

THE COMPANIES (GUERNSEY) LAW, 2008 (AS AMENDED)

NON-CELLULAR COMPANY LIMITED BY SHARES

ARTICLES OF INCORPORATION

of

NB DISTRESSED DEBT INVESTMENT FUND LIMITED

Registered on 20th day of April 2010

(As amended and restated by written special resolution on 30 April 2010, 6 May 2010, 21 May 2010, as amended by written special resolution on 4 March 2013, as amended and restated by written special resolution on 4 March 2013, as amended by written special resolution on 4 April 2013, as amended and restated by written special resolution on 28 January 2014, as amended and restated by written special resolution on 28 January 2014, as further amended and restated by special resolution on 24 August 2016 and as further amended and restated by special resolution on 25 June 2019)

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1. DEFINITIONS

In these Articles the words standing in the first column of the table next hereinafter contained shall bear the meanings set opposite to them respectively in the second column thereof, if not inconsistent with the subject or context.

"Affiliate or Affiliated" means with respect to a specified person, any person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such person. For the purposes of this definition, "control" of a person means the power, direct or indirect:

- (a) to vote more than 50 per cent. of the securities having ordinary voting power for the election of directors of such person; or
- (b) to direct or cause the direction of the management and policies of such person whether by contract or otherwise.

"Articles" means the articles of incorporation of the Company in their present form or as from time to time altered.

"Authorised Operator" means Euroclear or such other person as may for the time being be authorised under the Regulations to operate an Uncertificated System.

"Board" means the Directors at any time or the Directors present at a duly convened meeting at which a quorum is present or, as the case may be, the Directors assembled as a committee of such Board.

"Business Days" means days (excluding Saturdays and Sundays or public holidays in Guernsey) on which banks generally are open for business in Guernsey for the transaction of normal business.

"Capital Distribution Share" means a share of no par value in the capital of the Company which may be issued in accordance with Article 4.3.2(E) (on such terms and carrying such rights as the Directors may determine and notify to Ordinary Shareholders, to Extended Life Shareholders or to New Global Shareholders (as appropriate) at the time of issue of such Capital Distribution Shares) for the purposes of returning capital realised on the realisation of the Company's investments to Ordinary Shareholders, to Extended Life Shareholders and to New Global Shareholders following the expiry of, respectively, the Ordinary Share Investment Period, the Extended Life Share Investment Period and the New Global Share Investment Period.

"Certificated" means a unit in a Guernsey security which is not Uncertificated and reference to such security being held in certificated form should be construed accordingly.

"Class A Share" means a share in the capital of the Company of par value US\$1 each designated as a Class A Share and having the rights provided for under these Articles with respect to such Class A Shares.

"Class A Shareholder" means A holder for the time being of Class A Shares.

"Class Fund" means a fund established by the Directors pursuant to Article 5 in respect of one or more classes of Shares.

"clear days" means in relation to a period of notice, shall mean that period excluding the day when the notice is served or deemed to be served and the day for which it is given or on which it is to take effect.

"Companies Law" means The Companies (Guernsey) Law, 2008, as amended.

"Company" means NB Distressed Debt Investment Fund Limited.

"Conversion Prospectus" means the prospectus of the Company issued on 6 March 2013.

"Conversion" means a conversion of Ordinary Shares into Extended Life Shares in accordance with Article 41.

"Conversion Date" means the date specified by the Directors on which Ordinary Shares will be converted into Extended Life Shares in accordance with Article 41.

"Conversion Notice" means the notice in the form specified by the Directors to be submitted by Members holding Ordinary Shares in Certificated form electing to participate in the Conversion or a relevant instruction mechanism, as relevant.

"Conversion Notice Date" means the time designated by the Directors for submitting a Conversion Notice.

"Directors" means the directors of the Company for the time being or, as the case may be, the directors assembled together as the Board or a committee of the Board.

"Electronic Communications" means any communication "sent in electronic form" (as such term is defined in the Companies Law).

"ERISA" means The U.S. Employee Retirement Income Security Act of 1974, as amended.

"Euroclear" means Euroclear UK & Ireland Limited.

"Existing Asset" means any asset in the Company Portfolio acquired at any time prior to the expiry of the Ordinary Share Investment Period.

"Extended Life Share Investment Period" means the period commencing on the start of the Ordinary Share Investment Period and ending on 31 March 2015.

"Extended Life Share" means a redeemable ordinary share in the capital of the Company of no par value issued and designated as an "Extended Life Share" and having the rights provided for under these Articles.

"Extended Life Shareholder" means a holder for the time being of Extended Life Shares.

"FATCA" means (a) Sections 1471 through 1474 of the US Tax Code, any current or future regulations, other official guidance or official interpretations thereof; (b) any agreement entered into pursuant to Section 1471(b) of the US Tax Code; or (c) any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the US Tax Code, whichever is applicable to the Company

"Independent Director" means a Director who is determined by the Board to be independent using the standards of independence determined by the Board from time to time.

"Investment Management Agreement" means the investment management agreement entered into between, Neuberger Berman Europe Limited, the Investment Manager and the Company, as amended from time to time.

"Investment Manager" means Neuberger Berman Fixed Income LLC, or such other entity as may from time to time be appointed as investment manager of the Company.

"Member" means, in relation to Shares, the person whose name is entered in the Register as the holder of such Shares.

"Memorandum" means the memorandum of incorporation of the Company for the time being current.

"month" means calendar month.

"NAV per Extended Life Share" means the NAV attributable to the Extended Life Shares divided by the number of Extended Life Shares in issue.

"NAV per New Global Share" means the NAV attributable to the New Global Shares divided by the number of New Global Shares in issue.

"NAV per Ordinary Share" means the NAV attributable to the Ordinary Shares divided by the number of Ordinary Shares in issue.

"NAV" means at any time, the aggregate value of the assets of the Company and its subsidiaries less the aggregate value of the liabilities of the Company and its subsidiaries, or, where relevant, the assets attributable to a class of Shares less the liabilities attributable to that class of Shares (including accrued but unpaid fees), in each case determined (by the Directors in their absolute discretion) in accordance with the accounting principles adopted by the Company from time to time.

"New Global Share Investment Period" means the period beginning on the date of admission of the New Global Shares to trading on the Specialist Fund Segment (formerly the Specialist Fund Market) of the London Stock Exchange plc and ending on 31 March 2017.

"New Global Share" means a redeemable ordinary share in the capital of the Company of no par value issued and designated as a "New Global Share" and having the rights provided for under these Articles.

"New Global Share Prospectus" means the prospectus of the Company issued on 28 January 2014.

"New Global Shareholder" means a holder for the time being of New Global Shares.

"Non-Qualified Person" means a person defined as a Non-Qualified Person in accordance with Article 12.6.

"Office" means the registered office for the time being of the Company.

"Ordinary Resolution" means a resolution of the Members (or a class thereof) of the Company passed by a simple majority of the votes of the Members entitled to vote and voting in person or by attorney or by proxy at the meeting or as a Written Resolution passed by Members representing a simple majority of the votes eligible to be cast in respect of such resolution.

"Ordinary Share Investment Period" means the period which ended on 10 June 2013, being the third anniversary of the date of admission of the Ordinary Shares to trading on the Specialist Fund Segment (formerly the Specialist Fund Market) of the London Stock Exchange plc.

"Ordinary Share" means a redeemable ordinary share in the capital of the Company of no par value issued and designated as an "Ordinary Share" and having the rights provided for under these Articles.

"Ordinary Shareholder" means a holder for the time being of Ordinary Shares.

"Participating Security" means a security (including a Share) the title to units of which is permitted by an Authorised Operator to be transferred by means of an Uncertificated System.

"Plan Asset Regulations" means 29 C.F.R. 2510.3-101, as modified by Section 3(42) of ERISA.

"Plan Threshold" means ownership by U.S. Plan Investors, in the aggregate, of 25 per cent. or more of the value of any class of equity interest in the Company (calculated by excluding the

value of any equity interest held by any person (other than a U.S. Plan Investor) that has discretionary authority or control with respect to the assets of the Company or that provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person); the term shall include such new ownership threshold that may be established by a change in the Plan Asset Regulations or other applicable law.

"Qualified Person" means any person other than a Non-Qualified Person.

"Qualified Purchaser" means a "qualified purchaser" as defined in the U.S. Investment Company Act of 1940, as amended.

"Record Holder" means the person in whose name a Share or other securities of the Company is registered on the Register or other books which the Board has caused to be kept as of a particular time on such day.

