective Net Asset Values under Article 4.10.1 will not create separate classes of shares on any change in the respective Net Asset Values of such shares within the same class.

### **5. ISSUE OF SHARES**

5.1 Subject to the Ownership Limit, Plan Limit and Article 21 and as hereinafter provided, and without prejudice to any special rights previously conferred on the holders of any existing shares or, if applicable, class of share, any share (or option, warrant or other right in respect of a share) in the Company may be issued with such preferred, deferred or other rights or restrictions, whether as to Dividend, voting, return of capital or otherwise, as the Board determines, and so that the amount payable on application on each share shall be fixed by the Board. The Board has general and unconditional authority to issue an unlimited number of shares (or options, warrants or other rights in respect of shares).

5.2 Subject to the provisions of the Law and these Articles:

5.2.1 at the option of the Board, the Company and any of its subsidiaries shall be entitled to give financial assistance (whether through loans, like-kind exchanges, extensions of credit, grants, gifts, investments, forbearance of rights or obligations or otherwise) directly or indirectly for the purpose of or in connection with the acquisition of shares in the Company or in connection with reducing or discharging any liability incurred in connection with the purchase of shares in the Company;

5.2.2 fractions of shares may be issued or purchased by the Company, as determined by the Board; and

5.2.3 the Company may issue shares of no par value or shares with a par value or a combination of both, as determined by the Board.

### **6. PRE-EMPTION ON ALLOTMENT AND ISSUE OF SHARES**

6.1 In this Article 6:

6.1.1 **equity securities** means:

(a) ordinary shares in the Company, or



- (b) rights to subscribe for, or to convert securities into, ordinary shares in the Company;
- 6.1.2 **ordinary shares** means shares other than shares that as respects dividends and capital carry a right to participate only up to a specified amount in a distribution; and
- 6.1.3 references to the allotment and issue of equity securities include:
  - (a) the grant of a right to subscribe for, or to convert any securities into, ordinary shares in the Company (but do not include the allotment and issue of ordinary shares pursuant to such a right); and
  - (b) the sale of ordinary shares in the Company that immediately before the sale are held by the Company in treasury.
- 6.2 The Company shall not allot and issue equity securities to a person on any terms unless:
  - 6.2.1 it has made an offer to each person who holds ordinary shares in the Company to allot and issue to such person on the same or more favourable terms a proportion of those securities the aggregate value of which (at the proposed issue price) is as nearly as practicable equal to the proportion of the total Net Asset Value of the Company represented by the ordinary shares held by such holder; and
  - 6.2.2 the period during which any such offer may be accepted has expired or the Company has received notice of the acceptance or refusal of every offer so made,

provided that the Board may impose such exclusions or make such other arrangements as they deem necessary or expedient in relation to fractional entitlements or having regard to any legal or practical problems arising under the laws of any overseas territory, or the requirements of any regulatory body or stock exchange in any territory or otherwise howsoever including, without limitation, ERISA. The holders of ordinary shares affected as a result of such exclusions or arrangements shall not be, or be deemed to be, a separate class of Members for any purpose whatsoever.
- 6.3 Securities that the Company has offered to allot and issue to a holder of ordinary shares may be allotted and issued to him or her, or anyone in whose favour he or she has renounced his or her right to their allotment and issue, without contravening Article 6.2.1.
- 6.4 Ordinary shares held by the Company in treasury shall be disregarded for the purposes of this Article 6, so that the Company is not treated as a person who holds ordinary shares; and the ordinary shares held in treasury are not treated as forming part of the ordinary share capital of the Company.
- 6.5 Any offer required to be made by the Company pursuant to Article 6.2 should be made by a notice (given in accordance with Article 55) and such offer must state a period during which such offer may be accepted and such offer shall not be withdrawn before the end of that period. Such period must be a period of at least 14 days beginning on the date on which



such offer is deemed to be delivered or received (as the case may be) pursuant to Article 55. If the offer is not accepted within this period it will be deemed to have been declined. After the expiration of the period, or if earlier, on receipt of acceptances or refusals from all holders of ordinary shares to whom the offer was made, the Board may aggregate and dispose of those equity securities that have not been taken up in such a manner as it determines is most beneficial to the Company.

6.6 Article 6.2 shall not apply in relation to the allotment and issue of:

6.6.1 bonus shares, shares allotted and issued in accordance with Article 52 nor to a particular allotment and issue of equity securities if these are, or are to be, wholly or partly paid otherwise than in cash; or

6.6.2 equity securities in connection with a rights issue, open offer or other offer of securities in favour of holders of ordinary shares at such record date as the Board may determine where the securities attributable to the interests of the holders of ordinary shares are proportionate (as nearly as may be practicable) to the respective numbers of ordinary shares held by them on such record date, subject to such exclusions or other arrangements as the Board may deem necessary or expedient in relation to fractional entitlements or legal or practical problems arising under the laws of any overseas territory or the requirements of any regulatory body or stock exchange or any other matter whatever including, without limitation, ERISA.

6.7 The Company may, by Special Resolution of the Voting Shares, resolve that Article 6.2 shall be excluded or that such Article shall apply with such modifications as may be specified in the resolution:

6.7.1 generally in relation to the allotment and issue by the Company of equity securities;

6.7.2 in relation to allotments and issues of a particular description; or

6.7.3 in relation to a specified allotment and issue of equity securities, and any such resolution must:

6.7.4 state the maximum number (which may be expressed as a percentage) of equity securities in respect of which Article 6.2 is excluded or modified or such maximum number or market value may remain unspecified; and

6.7.5 specify the date on which such exclusion or modifications will expire or may be of unlimited duration.

6.8 Any resolution passed pursuant to Article 6.7 may:

6.8.1 be renewed or further renewed by a further Special Resolution of the Voting Shares for a further fixed period or may be of unlimited duration; and

- 6.8.2 be revoked or varied at any time by a further Special Resolution of the Voting Shares.
- 6.9 Notwithstanding that any such resolution referred to in Article 6.7 or Article 6.8 has expired, the Board may allot and issue equity securities in pursuance of an offer or agreement previously made by the Company if the resolution enabled the Company to make an offer or agreement that would or might require equity securities to be allotted and issued after it expired.
- 6.10 In this Article 6, in relation to an offer to allot and issue equity securities, a reference (however expressed) to the holder of ordinary shares of any description is to whoever was the holder of ordinary shares of that description at the close of business on a date to be specified in the offer and the specified date must fall within the period of 28 days immediately before the date of the offer.
- 6.11 If a holder of ordinary shares has no registered address in an EEA State and has not given to the Company an address in an EEA State for the service of notices on him, the offer (made pursuant to Article 6.2) may be deemed supplied by causing it, or a notice specifying where a copy of it can be obtained or inspected, to be published in La Gazette Officielle.
- 6.12 The Company shall only be liable for a breach of the provisions of Article 6 where proceedings are commenced before the expiration of two years from the date of issue, grant or other disposal of such equity securities.
- 6.13 For the purpose of any disapplication of Article 6.2 by way of a Special Resolution of the Voting Shares, equity securities which grant rights to subscribe for, or to convert into, shares shall be deemed to relate to such number of shares into which such equity securities may convert pursuant to their initial terms of issue, notwithstanding any terms providing for subsequent adjustment of that number.

## **7. REPURCHASE OF SHARES**

- 7.1 The Company shall, at the option of the Board, be entitled to purchase any of its shares (including any Public Shares for discount control or any other lawful purpose) and may pay the purchase price in respect of such purchase to the fullest extent permitted by the Law.
- 7.2 Shares repurchased by the Company may be held as treasury shares or cancelled, in each case, as determined by the Board and dealt with by the Board to the fullest extent permitted by the Law.

## **8. COMMISSIONS**

The Board shall be entitled to pay commissions in money or shares to any person in consideration of such person subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares (or any option, warrant or other right in respect of shares) or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares (or option, warrant or other right in respect of shares) provided that the rate or

amount of commission shall be fixed by the Board. The Board shall also be entitled to pay brokerage charges.

## **9. KEY MAN EVENT**

- 9.1 If a Key Man Event occurs before 13 October 2021 (i) the Company will notify Members as soon as practicable in accordance with Article 55 and (ii) the Company will be wound up pursuant to and in accordance with Article 56, unless a resolution of the Members is passed in accordance with and pursuant to Article 30.9.

## **10. COMPULSORY REDEMPTIONS BY THE COMPANY**

- 10.1 The Company may at any time, upon notice, compulsorily redeem all or a portion of a Member's shares at the Redemption Price on the Valuation Day nominated in such notice for any reason or for no reason, including, for the avoidance of doubt: (i) to ensure that no person shall Constructively Own shares in excess of the Ownership Limit and that no Plans will, following any redemption and/or sale of any share (and taking into account all shares being issued or redeemed), violate the Plan Limit or otherwise to avoid the assets of the Company being treated as "plan assets" under ERISA, (ii) if such Member's continued interest in the Company would cause the Company to become subject to the US Investment Company Act or give rise to an obligation of the Company to register any class of its securities under the Exchange Act, or (iii) if the Board deems such action is in the best interests of the Company. The Company may also redeem all or a portion of a Member's shares if, among other considerations, (i) any litigation or other legal proceeding is commenced or threatened against the Company, the Board, the Investment Manager, any other Indemnified Party or any of the holders of shares arising out of, or relating to, such Member's interest in the Company, (ii) the Board determines a redemption of all or some of such Member's shares is in the best interests of the Company; or (iii) any shares are transferred by or to such Member otherwise than in accordance with the provisions of Article 23. For the avoidance of doubt, a Member may be subject to such compulsory redemption before such Member's holdings violate the Plan Limit or Ownership Limit and before the Excess Share and Excess Plan Share provisions set forth in Article 24 apply if the Board determines that such compulsory redemption is reasonably necessary to avoid application of the Excess Share and Excess Plan Share provisions set forth in Article 24.
- 10.2 Upon such compulsory redemption under these Articles being exercised by the Company against a Member, such Member will be entitled to receive the Redemption Price in respect of such holder's shares, such Redemption Price to be paid to such holder in the manner described and subject as provided in these Articles and from the day on which such compulsory redemption is effected shall have no other Member's rights except the right to receive the Redemption Price and the right to receive any Dividends declared but not yet paid on such shares.
- 10.3 Any shares which are subject to a compulsory redemption, in accordance with this Article 10, shall, at the Board's discretion, either be held in treasury or cancelled by the Company.

## **11. DETERMINATION OF NET ASSET VALUE**

- 11.1 The Net Asset Value shall be determined by the Board or a duly authorised agent of the Company as at the close of business on each Valuation Day in accordance with these Articles, except when the determination of the Net Asset Value has been suspended under these Articles.
- 11.2 The Net Asset Value of the Company will be the value of all the assets less all the liabilities of the Company as at the relevant Valuation Day, as determined in accordance with these Articles.
- 11.3 The Net Asset Value of any class of the Company's shares will be the portion of the Net Asset Value of Company attributable to that class of shares at the relevant Valuation Day, taking account of the assets and liabilities of the Company specifically attributable to that class of shares.
- 11.4 The Net Asset Value per share of any class of share will be the Net Asset Value of the Company attributable to that share class divided by the number of shares in issue in that class as at the relevant Valuation Day.
- 11.5 The value of the assets and liabilities of the Company, the method of valuation of such assets and liabilities, the Net Asset Value of any class of the Company's shares and the Net Asset Value per share of any class of share shall be determined by the Board or a duly authorised agent of the Company (who may, if applicable, consult with, and rely in good faith on, the advice of the Investment Manager).
- 11.6 The assets of the Company shall be deemed to include:
  - 11.6.1 all securities owned or contracted to be acquired and all unrealised gains (or losses) on such securities;
  - 11.6.2 all cash in hand, on loan or on deposit including accrued interest thereon;
  - 11.6.3 all bills and demand notes and amounts receivable (including proceeds of securities sold but not delivered);
  - 11.6.4 all interest accrued on any interest-bearing securities owned by the Company, except to the extent that the same is included or reflected in the principal amount of such securities; and
  - 11.6.5 all other assets of every kind and nature, including prepaid expenses.
- 11.7 The liabilities of the Company shall be deemed to include:
  - 11.7.1 all loans, bills and accounts payable;
  - 11.7.2 accrued Management Fees and Performance Fees;

- 11.7.3 all accrued or payable administrative expenses (including all fees payable to any service provider and any agent), and any allowance or estimated annual audit fees, Directors' fees, legal fees and other fees, and any additional fees payable to the Investment Manager;
  - 11.7.4 all known liabilities, present and future, including all matured contractual obligations for payments of money or property;
  - 11.7.5 an appropriate provision for taxes due and future taxes to be assessed; and
  - 11.7.6 all other liabilities of the Company of whatsoever kind and nature for which reserves are determined to be required by the Board.
- 11.8 In the event that any amount is not payable until some future time after the Valuation Day, the Board (who shall be entitled to consult with and rely on the advice of the Investment Manager) shall make such allowance as is considered appropriate to reflect the true current value thereof.
- 11.9 The Board shall determine which accounting principles shall apply to the determination of the Net Asset Value. To the extent that the Board has not determined otherwise, or to the extent feasible, expenses, fees and other liabilities will be accrued in accordance with generally accepted accounting principles as applied in the United States (GAAP). Reserves (whether or not in accordance with GAAP) may be established for estimated or accrued expenses, liabilities or contingencies.
- 11.10 In the event that the Board determines that the valuation of any securities or other property pursuant to these Articles does not fairly represent market value, the Board (or any duly authorised agent of the Company) may value such securities or other property as the Board (or such duly authorised agent) reasonably determines in good faith and will set forth the basis of such valuation in writing in the Company's records.
- 11.11 The Board shall be entitled to request that the auditors review the methodology of valuation adopted by the Company at such time, in the view of the Board, as is appropriate and the Board, following such review, shall be entitled to adopt such other basis for valuation as the auditors may recommend. The Board shall be entitled to make such modifications to the means of determining the Net Asset Value as the Board at any time considers reasonable to ensure that such changes accord with good accounting practice.
- 11.12 For the purposes of any determination in the manner outlined in this Article, the Board shall be entitled to rely upon the opinions of any persons who appear to it to be competent to value assets of that type by reason of any appropriate professional qualification or experience of any relevant market. In no event and under no circumstances shall the Board incur any liability or responsibility for any determinations made or other actions taken or omitted by it in good faith. Any determinations of Net Asset Value by the Board in accordance with the provisions of this Article shall constitute final and binding determinations.

- 11.13 In the event that an estimated valuation included in any determinations of Net Asset Value proves subsequently to be incorrect or varies from a final published price, the Board (or any duly authorised agent of the Company) shall be entitled to make an adjustment to any previously published Net Asset Value or Net Asset Value per share, as applicable.

## **12. SUSPENSION OF DETERMINATIONS OF NET ASSET VALUE**

- 12.1 The Board shall be entitled to suspend determinations of Net Asset Value at any time upon the occurrence of or during any circumstances determined by the Board, including the following circumstances:

12.1.1 any period when any stock exchange or over-the-counter market on which the securities held by the Company are quoted, listed or dealt in is closed, other than for ordinary holidays and weekends, or during which dealings in any such stock exchange or market are restricted or suspended; or

12.1.2 any breakdown in the means of communication normally employed in determining the value of the Company's assets and liabilities or during any period when for any other reason the value of the Company's assets and liabilities cannot, in the opinion of the Board, be promptly and accurately ascertained.

- 12.2 Members will be notified as soon as practicable by the Company of any such suspension of the determination of the Net Asset Value and of the reinstatement of such determination.

- 12.3 Any such suspension shall take effect at such time as the Board declares and thereafter there shall be no determination of Net Asset Value until the Board declares the suspension to be at an end except that the suspension shall terminate in any event on the first Business Day on which:

12.3.1 the condition giving rise to the suspension shall have ceased to exist; and

12.3.2 no other condition under which suspension is authorised under these Articles shall exist.

