

ARTICLES OF INCORPORATION

of

**FIRSTRAND INTERNATIONAL LIMITED**

**Adopted by Special Resolution on 9 June 2015**

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## ARTICLES OF INCORPORATION

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### FIRSTRAND INTERNATIONAL LIMITED

Adopted by Special Resolution on [ ]2015

#### 1. INTERPRETATION

1.1 In these Articles, unless the context otherwise requires:

<b>Articles:</b>	means these Articles of Incorporation, as altered from time to time;
<b>Board:</b>	means Directors who number not less than the required quorum present at a meeting of Directors;
<b>Class:</b>	means a class of shares having attached to them identical rights, privileges and conditions;
<b>Company:</b>	means FirstRand International Limited;
<b>Director:</b>	means a person appointed as a director of the Company in accordance with the Law and these Articles;
<b>Interested:</b>	in relation to a Director, has the meaning given to that term in section 167 of the Law;
<b>Law:</b>	means the Companies (Guernsey) Law, 2008;
<b>Member:</b>	in relation to a share in the Company, means the person whose name is entered in the Register as the holder of the share;
<b>Memorandum:</b>	means the Memorandum of Incorporation of the Company, as altered from time to time;
<b>month:</b>	means calendar month;
<b>Office:</b>	means the registered office of the Company for the time being;
<b>Ordinary Resolution:</b>	means a resolution of the Company passed in accordance with section 176 of the Law;
<b>Ordinary Shares:</b>	means the ordinary shares in the Company of ZAR 5.62 each;

- Personal Representative:** means:
- (a) in relation to a deceased individual Member, the executor, administrator or trustee of the estate of that Member; and
  - (b) in relation to a bankrupt individual Member or a Member whose affairs have been declared “en état de désastre”, the assignee in bankruptcy entitled to conduct the affairs of that Member;
- Register:** means the register of members to be kept pursuant to section 123 of the Law;
- Secretary:** means any person appointed to that position and entered into the register of secretaries, as determined by the Directors;
- Special Resolution:** means a resolution of the Company passed in accordance with section 178 of the Law;
- Statutes:** means every statute including any orders, regulations or other subordinate legislation made under it (from time to time in force) concerning companies in so far as they apply to the Company including, for the avoidance of doubt, the Law; and
- ZAR:** means South African Rand.

1.2 The table of contents, headings and descriptions relating to sections of the Law are inserted for convenience only and shall be ignored in construing these Articles.

1.3 In these Articles:

- (a) the singular includes the plural and vice versa;
- (b) reference to any legislation or to any provision of any legislation (including regulations and orders) includes:
  - (i) that legislation or provision as from time to time amended, re-enacted or substituted; and
  - (ii) any statutory instruments, regulations, rules and orders issued under that legislation or provision;
- (c) “written” and “in writing” include any form of reproducing words, figures and symbols in a visible form;

- (d) words importing a particular gender only shall include any other gender; and
- (e) references to a meeting shall not be taken as requiring more than one person to be present if any quorum requirement can be satisfied by one person.

1.4 Unless the context requires otherwise, words and expressions defined or explained in the Law and not otherwise defined in clause 1.1 have the same meaning in these Articles.

1.5 Where any word or expression is defined in these Articles, any corresponding grammatical form of that word or expression has a corresponding meaning.

1.6 References to clauses and sections (other than sections of the Law) are references to clauses and sections of these Articles, unless otherwise stated.

## **2. STANDARD ARTICLES DISAPPLIED**

2.1 The standard articles of incorporation referred to in section 16(3) of the Law are disapplied and replaced in their entirety by these Articles.

## **3. SHARES**

3.1 Different Classes of shares may be issued by the Company in accordance with the provisions of these Articles and the Law. Without limiting the Classes which may be issued, any share may be issued on the basis that it:

- (a) is redeemable in accordance with section 310 of the Law;
- (b) confers preferential rights to distribution of capital or income;
- (c) does not confer voting rights; or
- (d) confers special, limited or conditional voting rights.

3.2 The directors of the Company are generally authorised to:

- (a) issue shares in the Company; or
- (b) grant rights to subscribe for, or to convert any security into, shares in the Company,

to the fullest extent permissible under the Law. Unless restricted by the Law or ordinary resolution of the Company, there is no maximum number of shares that may be issued or rights granted by the directors, and the authority above shall not expire.