"Register" means the register of Members kept pursuant to the Statutes which shall, unless the context requires otherwise, include the register required to be kept by the Company under the Regulations and the Rules in respect of Shares held in Uncertificated form.

"Regulation S" means Regulation S promulgated under the U.S. Securities Act.

"Regulations" means The Uncertificated Securities (Guernsey) Regulations, 2009 (as amended from time to time).

"Relevant Exchange" means any stock exchange or market on which shares may be listed and/or traded.

"Relevant Electronic Address" shall have the meaning ascribed to it by the Companies Law.

"Relevant Law" means any existing or future legislation enacted by any jurisdiction that provides for or is intended to secure the exchange of information (including FATCA), any official interpretations or guidance thereof, or any law or regulations implementing an intergovernmental approach thereto, or any agreements made pursuant to the implementation of the foregoing, in each case as enacted, made, amended or replaced from time to time.

"Relevant Law Deduction" means a withholding or deduction required by Relevant Law and all associated interest, penalties and other losses, liabilities, costs (including, without limitation, compliance costs) or expenses provided for under, or otherwise arising in connection with, Relevant Law.

"RIS" means a regulatory information service.

"Rules" means the rules, including any manuals, issued from time to time by an Authorised Operator governing the admission of securities to and the operation of the Uncertificated System managed by such Authorised Operator.

"Seal" means the Company seal as defined in Article 31.1.

"Secretary" means any person appointed to perform any of the duties of secretary of the Company (including an assistant or deputy secretary) and in the event of two or more persons being appointed as joint secretaries any one or more of the persons so appointed.

"Share(s)" means a share in the capital of the Company designated as either an Ordinary Share, an Extended Life Share, a New Global Share, a Class A Share or a Capital Distribution Share.

"Similar Law" means any federal, state, local, non-U.S. or other law or regulation that could cause the underlying assets of the Company to be treated as assets of the Member by virtue of its interest and thereby subject the Company and the Directors (or other persons

responsible for the investment and operation of the Company's assets) to laws or regulations that are similar to the fiduciary responsibility or prohibited transaction provisions contained in Title I of ERISA or Section 4975 of the U.S. Code.

"special resolution" means a resolution of the Members (or a class thereof) of the Company passed as a special resolution in accordance with the Statutes by a majority of not less than seventy five per cent of the votes of the Members entitled to vote and voting in person or by attorney or by proxy at the meeting or as a Written Resolution passed by Members representing a majority of not less than seventy-five per cent of the votes eligible to be cast in respect of such resolution.

"Statutes" means every Order in Council (including but not limited to the Companies Law), Act or Ordinance for the time being in force concerning companies registered in Guernsey and affecting the Company.

"Uncertificated" means a unit of a Guernsey security, title to which is recorded on the relevant register of members or on the Company's register of non-share securities as being held in uncertificated form, and title to which may be transferred by means of any Uncertificated System in accordance with the Regulations and the Rules, if any.

"Uncertificated System" means any computer-based system and its related facilities and procedures that are provided by an Authorised Operator and by means of which title to units of a security (including Shares) can be evidenced and transferred in accordance with the Regulations without a written certificate or instrument.

"U.S. Exchange Act" means the United States Securities Exchange Act of 1934, as amended, and the rules promulgated thereunder by the United States Securities and Exchange Commission.

"U.S. Investment Company Act" means the United States Investment Company Act of 1940, as amended, and the rules promulgated thereunder by the United States Securities and Exchange Commission.

"U.S. Person" means a person who is a "U.S. person" within the meaning of Regulation S under the United States Securities Act of 1933, as amended, and related rules.

"U.S. Plan Investor" means:

- (a) an employee benefit plan as defined in section 3(3) of ERISA (whether or not subject to the provisions of Title 1 of ERISA, but excluding plans maintained outside the U.S. that are described in Section 4(b)(4) of ERISA);
- (b) a plan, individual retirement account or other arrangement that is described in Section 4975 of the U.S. Tax Code, whether or not such a plan, account or arrangement is subject to Section 4975 of the U.S. Tax Code;
- (c) an insurance company using general account assets, if such general account assets are deemed to include assets of any of the foregoing types of plans, accounts or arrangements for the purposes of Title I of ERISA or Section 4975 of the U.S. Tax Code; or
- (d) an entity which is deemed to hold the assets of any of the foregoing types of plans, accounts or arrangements that is subject to Title I of ERISA or Section 4975 of the U.S. Tax Code.

"U.S. Securities Act" means the United States Securities Act of 1933, as amended, and the rules promulgated thereunder by the United States Securities and Exchange Commission.

"U.S. Tax Code" means the U.S. Internal Revenue Code of 1986, as amended.

"Written Resolution" means a resolution of the Members (or class thereof) of the Company in writing passed in accordance with the Companies Law.

2. **INTERPRETATION**

- 2.1 **"Share"** includes a fraction of a Share and save where these Articles otherwise provide, a fraction of a Share shall rank pari passu and proportionately with a whole Share of the same class.
- 2.2 **"in writing"** and **"written"** includes the reproduction of words and figures in any visible form.
- 2.3 **"allot"** and **"allotment"** shall, unless the context requires otherwise, include the issue and issuance of shares.
- 2.4 Words importing the singular number only shall include the plural number and vice versa.
- 2.5 Words importing a particular gender only shall include any other gender.
- 2.6 Words importing persons shall include associations and bodies of persons, whether corporate or unincorporated.
- 2.7 Subject to the preceding paragraphs of this Article 2 and Article 1, any words defined in the Statutes shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.
- 2.8 Subject to the preceding paragraphs of this Article 2 and Article 1, any words defined in the Regulations shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.
- 2.9 The headings are inserted for convenience only and shall not affect the interpretation of these Articles.
- 2.10 References to enactments are to such enactments as from time to time modified, re-enacted or consolidated and shall include any enactment made in substitution for an enactment that is repealed.

3. **STANDARD ARTICLES NOT TO APPLY**

The standard articles prescribed by the States of Guernsey Commerce and Employment Department pursuant to section 16(2) of the Companies Law shall not apply to the Company.

4. **SHARE CAPITAL**

4.1 **Share Capital**

- 4.1.1 The share capital of the Company consists of:
 - (A) 10,000 Class A Shares of par value \$1 each; and
 - (B) an unlimited number of shares of no par value each of which may upon issue be designated as Ordinary Shares, Extended Life Shares, New Global Shares or Capital Distribution Shares.
- 4.1.2 All Ordinary Shares created hereunder shall constitute one class and rank pari passu in all respects; all Extended Life Shares created hereunder shall constitute one class and rank pari passu in all respects; all New Global Shares created hereunder shall constitute one class and rank pari passu in all respects; all Class A Shares created hereunder shall constitute one class and rank pari passu in all respects; and all Capital Distribution Shares created hereunder and in issue at the relevant time shall constitute one class and rank pari passu in all respects.

4.2 **Income**

As to income:

- 4.2.1 the Ordinary Shares carry the right to receive all income from the Company's portfolio attributable to the Ordinary Shares (as determined by the Directors in accordance with Article 5);
- 4.2.2 the Extended Life Shares carry the right to receive all income from the Company's portfolio attributable to the Extended Life Shares (as determined by the Directors in accordance with Article 5);
- 4.2.3 the New Global Shares carry the right to receive all income from the Company's portfolio attributable to the New Global Shares (as determined by the Directors in accordance with Article 5);
- 4.2.4 the Class A Shares carry a right to receive a fixed non-cumulative annual dividend of 0.000001 pence per share provided that if such amount payable to the holder of Class A Shares is less than £5.00 it will not be paid to such Shareholder but will be paid to a charity designated by the Directors; and
- 4.2.5 the Capital Distribution Shares carry a right to receive a fixed non-cumulative annual dividend of 0.000001 pence provided that if such amount payable to the holder of Capital Distribution Shares is less than £5.00 it will not be paid to such Shareholder but will be paid to a charity designated by the Directors.