- 12.4 Each declaration of a suspension by the Board pursuant to these Articles shall be consistent with such official rules and regulations (if any) relating to the subject matter thereof as shall have been promulgated by any authority having jurisdiction over the Company as shall be in effect at the time.

- 12.5 To the extent not inconsistent with such official rules and regulations as mentioned in the preceding Article, the determination of the Board shall be conclusive.

## **13. VARIATION OF CLASS RIGHTS**

- 13.1 Subject to the provisions of the Law, if at any time the share capital of the Company is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue) may, whether or not the Company is being wound up, be varied with the approval of a Special Resolution of the holders of the shares of that class.

- 13.2 The quorum for a variation of class rights meeting is:
- 13.2.1 for a meeting, other than an adjourned meeting, of a class that has more than one (1) Member, two (2) Members present holding at least thirty three (33) and one third (1/3) per cent. of the number of votes of the class in question;
  - 13.2.2 for an adjourned meeting, one (1) Member holding shares of the class in question; or
  - 13.2.3 where the class has only one (1) Member, that Member for any meeting including an adjourned meeting.
- 13.3 For the purposes of Article 13.2.1, where a person is present by proxy or proxies, he or she is treated as holding only the shares in respect of which the proxies are authorised to exercise voting rights.
- 13.4 The rights attached to any share, or class of shares, having preferential rights shall (unless otherwise expressly provided by the terms and conditions of issue of such shares or class of shares) be deemed not to be varied by:
- 13.4.1 the creation, allotment or issue of further shares or class of shares ranking *pari passu* therewith or subsequent thereto or by the purchase or redemption by the Company of its own shares, including any class of share;
  - 13.4.2 the payment of a Dividend on the shares of any other class of shares where the Dividend is paid out of the Investment Account of that other class of share;
  - 13.4.3 the exercise by the Board of its discretion with respect to the attribution of assets, profits and liabilities or the transfer or re-allocation of assets between Investment Accounts in accordance with Article 50;
  - 13.4.4 the re-designation, division, sub-division, consolidation, conversion, exchange or consolidation, merger (including a split-up, stock split, reverse stock split or other similar recapitalisation or reorganisation) of shares of any class into shares of another class pursuant to and in accordance with these Articles;
  - 13.4.5 if the Company shall be wound up, by the exercise by the Liquidator of the powers under Articles 56.3 or 56.4;
  - 13.4.6 converting shares from Certificated to Uncertificated form and vice versa; or
  - 13.4.7 the exercise by the relevant Members of any of their voting rights under Article 30.8, 30.9 or 30.11.



## 14. CLASS MEETINGS

Subject to Article 13, when the share capital is divided into different classes of shares, Articles 27 to 32 (inclusive) shall apply mutatis mutandis to any class meeting and to the voting on any matter by the Members of any such class.

## 15. TRUSTS

Without prejudice to Part XXIX of the Law, except as ordered by a court of competent jurisdiction or as required by law, the Company shall not be affected or bound by or be compelled in any way to recognise (even when having notice) any equitable, contingent, future or partial interest in any share or fraction or (except only as by these Articles or by law otherwise provided) or any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder and whether or not such share shall be entered in the Register as held in trust, nor shall the Company be bound to see to the execution of any trust to which any share may be subject.

## 16. NOTIFICATION OF INTERESTS IN PUBLIC SHARES BY MEMBERS

- 16.1 Each Member shall be under an obligation to make notifications in accordance with (i) the provisions of this Article 16, (ii) any functionally equivalent notification requirements applicable to the Public Shareholders by reason of the listing of the Public Shares on any stock exchange as notified to the Public Shareholders in accordance with Article 55 and (iii) if required by the regulations applicable to any stock exchange on which the Public Shares are listed, by public announcement made in accordance with those regulations.
- 16.2 The provisions of DTR 5 shall be deemed to be incorporated by reference into these Articles and accordingly the vote holder and issuer notification rules set out in DTR 5 shall apply to the Company and each Member, as modified by Article 16.3.
- 16.3 For the purposes of the incorporation by reference of DTR 5 into these Articles and the application of DTR 5 to the Company and each Member, a Member must notify the Company in accordance with DTR 5 of the number of Public Shares such Member holds or is deemed to hold (through such Member's direct or indirect holding of financial instruments) if the number of those Public Shares reaches, exceeds or falls below three (3) per cent., four (4) per cent. and each 0.25 per cent. threshold thereafter up to five (5) per cent. of the total aggregate issued number of Public Shares, as a result of an acquisition or disposal of Voting Shares or any other event.
- 16.4 For the purposes of this Article 16 only, defined terms in DTR 5 shall bear the meaning set out in DTR 5, and if the meaning of a defined term is not set out in DTR 5, the defined term shall bear the meaning set out in the glossary to the FCA Handbook (in such case, read as the definition applicable to DTR 5).
- 16.5 If the Board determines that a Member (a **Defaulting Member**) has not complied with the obligation to make notifications in accordance with the provisions of this Article 16 with respect to some or all of such Public Shares held by such Member (the **Default Shares**),



without prejudice to the application of any other provisions of these Articles, the Board shall have the right by delivery of notice to the Defaulting Member (a **Default Notice**) to:

- 16.5.1 suspend the right of such Defaulting Member to vote on the Default Shares in person or by proxy at any meeting of the Company. Such a suspension shall have effect from the date on which the Default Notice is delivered by the Board to the Defaulting Member until a date that is not more than seven (7) days after the Board has determined that the Defaulting Member has cured the non-compliance with the provisions of this Article 16, provided that the Board shall be entitled to at any time by subsequent written notice cancel or suspend the operation of a Default Notice; and/or
- 16.5.2 (i) withhold, without any obligation to pay interest thereon, any Dividend or other amount payable with respect to the Default Shares with such amount to be payable only after the Default Notice ceases to have effect with respect to the Default Shares, (ii) render ineffective any election to receive shares of the Company instead of cash in respect of any Dividend or part thereof and/or (iii) prohibit the transfer of any shares of the Company held by the Defaulting Member except with the consent of the Board or if the Defaulting Member can provide satisfactory evidence to the Board to the effect that, after due inquiry, such Defaulting Member has determined that the shares to be transferred are not Default Shares.

## **17. CERTIFICATES**

- 17.1 A person whose name is entered in the register as the holder of any Certificated Public Shares shall be entitled on request to receive, without charge, within one month after the allotment of such Public Shares or five Business Days after the lodgement of evidence of that person's entitlement to those Public Shares, one certificate for those Public Shares. Otherwise, share certificates shall not be issued except as determined by the Board.
- 17.2 All forms of certificates for shares or debentures or any other document representing any other form of security may be issued and signed as determined by the Board by a duly authorised representative of the Company in accordance with the Law.
- 17.3 In respect of a share held jointly, the Company shall not be bound to issue more than one certificate and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.
- 17.4 In respect of a share certificate which is defaced, lost or destroyed, it may be renewed on payment of such fee and on such terms (if any) as to evidence and indemnity and the payment of expenses as the Board deems fit.

## **18. LIEN**

- 18.1 The Company shall have a first and paramount lien (extending to all Dividends payable) on all shares (not being fully paid) for all monies, whether presently payable or not, called or payable at a fixed time in respect of those shares and for all the debts and liabilities of the holder to the Company and that whether the same shall have been incurred before or

after notice to the Company of any equitable or other interest of any person (other than such holder) and whether the time for payment or discharge shall have arrived or not and notwithstanding that the same are joint debts or liabilities of such holder and any other person (whether a Member of the Company or not).

- 18.2 The Company may sell in such manner as the Board deems fit any shares on which the Company has a lien but no sale shall be made unless a sum in respect of which the lien exists is presently payable nor until after a notice demanding payment has been given to the holder of the shares.
- 18.3 To give effect to any sale, the Board shall be entitled to authorise a person to transfer the shares sold to the purchaser who shall be registered as the holder of the shares comprised in any such transfer and who shall not be bound to see to the application of the purchase money nor shall his or her title to the shares be affected by any irregularity or invalidity in the proceedings.
- 18.4 The net proceeds of the sale after payment of the costs shall be applied in payment of so much of the sum for which the lien exists as is presently payable and any residue shall (upon surrender to the Company for cancellation of the certificate for the shares sold and subject to a like lien for any monies not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of sale.

## **19. CALLS ON SHARES**

- 19.1 The Board shall be entitled at any time to make on at least fourteen (14) Business Days' prior notice calls upon the Members in respect of any monies unpaid on their shares (whether on account of the nominal value, if any, or by way of premium and not by the conditions of allotment made payable at fixed times) and each Member shall pay to the Company at the time and place appointed the amount called. A call may be revoked or postponed.
- 19.2 Joint holders shall be jointly and severally liable to pay calls.
- 19.3 If a sum called in respect of a share is not paid before or on the day appointed, the person from whom the sum is due shall pay interest from the day appointed to the time of actual payment at such rate as the Board determines.
- 19.4 Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date shall, for the purposes of these Articles, be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable and, in the case of non-payment, all the relevant provisions of these Articles as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.
- 19.5 The Board shall be entitled on an issue of shares to differentiate between holders as to amount of calls and times of payment.

## **20. FORFEITURE AND SURRENDER OF SHARES**

- 20.1 If a Member fails to pay any call or instalment on the day appointed, the Board, at any time during such period as any part remains unpaid, shall be entitled to serve notice requiring payment of so much of the call or instalment as is unpaid together with any interest which may have accrued and any expenses which may have been incurred by the Company by reason of non-payment.
- 20.2 The notice shall state a further day at least fourteen (14) Business Days after the date of the notice on or before which the payment required by the notice is to be made and the place where the payment is to be made and that in the event of non-payment the shares in respect of which the call was made or instalment is payable will be liable to be forfeited. If the requirements of any such notice are not complied with, any share in respect of which the notice has been given may, at any time before payment has been made, be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all Dividends declared in respect of the forfeited share and not actually paid before the forfeiture.
- 20.3 Notice of forfeiture shall forthwith be given to the former holder and an entry of such notice and forfeiture shall forthwith be made and dated in the Register opposite the entry of the share; but no forfeiture shall be in any manner invalidated by any omission or neglect to give notice or to make such entry.
- 20.4 A forfeited share shall be deemed to be the property of the Company and may be sold, re-allotted or otherwise disposed of on such terms as the Board shall deem fit, with or without all or any part of the amount previously paid on the share being credited as paid, and, at any time before a sale or disposition, the forfeiture may be cancelled.
- 20.5 A person whose shares have been forfeited shall cease to be a Member in respect of those shares but shall remain liable to pay to the Company all monies which, at the date of forfeiture, were payable in respect of the shares with interest from the date of forfeiture to the date of payment at such rate (not exceeding fifteen (15) per cent. per annum) as the Board determines, plus costs and expenses reasonably incurred by the Company in connection therewith. The Board shall be entitled to enforce payment without any allowance for the value of the shares at the time of forfeiture.
- 20.6 The forfeiture of a share shall extinguish all interest in and all claims and demands against the Company in respect of the share and all other rights and liabilities incidental to the share as between the holder and the Company.
- 20.7 The Board shall be entitled to accept from any Member on such terms as shall be agreed a surrender of any shares in respect of which there is a liability for calls. Any surrendered share may be disposed of in the same manner as a forfeited share.
- 20.8 A declaration in writing by a Director or a Secretary that a share has been duly forfeited or surrendered on the date stated in the declaration shall be conclusive evidence of the facts therein as against all persons claiming to be entitled to the shares.

- 20.9 The Company shall be entitled to receive the consideration given for any share on any sale or disposition and shall be entitled to execute a transfer of the share in favour of the person to whom the same is sold or disposed of and such person shall thereupon be registered as the holder and shall not be bound to see to the application of the purchase money nor shall his or her title be affected by any irregularity or invalidity in forfeiture, sale, re-allotment or disposal.

## 21. PROHIBITED US PERSONS

- 21.1 The Board shall be entitled to refuse to allot or register a transfer of any shares (including, for the avoidance of doubt, any Public Share) to a person that the Board has any reason to believe is a Plan or a US Person or otherwise in circumstances where the holding of shares by such person would: (a) give rise to an obligation on the Company to register as an “investment company” under the US Investment Company Act; (b) preclude the Company from relying on the exception to the definition of “investment company” contained in Section 3(c)(7) of the US Investment Company Act; (c) give rise to an obligation on the Company to register any class of its securities under the Exchange Act; (d) result in the Company not being considered a “Foreign Private Issuer” as that term is defined by Rule 3b-4(c) promulgated under the Exchange Act; (e) give rise to an obligation on the Investment Manager to register as a commodity pool operator or commodity trading advisor under the US Commodity Exchange Act of 1974 if the Investment Manager is not so registered; or (f) cause assets of the Company to be treated as the assets of any Plan for purposes of ERISA and the regulations thereunder (each such US Person, a **Prohibited US Person**). Each person acquiring shares by virtue of such acquisition shall be deemed to have represented to the Company that such person is not a Prohibited US Person.
- 21.2 Without prejudice to the application of any other provisions of these Articles, if any shares are owned directly or beneficially by a person believed by the Board to be a Prohibited US Person, the Board shall be entitled to give notice to such person requiring them either (1) to provide the Board within thirty (30) days of receipt of such notice with sufficient satisfactory documentary evidence to satisfy the Board that such person is not a Prohibited US Person or (2) to sell or transfer their shares to a person qualified to own the same within thirty (30) days and within such thirty (30) days to provide the Board with satisfactory evidence of such sale or transfer. Where condition (1) or (2) is not satisfied within thirty (30) days after the serving of the notice, the person shall be deemed, upon the expiration of such thirty (30) days, to have forfeited their shares as of the day immediately preceding such thirty (30) day period.
- 21.3 A forfeited share will be deemed to be the property of the Company and may be sold, reallocated or otherwise disposed of on such terms as the Board deems fit, including (if applicable) with or without all or any part of the amount previously paid on the share being credited as paid. At any time before such a sale or disposition the forfeiture process may be cancelled. Any person whose shares have been forfeited shall be paid the lesser of the proceeds received from the Company’s subsequent disposition of such forfeited shares and the Share Price of such forfeited shares on the date immediately before the date of such forfeiture.

- 21.4 A person whose shares have been forfeited will cease to be a Member in respect of the forfeited shares but will, notwithstanding the forfeiture and if applicable, remain liable to pay to the Company all monies which at the date of the forfeiture were payable by such person to the Company in respect of the shares with interest thereon from the date of forfeiture until payment at such rate (not exceeding fifteen (15) per cent. per annum) as the Board determines and the Board shall be entitled to enforce payment without any allowance for the value of the shares at the time of forfeiture.
- 21.5 The Board shall be entitled to accept from any Member on such terms as shall be agreed a surrender of any shares in circumstances where the Board determines that such person is not qualified to hold the shares. Any surrendered share may be disposed of in the same manner as a forfeited share.
- 21.6 A declaration in writing by a Director or a Secretary that a share has been duly forfeited or surrendered on the date stated in the declaration shall be conclusive evidence of the facts therein as against all persons claiming to be entitled to the shares.
- 21.7 The Company shall be entitled to receive the consideration given for any share on any sale or disposition and shall be entitled to execute a transfer of the share in favour of the person to whom the same is sold or disposed of and such person shall thereupon be registered as the holder and shall not be bound to see to the application of the purchase money nor shall his or her title be affected by any irregularity or invalidity in forfeiture, sale, re-allotment or disposal.

## **22. REGISTER OF MEMBERS**

- 22.1 The Company shall keep the Register and index of Members in accordance with Sections 123 to 128 of the Law and allow inspection in accordance with Sections 127 to 128 of the Law. The Company may delegate the maintenance of its Register and index of Members upon such terms the Board deems fit. In the absence of manifest error, the Register shall be conclusive evidence as to the persons entitled to the shares entered therein.
- 22.2 Each Member shall inform the Company by means of a notice addressed to the Office of any change in such Member's address and immediately after receipt of that notice the entry of the address of that Member in the Register shall be altered in conformity with the notice given.
- 22.3 The Register may be closed during such periods as the Board deems fit not exceeding in all thirty (30) days in any year.