- 3.3 Shares may be issued with or without a par value in accordance with Section 278 of the Law. Where shares are issued without a par value they shall be issued for a price that the Board determines to be appropriate having regard to the requirements of sections 295 – 299 of the Law.
- 3.4 Fractions of shares may be issued in accordance with Section 280 of the Law provided that any fraction of a share shall:
- (a) be taken into account in determining the entitlement of a Member as regards any dividend, distribution or on a winding up; and
  - (b) not entitle a Member to vote in respect of that share.
- 3.5 The Company may:
- (a) make arrangements on the issue of shares to distinguish between Members as to the amounts and times of payment of calls on their shares in accordance with section 284 of the Law;
  - (b) accept from any Member the whole or part of any amount remaining unpaid on any share although no part of that amount has been called up; and
  - (c) pay dividends or make distributions in proportion to the amount paid on each share where a larger amount is paid upon some shares and not others.
- 3.6 The rights conferred upon the holders of the shares of any Class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that Class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* with that Class.
- 3.7 The Company may issue shares at a discount or pay any commission or brokerage that the Directors deem appropriate on the issue of any shares.
- 3.8 The Company may, by market purchase or otherwise, purchase its own shares in accordance with section 312 of the Law and may hold any shares so purchased as treasury shares in accordance with section 326 of the Law.
- 3.9 Except as required by law, no person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or be compelled in any way to recognise (even when having notice) any equitable, contingent, future or partial interest in any share, any fraction of a share or any other rights in respect of any share except the absolute right of the registered holder.

#### **4. ALTERATION OF CAPITAL**

- 4.1 The Company may exercise the right conferred by section 287 of the Law to do any of the things stated in that section.

## **5. ALTERATION OF RIGHTS**

- 5.1 All or any of the rights, privileges, or conditions for the time being attached to any Class of shares may be varied in the manner set out in section 342 of the Law. Any meeting of the holders of a Class of shares for these purposes shall be conducted in the same manner as a general meeting under the Law and these Articles, but the necessary quorum shall be Members of the Class affected, holding or representing by proxy one-third of the capital paid on the issued shares of the Class affected (but so that if at any adjourned meeting of those holders a quorum is not present, those holders who are present shall be a quorum).

## **6. CALLS ON SHARES**

- 6.1 The Board may, from time to time, make such calls as it thinks fit upon the Members in respect of any amount unpaid on any shares held by them which are not made payable at fixed times by the terms of issue of those shares. A call may be made payable by instalments. The Board may revoke or postpone any call.
- 6.2 A call is deemed to be made at the time when the resolution of the Board making the call is passed.
- 6.3 An amount which, by the terms of issue of a share, is payable on allotment or at a fixed date is deemed for the purposes of these Articles to be a call duly made and payable on the date on which the amount is payable.
- 6.4 At least 14 days' notice of any call shall be given to the holder of the share specifying the time and place of payment.
- 6.5 A Member subject to a call shall pay the amount of the call to the Company at the time and place specified by the Board.
- 6.6 Joint Members are jointly and severally liable to pay all calls in respect of shares registered in their names.
- 6.7 If a call in respect of a share is not paid on or before the due date, the Member subject to the call shall pay interest on the call from the due date to the date of actual payment at a rate determined by the Board, unless the Board waives payment of interest wholly or in part.
- 6.8 In any proceedings for recovery of a call:
- (a) it is sufficient to prove that:
    - (i) the name of the relevant Member is entered in the Register as the holder, or one of the holders, of the shares to which the call relates; and

- (ii) except in relation to any amount which, by the terms of issue is payable on allotment or at a fixed date, the resolution making the call is entered in the records and notice of the call has been duly given,

and proof of the matters mentioned in this clause is conclusive evidence of the debt; and

- (b) it is not necessary to prove the appointment or qualification of any member of the Board which made the call nor any other matter.

6.9 The Company may receive from any Member in advance any amount uncalled and unpaid upon any shares held by that Member and may, until the date on which the amount becomes payable pursuant to a call, pay interest on the amount at a rate agreed between the Board and the Members.

## **7. FORFEITURE OF SHARES**

7.1 If a Member fails to pay any call or instalment of a call on the due date, the Company may at any time thereafter by written notice to that Member require payment of the amount unpaid together with any accrued interest and all expenses incurred by the Company by reason of the non-payment.

7.2 The notice shall specify a further date (not earlier than 14 days after the date of service of the notice) on or before which the payment is to be made, and shall state that, if payment is not made by the specified date, the share in respect of which the call or instalment of a call is due is liable to be forfeited.

7.3 If payment is not made by the date specified in the notice, at any time thereafter before payment required by the notice has been made, any share in respect of which the notice has been given may be forfeited by a resolution of the Board to that effect. The forfeiture shall include all dividends declared in respect of the forfeited share and not paid before the forfeiture.