4.3 **Return of Capital and Winding-Up**

4.3.1 **In general**

(A) As to a return of capital or a winding-up of the Company (other than by way of a repurchase or redemption of Shares in accordance with the provisions of these Articles and the Companies Law or a capital distribution pursuant to Article 4.3.2(E)(1)):

- (1) first, there shall be paid to the Class A Shareholders the nominal amount paid up on their Class A Shares; and
- (2) second, there shall be paid to the holder of Capital Distribution Shares an amount equal to the amount paid up on their Capital Distribution Shares; and
- (3) third, there shall be paid to:
 - (a) the Ordinary Shareholders the surplus assets of the Company attributable to the Ordinary Shares available for distribution (as determined by the Directors in accordance with Article 5);
 - (b) the Extended Life Shareholders the surplus assets of the Company attributable to the Extended Life Shares available for distribution (as determined by the Directors in accordance with Article 5); and
 - (c) the New Global Shareholders the surplus assets of the Company attributable to the New Global Shares available for distribution (as determined by the Directors in accordance with Article 5).

4.3.2 **Capital distribution**

- (A) Following the expiry of the Ordinary Share Investment Period the net proceeds of realising the Company's investments ("**Capital Proceeds**") attributable to the Ordinary Shares (as determined by the Directors in accordance with Article 5), will, at such times and in such amounts as the Directors shall in their absolute discretion determine, be distributed, to Ordinary Shareholders pro rata to their respective holdings of Ordinary Shares.
- (B)
 - (1) Capital profits arising from the exit from any assets attributable to the Extended Life Shares will be returned to the holders of Extended Life Shares at such time and in such manner as the Directors may determine at their sole discretion;
 - (2) Following the expiry of the Extended Life Share Investment Period the Capital Proceeds attributable to the Extended Life Shares (as determined by the Directors in accordance with Article 5), will, at such times and in such amounts as the Directors shall in their absolute discretion determine, be distributed, to Extended Life Shareholders pro rata to their respective holdings of Extended Life Shares.
- (C) Following the expiry of the New Global Share Investment Period the Capital Proceeds attributable to the New Global Shares (as determined by the Directors in accordance with Article 5), will, at such times and in such amounts as the Directors shall in their absolute discretion determine, be distributed, to New Global Shareholders pro rata to their respective holdings of New Global Shares.
- (D) The manner in which distributions of Capital Proceeds and/or capital profits (in respect of Extended Life Shares) shall be effected shall, subject to compliance with the Companies Law, be determined by the Directors in their absolute discretion and, once determined, shall be notified to Ordinary Shareholders, Extended Life Shareholders and New Global Shareholders (as appropriate) by way of an RIS announcement.
- (E) Without restricting the discretion of the Directors provided for in Article 4.3.2(D), the Directors may effect distributions of Capital Proceeds by:
 - (1) issuing Capital Distribution Shares to Ordinary Shareholders pro rata to their holdings of Ordinary Shares, to Extended Life Shareholders pro rata to their holdings of Extended Life Shares or to New Global Shareholders pro rata to their holdings of New Global Shares (as appropriate) (such Capital Distribution Shares to be fully paid-up out of a reserve created by the Directors to which Capital Proceeds are credited), which shall immediately following issue be compulsorily redeemed, and the redemption proceeds (being equal to the amount paid-up on such shares) paid to the holders of such Capital Distribution Shares, on such terms and in such manner as the Directors may determine; or
 - (2) by compulsorily redeeming a proportion of each Ordinary Shareholder's holding of Ordinary Shares, each Extended Life

Shareholder's holding of Extended Life Shares or each New Global Shareholder's holding of New Global Shares (as appropriate) and paying the redemption proceeds to Ordinary Shareholders, to Extended Life Shareholders or to New Global Share Shareholders (as relevant) on such terms and in such manner as the Directors may determine; or

- (3) in such other manner as may be lawful.

4.4 **Voting**

4.4.1 **In general**

- (A) Ordinary Shareholders, Extended Life Shareholders and New Global Shareholders (as relevant) shall have the right to receive notice of and to attend and vote at any general meeting of the Company.
- (B) The Class A Shareholders shall have the right to receive notice of general meetings of the Company but shall not have the right to attend and vote at a general meeting of the Company save where there are no other Shares of the Company in issue.
- (C) The holders of Capital Distribution Shares shall not have the right to receive notice of or to attend or vote at any general meeting of the Company.

4.4.2 **Class rights of the Ordinary Shareholders**

Subject to Article 4.16, the Company shall not (for so long as there are Ordinary Shares in issue), without the prior approval of the Ordinary Shareholders by Ordinary Resolution passed at a separate general meeting of Ordinary Shareholders, take any action to:

- (A) pass a resolution for the voluntary liquidation or winding-up of the Company; or
- (B) change the rights conferred upon any shares in the Company in a manner adverse to the Ordinary Shareholders;
- (C) amend these Articles in a manner adverse to the Ordinary Shareholders; or
- (D) make any material amendment to the investment policy applicable to the Ordinary Shares of the Company as set out in the Conversion Prospectus.

4.4.3 **Other matters requiring approval**

- (A) In addition to the rights of the Ordinary Shareholders described in Article 4.4.2, the Company, subject to Article 4.16, shall not (for so long as there are Ordinary Shares in issue), without the approval of an Ordinary Resolution of the Ordinary Shareholders passed at a separate general meeting of the Ordinary Shareholders and, in the case of Article 4.4.3(A)(3), the approval of a majority of the Independent Directors:
 - (1) merge, consolidate, or sell substantially all of its assets;
 - (2) change the domicile of the Company;
 - (3) terminate the Investment Management Agreement;
 - (4) materially adversely (to the Company and/or the Ordinary Shares) amend, restate, supplement or otherwise modify the terms of the Investment Management Agreement;

- (5) enter into any transaction or transactions involving the Investment Manager or any Affiliate of the Investment Manager (other than the making of a co-investment alongside the Investment Manager or an Investment Manager managed fund or a funding or a contribution of capital pursuant to a transaction that has previously received approval pursuant to this Article 4.4.3(A)), including giving any consents required under the U.S. Investment Advisers Act of 1940, as amended (including revoking consents to any "agency cross transactions" thereunder), having an aggregate value exceeding 5 per cent. of the Company's most recently reported NAV); or
 - (6) issue shares of any class other than Ordinary Shares, Extended Life Shares; New Global Shares or Capital Distribution Shares.
- (B) In addition to the rights described in Articles 4.4.2 and 4.4.3(A), the Directors shall not allot and issue (with or without conferring rights of renunciation), grant options over, offer or otherwise dispose of any Ordinary Shares at a consideration per Ordinary Share which is less than the NAV per Ordinary Share unless:
- (1) approved by the Ordinary Shareholders by Ordinary Resolution; or
 - (2) the Independent Directors (or a duly appointed committee of them) determine that the relevant action is in the best interests of the Company and for the purposes of:
 - (a) raising additional capital to fund any capital commitment of the Company attributable to the Ordinary Shares;
 - (b) repaying any outstanding indebtedness of the Company attributable to the Ordinary Shares; or
 - (c) any other comparable purpose.

4.4.4 **Class rights of the Extended Life Shareholders**

Subject to Article 4.16, the Company shall not (for so long as there are Extended Life Shares in issue), without the prior approval of the Extended Life Shareholders by Ordinary Resolution passed at a separate general meeting of the Extended Life Shareholders, take any action to:

- (A) pass a resolution for the voluntary liquidation or winding-up of the Company; or
- (B) change the rights conferred upon any shares in the Company in a manner adverse to the Extended Life Shareholders;
- (C) amend these Articles in a manner adverse to the Extended Life Shareholders; or
- (D) make any material amendment to the investment policy applicable to the Extended Life Shares of the Company as set out in the Conversion Prospectus.

4.4.5 **Other matters requiring approval**

- (A) In addition to the rights of the Extended Life Shareholders described in Article 4.4.4, the Company, subject to Article 4.16, shall not (for so long as there are Extended Life Shares in issue), without the approval of an Ordinary Resolution of the Extended Life Shareholders passed at a separate

general meeting of the Extended Life Shareholders and, in the case of Article 4.4.5(A)(3), the approval of a majority of the Independent Directors:

- (1) merge, consolidate, or sell substantially all of its assets;
 - (2) change the domicile of the Company;
 - (3) terminate the Investment Management Agreement;
 - (4) materially adversely (to the Company and/or the Extended Life Shares) amend, restate, supplement or otherwise modify the terms of the Investment Management Agreement;
 - (5) enter into any transaction or transactions involving the Investment Manager or any Affiliate of the Investment Manager (other than the making of a co-investment alongside the Investment Manager or an Investment Manager-managed fund or a funding or a contribution of capital pursuant to a transaction that has previously received approval pursuant to this Article 4.4.5(A)), including giving any consents required under the U.S. Investment Advisers Act of 1940, as amended (including revoking consents to any "agency cross transactions" thereunder), having an aggregate value exceeding 5 per cent. of the Company's most recently reported NAV); or
 - (6) issue shares of any class other than Ordinary Shares, Extended Life Shares, New Global Shares or Capital Distribution Shares.
- (B) In addition to the rights described in Articles 4.4.4 and 4.4.5(A), the Directors shall not allot and issue (with or without conferring rights of renunciation), grant options over, offer or otherwise dispose of any Extended Life Shares at a consideration per Extended Life Share which is less than the NAV per Extended Life Share unless:
- (1) approved by the Extended Life Shareholders by Ordinary Resolution; or
 - (2) the Independent Directors (or a duly appointed committee of them) determine that the relevant action is in the best interests of the Company and for the purposes of:
 - (a) raising additional capital to fund any capital commitment of the Company attributable to the Extended Life Shares;
 - (b) repaying any outstanding indebtedness of the Company attributable to the Extended Life Shares; or
 - (c) any other comparable purpose.