## **23. TRANSFER AND TRANSMISSION OF SHARES**

### *Shares other than Public Shares*

- 23.1 Other than as otherwise provided for by the Board, no shares (other than Public Shares) shall be transferred, assigned or disposed of except in accordance with Articles 23.3, 23.4 and 23.5.

- 23.2 All transfers of shares (other than Public Shares) shall require the prior approval of the Board or its authorised agents save that any transfer of the Special Voting Share shall require the approval of the Board acting unanimously.
- 23.3 All transfers of shares (other than Public Shares) may be effected by transfer in writing in any form as the Board accepts. Any instrument of transfer shall be signed by or on behalf of the transferor who shall be deemed to remain the holder until the name of the transferee is entered in the Register. A transfer in respect of shares which are not fully paid shall also be signed by the transferee. Each Member subject to Article 20, Article 21 and the Excess Share and the Excess Plan Share provisions set forth in Article 24 shall be deemed to authorise and appoint any Director as the true and lawful agent and attorney-in-fact of such Member, with full power of substitution and full power and authority in its name, place and stead, and shall be deemed to direct such Director to make, execute, sign, acknowledge, swear to, record and file a share transfer form or, where shares are Uncertificated, a Relevant System transfer instruction, and any other documentation transferring such shares to any person the Board shall deem fit, and enter such transferee as the registered holder of such shares on the Register, and such Member acknowledges that such Director is not intended to be a fiduciary of such Member but only a directed custodian of such Member's shares.
- 23.4 Every instrument of transfer shall be left at the Office or such other place as the Board prescribes with the certificate (if any) of every share to be transferred and such other evidence as the Board reasonably requires to prove the title of the transferor or his or her right to transfer the shares; and the transfer and any such certificate shall remain in the custody of the Board but shall be at all reasonable times produced at the request and expense of the transferor or transferee or their respective representatives. The Board, without assigning reasons, shall be entitled to refuse to allot or register a transfer of any share (other than a Public Share where the transfer of such Public Share is not otherwise prohibited under Article 24) to any person whom the Board do not approve as transferee. If the Board refuses to register a transfer of any share the Board shall send to the transferee notice of refusal within a reasonable period.
- 23.5 In respect of shares (other than the Public Shares):
- 23.5.1 in the case of the death of a Member, the survivors or survivor, where the deceased was a joint holder, and the executors or administrators of the deceased, where he or she was a sole or only surviving holder, shall be the only persons recognised by the Company as having title to his or her interest in the shares, but nothing in this Article shall release the estate of the deceased Member whether sole or joint from any liability in respect of any share solely or jointly held by him or her;
- 23.5.2 without prejudice to any restrictions imposed pursuant to these Articles and subject thereto, any guardian of an infant Member and any guardian or other legal representative of a Member under legal disability and any person entitled to a share in consequence of the death, insolvency or bankruptcy of a Member shall, upon producing such evidence of his or her title as the Board requires, have the right either to be registered himself or herself as the holder of the share or to make



such transfer thereof as the deceased, insolvent or bankrupt Member could have made, but the Board shall in either case have the same right to refuse or suspend registration as the Board would have had in the case of a transfer of the share by the infant or by the deceased, insolvent or bankrupt Member before the death, insolvency or bankruptcy or by the Member under legal disability before such disability;

- 23.5.3 a person so becoming entitled to a share in consequence of the death, disability, insolvency or bankruptcy of a Member shall have the right to receive, and may give a discharge for, all monies payable or other advantages due on or in respect of the share, but he or she shall not be entitled to receive notice of or to attend or vote at meetings of the Company, nor except as aforesaid, to any of the rights or privileges of a Member unless and until he or she shall be registered as a Member in respect of the share; the Board shall be entitled at any time to give notice requiring any such person to elect either to be registered himself or herself or to transfer the share and, if the notice is not complied with within ninety (90) days, the Board shall be entitled thereafter to withhold all monies payable or other advantages due in respect of the share until the requirements of the notice have been complied with; and
- 23.5.4 all instruments of transfer which shall be registered shall be retained by the Company, but any instrument of transfer which the Board declines to register shall (except in the case of fraud) be returned to the person depositing the same.

#### *Public Shares*

- 23.6 Subject to the Law and the Guernsey Regulations, the Board may permit the Public Shares to be held in Uncertificated form and to be transferred by means of one or more Relevant Systems, and shall have power to implement such arrangements as it deems fit in order for the Public Shares to be admitted to settlement by means of any such Relevant System(s). The Board may revoke any such permission at any time.
- 23.7 In relation to a Public Share held in Uncertificated form:
- 23.7.1 the Company may utilise the Relevant System in which it is held to the fullest extent available from time to time in the exercise of any of its powers or functions under the Guernsey Regulations or these Articles or otherwise in effecting any actions and the Board may from time to time determine the manner in which such powers, functions and actions shall be so exercised or effected;
- 23.7.2 any provision in these Articles which is inconsistent with:
- (a) the holding of that Public Share in Uncertificated form or transfer of title to that Public Share by means of a Relevant System;
  - (b) any other provision of the Guernsey Regulations or these Articles relating to Public Shares held in Uncertificated form; or

- (c) the exercise of any powers or functions by the Company or the effecting by the Company of any actions by means of a Relevant System,
- shall not apply;
- 23.7.3 subject to the Guernsey Regulations, the Company may, by notice to the holder of that Public Share, require the holder to change the form of such Public Share to Certificated form within such period of time as may be specified in the notice;
- 23.7.4 the Company may require that Public Share to be converted into Certificated form in accordance with the Guernsey Regulations; and
- 23.7.5 (unless that Public Share is converted into Certificated form) the Company shall not issue a certificate.
- 23.8 The Company may, by notice to the holder of any Public Share in Certificated form, direct that the form of such Public Share may not be changed to Uncertificated form for a period of time specified in such notice.
- 23.9 For the avoidance of doubt, Public Shares held by a person in Uncertificated form shall not be treated as a separate class from Public Shares of that class held by that person in Certificated form.
- 23.10 Subject to the Guernsey Regulations, the Board may establish regulations which (in addition to, or in substitution for, any provisions of these Articles):
  - 23.10.1 apply to the issue, holding or transfer of Public Shares in Uncertificated form;
  - 23.10.2 set out (where appropriate) the procedures for conversion and/or redemption of Public Shares in Uncertificated form; and/or
  - 23.10.3 the Board considers necessary or appropriate to ensure that these Articles are consistent with the Guernsey Regulations and/or the Operator's rules and practices.
- 23.11 Any regulations established by the Board in accordance with Article 23.10 will apply in lieu of any otherwise applicable provisions of these Articles relating to the transfer, conversion and redemption of Public Shares in Uncertificated form to the extent stated in such regulations and to the extent such regulations are not inconsistent with the Guernsey Regulations. If the Board establishes any such regulations, Article 23.12 will continue to apply in conjunction with such regulations.
- 23.12 Any instruction given by means of a Relevant System shall be a dematerialised instruction given in accordance with the Guernsey Regulations, the facilities and requirements of a Relevant System and the Operator's rules and practices.
- 23.13 Subject to such restrictions of these Articles as may be applicable:



- 23.13.1 any Member may transfer all or any of such Member's Uncertificated Public Shares by means of a Relevant System authorised by the Board in such manner provided for, and subject as provided, in the Guernsey Regulations or such as may otherwise at any time be adopted by the Board on behalf of the Company and the rules of any Relevant System and, accordingly, no provision of these Articles shall apply in respect of an Uncertificated Public Share to the extent that it requires or contemplates the effecting of a transfer by an instrument in writing or the production of a certificate for the Public Shares to be transferred;
- 23.13.2 any Member may transfer all or any of his or her Certificated Public Shares by an instrument of transfer in any usual form or in any other form which the Board approves; and
- 23.13.3 an instrument of transfer of a Certificated Public Share shall be signed by or on behalf of the transferor and by or on behalf of the transferee. An instrument of transfer of a Certificated Public Share need not be under seal.
- 23.14 Every instrument of transfer of a Certificated Public Share shall be left at the Office or such other place as the Board prescribes with the certificate of every Public Share to be transferred and such other evidence as the Board reasonably requires to prove the title of the transferor or his or her right to transfer the Public Shares; and the transfer and certificate shall remain in the custody of the Board but shall be at all reasonable times produced at the request and expense of the transferor or transferee or their respective representatives. A new certificate shall be delivered free of charge to the transferee after the transfer is completed and registered on his or her application and when necessary a balance certificate shall be delivered if required by him or her in writing.
- 23.15 The Board shall be entitled without giving a reason to refuse to register a transfer of any Public Share which is not fully paid or on which the Company has a lien, provided that this would not prevent dealings in the Public Share from taking place on an open and proper basis.
- 23.16 The Board shall be entitled to decline to register a transfer of an Uncertificated Public Share in the circumstances set out in the Guernsey Regulations and the rules of any Relevant System or such as may otherwise at any time be adopted by the Board on behalf of the Company, and where, in the case of a transfer to joint holders, the number of joint holders to whom the Uncertificated Public Share is to be transferred exceeds four.
- 23.17 If the Board refuses to register the transfer of a Public Share, the Board shall, within two (2) months after the date on which the transfer was lodged with the Company, send notice of the refusal to the transferee.
- 23.18 Subject to the provisions of the Guernsey Regulations or the requirements of any other Relevant System, the registration of transfers may be suspended at such times and for such periods (not exceeding thirty (30) days in the aggregate in any one calendar year) as the Board may determine upon giving notice thereof in La Gazette Officielle, either generally or in respect of a particular class of Public Share.

- 23.19 No fee shall be payable to the Company in respect of the registration of any transfer, probate, letters of administration, certificate of marriage or death, power of attorney, instruction or other document relating to or affecting the title to any Public Shares.
- 23.20 On the death of a Member, the survivors, where the deceased was a joint holder and the executor or administrator, where the deceased was a sole holder, shall be the only person(s) recognised by the Company as having any title to or interest in such Member's Public Shares; but nothing herein shall release the estate of a deceased Member, whether sole or joint holder, from any liability in respect of any Public Share solely or jointly held.
- 23.21 A person becoming entitled to a share as a consequence of the death, bankruptcy or incapacity of a Member or otherwise by operation of law, upon supplying to the Company such evidence as the Board may reasonably require to show his or her title to such share, shall have the right to receive, and may give a discharge for, all Dividends and other money payable or other advantages due on or in respect of such share, but he or she shall not be entitled to receive notice of or to attend or vote at meetings of the Company or (except as aforesaid) to any of the rights or privileges of a Member unless and until he or she shall be registered as a Member in respect of such share; provided that the Board may at any time give notice requiring any such person to elect either to be registered himself or herself or to transfer the Public Share and if the notice is not complied with within ninety (90) days, the Board shall thereafter be entitled to withhold all Dividends or other monies payable or other advantages due in respect of the Public Share until the requirements of the notice have been complied with.
- 23.22 Nothing in these Articles shall preclude the Board from recognising the renunciation of the allotment of any Public Share by the allottee in favour of some other person.
- 23.23 For the avoidance of doubt, the Board shall be empowered to implement such arrangements as the Board considers fit in accordance with and subject to the Law and, to the extent applicable, listing, quotation and/or admission to trading requirements of a particular stock exchange to evidence and regulate the transfer of title to Public Shares in the Company and for the approval or disapproval, as the case may be, by the Board or the Operator of any Relevant System of the registration of those Public Shares.

## **24. EXCESS SHARES AND EXCESS PLAN SHARES**

### **24.1 *Restrictions on transfer***

- 24.1.1 Without prejudice to Article **Error! Reference source not found.** and except as provided in Article **Error! Reference source not found.**, from the date of adoption of these Articles and through and including the Restriction Termination Date, no Person shall Constructively Own shares in excess of the Ownership Limit.
- 24.1.2 Any purported Transfer that, if effective, would result in any Person Constructively Owning shares in excess of the Ownership Limit shall be void *ab initio* as to the Transfer of that number of shares which otherwise would be

Constructively Owned by such Person in excess of the Ownership Limit and the intended transferee shall acquire no rights in the Excess Shares.

#### 24.2 *Transfers to Trust*

If, notwithstanding the other provisions contained in this Article **Error! Reference source not found.**, at any time after the date of adoption of these Articles and through and including the Restriction Termination Date, there is a purported Transfer or Non-Transfer Event such that, in the absence of this Article 24, any Person would Constructively Own shares in excess of the Ownership Limit, then (x) except as otherwise provided in Article **Error! Reference source not found.**, the purported transferee shall acquire no right or interest (or, in the case of a Non-Transfer Event, the Person holding record title to the shares Constructively Owned by such Person shall cease to own any right or interest) in such number of shares which would cause such Person to Constructively Own shares in excess of the Ownership Limit, (y) such Excess Shares (rounded up to the nearest whole share) shall be designated Shares-in-Trust and, in accordance with the provisions of Article **Error! Reference source not found.**, shall be transferred automatically in accordance with Article **Error! Reference source not found.** to the Trust to be held in accordance with Article **Error! Reference source not found.**, and (z) the Prohibited Owner (or, in the case of a Non-Transfer Event, the Person holding record title to the shares Constructively Owned by such Prohibited Owner) shall submit such number of shares to the Company for registration in the name of the Trustee in accordance with Article **Error! Reference source not found.** In the case of a Non-Transfer Event that would, but for this Article **Error! Reference source not found.**, result in any Person Constructively Owning shares in excess of the Ownership Limit, this Article **Error! Reference source not found.** shall apply first to Public Shares (and before being applied to other classes of shares) that result in such Person's Constructive Ownership of shares to be in excess of the Ownership Limit. All shares which are designated as Shares-in-Trust shall in the first instance be allocated and transferred to the Trustee to hold on the terms of PS Holdings Excess Share Trust One. The Board may create any number of further Trusts to hold Shares-in-Trust and may specify how shares are to be allocated to each such Trust. Any such transfers to a Trust and the designation of Excess Shares as Shares-in-Trust shall be treated for all purposes as effective as of the close of business on the Business Day prior to the date of the Transfer or Non-Transfer Event, as the case may be.

#### 24.3 *Remedies for breach*

If the Company shall at any time determine, after requesting such information as the Company determines is relevant, subject to the provisions of Article **Error! Reference source not found.**, that a Transfer were to have taken place despite the other provisions of this Article **Error! Reference source not found.** or that a Person intends to acquire or has attempted to acquire Constructive Ownership of any shares in violation of Article **Error! Reference source not found.**, the Company shall take such action as it deems advisable to refuse to give effect to or to prevent such Transfer or acquisition, including, but not limited to, refusing to give effect to such Transfer on the books of the Company or instituting proceedings to enjoin such Transfer or acquisition.

#### 24.4 *Notice of restricted transfer*

Any Person who acquires or attempts to acquire shares in violation of Article **Error! Reference source not found.**, or any Person who owned shares that were transferred to a Trust pursuant to the provisions of Article **Error! Reference source not found.**, shall as promptly as practicable give written notice to the Company of such event or, in the case of such a proposed or attempted transaction, give at least thirty (30) days' prior written notice, and shall provide to the Company such other information as the Company may request.

#### 24.5 *Owner required to provide information*

From the date of adoption of these Articles and through and including the Restriction Termination Date, every Constructive Owner of more than eight (8) per cent. of the outstanding shares shall provide to the Company a written statement or affidavit stating the name, address and contact details (including telephone number and e-mail address) of such Constructive Owner, the number of shares Constructively Owned, and a description of how such shares are held. Each such Constructive Owner shall provide to the Company such information as the Company may reasonably request consistent with the purpose of this Article 24.