7.4 When a share has been forfeited, the Company shall give notice of the resolution to the Member in whose name the share stood immediately prior to the forfeiture, and shall enter in the Register details of the forfeiture.

7.5 A forfeiture may be cancelled at any time before the sale of the forfeited share, on such terms as the Board thinks fit.

7.6 The holder of a share which has been forfeited ceases to be a Member in respect of the forfeited share, but remains liable to the Company for all money payable in respect of the forfeited share.

## **8. LIEN ON SHARES**

8.1 The Company has a first and paramount lien upon each share, the proceeds of sale of the share, and all distributions or dividends made in respect of the share, for:



- (a) all unpaid calls owing in respect of the share and any interest thereon;
- (b) any amount which the Company may be called upon to pay under any legislation in respect of the share, whether or not the due date for payment has arrived; and
- (c) all liabilities and obligations of the Member to the Company, whether solely or jointly with any other person, whether incurred or arising before or after notice to the Company of any equitable interest of any person other than the Member and whether or not the date for payment, fulfilment or discharge has arrived.

8.2 Unless otherwise agreed between the Company and the relevant Member, the registration of a transfer of a share shall operate as a waiver of any lien which the Company may have on that share, except as provided in clause 9.2.

## **9. SALE OF SHARES SUBJECT TO FORFEITURE OR LIEN**

9.1 The Company may sell any forfeited share, or any share on which the Company has a lien, in such manner as the Board thinks fit, but the Company shall not sell any shares:

- (a) unless the amount in respect of which a lien exists is due and payable; and
- (b) until the expiry of 14 days after written notice demanding payment of the amount owing has been given to the person entitled to receive notice of meetings of Members in respect of the shares.

9.2 The net proceeds (after deduction of any expenses) of the sale of a forfeited share or of any share sold for the purpose of enforcing a lien shall be applied in or towards satisfaction of any unpaid calls, interest or other amount in respect of which any lien exists. The residue, if any, shall be paid to the holder of the share at the time of its forfeiture or, in the case of a share sold for the purpose of enforcing a lien, the holder immediately prior to the sale or, if applicable in either case, to the Personal Representative of the holder.

9.3 A certificate by a Director that any power of sale has arisen and is exercisable by the Company under these Articles, or that a share has been forfeited on the date stated in the certificate, shall be conclusive evidence of those facts.

9.4 For giving effect to any sale after forfeiture of any share or for enforcing a lien over any share, the Board may authorise any person to transfer any share to the purchaser. The purchaser shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money, and the title of the purchaser shall not be affected by any irregularity or invalidity in relation to the sale. The remedy of any person having a cause of action in relation to the sale shall be in damages only and solely against the Company.

## **10. TRANSFER OF SHARES**

- 10.1 Subject to any restrictions contained in these Articles, any Member or Personal Representative may transfer any share by instrument in writing in the usual or common form or in any other form which the Directors may approve. The instrument of transfer shall be executed by the transferor (and in the case of partly paid shares by the transferee) and the transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register. Shares of different Classes shall not be transferred by the same instrument of transfer.
- 10.2 Every instrument of transfer shall be left at the Office or such other place as the Directors may prescribe, with the certificate (if any) of every share to be transferred and such other evidence as the Directors may reasonably require to prove the title of the transferor or his right to transfer the shares.
- 10.3 The transfer and (any) certificate shall remain in the custody of the Directors but shall be at all reasonable times produced at the request and expense of the transferor or transferee.
- 10.4 A share which is disposed of in a transaction to which the provisions of the Uncertificated Securities (Enabling Provisions) (Guernsey) Law, 2005 and any subordinate legislation or regulations made under that law may be transferred in accordance with that law.
- 10.5 The Directors may, in their discretion and without assigning any reason, refuse to register a transfer to any person whom they shall not approve as a transferee. If the Directors refuse to register a transfer of any share they shall within one month after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.
- 10.6 The registration of shares or of transfers of any class of shares may be suspended at such times and for such period (not exceeding thirty days in any year) as the Directors may determine.