4.4.6 **Class rights of the New Global Shareholders**

Subject to Article 4.16, the Company shall not (for so long as there are New Global Shares in issue), without the prior approval of the New Global Shareholders by Ordinary Resolution passed at a separate general meeting of the New Global Shareholders, take any action to:

- (A) pass a resolution for the voluntary liquidation or winding-up of the Company; or
- (B) change the rights conferred upon any shares in the Company in a manner adverse to the New Global Shareholders;
- (C) amend these Articles in a manner adverse to the New Global Shareholders;

or

- (D) make any material amendment to the investment policy applicable to the New Global Shares of the Company as set out in the New Global Shares Prospectus.

4.4.7 **Other matters requiring approval**

- (A) In addition to the rights of the New Global Shareholders described in Article 4.4.6, the Company, subject to Article 4.16, shall not (for so long as there are New Global Shares in issue), without the approval of an Ordinary Resolution of the New Global Shareholders passed at a separate general meeting of the New Global Shareholders and, in the case of Article 4.4.7(A)(3), the approval of a majority of the Independent Directors:
 - (1) merge, consolidate, or sell substantially all of its assets;
 - (2) change the domicile of the Company;
 - (3) terminate the Investment Management Agreement;
 - (4) materially adversely (to the Company and/or the New Global Shares) amend, restate, supplement or otherwise modify the terms of the Investment Management Agreement;
 - (5) enter into any transaction or transactions involving the Investment Manager or any Affiliate of the Investment Manager (other than the making of a co-investment alongside the Investment Manager or an Investment Manager-managed fund or a funding or a contribution of capital pursuant to a transaction that has previously received approval pursuant to this Article 4.4.7(A)), including giving any consents required under the U.S. Investment Advisers Act of 1940, as amended (including revoking consents to any "agency cross transactions" thereunder), having an aggregate value exceeding 5 per cent. of the Company's most recently reported NAV); or
 - (6) issue shares of any class other than Ordinary Shares, Extended Life Shares, New Global Shares or Capital Distribution Shares.
- (B) In addition to the rights described in Articles 4.4.6 and 4.4.7(A), the Directors shall not allot and issue (with or without conferring rights of renunciation), grant options over, offer or otherwise dispose of any New Global Shares at a consideration per New Global Share which is less than the NAV per New Global Share unless:
 - (1) approved by the New Global Shareholders by Ordinary Resolution;
or
 - (2) the Independent Directors (or a duly appointed committee of them) determine that the relevant action is in the best interests of the Company and for the purposes of:
 - (a) raising additional capital to fund any capital commitment of the Company attributable to New Global Shares;
 - (b) repaying any outstanding indebtedness of the Company attributable to New Global Shares; or
 - (c) any other comparable purpose.

4.4.8 Where, by virtue of the provisions of Articles 4.4.2 to 4.4.7 (inclusive) and 37,

Ordinary Shareholders, Extended Life Shareholders and/or New Global Shareholders (as relevant) are entitled to vote at a separate general meeting of the relevant class, every Ordinary Shareholder and every Extended Life Shareholder and every New Global Shareholder (as relevant) present in person, by proxy or by a duly authorised representative (if a corporation) at such a meeting shall, in relation to such business, upon a show of hands have one vote and upon a poll every such holder present in person or by proxy or by a duly authorised representative (if a corporation) shall, in relation to such business, have one vote in respect of every Ordinary Share, Extended Life Share or New Global Share (as relevant) held by him.

- 4.5 Without prejudice to any special rights previously conferred on the holders of any existing Shares or class of Shares (which special rights shall not be affected, modified or abrogated except with such consent or sanction as is provided in these Articles) any Share in the Company may be issued with or have attached thereto such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise, and either at par, at a premium or at a discount, as the Directors may determine.
- 4.6 The Company may issue fractions of Shares in accordance with and subject to the Statutes, provided that:
- 4.6.1 a fraction of a Share shall not be taken into account in determining the entitlement of a Member as regards dividends or on a winding up; and
- 4.6.2 a fraction of a Share shall not entitle a Member to a vote in respect thereof.
- 4.7 Subject to the Statutes and the provisions of these Articles, any Shares may, with the sanction of an Ordinary Resolution, be issued on the terms that they are, or at the option of the Company are, liable to be redeemed on such terms and in such manner as the Company before the issue of the Shares may by Ordinary Resolution determine.
- 4.8 The Company may make arrangements on the issue of Shares for a difference between the Members in the amounts and times of payment of calls on their Shares.
- 4.9 The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.
- 4.10 The Company may exercise the powers of paying commissions conferred by the Statutes. Such commission may be satisfied by the payment of cash or the allotment and issue of fully or partly paid Shares or partly in one way and partly in the other. The Company may also on any issue of Shares pay such brokerage as may be lawful.
- 4.11 The special rights conferred upon the holders of any Shares or class of Shares issued with preferred, deferred or other special rights shall not be deemed to be varied by the exercise of any powers under Article 7.
- 4.12 Subject to Article 4.1, the Board is generally and unconditionally authorised to exercise all powers of the Company to issue an unlimited number of Shares.
- 4.13 Subject to the provisions of these Articles, the unissued Shares shall be at the disposal of the Board which may allot and issue, grant warrants or options over (including, without limitation, by way of granting phantom stock, stock appreciation rights or other similar rights) or otherwise dispose of them to such persons on such terms and conditions and at such times as

the Board determines but so that the amount payable on application on each Share shall be fixed by the Board.

- 4.14 The Company shall have power, subject to and in accordance with the Statutes, to purchase any of its own Shares, whether or not they are redeemable and may make a payment out of capital in respect of such purchase.
- 4.15 The Company shall not, without the approval of a majority of the Independent Directors, change the standards for the independence of an Independent Director.
- 4.16 Neither the Investment Manager nor any Affiliate of the Investment Manager shall have any voting rights in respect of any Ordinary Shares and/or Extended Life Shares and/or New Global Shares held by any of them in relation to the matters described in Articles 4.4.3(A)(5), 4.4.5(A)(5), and 4.4.7(A)(5).

5. **CLASS FUNDS**

- 5.1 The Directors shall establish a Class Fund for each class of Shares (unless they determine it appropriate to group one or more classes of shares together for such purpose) and designate each such Class Fund created in such manner as they think fit and shall maintain all the assets, income, earnings, liabilities, expenses and costs of each such Class Fund segregated and separate from all other assets, income, earnings, liabilities, expenses and costs of the Company and any other Class Fund, and the following provisions (subject to such amendments as the Directors may in their absolute discretion determine from time to time) shall apply thereto:
 - 5.1.1 any consideration received (or deemed to have been received) on, or proceeds from (or deemed to arise from), the allotment and issue of Shares of the relevant class or classes (or on the conversion of Shares of another class into Shares of the relevant Class) shall be applied to the Class Fund established for that class or classes of Shares, and the assets and liabilities and income and expenditure attributable thereto shall be applied only to that Class Fund subject to the following subparagraphs of this Article, any distributions made pursuant to Articles 4.3 and 37 attributable to any class or classes of Shares shall be applied only to the Class Fund established for that class or classes of Shares subject to the following subparagraphs of this Article and on a redemption of any Share of the relevant class or classes (or on the conversion of Shares of the relevant class into Shares of another class) the assets of the Class Fund established for the relevant class or classes shall be reduced by the relevant amount.
 - 5.1.2 for each such Class Fund the Company shall keep separate books in which all transactions relating to that Class Fund shall be recorded.
 - 5.1.3 any asset derived from any other asset or assets (whether cash or otherwise) comprised in any Class Fund shall be applied in the books of the Company to the same Class Fund as the asset or assets from which it was derived and any increase or diminution in the value of an asset comprised in a Class Fund shall be applied to that Class Fund.
 - 5.1.4 in the event that there is any asset of the Company which the Directors do not consider readily attributable to a particular Class Fund or Class Funds the Directors shall allocate such asset to and among any one or more of the Class Funds in such manner and on such basis as they in their discretion deem fair and equitable and the Directors shall have the power to and may at any time and from time to time vary such basis in respect of any asset not previously allocated to one or more Class Funds.