#### 24.6 *Exemptions*

24.6.1 The Board may (but is not required to) exempt a Person from the Ownership Limit if (i) the Board obtains such representations and undertakings from such Person as are necessary to ascertain that the Company will not be subject to any Adverse Consequences by reason of granting the exemption, and (ii) such Person agrees that any violation or attempted violation of such representations or undertakings (or other action which is contrary to the restrictions contained in Articles **Error! Reference source not found.** to **Error! Reference source not found.**) will result in such shares becoming Excess Shares and being designated as Shares-in-Trust in accordance with the provisions of Article **Error! Reference source not found.**. In exercising its discretion under this Article 24.6.1, the Board may obtain additional representations and undertakings from a Constructive Owner that it may deem necessary or desirable under the circumstances.

24.6.2 Notwithstanding any provisions of these Articles to the contrary, and regardless of any Adverse Consequences, the restrictions contained in Articles **Error! Reference source not found.** to **Error! Reference source not found.** shall not apply with respect to any Specified Persons or any Specified Shares; and no Transfer or Non-Transfer Event shall result in Specified Shares becoming Excess Shares or becoming designated as Shares-in-Trust in accordance with the provisions of Article **Error! Reference source not found.**.

#### 24.7 *Shares-in-Trust*

24.7.1 Any shares that become Excess Shares and are transferred to a Trust and designated Shares-in-Trust pursuant to and in accordance with Article 24.2 shall be held for the exclusive benefit of the Beneficiary. There is a named Beneficiary

for each Trust and the Independent Directors acting by a simple majority may also name a new Beneficiary for each Trust that is currently in existence or comes into existence. Any transfer to a Trust, and subsequent designation of Excess Shares as Shares-in-Trust, pursuant to and in accordance with Article 24.2 shall be treated for all purposes as effective as of the close of business on the Business Day prior to the date of the Transfer or Non-Transfer Event that results in the transfer to the Trust. Shares-in-Trust shall remain issued and outstanding shares of the Company and shall be entitled to the same rights and privileges on identical terms and conditions as are all other issued and outstanding shares of the same class. When transferred to a Permitted Transferee pursuant to and in accordance with the provisions of Article 24.7.5, such Shares-in-Trust shall cease to be designated as Shares-in-Trust.

- 24.7.2 The Trustee, as record holder of Shares-in-Trust, shall be entitled to receive all Dividends and distributions with respect to such shares and shall hold such Dividends or distributions on the terms of the Trust for the benefit of the Beneficiary. The Prohibited Owner with respect to Excess Shares that have been designated Shares-in-Trust, shall repay to the Trustee the amount of any Dividends or distributions received by it that are attributable to any shares designated as Shares-in-Trust and the record date of which was on or after the date that such shares became Excess Shares. The Company shall take all measures that it determines reasonably necessary to recover the amount of any such Dividend or distribution paid to a Prohibited Owner, including, if necessary, (x) withholding any portion of future Dividends or distributions payable on shares owned directly or indirectly (including through a nominee) by the Prohibited Owner; and (y) as soon as reasonably practicable following the Company's receipt or withholding thereof paying over to the Trustee for the benefit of the Beneficiary the Dividends or distributions so received or withheld, as the case may be.
- 24.7.3 In the event of any voluntary or involuntary liquidation, dissolution, or winding up of, or any distribution of the assets of, the Company, each such Prohibited Owner of Shares-in-Trust shall be entitled to receive, ratably with each other holder of shares of the same class, that portion of the assets of the Company which is available for distribution to the holders of such class. The Trustee shall distribute to the Prohibited Owner the amounts received upon such liquidation, dissolution, winding-up, or distribution; provided, however, that the Prohibited Owner shall not be entitled to receive amounts pursuant to this Article 24.7.3 in excess of:
- (a) in the case of a purported Transfer in which the Prohibited Owner gave value for shares and which Transfer resulted in the transfer of the shares to the Trust, the price per share, if any, such Prohibited Owner paid for the shares, and
  - (b) in the case of any Non-Transfer Event or a Transfer in which the Prohibited Owner did not give value for such shares (e.g., if the shares were received through a gift or devise) and which Non- Transfer Event or Transfer, as the

case may be, resulted in the transfer of shares to the Trust, the Share Price on the date immediately before the date of such Non-Transfer Event or Transfer,

and any remaining amount in such Trust shall be distributed to the Beneficiary.

- 24.7.4 The Trustee shall be entitled to vote all Shares-in-Trust in its sole discretion. Any vote by a Prohibited Owner as a holder of shares prior to the discovery by the Company that the shares are Shares-in-Trust shall, subject to applicable law, be invalid with respect to such Shares-in-Trust and be recast by the Trustee; provided, however, that if the Company has already taken irreversible corporate action, then the Trustee shall not have the authority to rescind and recast such vote. The Trustee shall vote all Shares-in-Trust in accordance with the recommendation of the Independent Directors or, in the absence of such recommendation, abstain from the vote. The Prohibited Owner shall be deemed to have given, as of the close of business on the Business Day prior to the date of the purported Transfer or Non-Transfer Event that results in the transfer to the Trust of shares under Article 24.2, an irrevocable proxy to the Trustee to vote the Shares-in-Trust in accordance with this Article 24.7.4.
- 24.7.5 The Trustee shall have the right, subject to any applicable restrictions on the transfer of shares set forth in these Articles, to designate a Permitted Transferee of any and all Shares-in-Trust in an orderly fashion so as not to materially adversely affect the Share Price of its Shares-in-Trust. The Trustee shall designate any Person as a Permitted Transferee, provided, however, that (i) the Permitted Transferee so designated purchases for valuable consideration (whether in a public or private sale) the Shares-in-Trust, and (ii) the Permitted Transferee so designated may acquire such Shares-in-Trust without such acquisition resulting in a transfer to a Trust and the redesignation of such shares so acquired as Shares-in-Trust under Article 24.2. Upon the designation by the Trustee of a Permitted Transferee in accordance with the provisions of this Article 24.7.5:
- (a) the Trustee shall transfer to the Permitted Transferee that number of Shares-in-Trust acquired by the Permitted Transferee in accordance with Article 23;
  - (b) the Board shall cause the books of the Company to reflect the immediately preceding paragraph (a);
  - (c) the Trustee shall cause the Shares-in-Trust to be cancelled from the Trustee's books; and
  - (d) the Trustee shall distribute to the Beneficiary any and all amounts held with respect to the Shares-in-Trust after making the payment to the Prohibited Owner pursuant to Article 24.7.6.
- 24.7.6 Any Prohibited Owner shall be entitled (following discovery of the Excess Shares and subsequent designations of the Permitted Transferee in accordance with



Article 24.7.5 or following the acceptance of the offer to purchase such shares in accordance with Article 24.7.7) to receive from the Trustee following the sale or other disposition of such Excess Shares that were designated Shares-in-Trust:

- (A) in the case of a purported Transfer in which the Prohibited Owner gave value for shares that became Excess Shares the lesser of (x) the price per share, if any, such Prohibited Owner paid for the shares, and (y) the price per share received by the Trustee from the sale or other disposition of such Excess Shares that have been designated Shares-in-Trust; or
- (B) in the case of any Non-Transfer Event or a Transfer in which the Prohibited Owner did not give value for the Excess Shares (e.g., if the shares were received through a gift or devise), the lesser of (x) the Share Price on the date immediately before the date of such Non-Transfer Event or Transfer and (y) the price per share received by the Trustee from the sale or other disposition of such Excess Shares that have been designated Shares-in-Trust.

Any amounts received by the Trustee in respect of such Shares-in-Trust and in excess of such amounts to be paid to the Prohibited Owner pursuant to this Article 24.7.6 shall be distributed to the Beneficiary in accordance with the provisions of Article 24.7.5. Each Beneficiary and Prohibited Owner waives any and all claims that it may have against the Trustee and the Trust arising out of the disposition of Shares-in-Trust.

- 24.7.7 Shares-in-Trust shall be deemed to have been offered for sale to the Company, or its designee, at a price per share equal to the lesser of (i) the price per share in the transaction that created such Shares-in-Trust (or, in the case of devise, gift or Non-Transfer Event, the Share Price at the time of such devise, gift or Non-Transfer Event), and (ii) the Share Price on the date the Company, or its designee, accepts such offer. Subject to Article 24.7.6, the Company shall have the right to accept such offer for a period of ninety (90) days after the later of (i) the date of the Non-Transfer Event or purported Transfer which resulted in such Shares-in-Trust and (ii) the date the Company determines in good faith that a Transfer or Non-Transfer Event resulting in Shares-in-Trust has occurred, if the Company does not receive a notice of such Transfer or Non-Transfer Event pursuant to Article 24.4. For the avoidance of doubt, the Company is not required to purchase Shares-in-Trust deemed to have been offered for sale to it pursuant to the first sentence of this Article 24.7.7. The Company has general and unconditional authority, expiring upon dissolution of the Company, to acquire such Shares-in-Trust pursuant to this Article 24.3.7.

## 24.8 *Special Rules for Excess Plan Shares*

- 24.8.1 The foregoing provisions of this Article **Error! Reference source not found.** shall not apply to Excess Plan Shares, except to the extent provided in this Article **Error! Reference source not found..**

24.8.2 Without prejudice to Article 21, from the date of adoption of these Articles and through and including the Restriction Termination Date, (i) the aggregate number of shares of any class held by Plans must be less than the Plan Limit and (ii) Public Shares may not be acquired or held by any Plan except for any Public Shares issued by conversion to such Plan on 13 October 2014.

24.8.3 Upon any Plan becoming a Prohibited Owner, whether as a result of a purported Transfer or any Non-Transfer Event, the following shall automatically occur: (i) any such purported Transfer that, if effective, would result in the Prohibited Owner owning Excess Plan Shares shall be void ab initio as to the Transfer of such Excess Plan Shares, (ii) the Prohibited Owner shall acquire or hold no right or interest in any Excess Plan Shares (rounded up to the nearest whole share) and (iii) any Excess Plan Shares that would, but for these Articles, be held by the Prohibited Owner shall be designated Shares-in-Trust, the Prohibited Owner shall submit such Excess Plan Shares to the Company for registration in the name of the Trustee in accordance with Article 23 and such Excess Plan Shares shall be transferred automatically to a Trust to be held and disposed of in accordance with Article 24.7. Any transfer to a Trust, and subsequent designation of Excess Plan Shares as Shares-in-Trust, pursuant to and in accordance with this Article 24.8 shall be treated for all purposes as effective as of the close of business on the Business Day prior to the date of the Transfer or the Non-Transfer Event that results in the transfer to the Trust.

#### 24.9 *Modification and limitations on changes of limits*

24.9.1 The Board shall be entitled at any time to increase or decrease the Ownership Limit with respect to any Person, to increase or decrease the Plan Limit or to modify the prohibition on the acquisition and holding of Public Shares by Plans pursuant to these Articles; provided, however, that any decrease of the Ownership Limit (with respect to any Person) and the Plan Limit may only be made prospectively as to subsequent holders; provided, further, that any decrease of the Ownership Limit may only be made if there is a change in the applicable tax law and the Board reasonably determines that such decrease is advisable to avoid any Adverse Consequences.

24.9.2 Prior to the modification of the Ownership Limit (with respect to any Person), the Plan Limit or the prohibition on the acquisition and holding of Public Shares by Plans pursuant to these Articles, the Board may require such opinions of counsel, affidavits, undertakings, or agreements as it deems necessary or advisable.

#### 24.10 *Remedies not limited*

24.10.1 Nothing contained in this Article 24 shall limit the authority of the Company to take such other action as it deems necessary or advisable (i) to protect the Company and the interests of its Members by ensuring that, where consistent with maximising the overall economic returns to its Members from investing in the Company, and to the extent reasonably practical, the Company may be able to



avail itself of certain exceptions from assets of the Company being treated as the assets of any Plan for purposes of ERISA and the regulations thereunder, and (ii) to ensure compliance with the Ownership Limit or the Plan Limit or the prohibition on the acquisition and holding of Public Shares by Plans pursuant to these Articles (including compulsorily redeeming a Member before a Person holds shares of a class (as defined for purposes of ERISA) in an amount equal to or in excess of the Plan Limit for that class, as the case may be, if the Board reasonably determines that such compulsory redemption is reasonably necessary to avoid such Person violating the Ownership Limit or Plan Limit, as the case may be, in accordance with Article 10).

24.10.2 Subject to the other provisions of this Article 24, and consistent with the purposes thereof, the Board shall be entitled to disapply this Article 24 in respect of all or any shares or in respect of certain classes of shares before other classes of shares or, within the same class of shares, to certain shares before other shares.

24.10.3 Notwithstanding anything in this Article **Error! Reference source not found.** to the contrary, if, in order to ensure that no Person shall Constructively Own shares in excess of the Ownership Limit, the application of Article **Error! Reference source not found.** would result, but for the provisions of this Article 24.10.3 or 24.6.2 or the limitation in respect of Specified Persons and Specified Shares in the definition of Ownership Limit, in a Transfer to a Specified Person being void *ab initio* or Specified Shares being designated as Shares-in-Trust, this Article **Error! Reference source not found.** shall first apply to designate as Shares-in-Trust the shares of any Member other than a Specified Person whose shares are Constructively Owned by such Person that would, but for this Article **Error! Reference source not found.**, Constructively Own shares in excess of the Ownership Limit.

#### 24.11 *Power to delegate*

The Board has the power at any time to delegate, under such terms and conditions as the Board determines, to any agent or third party, including any Relevant System, sole, several or joint authority to enforce the provisions of this Article 24 for the benefit of the Company and against any holders of any class of share.

### 25. UNTRACED SHAREHOLDERS

25.1 The Company shall be entitled to sell (at a price which the Company shall use its reasonable endeavours to ensure is the best obtainable) the shares of a Member or the shares to which a person is entitled by virtue of transmission on death or insolvency or otherwise by operation of law if and provided that:

25.1.1 during the period of not less than twelve (12) years prior to the date of the publication of the advertisements referred to below (or, if published on different dates, the first thereof) at least three (3) Dividends in respect of the shares in

question have become payable and no Dividend in respect of those shares has been claimed;

- 25.1.2 the Company shall, following the expiry of such period of twelve (12) years, have inserted advertisements in a national newspaper and/or in a newspaper circulating in the area in which the last known address of the Member or the address at which service of notices may be effected under these Articles is located giving notice of its intention to sell the said shares;
  - 25.1.3 during the period of three (3) months following the publication of such advertisements (or, if published on different dates, the last thereof) the Company shall have received indication neither of the whereabouts nor of the existence of such Member or person; and
  - 25.1.4 notice shall have been given to any stock exchanges on which the Company's shares are traded.
- 25.2 The foregoing provisions of this Article are subject to any restrictions applicable under the Guernsey Regulations or otherwise in respect of a Relevant System.
- 25.3 The proceeds arising from any sale by the Company pursuant to Article 25.1 shall be distributed by the Board as the Board shall determine and consistent with the duty of the Board to protect the interests of the Company as a whole.

## **26. ALTERATION OF CAPITAL**

- 26.1 Unless the Company shall have resolved otherwise and, subject to the provisions of these Articles, any new shares shall be of such class and amount and have such preference or priority as regards Dividends or in the distribution of assets or as to voting or otherwise over any other shares of any class, whether then issued or not, or be subject to such stipulations deferring them to any other shares with regard to Dividends or in the distribution of the assets as the Board may determine at the time of issue.
- 26.2 The Company may by Ordinary Resolution of the Voting Shares:
- 26.2.1 consolidate and divide all or any of its share capital into shares of larger or smaller amounts than its existing shares;
  - 26.2.2 subdivide or merge (including, for the avoidance of doubt, to effect any splitup, stock split, reverse stock split or other similar recapitalisation) all or any of its shares into shares of a smaller or larger amount;
  - 26.2.3 cancel shares which, at the date of the passing of the resolution, have not been taken up or agreed to be taken up by any person, and diminish the amount of its share capital by the amount of the shares so cancelled;
  - 26.2.4 convert all or any of its shares the nominal amount of which is expressed in a particular currency or former currency into shares of a nominal amount of a

different currency, the conversion being effected at the rate of exchange (calculated to not less than three significant figures) current on the date of the resolution or on such other day as may be specified therein; and

26.2.5 where its share capital is expressed in a particular currency or former currency, denominate or redenominate it, whether by expressing its amount in units or subdivisions of that currency or former currency, or otherwise.