## **11. RESTRICTION ON TRANSFER OF SHARES**

- 11.1 Except in the case of a transfer for nominal or no consideration by the registered holder of a single share and in the case provided for in clause 11.2, no share shall be sold, transferred or assigned to a person who is not a Member so long as any existing Member is willing to purchase the share at a fair value in which case the following provisions will apply.
- 11.2 Every Member who wishes to transfer any share (the "Vendor") shall give to the Company notice in writing (a "Transfer Notice"). Except as stated below, a Transfer Notice shall constitute the Company the Vendor's agent for the sale of the shares specified in the notice (the "Shares") to the Members at a price to be agreed upon by the Vendor and the Directors, or in the case of any difference as to price, at the price which the auditor of the Company for the time being acting as an expert and not as an arbitrator shall certify to be in his opinion the fair value between a willing seller and a willing buyer of

the Shares ("Fair Value"). A Transfer Notice may contain a provision that unless all the Shares are sold by the Company none shall be sold and this provision shall be binding on the Company.

- 11.3 If the auditor is asked to certify the fair value, the Company shall, as soon as it receives the auditor's certificate, send a copy to the Vendor and the Vendor shall be entitled, by notice in writing given to the Company within seven days of the service upon him of the copy, to cancel the Company's authority to sell the Shares. The cost of obtaining the certificate shall be borne by the Company.
- 11.4 Upon the price being fixed and provided the Vendor shall not give notice of cancellation, the Company shall immediately by notice in writing inform each Member other than the Vendor of the number and price of the Shares for sale and invite them to apply in writing to the Company within twenty-eight days of the date of dispatch of the notice for the maximum number of the Shares as specified in the application.
- 11.5 Upon receipt of the applications, the Directors shall allocate the Shares (or so many of them as shall be applied for) to or amongst the applicants and in case of any over-subscription pro rata (as nearly as possible) according to the number of shares in the Company of which they are registered or unconditionally entitled to be registered as holder, provided that no applicant shall be obliged to take more than the maximum number of Shares specified by him. The Company shall immediately give notice of the allocations (an "Allocation Notice") to the Vendor and to the purchaser and shall specify in the Allocation Notice the place and time (being not earlier than fourteen and not later than twenty-eight days after the date of the Allocation Notice) at which the sale of the Shares shall be completed.
- 11.6 The Vendor shall be bound to transfer the Shares comprised in an Allocation Notice to the purchasers. If he fails to do so, the chairman of the Company or some other person appointed by the Directors shall be deemed to have been appointed the agent of the Vendor with full power to execute, complete and deliver, in the name and on behalf of the Vendor, transfers of the Shares to the purchaser against payment of the price to the Company. On payment of the price to the Company the purchaser shall be deemed to have obtained a good receipt for payment and on execution and delivery of the transfer the purchaser shall be entitled to insist upon his name being entered in the Registers as the holder of the Shares. The Company shall immediately pay the price into a separate bank account and shall hold it on trust absolutely for the Vendor.
- 11.7 If the Company shall not, within the space of twenty-eight days after being served with a Transfer Notice, find a Member willing to purchase the Shares and give notice in the above manner, the Vendor shall, at any time within three months afterwards, be free to sell and transfer the Shares or any not placed to any person at a price not less than that fixed in the Transfer Notice or the Fair Value fixed by the auditor under clause 11.2, whichever is lower. Provided that if the Vendor stipulated in his Transfer Notice that unless all the Shares were sold pursuant to this Article, none should be so sold, the Vendor shall not be entitled (except with the prior written consent of all the other Members of the Company) to sell only some of the Shares compromised in his Transfer Notice.

11.8 The Company by Ordinary Resolution may make and from time to time vary rules as to the mode in which any Shares specified in any Transfer Notice shall be offered to the Members and as to their rights in regard to the purchase thereof, and in particular may give any Member or class of Members a preferential right to purchase the same.

## **12. TRANSMISSION OF SHARES**

12.1 If a Member dies the survivor, if the deceased was a joint Member, or the Personal Representative, shall be the only persons recognised by the Company as having any title to or interest in the shares of the deceased Member, but nothing in this clause shall release the estate of a deceased joint Member from any liability in respect of any share, or constitute a release of any lien which the Company may have in respect of any share.

12.2 A Personal Representative of a Member:

- (a) is entitled to exercise all rights (including without limitation the rights to receive distributions and dividends), to attend meetings and to vote in person or by proxy, and is subject to all limitations, attached to the shares held by that Member; and
- (b) is entitled to be registered as holder of those shares, but such registration shall not operate as a release of any rights (including any lien) to which the Company was entitled prior to registration of the Personal Representative pursuant to this sub-clause.

12.3 Where a share is subject to the control of two or more persons as Personal Representatives, they shall, for the purposes of these Articles, be deemed to be joint holders of the share.