- 5.1.5 each Class Fund shall be charged with the liabilities, expenses, costs, charges or reserves of the Company (or the appropriate proportion thereof) that the Directors, in their absolute discretion, determine are attributable to such Class Fund and any liabilities, expenses, costs, charges or reserves of the Company not so attributable to any particular Class Fund or Class Funds shall be allocated and charged by the Directors between one or more Class Funds in such manner and on such basis as the Directors in their discretion deem fair and equitable and the Directors shall have the power to and may at any time and from time to time vary such basis including, where circumstances so permit, by subsequently re-allocating such liabilities, expenses, costs, charges and reserves;
- 5.1.6 any payment required to be made by the Company pursuant to Article 4.2.4 shall be deemed to be an expense of the Company attributable to all of the Class Funds on a *pro rata* basis save that the Directors may choose to allocate and charge such expense to any particular Class Fund or Class Funds on such other basis as they deem fair and equitable;
- 5.1.7 any payment required to be made by the Company pursuant to Article 4.2.5 shall be deemed to be an expense attributable to the Class Fund in respect of which the relevant capital distribution is being made;
- 5.1.8 if as a result of a creditor proceeding against certain of the assets of the Company or otherwise a liability, expense, cost, charge or reserve is borne in a different manner from that in which it would have been borne under the preceding sub-paragraph of this Article, the Directors may transfer in the books and records of the Company any assets to and from any of the Class Funds to achieve the position had the preceding paragraph of this Article applied; and
- 5.1.9 if the assets attributable to a particular Class Fund are insufficient to satisfy the liabilities, expenses, costs, charges or reserves of the Company attributable to that Class Fund, the outstanding liabilities shall be allocated and charged by the Directors between one or more other Class Funds in such manner and on such basis as the Directors in their discretion deem fair and equitable and the Directors shall have the power to and may at any time and from time to time vary such basis including, where circumstances so permit, by subsequently re-allocating such liabilities, expenses, costs, charges and reserves.
- 5.2 Subject as otherwise provided in these Articles, the assets held for each Class Fund shall be applied solely in respect of the Shares of the class or classes for which each such Class Fund was established and these Articles, and in particular (but without limitation) Article 32, Articles 33 and Article 37, shall be construed accordingly.
- 5.3 No holder of Shares of a class shall have any claim or right to any asset allocated to the Class Fund established in respect of any other class of Shares.
- 5.4 The Net Asset Value of the Class Fund established in respect of any class of Share shall be determined in accordance with the provisions of this Article 5. The Net Asset Value per Share of each class shall equal the Net Asset Value of the corresponding Class Fund divided by the number of Shares of that class then in issue calculated up to four decimal places.
6. **COMPANY NOT OBLIGED TO RECOGNISE ANY TRUST**
- Except as ordered by a court of competent jurisdiction or any law on book entry systems for securities, 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 thereof) any equitable, contingent, future or partial interest in any Share or any interest in any fractional part of a Share or (except only as by these Articles or by law

otherwise provided) any other rights in respect of any Share except an absolute right to the entirety thereof in the registered holder.

7. **POWER TO REQUIRE DISCLOSURE OF BENEFICIAL INTEREST**

- 7.1 The Directors shall have power by notice in writing to require any Member to disclose to the Company the identity of any person other than the Member (an "**interested party**") who has or appears to have any interest in the Shares held by the Member and the nature of such interest.
- 7.2 Any such notice shall require any information in response to such notice to be given in writing within such prescribed period as the Directors shall determine.
- 7.3 The Directors may be required to exercise their powers under Article 7.1 on the requisition of Members holding at the date of the deposit of the requisition not less than 10% in aggregate of the issued share capital of the Company.
- 7.4 A requisition under Article 7.3 must:
- 7.4.1 state the manner that the requisitionists are requiring the Directors to exercise their powers under this Article;
 - 7.4.2 specify the manner in which they require those powers to be exercised;
 - 7.4.3 give reasonable grounds for requiring the Directors to exercise their powers in the manner specified; and
 - 7.4.4 be signed by the requisitionists and deposited at the Office.
- 7.5 A requisition may consist of several documents in like form each signed by one or more requisitionists.
- 7.6 On deposit of a requisition complying with this Article, it is the Directors' duty to exercise their powers under Article 7.1 in the manner specified in the requisition.
- 7.7 If any Member has been duly served with a notice given by the Directors in accordance with Article 7.1 and is in default for the prescribed period in supplying to the Company the information thereby required (the "**Default**"), then the Directors may in their absolute discretion at any time thereafter serve a notice (a "**Direction Notice**") upon such Member.
- 7.8 A Direction Notice may direct that, in respect of any Shares in relation to which the Default occurred (all or the relevant number as appropriate of such Shares being the "**Default Shares**") and any other Shares held by the Member, the Member shall not be entitled to vote at a general meeting or meeting of the holders of any class of Shares of the Company either personally or by proxy to exercise any other right conferred by membership in relation to meetings of the Company or of the holders of any class of Shares of the Company.
- 7.9 The Direction Notice may additionally direct that in respect of the Default Shares:
- 7.9.1 any dividend or part thereof which would otherwise be payable on such Default Shares shall be retained by the Company without any liability to pay interest thereon when such money is finally paid to the Member;
 - 7.9.2 no transfer other than an approved transfer (as set out in Article 7.14.3) of the Default Shares held by such Member shall be registered unless:
 - (A) the Member is not himself in Default as regards supplying the information requested; and
 - (B) when presented for registration the transfer is accompanied by a certificate by the Member in a form satisfactory to the Directors 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.

- 7.10 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.
- 7.11 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 the time of issue of the new Shares subject to particular restrictions, the new Shares shall on issue become subject to the same restrictions whilst held by that Member as such 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.
- 7.12 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 7.14.3(C). As soon as practical after the Direction Notice has ceased to have effect (and in any event within seven days thereafter) the Directors shall procure that the restrictions imposed by Articles 7.8 and 7.9 shall be removed and that dividends withheld pursuant to Article 7.9.1 are paid to the relevant Member.
- 7.13 For the purpose of enforcing the restrictions referred to in Article 7.9.2, the Directors may give notice to the relevant Member requiring the Member to change any Default Shares held in Uncertificated form to Certificated form by the time stated in the notice. The notice may also state that the Member may not change any of the Default Shares held in Certificated form to Uncertificated form. If the Member does not comply with the notice, the Directors may authorise any person to instruct the Authorised Operator of the relevant Uncertificated System to change the Default Shares held in Uncertificated form to Certificated form.
- 7.14 For the purpose of this Article:
- 7.14.1 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:
- (A) names such person as being so interested; or
 - (B) 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;
- 7.14.2 the prescribed period in respect of any particular Member is 28 days from the date of service of the said notice in accordance with Article 7.1 except where the Default Shares represent at least 0.25 per cent. of the class of Shares concerned in which case such period shall be 14 days;
- 7.14.3 a transfer of Shares is an "approved transfer" 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 Directors are 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 Relevant Exchange.

7.15 Any Member who has given notice of an interested party in accordance with Article 7.1 who subsequently ceases to have such party interested in his Shares or has any other person interested in his Shares shall notify the Company in writing of the cessation or change in such interest and the Directors shall, where such a register is maintained, promptly amend the register of interested parties accordingly.

8. **CALLS ON SHARES**

8.1 Subject to the terms of allotment and issue, the Directors may make calls upon the Members in respect of any moneys unpaid on their Shares (whether in respect of nominal value or premium) and each Member shall (subject to receiving at least 14 clear days' notice specifying when and where payment is to be made) pay the Company as required by the notice the amount called on his Shares. A call may be required to be paid by instalments. A call may, before receipt by the Company of any sum due thereunder, be revoked in whole or part and payment of a call may be postponed in whole or part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the Shares in respect whereof the call was made.

8.2 A call shall be deemed to have been made at the time when the resolution of the Directors authorising such call was passed.