26.3 The Board on any consolidation, division, subdivision, merger or otherwise of shares may deal with fractions of shares in any manner.

26.4 The Company may reduce its share capital, any capital account or any share premium account (if any) in any manner and with and subject to any authorisation or consent required by the Law.

## **27. GENERAL MEETINGS**

27.1 Subject to the Law, the Company shall hold an annual general meeting every calendar year provided that not more than 15 months may elapse between one annual general meeting and the next.

27.2 All general meetings of the Company (other than annual general meetings) shall be called extraordinary general meetings. The Board may, whenever it thinks fit, convene an extraordinary general meeting.

27.3 General meetings may be held in Guernsey or such other place as may be determined by the Board from time to time.

27.4 A Member participating by video link or telephone conference call or other electronic or telephonic means of communication in a general meeting shall be treated as having attended that general meeting in person, or by proxy, if such Member's proxy so participates; provided that the Members present at the general meeting can hear and speak to the participating Member, or such Member's proxy, as applicable.

27.5 A video link or telephone conference call or other electronic or telephonic means of communication in which a quorum of Members participates shall be a valid meeting which shall be deemed to take place where the chairman is present unless the Members resolve otherwise.

27.6 Any general meeting convened by the Board, unless its time shall have been fixed by the Company in general meeting or unless convened in pursuance of a requisition, shall be entitled to be postponed by the Board by notice and the meeting shall, subject to any further postponement or adjournment, be held at the postponed date for the purpose of transacting the business covered by the original notice.

27.7 The Board shall be entitled, whenever it deems fit, and shall, on the requisition of Members who hold more than ten (10) per cent. of the voting rights attaching to the Voting Shares (excluding any capital held as treasury shares) eligible to vote at general meetings in

accordance with Sections 203 and 204 of the Law, proceed to convene an extraordinary general meeting.

## **28. NOTICE OF GENERAL MEETINGS**

- 28.1 Unless special notice is required in accordance with the Law, a general meeting of the Company (other than an adjourned meeting) must be called by notice of at least ten (10) Business Days.
- 28.2 A general meeting may be called by shorter notice than otherwise required if all the Members entitled to attend and vote so agree.
- 28.3 Notices and other documents may be sent in electronic form or published on a website in accordance with Section 208 of the Law.
- 28.4 Notice of a general meeting of the Company must be sent to:
  - 28.4.1 every Member entitled to attend and vote thereat; and
  - 28.4.2 every Director.
- 28.5 In Article 28.4.1, the reference to “Members” includes only persons registered as a Member. The Company shall be entitled to rely on the address for any such registered Member as it appears on the books and records of the Company.
- 28.6 Notice of a general meeting of the Company must:
  - 28.6.1 state the time and date of the general meeting;
  - 28.6.2 state the place of the general meeting;
  - 28.6.3 include the text of any Special Resolution or Ordinary Resolution to be proposed at the general meeting; and
  - 28.6.4 specify whether any resolution to be proposed at the general meeting is a Specified Matter.
- 28.7 Notice of a general meeting must state the general nature of the business to be dealt with at the general meeting.
- 28.8 In every notice calling a general meeting of the Company there must appear a statement informing the Member of:
  - 28.8.1 his or her right to appoint a proxy under these Articles and Section 222 of the Law; and
  - 28.8.2 the right to appoint more than one proxy.

- 28.9 The accidental omission to give notice of any meeting to or the non-receipt of such notice by any Member shall not invalidate any resolution or any proposed resolution otherwise duly approved.

## **29. PROCEEDINGS AT GENERAL MEETINGS**

- 29.1 The quorum for a general meeting (other than a class meeting) shall be:

29.1.1 at any general meeting at which the only resolution(s) proposed relate to Specified Matters, two (2) or more holders of Public Shares, present in person or by proxy; and:

29.1.2 at any other general meeting, two (2) or more Members (one of which shall be VoteCo) present in person or by proxy.

- 29.2 If, within half an hour after the time appointed for the general meeting, a quorum is not present, the general meeting, if convened by or upon a requisition, shall be dissolved. If otherwise convened, it shall stand adjourned for such period and to such date as may be stated in the notice convening the original general meeting or, if no period or date is specified, it shall stand adjourned for fourteen (14) Business Days at the same time and place and no notice of adjournment need be given (or if that day is not a Business Day in the location of the general meeting, to the next Business Day). The quorum at any such adjourned general meeting shall be such Member or Members who shall attend in person or by proxy.

- 29.3 The chairman of any general meeting shall be either:

29.3.1 the chairman of the Board;

29.3.2 in the absence of the chairman of the Board, or if the Board has no chairman, then the Board shall nominate one of their number to preside as chairman;

29.3.3 if neither the chairman of the Board nor the nominated Director is present at the general meeting, then the Directors present at the meeting shall elect one of their number to be the chairman;

29.3.4 if only one Director is present at the general meeting, then he or she shall be chairman of the general meeting; or

29.3.5 if no Directors are present at the general meeting, then the Members present may elect a chairman of the general meeting with the approval of an Ordinary Resolution of the Voting Shares.

- 29.4 The chairman of the general meeting shall conduct the general meeting in such a manner as, subject to the Law, he or she deems fit and may adjourn the meeting at any time and limit the time for Members to speak.

- 29.5 The Board shall be entitled to determine, in respect of any general meeting or general meetings or generally, that a list of the names and addresses of the Members shall not be made available for inspection.
- 29.6 A Director of the Company shall be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of shares in the Company regardless of whether that Director is a Member of the Company or a holder of the relevant class of shares.
- 29.7 The chairman may, with the consent of any general meeting at which a quorum is present, and shall if so directed by the general meeting, adjourn the general meeting at any time and to any place. When a general meeting is adjourned for more than fourteen (14) Business Days or where business other than the business left unfinished at the general meeting from which the adjournment took place is to be put to the reconvened adjourned meeting, notice of the reconvened adjourned meeting shall be given as in the case of an original general meeting. Except as aforesaid it shall not be necessary to give any notice of a reconvened adjournment or of the business to be transacted at an adjourned general meeting.
- 29.8 At any general meeting, a resolution put to the vote shall be decided by a poll and not a show of hands.
- 29.9 A poll shall be taken at the general meeting or at such other time and place as the chairman shall direct and the result shall be deemed the resolution of the general meeting.
- 29.10 A poll shall not prevent the continuance of a general meeting for the transaction of any business other than the question on which a poll is required.
- 29.11 In case of an equality of votes on a poll, the chairman shall have a second or casting vote.

## **30. VOTES OF MEMBERS**

### *General provisions*

- 30.1 On a poll, every Member present in person or by proxy shall have one vote for each share held by such Member, subject to any special voting powers or restrictions, including the voting rights provided for in Article 4.10 when all classes of shares vote together pursuant to Article 4.2.
- 30.2 Where there are joint registered holders of any shares, such persons shall not have the right of voting individually in respect of such shares but shall elect one of their number to represent them and to vote whether in person or by proxy in their name. In default of such election the person whose name stands first on the Register shall alone be entitled to vote.
- 30.3 Any Member, being of Unsound Mind or Incapable, may vote by his or her curator or other legal guardian. Any of such persons may vote either personally or by proxy.
- 30.4 On a poll, votes may be given either personally or by proxy and a Member entitled to more than one vote need not use all his or her votes or cast all the votes he or she uses in the

same way. A proxy need not be a Member. An instrument of proxy may be valid for one or more meetings.

- 30.5 No Member shall be entitled to be present or take part in any proceedings or vote, either personally or by proxy, at any meeting unless all calls due from such Member have been paid.
- 30.6 No Member shall be entitled to vote in respect of any shares that such Member has acquired unless such Member has been registered in the Register as their holder.
- 30.7 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed shall be valid for all purposes. Any objection made in due time shall be referred to the Board whose decision shall be final and binding.

*Special voting rights*

- 30.8 If the Board determines on behalf of the Company to terminate the Investment Management Agreement pursuant to and in accordance with Article 39.1, such determination will only be effective (i) with the approval of a 66 and 2/3 per cent. majority of the number of votes of the then-outstanding Voting Shares, together with (ii) a 66 and 2/3 per cent. majority of the number of votes of the then-outstanding Public Shares, voting as a class. Immediately following the termination of the Investment Management Agreement, the Board shall propose a Special Resolution of the Voting Shares to change the name of the Company to remove any reference to “Pershing Square”. On any such Special Resolution to change the name of the Company to remove any reference to “Pershing Square”, each Member present in person or by proxy voting in favour of changing the name to remove any reference to “Pershing Square” shall have such number of votes as are required for the Special Resolution to be duly adopted.
- 30.9 The continuation of the Company upon (i) the termination of the Investment Management Agreement pursuant to Article 30.8, (ii) the occurrence of a Key Man Event before 13 October 2021 or (iii) any event (other than a Key Man Event) that would otherwise be deemed to be an assignment of the Investment Management Agreement for purposes of Section 205(a)(2) of the US Investment Advisers Act of 1940, as amended (other than an assignment to an affiliate of the Investment Manager with the prior consent of the Company), shall in each case require (x) the approval of a Special Resolution of the Voting Shares, together with (y) a majority of the votes cast with respect to the Public Shares represented at that general meeting, voting as a class in person or by proxy on the resolution. For the avoidance of doubt, any assignment pursuant to Section 27 of the Investment Management Agreement shall not be subject to this Article or any other vote of the Members.
- 30.10 For the avoidance of doubt, where an additional vote of the Public Shares is required pursuant to Article 30.9 the quorum requirements set out in Article 29.1.2 shall apply to such vote.



- 30.11 For so long as the Company is subject to the Listing Rules, only the holders of Public Shares may vote on any resolution relating to a Specified Matter. Any Specified Matter constituting a material change to the Company's investment policy shall require approval by a Special Resolution of the holders of the Public Shares.
- 30.12 For the avoidance of doubt and in accordance with Article 13.4.7, the provisions of Article 13 shall not apply to the exercise by the relevant Members of any of their voting rights under Article 30.8, 30.9 or 30.11.

## **31. PROXIES**

- 31.1 A Member is entitled to appoint another person as his or her proxy to exercise all or any of his or her rights to attend and vote at a meeting of the Company. A Member may appoint more than one proxy in relation to a meeting, provided that each proxy is appointed to exercise the rights attached to a different share or shares held by such Member.
- 31.2 Subject to the provisions of the Law, the instrument appointing a proxy shall be in any common form or in such other form as the Directors may approve and whether sent to the Company in writing or in electronic form it shall be made under the hand of the appointor or of his or her attorney duly authorised in writing or if the appointor is a corporation under its common seal or under the hand of a duly authorised officer or attorney.
- 31.3 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of that power or authority shall be deposited at the Office or such other venue as the Board specifies not less than fortyeight (48) hours (excluding any days which are not Business Days) before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll to be taken more than 48 hours after it was demanded, not less than twenty-four (24) hours (excluding any days which are not Business Days) before the time appointed for the taking of the poll and in default, unless the Board directs otherwise, the instrument of proxy shall not be treated as valid.
- 31.4 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll and shall be as valid for any adjournment as for the meeting to which it relates.
- 31.5 Without prejudice to Section 226 of the Law, a vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or disability of the principal or revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such death, disability or revocation shall have been received by the Company at the Office before the commencement of the meeting or adjournment or the taking of the poll at which the proxy is used.
- 31.6 Any legal person which is a Member may, by resolution of its directors or other governing body, authorise such individual as it deems fit to act as its representative at any meeting of the Company or of any class of Members of the Company or to approve any resolution submitted in writing and the individual so authorised shall be entitled to exercise on behalf



of the legal person which he or she represents the same powers (other than to appoint a proxy) as that legal person could exercise if it were an individual Member of the Company.

## **32. WRITTEN RESOLUTIONS**

- 32.1 Resolutions of the Members may be approved in writing if so determined by the Board or the Members in accordance with Part XIII of the Law and every Member voting thereon shall have one (1) vote for each share, subject to any special voting powers or restrictions, including the special voting powers and restrictions set forth in Article 4.10 when all classes of shares vote together pursuant to Article 4.2.
- 32.2 Notice specifying the proposed resolution in writing may be sent by the Company to Members by post or by facsimile or such other telephonic or electronic means of written communications as the Board may, subject to the Law, determine at any time.
- 32.3 Notices of proposed written resolutions forwarded by post shall be sent to the address of such Members entered in the Register. Notices forwarded by any telephonic or electronic means of written communication shall be forwarded to such destination as the Member in question may at any time designate in writing signed by such Member.
- 32.4 Notices of proposed written resolutions shall incorporate or be accompanied by an instrument to be signed by or on behalf of the Member to whom it is addressed for the purpose of approving the same.
- 32.5 Any notice of a proposed written resolution shall specify a date and time (whether greater or lesser than any period at any time prescribed by the Law) at which the instrument or instruments signed by or on behalf of the Members voting in favour thereof shall be counted and at which the resolution if approved by the requisite majority shall become effective. No instrument received or signature appended thereto after such time shall be counted.
- 32.6 Notwithstanding anything else contained herein (and in particular the method of sending the notice of and instrument for approving the written resolution to Members) all such instruments containing such approval shall be in writing and signed by the Member or Members in question. The signature of a Member shall be acceptable for such purposes if received by facsimile, telephonic transmission, email or in any other way specified in the notice.
- 32.7 The accidental omission to give notice of any proposed written resolution to or the nonreceipt of such notice by any Member shall not invalidate any resolution or any proposed resolution otherwise duly approved.

## **33. NUMBER, APPOINTMENT AND QUALIFICATION OF DIRECTORS**

- 33.1 Until otherwise determined by the Board, the Board is subject to a minimum number of two (2) Directors and to a maximum number of nine (9) Directors.
- 33.2 At least one Director shall be resident in Guernsey.

- 33.3 If the Board at any time consists of a majority of Directors who are citizens or residents of the United States, the Board, during such time, shall not be permitted to carry on or dispatch any business of the Company other than to appoint Director(s) who are not citizens or residents of the United States in accordance with and pursuant to Article 33.4 in order to comply with the provisions of this Article. A person shall not be appointed a Director if as a result of such appointment the Board would cease to consist of a majority of Directors who are not citizens or residents of the United States.
- 33.4 Subject to Article 33.3, the Board shall have power at any time, without requiring the approval of the Members of the Company in a general meeting, to appoint any person eligible in accordance with Section 137 of the Law to be a Director either to fill a vacancy or as an addition to the existing Directors but so that the total number of Directors shall not at any time exceed the number, if any, fixed pursuant to these Articles.
- 33.5 Any Director appointed in accordance with these Articles shall hold office only until the next following annual general meeting and shall then be eligible for re-election.
- 33.6 No person other than a Director retiring at a general meeting shall be eligible for election by the Company to the office of Director unless recommended by the Board or unless, not less than ninety (90) days nor more than one hundred and twenty (120) days prior to the first anniversary of the annual general meeting for the preceding year, there shall have been left at the Office notice signed by a Member duly qualified under these Articles and applicable law to requisition a general meeting and to attend and vote at the meeting for which such notice is given of his or her intention to propose such person for election together with the agreement signed by that person of his or her willingness to be elected.
- 33.7 Without prejudice to the powers of the Board, and subject to Article 33.6, the Members in general meeting may appoint any person to be a Director either to fill a vacancy or as an additional Director by approving an Ordinary Resolution of the Voting Shares.
- 33.8 For the avoidance of doubt, where all the Directors retire in accordance with these Articles and are not re-elected and where insufficient new Directors are elected to form a quorum, the retiring Directors shall be deemed to have been re-elected and, together with any new Directors elected, shall hold office until an Ordinary Resolution of the Voting Shares is passed in accordance with these Articles appointing sufficient new Directors to form a quorum; provided that Articles 33.2 and 33.3 are complied with.
- 33.9 A share qualification for a Director may be fixed by the Company in general meeting and unless and until so fixed no qualification shall be required.