## **13. REGISTER**

13.1 The Company shall keep a Register and make it available for inspection in accordance with the Law.

13.2 The Company shall not be required to enter the names of more than four joint holders in the Register.

## **14. CERTIFICATES**

14.1 If share certificates are issued and a certificate is defaced, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and the payment of out-of-pocket expenses of the Company in connection with the matter and generally upon such terms as the Board thinks fit.

## **15. DISTRIBUTIONS AND DIVIDENDS**

15.1 The Board may deduct from a distribution or dividend payable to a Member any amount which is due and payable by the Member to the Company on account of calls or otherwise in relation to any share held by that Member.

- 15.2 A distribution or dividend payable in cash may be paid in such manner as the Board thinks fit to the entitled Member or, in the case of joint Members, to the Member named first in the Register, or to such other person and in such manner as the Member may agree in writing. Any one of two or more joint Members may give a receipt for any payment in respect of the shares held by them as joint Members.
- 15.3 The Company is not liable to pay interest in respect of any distribution or dividend.
- 15.4 The Board may exercise the right conferred by section 306 of the Law to issue shares to any Members who have agreed to accept the issue of shares, wholly or partly, in lieu of dividends or proposed future dividends.

## **16. GENERAL MEETINGS**

- 16.1 Unless the Members have passed a waiver resolution in accordance with section 201 of the Law waiving the requirement to have a general meeting of the Company, the Company shall hold annual general meetings in accordance with the Law.
- 16.2 All general meetings other than annual general meetings shall be called extraordinary general meetings. Extraordinary general meetings may be called by the Board in accordance with the Law and shall be called by the Board when required by the Members in accordance with the Law.
- 16.3 Any general meeting may be held in Guernsey or elsewhere as the Directors may from time to time determine.

## **17. NOTICE OF GENERAL MEETINGS**

- 17.1 A general meeting shall be called by at least ten days' notice in writing (unless all the Members entitled to attend and vote agree to a shorter notice period). The Notice shall contain the matters required by section 210 of the Law.
- 17.2 An irregularity in a notice of a general meeting is waived if all members entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all those Members agree to the waiver.
- 17.3 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

## **18. PROCEEDINGS AT GENERAL MEETINGS**

- 18.1 No business shall be transacted at any meeting unless a quorum in accordance with section 213 of the Law is present.
- 18.2 If a quorum as required by the Law is not present within half an hour from the time appointed for the meeting, or if during a meeting a quorum ceases to be present, the meeting shall be adjourned to the

same day in the next week at the same time and place or to such time and place as the Directors may determine.

- 18.3 A Director shall, notwithstanding that he is not a Member, be entitled to receive notice of, attend and speak at any general meeting and at any separate meeting of the holder of any Class of shares in the Company.
- 18.4 Notwithstanding section 214 of the Law the chairman of any meeting shall be the chairman of the Board or, if the Board has no chairman, a Director nominated by the Board for the purpose.
- 18.5 The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transaction. Otherwise it shall not be necessary to give any such notice.
- 18.6 Section 219 of the Law shall not apply to the Company and there shall be no requirement to make available to any meeting a list of the names and addresses of all Members and their respective shareholdings.
- 18.7 A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Law, a poll may be demanded:
- (a) by the chairman;
  - (b) by at least two Members having the right to vote at the meeting;
  - (c) by a Member representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting; or
  - (d) by a Member holding shares conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right,
- and a demand by a person as proxy for a Member shall be the same as a demand by the Member.
- 18.8 The demand for a poll may, before the poll is taken, be deemed to have invalidated the result of a show of hands declared before the demand was made.

- 18.9 A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be Members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 18.10 A poll demanded on the election of a chairman or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken either immediately or at such time and place as the chairman directs not being more than 30 days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn the meeting shall continue as if the demand had not been made.
- 18.11 No notice need be given of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven days' notice shall be given specifying the time and place at which the poll is to be taken.
- 18.12 Any corporation which is a Member of the Company may by resolution of its directors or other governing body authorise any person it thinks fit to act as its representative at any meeting of the Company or of any class of Members of the Company, and that authorised person shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member of the Company.

## **19. VOTES OF MEMBERS**

- 19.1 Subject to any rights or restrictions attached to any shares, the general rules as to voting and the number of votes available to each Member set out in section 191 of the Law shall apply.
- 19.2 Any Member being under any legal disability may vote by his guardian or other legal representative. Any such person may vote either personally or by proxy.
- 19.3 No Member shall vote at any general meeting or at any separate meeting of the holders of any Class of shares in the Company, either in person or by proxy, in respect of any shares held by him unless all moneys presently payable by him in respect of that share have been paid.
- 19.4 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman shall be entitled to a casting vote in addition to any other vote he may have.
- 19.5 Anything that may, in accordance with the provisions of the Statutes, be done by resolution passed at a general meeting of the Company or at a meeting of the holders of any class of shares in the Company may be done by resolution in writing, signed by or on behalf of the relevant majority of Members who, on the date when a copy of the resolution is sent to Members (or if a copy of the resolution is sent to

Members on different days, the first of those days), would be entitled to approve the resolution if it were proposed at a meeting.