8.3 Joint holders of a Share shall be jointly and severally liable for the payment of all calls or other moneys in respect thereof.

8.4 Any sum or premium which by the terms of allotment and issue of a Share is made payable upon allotment and issue or at any fixed date and any instalment of a call or premium shall, for all purposes of this Article, be deemed to be a call duly made and payable on the date fixed for payment, and in case of non-payment the provisions of this Article as to payment of interest and expenses, forfeiture and the like, and all other relevant provisions of this Article shall apply as if such sum, premium or instalment were a call duly made and notified as hereby provided.

8.5 If any Member shall fail to pay on or before the day appointed for payment thereof any call to which he may have become liable, he shall pay interest on the amount in arrear from the day appointed for payment thereof to the time of actual payment, at such rate, not exceeding 15 per cent per annum, as the Directors may from time to time fix, and in case no other rate be prescribed, then at the rate of 15 per cent per annum, provided, however, that the Directors may remit the whole or any part of such interest.

8.6 No Member shall be entitled to receive any dividend or to receive notice of or attend or vote at any meeting or upon a poll, or to exercise any privileges as a Member until all calls or other sums due by him to the Company, whether alone or jointly with any other person, together with interest and expenses (if any) shall have been paid.

8.7 The Directors may, if they think fit, receive from any Member willing to advance the same, all or any part of the moneys payable upon the Shares held by him beyond the sums actually called up thereon, and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the Shares in respect of which such advance has been made, the Company may pay interest at such rate not exceeding 10 per cent as the Member paying such sum in advance and the Directors shall agree upon, but any amount so for the time being paid in advance of calls shall not unless the Directors shall in any particular instance otherwise determine, be included or taken into account in ascertaining the

amount of dividend payable upon the Share in respect of which such advance has been made.

9. **FORFEITURE**

- 9.1 If any Member fails to pay the whole or any part of a call on or before the day appointed for the payment thereof the Directors may at any time thereafter during such time as the call or any part thereof, or any interest which shall have accrued thereon, remains unpaid, serve a notice on him requiring him to pay such call or such part thereof as remains unpaid, together with any accrued interest and together with any expenses that may have been incurred by the Company by reason of such non-payment.
- 9.2 The notice shall name a day, not being less than 14 days from the date of the notice on or before which the call or such part as aforesaid and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place at which and the person to whom payment is to be made, and shall state that, in the event of non-payment at or before the time and to the person and at the place appointed, the Shares in respect of which such call was made will be liable to be forfeited.
- 9.3 If the notice is not complied with, any Shares in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a resolution of the Directors to that effect. Such forfeiture shall include all unpaid dividends, interim dividends and interest due and to become due thereon and any moneys paid up in advance of calls.
- 9.4 Where any Share has been forfeited in accordance with this Article, notice of the forfeiture shall forthwith be given to the holder of the Share or the person entitled to the Share by transmission, as the case may be, and an entry of such notice having been given of the forfeiture, with the date thereof, shall forthwith be made in the Register opposite the Shares, but no forfeiture shall be in any manner invalidated by any omission or neglect to give such notice or to make such entry as aforesaid.
- 9.5 Notwithstanding any such forfeiture as aforesaid, the Directors may, at any time before the forfeited Share has been otherwise disposed of permit the Share so forfeited to be redeemed upon payment of all calls and interest due upon and expenses incurred in respect of the Share, and upon such further terms (if any) as they shall think fit.
- 9.6 Every Share which shall be forfeited shall thereupon become the property of the Company, and may be either cancelled or sold, or re-allotted and re-issued or otherwise disposed of by the Directors, either to the person who was before forfeiture the holder thereof or entitled thereto, or to any other person, upon such terms and in such manner as the Directors shall think fit. The Directors may annul any forfeiture upon such terms as they shall think fit.
- 9.7 A Member whose Shares have been forfeited shall, notwithstanding, be liable to pay to the Company all calls made or payable and not paid on such Shares at the time of forfeiture, and interest thereon to the date of payment, and all expenses (whether then payable or not) in the same manner in all respects as if the Shares had not been forfeited, and to satisfy all (if any) the claims and demands which the Company might have enforced in respect of the Shares at the time of the forfeiture, without any deduction or allowance for the value of the Shares at the time of forfeiture.
- 9.8 The forfeiture of a Share shall involve the extinction at the time of forfeiture of 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 Member whose Share is forfeited and the Company, except only such of those rights and liabilities as are by this Article expressly saved, or as are by the Statutes given or imposed in the case of past Members.
- 9.9 A declaration in writing that the declarant is a Director of the Company and that a Share has

been duly forfeited in pursuance of this Article, and stating the time when it was forfeited, shall, as against all persons claiming to be entitled to the Share adversely to the forfeiture thereof, be conclusive evidence of the facts therein stated, and such declaration together with a certificate of proprietorship of the Share delivered to a purchaser or allottee thereof, shall constitute a good title to the Share and the new holder thereof shall be discharged from all calls made and other moneys payable prior to such purchase or allotment and issue.

- 9.10 Upon any sale after forfeiture, or for enforcing a lien in purported exercise of the powers herein given, the Directors may nominate some person to execute a transfer of the Share sold in the name and on behalf of the registered holder or his legal personal representative and on such transfer being executed by the purchaser may cause the purchaser's name to be entered in the Register in respect of the Shares sold and the purchaser shall not be bound to see to the regularity of the proceedings or to the application of the purchase money, and after his name has been entered in the Register in respect of such Shares the validity of the sale shall not be impeached by any person and the remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.

10. **ERISA LIMITATIONS**

No U.S. Plan Investor or other Plan subject to Similar Law may acquire Shares without the Company's prior written consent (which consent may be withheld in the Company's sole and absolute discretion). Prior to the Shares qualifying as a class of "publicly-offered securities" under the Plan Asset Regulations (or qualifying for another exception to the "look through" rule under the Plan Asset Regulations including the Plan Threshold), upon receipt by any of the Company's officers or Directors of a notice in writing from the registrar that a U.S. Plan Investor or other Plan subject to Similar Law is the registered holder of Shares, each such U.S. Plan Investor or other Plan subject to Similar Law, as the case may be, shall be deemed to authorize and appoint any of the Company's officers or Directors as the true and lawful agent and attorney-in-fact of such U.S. Plan Investor or Plan subject to Similar Law, with full power of substitution and full power and authority in its name, place and stead, and shall be deemed to direct such officer or Director to sell such Shares in the open market and remit the net proceeds to such U.S. Plan Investor or other Plan, and in either case to make, execute, sign, acknowledge, swear to, record and file a share transfer form or, where Shares are Uncertificated, an Uncertificated System transfer instruction, and any other documentation transferring such Shares to an unaffiliated person of the Company, and enter such transferee as the registered holder of such Shares in the Register, and acknowledges that such officer or Director is not intended to be a fiduciary of such U.S. Plan Investor or Plan but only a directed custodian of such U.S. Plan Investor's or Plan's Shares.

11. **LIEN**

- 11.1 The Company shall have a first and paramount lien upon all Shares (not being fully paid) registered in the name of each Member (whether solely or jointly with others) and upon the proceeds of sale thereof for his debts, liabilities and engagements, solely or jointly with any other person, to or with the Company, whether the period for the payment, fulfilment or discharge thereof shall have actually arrived or not and such lien shall extend to all dividends from time to time declared in respect of such Shares and to all moneys paid in advance of calls thereon; unless otherwise agreed, the registration of a transfer of Shares shall operate as a waiver of the Company's lien (if any) on such Shares.
- 11.2 For the purpose of enforcing such lien the Directors may sell the Shares subject thereto in such manner as they think fit, but no sale shall be made until such time as the moneys are presently payable and notice in writing stating the amount due, and giving notice of intention to sell in default shall have been served on such Member or the person (if any) entitled by transmission to the Shares and default shall have been made for 14 clear days after such

notice. The net proceeds of any such sale shall be applied in or towards satisfaction of the debts, liabilities and engagements aforesaid, the residue (if any) shall be paid to the Member or the person (if any) entitled by transmission to the Shares or who would be so entitled but for such sale.