#### **34. REMUNERATION OF DIRECTORS**

- 34.1 The remuneration of each Director shall not exceed £150,000 per annum or such other amount as determined by the Members at any time as approved by an Ordinary Resolution of the Voting Shares.

- 34.2 The Directors shall also be entitled to be repaid all reasonable out of pocket expenses properly incurred by them in or with a view to the performance of their duties or in attending meetings of the Board or of committees or general meetings.
- 34.3 In addition, the Board shall be entitled to reward additional remuneration to any Director engaged in exceptional work at the request of the Board on a time spent basis.

## 35. INDEMNITIES

- 35.1 To the fullest extent permitted by applicable law (including the Law), the Directors, officers, Affiliates, principals, employees, advisors and legal representatives at any time of the Company (but not the auditors at any time of the Company) and their respective heirs and executors (who, for purposes of this Article 35, shall be deemed third party beneficiaries), including persons formerly serving in such capacities (each, an **Indemnified Party**) shall be indemnified and held harmless out of the assets and funds of the Company against all actions, proceedings, costs, charges, expenses, losses, damages or liabilities arising out of or in connection with the conduct of the Company's business or affairs or the execution or discharge of their respective duties, powers, authorities or discretions, including any costs, expenses, losses or liabilities incurred by any such Indemnified Party in defending (whether successfully or otherwise) or settling (with the written consent of the Company) any proceedings concerning the Company or its affairs in any court whether in Guernsey or elsewhere, and the Company shall advance expenses reasonably incurred by an Indemnified Party in defending or settling any such actions and proceedings (threatened or actual), including legal and other professional fees and disbursements, promptly upon request for such advance, which shall include an undertaking by or on behalf of such Indemnified Party to repay such amount if it shall be determined by a final, non-appealable judgment that such Indemnified Party is not entitled to be indemnified by the Company pursuant to this Article 35. Unless ordered by a court, any determination of any circumstance that would prevent the Company from indemnifying any Indemnified Party pursuant to this Article 35 shall be made by (1) a majority vote of the Directors who are not parties to or interested in any actions or proceedings (threatened or actual) for which indemnity is sought or (2) by a committee of such Directors or (3) if there are no such Directors, or if such Directors so direct, by independent legal counsel in a written opinion or (4) Members with the approval of an Ordinary Resolution of the Voting Shares. No Director or officer shall be liable: (i) for the acts, receipts, neglects, defaults or omissions of any other Director or officer or agent of the Company; (ii) for any loss on account of defect of title to any property of the Company; (iii) on account of the insufficiency of any security in or upon which any money of the Company will be invested; (iv) for any loss incurred through any bank, broker or other similar person; or (v) for any loss, damage or misfortune whatsoever which may happen in or arise from the execution or discharge of the duties, powers, authorities, or discretions of his or her office or in relation thereto, unless, in each case, the same happens through his or her own dishonesty, bad faith, wilful misconduct and subject, in each case, to applicable law (including the Law). The provisions of this Article 35 shall not be construed so as to provide for the indemnification or exculpation of any Indemnified Party for any liability to the extent (but only to the extent) that such indemnification or exculpation would be in violation of applicable law (including

the Law), but will be construed so as to effectuate the foregoing provisions to the fullest extent permitted by applicable law (including the Law).

- 35.2 The Board shall be entitled to agree to such other contractual indemnities for the benefit of any and all Indemnified Parties and other agents and contracting parties as the Board at any time deems fit.

### **36. INSURANCE**

Without prejudice to any other provisions of these Articles, the Board shall be entitled to exercise all the powers of the Company to purchase and maintain insurance for or for the benefit of any persons who are or were at any time Indemnified Parties, or of any other person which is or was a subsidiary of the Company (each a **Group Company** and together with the Company and the Indemnified Parties, the Insured) or otherwise associated with the **Insured** or in which the Insured has or had any interest, whether direct or indirect, or of any predecessor in business of any of the foregoing, including (without prejudice to the generality of the foregoing) insurance against any costs, charges, expenses, losses or liabilities suffered or incurred by such persons in respect of any act or omission in the actual or purported execution and/or discharge of their duties and/or the exercise or purported exercise of their powers and discretions and/or otherwise in relation to or in connection with their duties, powers or offices in relation to the Insured.

### **37. REGISTERS OF DIRECTORS**

The Board or a Secretary shall cause to be maintained a register of Directors in accordance with Sections 143 and 147 of the Law.

### **38. BORROWING POWERS OF THE BOARD**

The Board shall be entitled to exercise all the powers of the Company to borrow money and to mortgage, hypothecate, pledge or charge all or part of its undertaking, property and uncalled capital and to issue debentures and other securities, whether outright or as collateral security, for any liability or obligation of the Company or of any third party.

### **39. OTHER POWERS AND DUTIES OF THE BOARD**

- 39.1 Unless otherwise expressly stated in these Articles, the Board shall act in its sole discretion to advance the best interests of the Company in accordance with and pursuant to these Articles under all circumstances and the business of the Company shall be managed by the Board who may exercise all such powers of the Company (including the power to remove or appoint the Investment Manager and amend or terminate the Investment Management Agreement without any further vote of the Members except to the extent expressly required by Article 30.8 in respect of the termination of the Investment Management Agreement) as are not required to be exercised by the Company in general meeting and the Members shall not have such powers subject nevertheless to these Articles and to the Law. The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Board by any other Article.

- 39.2 The Board shall be entitled to arrange that any branch of the business carried on by the Company or any other business in which the Company may be interested shall be carried on by or through one or more subsidiary companies and the Board shall be entitled on behalf of the Company to make such arrangements as it deems advisable for taking the profits or bearing the losses of any branch or business so carried on or for financing, assisting or subsidising any such subsidiary company or guaranteeing its contracts, obligations or liabilities.
- 39.3 The Board shall be entitled to establish any local boards or committees (provided that any such local boards or committees shall be composed of all or a majority of persons who are not citizens or residents of the United States) for managing any of the affairs of the Company and may appoint any one or more of its number or any other persons to be members of such local boards or committees and may fix their remuneration and may delegate to any local board or committee any of the powers, authorities and discretions vested in the Board, with power to sub-delegate, and may authorise the members of any local board or committee to fill any vacancies and to act notwithstanding vacancies and any such appointment or delegation may be made upon such terms and subject to such conditions as the Board deems fit and the Board shall be entitled to remove any person so appointed and shall be entitled to annul or vary any such delegation but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Board. The provisions of Article 42 shall apply to meetings of such local boards and committees mutatis mutandis except as varied by the Board.
- 39.4 The Board shall be entitled to:
- 39.4.1 at any time, by power of attorney given under the hand of such person or persons duly authorised by the Board in that behalf, appoint any person or any fluctuating body of persons (who are not citizens or residents of the United States), whether nominated directly or indirectly by the Board, to be the attorney-in-fact of the Company for such purposes and with such powers and discretions and for such periods and subject to such conditions as the Board deems fit and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any attorney-in-fact as the Board deems fit and may also authorise any attorney-in-fact to sub-delegate all or any of his or her powers and discretions; or
- 39.4.2 appoint such other agents, managers and contractors with such powers to sub-delegate as it deems fit at any time.
- 39.5 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for monies paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed in such manner as the Board shall at any time determine.
- 39.6 The Board shall cause minutes to be made and maintained at the Office or at such other place in Guernsey as the Board deems fit in books provided for the purpose of all

resolutions and proceedings at meetings of the Board and of Board committees in accordance with Section 154 of the Law.

- 39.7 The Board shall cause minutes and records of other corporate resolutions to be made and maintained at the Office or at such other place in Guernsey as the Board deems fit in accordance with Sections 228 and 230 of the Law of all proceedings at general meetings or otherwise and all decisions of a sole Member.
- 39.8 The Board shall be entitled to do any of the matters aforesaid either alone or in conjunction with any such other company.
- 39.9 The Board shall take all steps reasonably necessary or advisable to maintain and corroborate its domicile in Guernsey.
- 39.10 The Directors shall be entitled to rely on any advice obtained from third parties (including legal, regulatory, accounting, actuarial and tax) who appear to them to be competent for purposes of dispatching any business of the Company. Subject to applicable law, in no event and under no circumstances shall the Directors incur any individual liability or responsibility for any decision taken on the basis of such advice.
- 39.11 To the fullest extent permitted by applicable law and notwithstanding anything to the contrary in Article 40, a committee of the Board comprising Independent Directors and established in accordance with Article 39.3 shall be entitled, on a majority vote, to ratify any transaction between a Director and the Investment Manager otherwise prohibited under Article 40.

#### **40. CONFLICTS OF INTEREST**

- 40.1 A Director must, as soon as practicable after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Company, disclose to the Board in accordance with Section 162 of the Law the nature and extent of that interest.
- 40.2 Article 40.1 does not apply if:
  - 40.2.1 the transaction or proposed transaction is between the Director and the Company;  
and
  - 40.2.2 the transaction or proposed transaction is or is to be entered into in the ordinary course of the Company's business and on usual terms and conditions.
- 40.3 A general disclosure to the Board to the effect that a Director has an interest (as director, officer, employee, member or otherwise) in a party and is to be regarded as interested in any transaction which may after the date of the disclosure be entered into with that party is sufficient disclosure of interest in relation to that transaction.
- 40.4 Nothing in Articles 40.1, 40.2 and 40.3 applies in relation to:
  - 40.4.1 remuneration or other benefit given to a Director;



- 40.4.2 insurance purchased or maintained for a Director in accordance with Section 158 of the Law; or
- 40.4.3 qualifying third-party indemnity provision provided for a Director in accordance with Section 159 of the Law.
- 40.5 Subject to Article 40.6, a Director is interested in a transaction to which the Company is a party if the Director:
  - 40.5.1 is a party to, or may derive a material benefit from, the transaction;
  - 40.5.2 has a material financial interest in another party to the transaction;
  - 40.5.3 is a director, officer, employee or member of another party (other than a party which is an associated company) who may derive a material financial benefit from the transaction;
  - 40.5.4 is the parent, child or spouse of another party who may derive a material financial benefit from the transaction; or
  - 40.5.5 is otherwise directly or indirectly materially interested in the transaction.
- 40.6 A Director is not interested in a transaction to which the Company is a party if the transaction comprises only the giving by the Company of security to a third party which has no connection with the Director, at the request of the third party, in respect of a debt or obligation of the Company for which the Director or another person has personally assumed responsibility in whole or in part under a guarantee, indemnity or security.
- 40.7 Except as provided in these Articles, a Director shall not vote in respect of any contract or arrangement or any other proposal whatsoever in which he or she has any material interest otherwise than by virtue of his or her interest in shares or debentures or other securities of or otherwise through the Company. A Director may be counted in the quorum at a meeting in relation to any resolution on which he or she is debarred from voting.
- 40.8 A Director shall (in the absence of some other material interest than is indicated below) be entitled to vote (and be counted in the quorum) in respect of any resolution concerning any of the following matters, namely:
  - 40.8.1 the giving of any guarantee, security or indemnity to such Director in respect of money lent or obligations incurred by such Director at the request of or for the benefit of the Company or any of its subsidiaries;
  - 40.8.2 the giving of any guarantee, security or indemnity to a third party in respect of a debt or obligation of the Company or any of its subsidiaries for which such Director personally has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security;

- 40.8.3 any proposal concerning an offer of shares or debentures or other securities of or by the Company or any of its subsidiaries for subscription or purchase in which offer such Director is or is to be interested as a participant in the underwriting or sub-underwriting thereof; and
- 40.8.4 any proposal concerning any other company in which such Director is interested, directly or indirectly and whether as an officer or Member or otherwise howsoever, provided that such Director is not the holder of or beneficially interested in one (1) per cent. or more of the issued shares of such company (or of any third company through which his or her interest is derived) or of the voting rights available to members of the relevant company (any such interest being deemed for the purpose of this Article to be a material interest in all circumstances).
- 40.9 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two (2) or more Directors to offices or employment with the Company or any company in which the Company is interested the Directors may be counted in the quorum for the consideration of such proposals and such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not debarred from voting under the provisions of Article 40.7) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his or her own appointment.
- 40.10 If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his or her voluntarily agreeing to abstain from voting, such question shall be referred to the chairman of the meeting and his or her ruling in relation to any other Director shall be final and conclusive except in a case where the nature or extent of the interests of the Director concerned have not been fairly disclosed.
- 40.11 The Board shall be entitled with the approval of an Ordinary Resolution of the Voting Shares to suspend or relax the provisions of Articles 40.7 and 40.8 to any extent or to ratify any transaction not duly authorised by reason of a contravention of any of the said Articles.
- 40.12 Subject to Article 40.7, the Directors may exercise the votes conferred by the share in any other company held or owned by the Company or exercisable by them as directors of such other company in such manner in all respects as the Directors deem fit (including the exercise thereof in favour of any resolution appointing themselves or any of them director, managing director, managers or other officer of such company or voting or providing for the payment or remuneration to the directors, managing director, manager or other officer of such company).
- 40.13 A Director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with his or her office of Director on such terms as to tenure of office or otherwise as the Directors may determine.



- 40.14 Subject to due disclosure in accordance with this Article 40, no Director or proposed Director shall be disqualified by his or her office from contracting with the Company as vendor, purchaser or otherwise nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested render the Director liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established.
- 40.15 Any Director may act by himself or herself or his or her firm in a professional capacity for the Company and he or she or his or her firm shall be entitled to remuneration for professional services as if he or she were not a Director provided that nothing herein contained shall authorise a Director or his or her firm to act as auditor to the Company.
- 40.16 Any Director may continue to be or become a director, managing director, manager or other officer or member of any company in which the Company may be interested and (unless otherwise agreed) no such Director shall be accountable for any remuneration or other benefits received by such Director as a director, managing director, manager or other officer or member of any such other company.

#### **41. DISQUALIFICATION AND REMOVAL OF DIRECTORS**

##### **41.1 A Director shall cease to hold office:**

- 41.1.1 if such Director (not being a person holding for a fixed term an executive office subject to termination if such person ceases for any reason to be a Director) resigns his or her office by written notice signed by such Director sent to or deposited at the Office;
- 41.1.2 if such Director shall have absented himself or herself (such absence not being absence with leave or by arrangement with the Board on the affairs of the Company) from meetings of the Board for a consecutive period of twelve (12) months and the Board resolves that his or her office shall be vacated;
- 41.1.3 if such Director dies or becomes of Unsound Mind or Incapable;
- 41.1.4 if such Director becomes insolvent, suspends payment or compounds with his or her creditors;
- 41.1.5 if such Director is requested to resign by written notice signed by all his or her co-Directors provided that until the date of such notice, his or her acts as a Director shall be as effectual as if his or her office were not vacated;
- 41.1.6 if the Company in general meeting with the approval of an Ordinary Resolution of the Voting Shares shall declare that he or she shall cease to be a Director;
- 41.1.7 if such Director becomes ineligible to be a Director in accordance with Section 137 of the Law; or

- 41.1.8 if such Director becomes or is a citizen or resident of the United States and, as a result thereof, a majority of the Directors are citizens or residents of the United States.
- 41.2 If the Company in general meeting removes any Director before the expiration of his or her period of office, it or the Board may appoint another person to be a Director in his or her stead who shall retain office so long only as the Director in whose stead he or she is appointed would have held the same if he or she had not been removed. Such removal shall be without prejudice to any claims such Director may have for damages for breach of any contract of service between such Director and the Company.