- 19.6 Subject to the Statutes a resolution proposed as a written resolution by the Directors or Members of the Company shall be put to Members in such a manner as the Directors may determine provided that a copy of the resolution is accompanied by a statement informing each Member how to signify agreement to the resolution in accordance with the Statutes and the date by which the resolution must be passed, which may be determined by the Directors in their absolute discretion, provided that in the absence of any such decision, the written resolution shall lapse after 60 days from the date that the resolution is first circulated.
- 19.7 A written resolution executed by or on behalf of a Member may be evidenced by letter, facsimile or in any particular electronic form or otherwise as the Directors may from time to time approve.
- 19.8 The Members may participate in a meeting of the Company by means of a conference telephone or any equipment which allows all persons participating in the meeting to speak to and hear each other. A person so participating shall be deemed to be present at the meeting and shall be entitled to vote and be counted in a quorum for so long as he is able to speak to and hear the other participants. Such a meeting is deemed to be held in the place in which the chairman of the meeting is present.
- 19.9 In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and seniority shall be determined by the order in which the names of the holders stand in the register.
- 19.10 No Member shall, unless the Directors otherwise decide, vote at any general meeting or at any separate meeting or the holders of any Class of shares in the Company, either in person or by proxy, in respect of any share held by him unless all moneys presently payable by him in respect of that share have been paid.

## **20. PROXIES**

- 20.1 An instrument appointing a proxy shall be in writing executed by or on behalf of the Member and shall be in the form approved by the Board. The Board may resolve to permit instruments appointing proxies to be received by facsimile or email.
- 20.2 An instrument appointing a proxy is only valid if it is:
- (a) sent to the Company's registered office;
  - (b) sent by facsimile to the facsimile number nominated by the Board if the Board resolves to accept proxy appointments by facsimile; or



- (c) sent by email to the email address nominated by the Company if the Board resolves to accept proxy appointments by email,

and is received by the Company at least 24 hours before the time of the meeting.

20.3 If the Board resolves under clauses 20.2(b) or (c) to accept proxy appointments by facsimile or email then the notice of general meeting must contain the nominated facsimile number and email address.

20.4 Submission of an instrument of proxy shall not preclude a Member from attending and voting at the meeting or any adjournment of that meeting.

## **21. APPOINTMENT AND REMOVAL OF DIRECTORS**

21.1 The first Directors of the Company shall be appointed upon the incorporation of the Company in the application for incorporation made under section 17 of the Law. All subsequent Directors shall be appointed by Ordinary Resolution, provided that the Board may also appoint Directors in accordance with clause 21.2. Notwithstanding section 140 of the Law two or more persons may be appointed as Directors by a single resolution or notice. Unless otherwise determined by Ordinary Resolution, there shall be no maximum number of Directors and the minimum shall be one.

21.2 The Directors shall have power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors.

21.3 The office of Director shall be vacated if a Director:

- (a) resigns from office by notice in writing to the Company;
- (b) is absent from three consecutive meetings of the Board without leave of or by arrangement with the Board and the other Directors resolve that the Director should be removed;
- (c) ceases to be a Director by virtue of any provision of the Statutes or he comes prohibited or disqualified by law from being a director;
- (d) has his affairs declared “en désastre” or a preliminary vesting order is made against his Guernsey realty, he becomes bankrupt, suspends payment or compounds with his creditors, or is adjudged insolvent or any analogous event occurs under the laws of any jurisdiction;
- (e) is removed from office by an Ordinary Resolution; or
- (f) by notice in writing delivered to the offices or tendered at a meeting of the Directors his resignation is requested by all other Directors.

21.4 Until a note of the removal is made in the minutes of the Directors, the Director’s acts as a Director shall be effectual as if the office were not vacated.

## **22. DIRECTORS' REMUNERATION AND EXPENSES**

22.1 The Directors shall be entitled to such remuneration as determined by the Members by Ordinary Resolution and unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

22.2 The Directors may be paid all travelling, hotel and other expenses properly incurred by them in attending meetings of the Directors or any committee of the Directors or general meetings of the Company or otherwise in connection with the business of the Company.