12. **TRANSFER AND TRANSMISSION OF SHARES**

12.1 Under and subject to the Regulations and the Rules, the Directors shall have power to implement such arrangements as they may, in their absolute discretion, think fit in order for any Shares or class of Shares to be admitted to settlement by means of an Uncertificated System. Where they do so, the following shall commence to have effect immediately prior to the time at which the relevant Authorised Operator admits the class to settlement by means of the relevant Uncertificated System:

12.1.1 In relation to any Shares which, for the time being, an Authorised Operator has admitted to settlement by means of an Uncertificated System, and for so long as such Shares remain so admitted, no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with:

- (A) the holding of Shares of that class in Uncertificated form;
- (B) the transfer of title to Shares of that class by means of that Uncertificated System; or
- (C) the Regulations or the Rules.

12.1.2 Without prejudice to the generality of Article 12.1.1 and notwithstanding anything contained in these Articles where any Shares are, for the time being, admitted to settlement by means of an Uncertificated System:

- (A) such securities may be issued in Uncertificated form in accordance with and subject as provided in the Regulations and the Rules;
- (B) unless the Directors otherwise determine, such securities held by the same holder or joint holder in Certificated form and Uncertificated form shall be treated as separate holdings;
- (C) such securities may be changed from Uncertificated to Certificated form and from Certificated to Uncertificated form in accordance with and subject as provided in the Regulations and the Rules;
- (D) title to such of the Shares as are recorded on the Register as being held in Uncertificated form may be transferred only by means of the Uncertificated System and as provided in the Regulations and the Rules and accordingly (in particular) no provision of these Articles shall apply in respect of such Shares to the extent that these Articles require or contemplate the effecting of a transfer by an instrument in writing and the production of a certificate for the security to be transferred;
- (E) the Company shall comply in all respects with the Regulations and the Rules;
- (F) no provision of these Articles shall apply so as to require the Company to issue a certificate to any person holding such Shares in Uncertificated form; and
- (G) the maximum number of joint holders of a Share shall be four;

12.1.3 Words and expressions not specifically defined in this Article 12.1 shall bear the same meaning as those words and expressions defined in the Regulations and the

Rules.

- 12.2 Extended Life Shares acquired by U.S. Persons through the Conversion will be issued in registered and certificated form, and may not be transferred into an Uncertificated System without the prior approval of the Company. Such approval will only be granted if the U.S. Person seeks to transfer the Ordinary Shares or Extended Life Shares, as the case may be, and delivers to the Company a written certification in the form required by the Company, with copies to the Company's administrator and registrar, containing a representation that the transfer is being made outside the United States in an offshore transaction complying with Regulation S under the U.S. Securities Act to a person outside the United States and not known by the transferor to be a U.S. Person, by pre-arrangement or otherwise.
- 12.3 Subject to such of the restrictions of these Articles as may be applicable:
- 12.3.1 any Member may transfer all or any of his Uncertificated Shares by means of the Uncertificated System in such manner provided for, and subject to the Regulations and the Rules and accordingly no provision of these Articles shall apply in respect of an Uncertificated 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 Shares to be transferred;
- 12.3.2 any Member may transfer all or any of his Certificated Shares by an instrument of transfer in any usual form or in any other form which the Board may approve; and
- 12.3.3 an instrument of transfer of a Certificated Share shall be signed by or on behalf of the transferor and, unless the Share is fully paid, by or on behalf of the transferee. An instrument of transfer of a Certificated Share need not be under seal.
- 12.4 Every instrument of transfer of a Certificated Share shall be left at the Office or such other place as the Board may prescribe with the certificate of every Share to be transferred and such other evidence as the Board may reasonably require to prove the title of the transferor or his right to transfer the Shares; and the transfer and certificate (if any) 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 application and when necessary a balance certificate shall be delivered if required by him in writing.
- 12.5 The Board may, in its absolute discretion and without giving a reason, refuse to register a transfer of any Share in Certificated form or (to the extent permitted by the Regulations and the Rules) Uncertificated form (subject to Article 12.7) which is not fully paid or on which the Company has a lien or which appears to the Directors would result in a contravention of any determination made under Article 12.7 provided, in the case of a Share admitted to trading on any Relevant Exchange that this would not prevent dealings in the Share from taking place on an open and proper basis on a Relevant Exchange. In addition, subject to Article 12.6, the Directors may refuse to register a transfer of Shares which is prohibited by Article 12.7 and may also refuse to register a transfer of Shares unless:
- 12.5.1 it is in respect of only one class of Shares;
- 12.5.2 it is in favour of a single transferee or not more than four joint transferees; and
- 12.5.3 it is delivered for registration to the Office or such other place as the Board may decide, accompanied by the certificate for the Shares to which it relates and such other evidence as the Board may reasonably require to prove title of the transferor and the due execution by him of the transfer or, if the transfer is executed by some other person on his behalf, the authority of that person to do so.

- 12.6 Subject to Article 12.7, the Board may, in its absolute discretion, decline to transfer, convert or register any transfer of Shares to any person:
- 12.6.1 subject to Article 10, whose ownership of Shares may cause the Company's assets to be deemed "plan assets" for the purposes of ERISA or the U.S. Tax Code;
 - 12.6.2 whose ownership of Shares may cause the Company to be required to register as an "investment company" under the U.S. Investment Company Act (including because the holder of the shares is not a "qualified purchaser" as defined in the U.S. Investment Company Act);
 - 12.6.3 whose ownership of Shares may cause the Company to register under the U.S. Exchange Act or any similar legislation;
 - 12.6.4 whose ownership of Shares may cause the Company not being considered a "Foreign Private Issuer" as such term is defined in rule 3b-4(c) under the U.S. Exchange Act;
 - 12.6.5 whose ownership may result in a person holding Shares in violation of the transfer restrictions put forth in any prospectus published by the Company, from time to time;
 - 12.6.6 whose ownership of Shares may cause the Company to be a "controlled foreign corporation" for the purposes of the U.S. Tax Code, or may cause the Company to suffer any pecuniary disadvantage (including any excise tax, penalties or liabilities under ERISA or the U.S. Tax Code); and
 - 12.6.7 whose ownership of Shares may cause the Company to be required to comply with any registration or filing requirements in any jurisdiction with which the Company would not otherwise be required to comply
- (each person described in Articles 12.6.1 through 12.6.7, a "**Non- Qualified Person**"), and in each of the cases described in Articles 12.6.1 through 12.6.7, only to the extent permitted under the Regulations and the Rules.
- 12.7 The Board may only decline to register a transfer of an Uncertificated Share in the circumstances permitted under regulations issued for this purpose under the Laws and the rules of any Relevant Exchange and the Regulations and the Rules.
- 12.8 In relation to any Shares which, for the time being, an Authorised Operator has admitted to settlement by means of an Uncertificated System, and for so long as such class remains so admitted, no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with:
- 12.8.1 the holding of Shares of that class in Uncertificated form;
 - 12.8.2 the transfer of title to Shares of that class by means of the Uncertificated System; or
 - 12.8.3 the Regulations and the Rules, as applicable.
- 12.9 If the Board refuses to register the transfer of a Share it shall, within two months after the date on which the transfer was lodged with the Company, send notice of the refusal to the transferee.
- 12.10 The registration of transfers may be suspended at such times and for such periods (not exceeding 30 days in any one year) as the Board may decide and either generally or in respect of a particular class of Shares except that, in respect of any Shares which are participating Shares held in an Uncertificated System, the Register shall not be closed without the consent of the Authorised Operator.
- 12.11 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 Shares.