## **42. PROCEEDINGS OF DIRECTORS**

- 42.1 Subject to this Article, the Board may meet for the dispatch of business, adjourn and otherwise regulate its meetings as it deems fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman at the meeting shall have a second or casting vote, but only if the effect of the exercise of such a vote is not to render a decision or vote in question one which is reached or passed by a majority of Directors who are citizens or residents of the United States. All meetings of the Board (including any meetings of committees or sub-committees) shall take place outside the United States and any decision reached or resolution passed by the Directors at any meeting (including meetings of committees and sub-committees):
- 42.1.1 not held outside the United States;
- 42.1.2 subject to Article 33.3, at which a majority of Directors who are citizens or residents of the United States is present, shall, in each case, be invalid and of no effect.
- 42.2 A Director in communication with one or more other Directors so that each Director participating in the communication can hear or read what is said or communicated by each of the others, is deemed to be present at a meeting with the other Directors so participating and, where a quorum is present, such meeting shall be treated as a validly held meeting of the Board and shall be deemed to have been held in the place where the chairman is present.
- 42.3 The Board shall also determine the notice necessary for its meetings and the persons to whom such notice shall be given.
- 42.4 A meeting of the Board at which a quorum is present shall be competent to exercise all powers and discretions exercisable by the Board.
- 42.5 The continuing Directors may act notwithstanding any vacancy but, if and so long as their number is reduced below the minimum number fixed pursuant to these Articles, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting but for no other purpose. If there be no Directors able or willing to act, then any Member may summon a general meeting for the purpose of appointing Directors.

- 42.6 The Board shall be entitled to elect a chairman of their meetings and determine the period for which he or she is to hold office. If no such chairman is elected or if at any meeting the chairman is not present within fifteen (15) minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.
- 42.7 Subject to Article 42.1, the quorum necessary for the transaction of the business of the Board shall be entitled to be fixed by the Board and unless so fixed shall be two (2) for the meeting of the Board and one (1) for any committee of the Board except that where the minimum number of Directors has been fixed at one (1) a sole Director shall be deemed to form a quorum.
- 42.8 A resolution in writing signed by each Director entitled to receive notice of a meeting of the Board or by all the members of a committee shall be as valid and effectual as a resolution passed at a meeting of the Board or committee. Such resolution may be contained in one document or in several documents in like form each signed by one or more of the Directors or members of the committee and may be transmitted to the Company by facsimile. No such resolution (other than a resolution to appoint Director(s) in accordance with and pursuant to Article 33.4 in order to comply with the provisions of Article 33.3, as the case may be) shall be valid if a majority of the Directors sign the resolution in the United States or if a majority of the Directors signing the resolution are citizens or residents of the United States.

#### **43. EXECUTIVE DIRECTORS**

- 43.1 Following termination of the Investment Management Agreement pursuant to Article 30.8:
- 43.1.1 the Board shall be entitled at any time to appoint one or more of their body (other than a Director resident for tax purposes in the United Kingdom) to be holder of any executive office including the office of managing director on such terms and for such periods as the Board determines;
- 43.1.2 the appointment of any Director to any executive office shall be subject to termination if such Director ceases from any cause to be a Director but without prejudice to any claim for damages for breach of any contract of service between such Director and the Company; and
- 43.1.3 the Board shall be entitled to entrust to and confer upon a Director holding any executive office any of the powers exercisable by the Board upon such terms and conditions and with such restrictions as the Board deems fit either collaterally with or to the exclusion of their own powers and may at any time revoke, withdraw, alter or vary all or any of such powers.

#### **44. AGENT AND SERVICE PROVIDERS**

The Board shall at any time be entitled to engage in respect of the Company such administrators, custodians, investment managers, investment advisers, prime brokers and other agents as the Board deems fit. The Board shall be entitled to entrust to and confer upon such persons any of the powers exercisable by the Board upon such terms and

conditions, including the right to remuneration payable by, and indemnification from, the Company and with such restrictions and with such powers of delegation as the Board determines and either collaterally with or to the exclusion of the Board's own powers.

#### **45. SECRETARY AND RESIDENT AGENT**

- 45.1 One or more Secretaries may be appointed by the Board for such term at such remuneration and upon such conditions as the Board deems fit. The Secretary may be removed by resolution of the Directors in writing signed by the Directors (being not less than two in number) or otherwise in accordance with Article 41 which shall apply mutatis mutandis as if the Secretary were a Director, save that Article 41.1.5 shall not apply
- 45.2 Any Secretary shall have such duties as may be mandated by the Law and other duties, responsibilities and powers as shall be agreed by the Board and such Secretary.
- 45.3 Any provision of the Law or these Articles requiring or authorising a thing to be done by a Director and a Secretary shall be satisfied by its being done by the same person acting both as Director and as or in the place of a Secretary.
- 45.4 If Part XXIX of the Law applies to the Company, the Board shall ensure that a resident agent is appointed in accordance with the Law.

#### **46. THE SEAL**

If the Board determines to maintain a Seal, it shall provide for the safe custody of the Seal which shall only be used by authority of the Board or of a committee and every instrument to which the Seal shall be affixed shall be signed by any such persons as are authorised by the Board in that behalf. The Board shall be entitled to authorise the use of a duplicate or facsimile Seal for use outside Guernsey in such manner as the Board determines.

#### **47. COMMON SIGNATURE**

- 47.1 The common signature of the Company may be either:
  - 47.1.1 the name of the Company with the addition of the signature(s) of one or more of the Directors or officers of the Company authorised generally or specifically by the Board for such purpose, or such other person or persons as the Board at any time appoints; or
  - 47.1.2 if the Board resolves that the Company shall have a Seal, it shall be affixed in such manner as these Articles or the Board at any time provides.

#### **48. AUTHENTICATION OF DOCUMENTS**

Any Director or a Secretary or any person appointed by the Board for the purpose shall have power to authenticate any documents affecting the Company (including the Memorandum and these Articles) and any resolutions passed by the Company or the Board and any books, records, documents and accounts relating to the business of the Company

and to certify copies or extracts as true copies or extracts; and where any books, records, documents or accounts are elsewhere than at the Office the local manager or other Officer of the Company having their custody shall be deemed to be a person appointed by the Board as aforesaid.

## **49. DIVIDENDS**

- 49.1 Subject to compliance with Section 304 of the Law and the prior consent of the Investment Manager and notwithstanding Article 49.4, the Board may at any time declare and pay such Dividends in proportion to the Net Asset Value per Public Share, Management Share and the Special Voting Share, as applicable, as well as declare and pay such Dividends on any other shares in issue at any time as appear to be justified by the position of the Company (on whatever basis determined by the Board). The Board shall, with the prior consent of the Investment Manager, also be entitled to declare and pay any fixed Dividend which is payable on the Public Shares, the Management Shares or the Special Voting Share, as applicable, half-yearly or otherwise on fixed dates whenever the position in the opinion of the Board so justifies.
- 49.2 The method of payment of Dividends shall be at the option of the Board.
- 49.3 No Dividend shall be paid in excess of the amounts permitted by the Law or approved by the Board.
- 49.4 Unless and to the extent that the rights attached to any shares or the terms of issue thereof otherwise provide, and except as provided pursuant to Article 49.1, all Dividends shall be declared and paid pro rata within each class of shares according to the number of shares of such class held by each Member.
- 49.5 The Board shall be entitled to deduct from any Dividend payable to any Member on or in respect of a share all sums of money (if any) presently payable by such member to the Company on account of calls or otherwise.
- 49.6 The Board shall be entitled to retain any Dividend or other monies payable on or in respect of a share on which the Company has a lien and may apply the same in or towards satisfaction of the liabilities or obligations in respect of which the lien exists.
- 49.7 The Board shall be entitled to retain Dividends payable upon shares in respect of which any person is entitled to become a Member until such person has become a Member.
- 49.8 Any Dividend may be paid at the discretion of the Board wholly or in part by the distribution of specific assets and, in particular, of paid-up shares of the Company. Where any difficulty arises in regard to such distribution, the Board shall be entitled to settle the same as the Board deems expedient and in particular may issue fractional shares and fix the value for distribution of such specific assets and shall be entitled to determine that cash payments shall be made to any Members upon the footing of the value so fixed in order to adjust the rights of Members and shall be entitled to vest any such specific assets in trustees for the Members entitled as is expedient to the Board.

- 49.9 Any Dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the Register. Any one of two or more joint holders may give effectual receipts for any Dividends, interest or other monies payable in respect of their joint holdings.
- 49.10 No Dividend or other monies payable on or in respect of a share shall bear interest against the Company.
- 49.11 All unclaimed Dividends may be invested or otherwise made use of by the Board for the benefit of the Company until claimed and the Company shall not be constituted a trustee in respect thereof. All Dividends unclaimed for a period of six (6) years after having been declared shall be forfeited and shall revert to the Company.

## **50. INVESTMENT ACCOUNTS**

- 50.1 The Board shall be entitled to establish separate accounts on the books and records of the Company (each, an Investment Account) for each class of shares and the following provisions shall apply to each Investment Account:
- 50.1.1 the proceeds from the allotment and issue of shares may be applied in the books of the Company to the Investment Account established for the shares;
  - 50.1.2 the assets and liabilities and income and expenditure attributable to the shares (including all hedging costs) may be applied or allocated for accounting purposes to the relevant Investment Accounts established for such shares subject to the provisions of these Articles;
  - 50.1.3 where any asset is derived from another asset (whether cash or otherwise), such derivative asset may be applied in the books of the Company to the Investment Account from which the related asset was derived and on each revaluation of an investment the increase or diminution in the value thereof (or the relevant portion of such increase or diminution in value) may be applied to the relevant Investment Account;
  - 50.1.4 in the case of any asset of the Company which the Board does not consider is attributable to a particular Investment Account, the Board shall have the option to determine the basis upon which any such asset shall be allocated among Investment Accounts and the Board shall have power at any time to vary such allocation;
  - 50.1.5 where the assets of the Company not attributable to any Investment Accounts give rise to any net profits, the Board shall be entitled to allocate the assets representing such net profits to the Investment Accounts as the Board determines;
  - 50.1.6 the Board shall be entitled to determine the basis upon which any liability including expenses shall be allocated among Investment Accounts (including conditions as to subsequent reallocation thereof if circumstances so permit or

require) and shall have the power at any time to vary such basis and charge expenses of the Company against either revenue or the capital of the Investment Accounts; and

50.1.7 the Board shall be entitled to transfer any assets in the books of the Company to and from Investment Accounts if, as a result of a creditor proceeding against certain of the assets of the Company or otherwise, a liability would be borne in a different manner from that in which it would have been borne under Article 50.1.5 or in any similar circumstances.

50.2 Subject to any applicable law and except as otherwise provided in these Articles the assets held in each Investment Account shall be applied solely in respect of shares of the class to which such Investment Account relates and no holder of shares of a class shall have any claim or right to any asset allocated to any other class.

## **51. RESERVES**

The Board shall, before recommending any Dividend, be entitled to set aside such sums (out of profits or otherwise) as the Board deems proper as reserves which shall, at the option of the Board, be applicable for any purpose to which such sums may be properly applied and, pending such application, may either be employed in the business of the Company or be invested in such investments as the Board at any time deems fit. The Board shall also, without placing the same to reserve, be entitled to carry forward any profits or other sums which it may deem prudent not to distribute.

## **52. CAPITALISATION OF PROFITS**

52.1 The Company in general meeting upon passage of an Ordinary Resolution of the Voting Shares may, upon the recommendation of the Board, resolve that it is desirable to capitalise any part of the amount at any time standing to the credit of any of the Company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution and accordingly that such sums be set free for distribution amongst the Members *pari passu* in proportion to the Net Asset Value per share of the relevant class held by them (or on such other basis as the Board determines) who would have been entitled thereto if distributed on condition that the same is not paid in cash but is applied either in or towards paying up any amounts at any time unpaid on any shares held by such Members respectively or paying up in full unissued shares of the Company to be allotted and distributed credited as fully paid to and amongst such Members.

52.2 Whenever such resolution shall have been passed, the Board shall make all appropriations and applications of the reserves or profits resolved to be capitalised and all allotments and issues of fully-paid shares and generally shall do all things required to give effect thereto with full power to the Board to make such provision by payment in cash or otherwise as the Board deems fit in the case of shares becoming distributable in fractions and also to authorise any person to enter on behalf of all Members entitled thereto into an agreement with the Company providing for the allotment to them respectively credited as fully paid of any further shares to which they may be entitled upon such capitalisation or (as the case



may require) for the payment up by the Company on their behalf by the application thereto of their respective proportions of the amounts resolved to be capitalised of the amounts or any part of the amounts remaining unpaid on their existing shares and any agreement made under such authority shall be effective and binding on all such Members.

### **53. ACCOUNTS AND REPORTS**

53.1 The Board shall maintain accounting records and issue reports in accordance with Part XV and Part XXVII of the Law and applicable Rules.

53.2 The Company shall keep accounting records which are sufficient to show and explain its transactions and are such as to:

53.2.1 disclose with reasonable accuracy, at any time, the financial position of the Company at that time; and

53.2.2 enable the Board to ensure that any Accounts prepared by the Company are prepared properly and in accordance with any relevant enactment at any time in force.

53.3 The Company's accounting records shall be kept:

53.3.1 at the Office; or

53.3.2 at such other place as the Board think fit.

53.4 If accounting records are kept at a place outside Guernsey, returns (i.e., tax returns or annual returns) in respect of the business dealt with in the accounting records shall be sent to and kept at a place in Guernsey and those returns shall be such as to:

53.4.1 disclose with reasonable accuracy the financial position of the business in question at intervals of not more than six (6) months; and

53.4.2 enable the Board to ensure that any Accounts prepared by the Company are prepared properly and in accordance with any relevant enactment at any time in force.

53.5 Accounting records (and, where returns are sent, returns) shall be kept by the Company for a period of at least six (6) years after the date on which they are made.

53.6 Accounting records (and, where returns are sent, returns) shall at all reasonable times be open to inspection by any Director, Secretary or officer of the Company at the place at which they are kept.

53.7 Subject to Section 244 of the Law, the Board shall prepare Accounts of the Company for each of the Company's Financial Years.

53.8 The Accounts shall include:



- 53.8.1 a profit and loss account; and
- 53.8.2 a balance sheet.
- 53.9 The Accounts shall:
  - 53.9.1 give (and state that they give) a true and fair view;
  - 53.9.2 subject to Article 11.9, be in accordance (and state that they are in accordance) with GAAP or such other accounting standards as required by the rules of any stock exchange on which the Public Shares are listed; and
  - 53.9.3 comply (and state that they comply) with any relevant enactment at any time in force.
- 53.10 The Accounts shall be approved by the Board and signed on by at least one (1) Director.
- 53.11 If the Company is a holding company, the Board, if it deems fit, shall be entitled to prepare consolidated accounts for that Company and all or any of its subsidiaries in accordance with Section 244 of the Law.
- 53.12 The Board shall prepare a Directors' report for each of the Company's Financial Years, save where the Directors' duty to prepare a report is exempted or waived in accordance with the Law.
- 53.13 The Directors' report (if one is prepared) must state the principal activities (if any) of the Company in the course of the Financial Year and may be in summary form.
- 53.14 The directors of associated companies may, if they deem fit, combine their Directors' reports, and if the combined report states the principal activities of all associated companies, the requirements of this Article are satisfied.
- 53.15 This Article applies to the Company unless it is exempt from audit in accordance with Section 256 of the Law for the Financial Year in question.
  - 53.15.1 The Directors' report must contain a statement to the effect that, in the case of each of the persons who are Directors at the time the report is approved:
    - (a) so far as the Director is aware, there is no relevant audit information of which the auditors are unaware; and
    - (b) he has taken all the steps he or she ought to have taken as a Director to make himself or herself aware of any relevant audit information and to establish that the auditors are aware of that information.
  - 53.15.2 A Director is regarded as having taken all the steps that he or she ought to have taken as a Director in order to do the things mentioned in Article 53.15.1(b) if he or she has:

- (a) made such enquiries of his or her fellow Directors and of the auditors for that purpose; and
- (b) taken such other steps (if any) for that purpose, as are required by his or her duty as a Director of the Company to exercise reasonable care, skill and diligence.