## **23. DIRECTORS' INTERESTS**

23.1 A Director shall comply with the provisions of section 162 of the Law (relating to disclosure of interests of Directors) but failure to comply with that section does not affect the operation of clause 23.2.

23.2 Notwithstanding any rule of law or equity to the contrary, but subject to section 163 of the Law (relating to avoidance of transactions in which a Director is Interested) and section 260(4) of the Law (prohibiting a director from acting as auditor of a company), a Director may:

- (a) contract with the Company in any capacity;
- (b) be a party to any transaction with the Company;
- (c) have any direct or indirect personal involvement or Interest in any transaction or arrangement to which the Company is a party or in which it is otherwise directly or indirectly Interested or involved;
- (d) become a director or other officer of, or otherwise Interested in, any corporation promoted by the Company or in which the Company may be directly or indirectly interested as a shareholder or otherwise; and
- (e) retain any remuneration, profit or benefits in relation to any of the foregoing,

and no contract or arrangement of any kind referred to in this clause may be avoided by reason of a Director's Interest.

23.3 A Director who is Interested in a transaction entered into, or to be entered into, by the Company may:

- (a) vote on any matter relating to the transaction;
- (b) attend a meeting of the Board at which any matter relating to the transaction arises and be included among the Directors present at the meeting for the purposes of a quorum;
- (c) sign a document relating to the transaction on behalf of the Company; and

- (d) do any other thing in his or her capacity as a Director in relation to the transaction,  
as if the Director was not Interested in the transaction.

## **24. POWERS OF DIRECTORS**

- 24.1 The business affairs of the Company shall be managed by, or under the direction or supervision of, the Board.
- 24.2 The Board may exercise all the powers of the Company which are not required, either by the Law or these Articles, to be exercised by the Members.
- 24.3 The Directors may exercise all the powers of the Company to borrow money, and to mortgage or grant security over its assets, undertaking, property and capital, or any part thereof, and to issue securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.
- 24.4 The Board may delegate to any committee of Directors, a Director, an employee of the Company or to any other person, any one or more of its powers which it is lawfully entitled to delegate.
- 24.5 The Company may exercise the power conferred by section 118 of the Law to appoint a person as its attorney, either generally or in relation to a specific matter. Any power of attorney may contain such provisions for the protection of persons dealing with the attorney as the Board thinks fit, and may also authorise any attorney to delegate all or any of the powers, authorities and discretions invested in the attorney. Any power of attorney given by the Company shall be valid if executed under the common signature of the Company (if it has one) or in the manner specified in the resolution of the Board authorising the granting of the power of attorney in question.
- 24.6 Without prejudice to the provisions of clause 32, the Directors shall have the power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time Directors, officers or employees of the Company, or of any other company which is its holding company or in which the Company or such holding company or any of the predecessors of the Company or of such holding company has any interest whether direct or indirect or which is in any way allied to or associated with the Company, or of any subsidiary undertaking of the Company or of any such other company, including (without prejudice to the generality of the foregoing) insurance against any liability 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/or otherwise in relation to or in connection with their duties, powers or offices in relation to the Company or any other such company or subsidiary undertaking (including, without limitation, for conduct amounting to negligence, default, breach of duty or breach of trust).
- 24.7 The Directors shall cause minutes to be made in books provided for the purposes of:

- (a) all appointments of officers of the Company;
- (b) the names of the Directors present at all meetings of the Company, and of the Directors and of committees of the Directors; and
- (c) all resolutions and proceedings at all meetings of the Company, and of the Directors and of committees of the Directors.

## **25. PROCEEDINGS OF DIRECTORS**

- 25.1 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. Each Director shall be entitled to cast a single vote. In case of an equality of votes, the chairman shall have a second or casting vote. A Director may, and the Secretary on the requisition of a Director shall, at any time, call a meeting of the Directors.
- 25.2 The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall be two Directors except that where the minimum number of Directors has been fixed at one in which case a sole Director shall be deemed to form a quorum. For the purposes of this Article an alternate appointed by a Director shall be counted in a quorum at a meeting at which the Director appointing him is not present.
- 25.3 The continuing Directors or a sole continuing Director may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed as a quorum, the continuing Directors may act for the purpose of filling vacancies or of summoning a general meeting of the Company, but for no other purpose.
- 25.4 The Directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes of the time appointed for holding that meeting, the Directors present may choose one of their number to be chairman of the meeting.
- 25.5 All acts done by any meeting of the Directors or of a committee of the Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any member of the Board or person so acting, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.
- 25.6 A resolution in writing, signed by all the Directors for the time being entitled to receive notice of a meeting of the Directors, shall be as valid and effectual as if it had been passed at a meeting of the Directors duly convened and held, and may consist of several documents in the like form signed by any one or more of the Directors.

25.7 All of any of the Directors of any committee of the Directors may participate in a meeting of the Directors by means of a conference telephone or any equipment which allows all persons participating in the meeting to speak to and hear each other. A person so participating shall be deemed to be present at the meeting and shall be entitled to vote and be counted in a quorum for so long as he is able to speak to and hear the other participants. Such a meeting is deemed to be held in the place in which the chairman of the meeting is present.

25.8 If a question arises at a meeting of the Directors or of a committee of the Directors as to the right of a Director to vote, the question may before the conclusion of the meeting be referred to the Chairman of the meeting and his ruling in relation to any Director other than himself shall be final and conclusive.

## **26. ALTERNATE DIRECTORS**

26.1 Any Director (other than an alternate director) may appoint any other Director, or any other person approved by resolution of the Board and willing to act, to be an alternate director and may remove from office an alternate director appointed by him.

26.2 The appointment of an alternate director shall terminate on the happening of any event which if he were a Director would cause him to vacate office or if his appointor ceases to be a Director.

26.3 An alternate director shall be entitled to receive notices of meetings of the Directors and shall be entitled to attend and vote as a Director at any meetings at which the Director appointing him is not personally present and generally to perform all functions of his appointor as a Director in his absence but shall not be entitled to receive any remuneration from the Company for his services as an alternate director.

26.4 Any appointment or removal of an alternate director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors.

26.5 Except as otherwise provided in these Articles, an alternate director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him.

## **27. SECRETARY**

27.1 A person meeting the requirements of the Law may be appointed as Secretary of the Company by the Directors for such term, at such remuneration and upon such conditions as the Directors may think fit. Any Secretary so appointed may be removed by the Directors.

## **28. SEAL**

28.1 If the Company adopts a Seal as referred to in section 36 of the Law the Seal shall only be used by the authority of the Directors or of an authorised committee of Directors. The Directors may determine

who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed, in the case that the Company has only one Director by that Director, and in any other case by a Director and by the Secretary (if any) or by a second Director.

## **29. COMMON SIGNATURE**

29.1 The common signature of the Company may be either:

- (a) the name of the Company with the addition of the signatures of one or more officers of the Company authorised generally or specifically by the Board for that purpose, or any other person authorised by the Board from time to time for these purposes; or
- (b) if the Board resolves that the Company shall have a common seal, the common seal of the Company affixed in any manner as these Articles or the Board may from time to time provide.

## **30. NOTICES**

30.1 A notice may be given by the Company to any Member in any manner specified in section 523 of the Law and the provisions of sections 523 to 526 and schedule 3 of the Law shall apply to any notices so given.

30.2 All Members are deemed to have agreed to accept communication from the Company by electronic means and to receive documents from the Company by means of a website unless the Members notify the Company otherwise. Notice under this clause 30.2 must be in writing and signed by the Member and delivered to the Office or such other place as the Board directs.

30.3 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.

## **31. WINDING UP**

31.1 Subject to anything to the contrary contained in the terms of issue of any shares, on a return of assets on the winding up of the Company, any surplus assets shall be applied first in distributing the share premium (if any) on any Shares held by any Member to that Member. Thereafter any surplus proceeds shall be distributed amongst the Members *pari passu*.

31.2 Subject always to Article 31.1 above, if the Company is wound up the liquidator may, with the approval of a Special Resolution and any other sanction required by the Law, divide amongst the Members in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may, for that purpose set the value that the liquidator deems fair upon any property to be divided and may determine how the division shall be carried out as between the Members or different classes of Members. The liquidator may, with the approval of a Special Resolution, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the

contributories as the liquidator, with the like sanction, shall think fit, but so that no Member shall be compelled to accept any shares or other securities which carry any liability.

## **32. INDEMNITY**

- 32.1 The Directors, Secretary and other officers or employees of the Company shall be indemnified out of the assets of the Company to the fullest extent permitted by the Law from and against all actions, costs, charges, losses, damages and expenses which they or any of them may incur or sustain by reason of any contract entered into or any act done, concurred in or omitted, in or about the execution of their duty or supposed duty or in relation thereto, provided that this clause shall not be deemed to provide for, or entitle any person to, indemnification to the extent that it would cause this clause, or any part of it, to be treated as void under the Law.