53.15.3 In this Article relevant audit information means information needed by the auditors in connection with preparing their report.

53.16 The Members of the Company may not elect to exempt the Company from audit in accordance with Section 256 of the Law.

53.17 The Company shall send to each Member of the Company within twelve (12) months after the end of the Financial Year to which they relate a copy of:

53.17.1 the Accounts;

53.17.2 the Directors' report; and

53.17.3 the auditors' report (where one is required under Part XVI of the Law).

53.18 The Company must send to a Member or officer of the Company within seven (7) days after the date on which the Member or officer makes such a request, provided that he or she has not previously made such a request within that Financial Year, a copy of the most recent:

53.18.1 Accounts;

53.18.2 Directors' report; and

53.18.3 auditors' report (where one is required under Part XVI of the Law).

53.19 If the Company holds a general meeting under Section 199 of the Law, it shall lay before that meeting copies of its most recent:

53.19.1 Accounts;

53.19.2 Directors' report; and

53.19.3 auditors' report (where one is required under Part XVI of the Law).

## **54. AUDITORS**

54.1 Auditors shall be engaged in accordance with Part XVI of the Law.

54.2 A Director shall not be capable of being appointed as an auditor of the Company.

- 54.3 A person other than a retiring auditor of the Company shall not be capable of being appointed auditor of the Company at a general meeting unless notice of intention to nominate that person as auditor of the Company has been given by a Member to the Company not less than fourteen (14) days before the meeting and the Board shall send a copy of any such notice to the retiring auditor of the Company and shall give notice to the Members not less than seven (7) days before the meeting provided that if after notice of the intention to nominate an auditor of the Company has been so given a meeting is called for a date fourteen (14) days or less after such notice has been given the requirements of this Article as to time in respect of such notice shall be deemed to have been satisfied and the notice to be sent or given by the Company may instead of being sent or given within the time required by this Article be sent or given at the same time as the notice of the meeting.
- 54.4 The Board may fill any vacancy in the office of auditor of the Company but while any such vacancy continues the surviving or continuing auditors of the Company (if any) may act.
- 54.5 The remuneration of the auditors of the Company shall be fixed by the Company in general meeting or in such manner as the Company may determine except that the remuneration of any auditors of the Company appointed by the Directors shall be fixed by the Directors, if the Members by Ordinary Resolution of the Voting Shares so resolve.
- 54.6 Every auditor of the Company shall have a right of access at all times to the books, accounts and documents of the Company and as regards books, accounts and documents of which the originals are not readily available shall be entitled to rely upon copies or extracts certified by an officer of the Company and shall be entitled to require from the Board such information and explanations as may be necessary for the performance of their duties and the auditors of the Company shall make a report to the Members on the Accounts examined by them and the report shall state whether in their opinion the Accounts give a true and fair view of the state of the Company's affairs and whether they have been prepared in accordance with the Law.
- 54.7 Any auditor of the Company shall be eligible for re-election.

## **55. NOTICES AND OTHER COMMUNICATIONS**

- 55.1 A notice or other communication (including any periodic report, account statement or annual report) may be given or distributed by the Company to any Member either personally, electronically (including through a website) or by sending it by prepaid post addressed to such Member at his or her registered address or by being transmitted to his or her Relevant Electronic Address by Electronic Means in accordance with this Article. Unless the Law shall specify otherwise a notice shall, unless the contrary is shown, be deemed to have been:
- 55.1.1 received in the case of a notice sent by post to an address in the United Kingdom, Channel Islands or the Isle of Man, on the second day after the day of posting;
- 55.1.2 received in the case of a notice sent by post elsewhere by airmail, on the third day after posting;

- 55.1.3 served in the case of a notice transmitted by Electronic Means, immediately after it was transmitted in accordance with these Articles and the Law, excluding, in the first two cases, any day which is a Saturday, Sunday, Good Friday, Christmas Day, a bank holiday in Guernsey or a day appointed as a day of public thanksgiving or public mourning in Guernsey.
- 55.2 A notice may be given by the Company to the joint holders of a share by giving the notice to the joint holder first named in the Register in respect of the share.
- 55.3 Any notice or other communication sent to the address of any Member shall, notwithstanding the death, disability or insolvency of such Member and whether the Company has notice thereof, be deemed to have been duly served in respect of any share registered in the name of such Member as sole or joint holder and such service shall, for all purposes, be deemed a sufficient service of such notice or document on all persons interested (whether jointly with or as claiming through or under such Member) in any such share.
- 55.4 All Members (on their behalf and on behalf of the beneficial owners for which they hold shares) shall be deemed to have agreed to accept communication from the Company by Electronic Means (including through a website) in accordance with the Law. Any Member may notify the Company of a Relevant Electronic Address or fax number for the purpose of receiving communications by Electronic Means from the Company, and having done so shall be deemed to have agreed to receive, and be served with, notices and other documents from the Company by Electronic Means. In addition, if a Member notifies the Company of his or her Relevant Electronic Address or fax number, the Company may, but is not obliged to, satisfy its obligation to send such Member any notice or other document by:
- 55.4.1 publishing such notice or document on a web site; and
- 55.4.2 notifying such Member by e-mail to that e-mail address or fax to that fax number that such notice or document has been so published, specifying the address of the web site on which it has been published, the place on the web site where it may be accessed, how it may be accessed and (if it is a notice relating to a shareholders' meeting) stating (i) that the notice concerns a notice of a Company meeting served in accordance with the Law (ii) the place, date and time of the meeting, (iii) whether the meeting is to be an annual or extraordinary general or class meeting, and (iv) such other information as the Law may prescribe.
- 55.5 For the avoidance of doubt, any Relevant Electronic Address or fax number specified by a Member to the Company prior to the date of adoption of these Articles for the purpose of communicating by Electronic Means will constitute a notification of that Relevant Electronic Address or fax number for the purposes of Article 55.4.

## **56. WINDING UP**

- 56.1 The Company shall be wound up pursuant to this Article 56 (i) in the circumstances specified in Article 9.1 and (ii) in any of the circumstances specified in the Law, and assets

available for distribution to Members shall, subject to any special terms of issue, be distributed according to Article 56.2.

- 56.2 The assets available for distribution among the Members upon the winding-up of the Company after payment of all creditors of the Company shall be distributed to the holders of the classes of shares then in issue *pari passu* in proportion to the Net Asset Value per share of the relevant class held by them (or on such other basis and with such other entitlement as the Board determines) at the relevant winding-up date as calculated by the Board or the liquidator in their respective discretion and within each such class, such assets will be divided *pari passu* among the Members of that class in proportion to the number of shares of that class held at the commencement of the winding up, subject in any case to the rights of any shares which may be issued with special rights or privileges.
- 56.3 If the Company shall be wound up the Liquidator may, with the approval of an Ordinary Resolution of the Voting Shares, divide among the Members in specie the whole or any part of the assets attributable thereto and whether or not the assets shall consist of property of a single kind and may for such purposes set such value as he or she deems fair upon any asset or classes of assets and may determine how such division shall be carried out as between the Members or different classes of Members. The Liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Members as the Liquidator, with the like authority, shall deem fit and the liquidation of the Company may be closed and the Company dissolved but so that no Member shall be compelled to accept any assets in respect of which there is any outstanding liability.
- 56.4 Where the Company is proposed to be or is in the course of being wound up and the whole or part of its business or property is proposed to be transferred or sold to another company the Liquidator may, with the approval of an Ordinary Resolution of the Voting Shares, receive in compensation or part compensation for the transfer or sale of assets, shares, policies or other like interests for distribution among the Members or may enter into any other arrangements whereby the Members may, in lieu of receiving cash, shares, policies, or other like interests in the transferee, participate in the profits of or receive any other benefit from the transferee.

## **57. DISCLOSURE OF THIRD PARTY BENEFICIAL INTERESTS IN SHARES**

- 57.1 The Board shall have power by notice to require any Member to disclose to the Company the identity of any person other than the Member (an **Interested Party**) who has any direct or indirect interest in the shares held by the Member and the nature of such interest.
- 57.2 Any such notice shall require any information in response to such notice to be given within the prescribed period which shall be twenty-eight (28) days after the service of the notice, or fourteen (14) days if the shares concerned represent 0.25 per cent. or more in value of the issued shares of the relevant class, or such other reasonable time period as the Board determines.
- 57.3 The Company may (but shall not be obligated to) maintain a register of Interested Parties and whenever in pursuance of a requirement imposed on a Member as aforesaid the

Company is informed of an Interested Party, the identity of the Interested Party and the nature of the interest shall be inscribed therein together with the date of the request.

57.4 If any Member has been duly served with a notice given by the Board in accordance with Article 57.1 and is in default through the end of the prescribed period in supplying to the Company the information thereby required the Board shall be entitled to at any time thereafter serve a notice (a **Direction Notice**) upon such Member as follows:

57.4.1 a Direction Notice may direct that, in respect of:

- (a) the shares comprising the Member account in the Register which comprises or includes the shares in relation to which the default occurred (all or the relevant number as appropriate of such shares being the **Direction Notice Default Shares**); and
- (b) any other shares held by the Member, the Member shall not be entitled to attend or vote (either personally or by representative or by proxy) at any meeting of the holders of any class of shares of the Company or to exercise any other right conferred by membership in relation to any such meetings; and

57.4.2 where the Direction Notice Default Shares represent at least 0.25 per cent. of the class of shares concerned, then the Direction Notice may additionally direct that:

- (a) in respect of the Direction Notice Default Shares, any Dividend or part thereof which would otherwise be payable on such shares shall be retained by the Company without any liability to pay interest thereon when such money is finally paid to the Member;
- (b) no transfer other than an approved transfer (as set out in Article 57.7.2) of any of the shares held by such Member shall be registered unless:
  - (A) such Member is not in default as regards supplying the information requested; and
  - (B) the transfer is of part only of the Member's holding and when presented for registration is accompanied by a certificate by the Member in a form satisfactory to the Board to the effect that after due and careful enquiry the Member is satisfied that no person in default as regards supplying such information is interested in any of the shares the subject of the transfer. The Company shall send to each other person appearing to be interested in the shares the subject of any Direction Notice a copy of the notice, but failure or omission by the Company to do so shall not invalidate such notice.

57.5 If shares are issued to a Member as a result of that Member holding other shares in the Company and if the shares in respect of which the new shares are issued are default shares in respect of which the Member is at any time subject to particular restrictions, the new

shares shall on issue become subject to the same restrictions whilst held by that Member as such Direction Notice Default Shares. For this purpose, shares which the Company procures to be offered to Members pro rata (or pro rata ignoring fractional entitlements and shares not offered to certain Members by reason of legal or practical problems associated with offering shares outside the United Kingdom or Guernsey) shall be treated as shares issued as a result of a Member holding other shares in the Company.

57.6 Any Direction Notice shall have effect in accordance with its terms for as long as the default, in respect of which the Direction Notice was issued, continues but shall cease to have effect in relation to any shares which are transferred by such Member by means of an approved transfer as set out in Article 57.7.2. As soon as practical after the Direction Notice has ceased to have effect (and in any event within seven (7) days thereafter) the Board shall procure that the restrictions imposed by Articles 57.4 and 57.5 shall be removed and that Dividends and other monies withheld pursuant to Article 57.4.2(a) are paid to the relevant Member.

57.7 For the purposes of this Article 57:

57.7.1 a person shall be treated as appearing to be interested in any shares if the Member holding such shares has given to the Company a notification which either (i) names such person as being so interested or (ii) fails to establish the identities of those interested in the shares and (after taking into account the said notification and any other relevant notification) the Company knows or has reasonable cause to believe that the person in question is or may be interested in the shares; and

57.7.2 a transfer of shares is an approved transfer if but only if:

- (a) it is a transfer of shares to an offeror by way or in pursuance of acceptance of a public offer made to acquire all the issued shares in the capital of the Company not already owned by the offeror or connected person of the offeror in respect of the Company;
- (b) the Board is satisfied that the transfer is made pursuant to a sale of the whole of the beneficial ownership of the shares to a party unconnected with the Member and with other persons appearing to be interested in such shares; or
- (c) the transfer results from a sale made through a recognised investment exchange (as such term is defined in the UK Financial Services and Markets Act 2000) or any other stock exchange on which the Company's shares are normally traded.

57.8 Any Member who has given notice of an Interested Party in accordance with Article 57.2 who subsequently ceases to have any party interested in such Member's shares or has any other person interested in such Member's shares shall notify the Company of the cessation or change in such interest and, if a register of Interested Parties is maintained, the Board shall amend the register of Interested Parties accordingly.



**58. DURATION**

Subject to Article 30.9, the Company shall have an unlimited life.

**59. DISCLOSURE OF ADDITIONAL INFORMATION**

Each Member agrees to provide, and periodically update, any information that the Board reasonably determines is necessary to reduce or eliminate withholding or other taxes under Sections 1471-1474 of the US Internal Revenue Code, any legislation implementing the Organisation for Economic Co-operation and Development's "Common Reporting Standing" or any similar law in any jurisdiction.

**60. MEMBER SPECIFIC COSTS**

If the Company is subject to taxes under Sections 1471-1474 of the US Internal Revenue Code, any legislation implementing the Organisation for Economic Co-operation and Development's "Common Reporting Standing" or any similar law in any jurisdiction that are attributable to a specific Member's status, action or inaction (including, for example, the imposition of such taxes in any jurisdiction attributable to such Member's failure to provide information necessary to eliminate such tax), the Board shall be entitled to take any action so that such taxes and associated costs are economically borne by such Member (including, for example, compulsorily converting such Member's shares to a different class of shares).

**61. JURISDICTION**

61.1 The courts of England and Wales or Guernsey are to have exclusive jurisdiction in respect of any dispute arising out of or in connection with these Articles, and any party to any such dispute irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any such dispute in the courts of England and Wales or Guernsey and any claim that any such dispute brought in such courts have been brought in an inconvenient forum or venue, and irrevocably agrees that a judgment in any dispute brought in the courts of England and Wales or Guernsey shall be conclusive and binding upon such party and may be enforced in the courts of Guernsey.

61.2 The Company irrevocably appoints Law Debenture Corporate Services Limited as its authorised agent on which legal process may be served in any aforesaid dispute brought in the courts of England and Wales. The Company agrees that service of process in respect of it upon such agent shall be deemed to be effective service of process upon it in any such dispute. The Company agrees that the failure of such agent to give notice to it of any such service shall not impair or affect the validity of such service or any judgment rendered in any proceeding based on such service. If for any reason such agent shall cease to be available to act as such, the Company agrees to designate a new agent in London, on the terms and for the purposes of this Article, by notification to the Members.



**62. SEVERABILITY**

If any provision of these Articles or any application of any such provision is determined to be invalid or contrary to applicable law by any court having jurisdiction over the issues, the validity of the remaining provisions shall not be affected and other applications of such provision shall be affected only to the extent necessary to comply with the determination of such court.

**63. RESOLVING AMBIGUITY**

In the case of an ambiguity in the application of any of the provisions of these Articles, the Board shall have the power to determine the application of the provisions of these Articles with respect to any situation based on the facts known to it and such determination shall be binding on any Person, including any Prohibited Owner, any Prohibited US Person, any Trustee, any Permitted Transferee and any Member. In the event that these Articles require an action by the Board and these Articles fail to provide specific guidance with respect to such action, the Board shall have the power to determine the action to be taken so long as such action is in furtherance of the purposes of these Articles and consistent with the duty of the Board to protect the interests of the Company as a whole.