- 12.12 On the death of a Member, the survivors where the deceased was a joint holder and the executor or administrator of the deceased where he was a sole holder shall be the only persons recognised by the Company as having any title to or interest in his Shares; but nothing herein shall release the estate of a deceased joint holder from any liability in respect of any Share jointly held.
- 12.13 A person so becoming entitled to a Share in consequence of the death, bankruptcy or incapacity of a Member or otherwise by operation of law (subject as hereinafter provided), upon supplying to the Company such evidence as the Directors may reasonably require to show his title to the 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 the Share, but he shall not be entitled to receive notice of or to attend or vote at meetings of the Company, or save as aforesaid, to any of the rights or privileges of a Member unless and until he shall be registered as a Member in respect of the Share PROVIDED ALWAYS that the Board may at any time give notice requiring any such person to elect either to be registered himself or to transfer the Share and if the notice is not complied with within 90 days the Board may thereafter withhold all dividends or other monies payable or other advantages due in respect of the Share until the requirements of the notice have been complied with.
- 12.14 If it shall come to the notice of the Directors that any Shares are owned directly, indirectly or beneficially by a Non-Qualified Person, the Directors may give notice to such person requiring him either:
- 12.14.1 to provide the Directors within 30 days of receipt of such notice with sufficient satisfactory documentary evidence to satisfy the Directors that such person is a Qualified Person; or
- 12.14.2 to sell or transfer his Shares to a Qualified Person within 30 days and within such 30 days to provide the Directors with satisfactory evidence of such sale or transfer. Pending such transfer, the Directors may suspend the exercise of any voting or consent rights and rights to receive notice of, or attend, a meeting of the Company and any rights to receive dividends or other distributions with respect to such Shares.
- 12.15 If any person upon whom such a notice is served pursuant to Article 12.14 does not within 30 days after such notice transfer his Shares to a Qualified Person or establish to the satisfaction of the Directors (whose judgment shall be final and binding) that he is a Qualified Person he shall be deemed upon the expiration of such 30 days to have forfeited his Shares and the Directors shall be empowered at their discretion to follow the procedure pursuant to Articles 9.4 to 9.10. If, notwithstanding the foregoing, a purported acquisition or holding of Shares is not treated as void and of no force and effect for any reason such Shares will, to the extent permitted under the Regulations and the Rules, automatically be sold by the Directors in the open market and the net proceeds remitted to the Record Holder or, if so determined by the Directors in their sole discretion that such sale is for any reason impracticable, transferred to a charitable trust for the benefit of a charitable beneficiary, and the purported holder will acquire no rights under these Articles or the Memorandum in such securities.
- 12.16 A person, who becomes aware that he is a Non-Qualified Person, shall forthwith notify the Company in writing.
- 12.17 To give effect to any sale of Shares pursuant to Article 12.15, the Shareholder in question shall execute such powers of attorney or other documents or authorisations as are required so that the transfer will be effective as if it has been executed by the holder of, or person entitled by transmission to, the Shares.

13. CERTIFICATES AND REGISTER OF MEMBERS

- 13.1 Subject to the Statutes, the Regulations and the Rules, the Board may issue Shares as Certificated Shares or as Uncertificated Shares in its absolute discretion. Class A Shares will be issued in Uncertificated form only.
- 13.2 Subject to Article 13.1, the Company shall issue:
- 13.2.1 without payment one certificate to each person for all his Shares of each class and when part only of the Shares comprised in a certificate is sold or transferred a balance certificate; or
 - 13.2.2 upon payment of such sum as the Board may determine several certificates each for one or more Shares of any class.
- 13.3 Any certificate issued shall specify the Shares to which it relates and the amount paid up and the distinguishing numbers (if any).
- 13.4 All forms of certificate for Shares or debentures or representing any other form of security (other than letters of allotment scrip certificates and other like documents) may if determined by the Board be issued under the common signature of the Company and may be signed mechanically.
- 13.5 If a Share certificate is issued and is defaced lost or destroyed it may be replaced or renewed without charge (other than exceptional out of pocket expenses) on such terms (if any) as to evidence and indemnity as the Board thinks fit.
- 13.6 Shares of any class may be traded through an Uncertificated System and held in Uncertificated form in accordance with such arrangements as may from time to time be permitted by any statute, regulation, order, instrument or rule in force affecting the Company. The Board may make arrangements with an Authorised Operator to permit any class of shares to which the Regulations apply to be a Participating Security in the Uncertificated System of that Authorised Operator and for shares of that class to be recorded on the Register of Members as being held in Uncertificated form. Title to shares that are so recorded may be transferred by means of that Uncertificated System subject to and in accordance with the Regulations and the Rules.
- 13.7 The Company shall keep the Register in accordance with the Statutes.
- 13.8 The Company shall not be bound to register more than 4 persons as the joint holders of any Share or Shares. In the case of a Share held jointly by several persons in Certificated form the Company shall not be bound to issue more than one certificate therefore and delivery of a certificate to one of the joint holders shall be sufficient delivery to all.
- 13.9 The Company may require that Members provide, and the Company (and any authorised third party agent or delegate of the Company) shall be entitled to use and disclose, any information or documentation in relation to Members and, if and to the extent required, the direct and indirect beneficial owner(s) (if any) of Shares in the Company held by Members (if any), as may be necessary or desirable for the Company to comply with any reporting or other obligations and/or prevent or mitigate the withholding of tax under Relevant Law or other law.

14. ALTERATION OF CAPITAL

- 14.1 The Company may (subject to the provisions of these Articles) from time to time by Ordinary Resolution increase the share capital by such sum, to be divided into Shares of such amount, as the resolution shall prescribe.
- 14.2 The Company may by Ordinary Resolution (subject to the provisions of these Articles):

- 14.2.1 consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares;
 - 14.2.2 sub-divide its Shares, or any of them, into Shares of smaller amount than is fixed by the Memorandum or Articles, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced Share shall be the same as it was in the case of the Share from which the reduced Share is derived;
 - 14.2.3 cancel any Shares which, at the date of the passing of the resolution have not been taken or agreed to be taken by any person, and diminish the amount of its Share capital by the amount of the Shares so cancelled;
 - 14.2.4 convert the whole, or any particular class, of its Shares into shares of another class or into redeemable Shares;
 - 14.2.5 issue Shares which shall entitle the holder to no voting right or entitle the holder to a restricted voting right;
 - 14.2.6 convert all or any of its fully paid 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 date as may be specified therein;
 - 14.2.7 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.
- 14.3 None of the actions specified in this Article 14 shall be deemed an action requiring the separate approval of the Ordinary Shareholders, the Extended Life Shareholders and/or the New Global Shareholders (as relevant) pursuant to Articles 4.4.2, 4.4.4 and 4.4.6.

15. **GENERAL MEETINGS**

- 15.1 The first general meeting of the Company shall be held within a period of not more than 18 months from the date of incorporation of the Company.
- 15.2 An annual general meeting shall be held once in every calendar year (provided that not more than 15 months have elapsed since the last such meeting) at such time and place as the Directors shall appoint, and in default an annual general meeting may be convened by any Member in the same manner as nearly as possible as that in which meetings are to be convened by the Directors.
- 15.3 All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 15.4 The Directors may whenever they think fit convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on the requisition in writing of one or more of the Members holding more than one-tenth of such capital of the Company as carries the right of voting at general meetings of the Company (excluding any capital held as treasury shares), or, if the Directors shall fail upon such requisition to convene the meeting so requisitioned within 10 days (counting the day on which the request is made) then such meeting may be convened by such requisitionists in such manner as provided by the Statutes.
- 15.5 Any general meeting may be held in Guernsey or elsewhere, as the Directors may from time to time determine.

16. **NOTICE OF GENERAL MEETINGS**

16.1 Unless special notice is required in accordance with the Companies Law, all general meetings shall be called by 21 clear days' notice to all Members entitled to receive notice of and attend in writing at the least. The notice shall specify the place, the day and the hour of the meeting, and in the case of special business, the general nature of that business and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Company by Ordinary Resolution of the Members, to such persons as are, by these Articles, entitled to receive such notices from the Company, provided that a meeting of the Company shall, notwithstanding that it is called by shorter notice than that specified in this Article, be deemed to have been duly called if it is so agreed by all the Members entitled to both attend and vote thereat.

16.2 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.

17. **PROCEEDINGS AT GENERAL MEETINGS**

17.1 All business shall be deemed special that is transacted at an extraordinary general meeting and also all that is transacted at an annual general meeting, with the exception of declaring or sanctioning a dividend, the consideration of the accounts, balance sheets, and the reports of the Directors and auditors, the election of Directors and the appointment of and the fixing of the remuneration of the auditors.

17.2 No business shall be transacted at any general meeting unless a quorum is present. Two Members present in person or by proxy and entitled to vote shall be a quorum unless the Company only has one Member entitled to vote in which case the quorum for such a meeting shall be one Member present in person or by proxy.

17.3 If within half an hour after the time appointed for a meeting a quorum is not present, the meeting, if convened by or upon the requisition of Members as hereinbefore provided, shall be dissolved. If otherwise convened, it shall stand adjourned to the same day in the next week (or if that day be a public holiday in the Island of Guernsey to the next working day thereafter) at the same time and place and no notice of such adjournment need be given. At any such adjourned meeting, those Members who are present in person shall be a quorum.

17.4 The chairman of any general meeting shall be either:

17.4.1 the chairman of the Directors;

17.4.2 in the absence of the chairman or if the Directors have no chairman, then the Directors shall nominate one of their number to preside as chairman;

17.4.3 if neither the chairman of the Directors nor the nominated Director are present at the meeting, then the Directors present at the meeting shall elect one of their number to be the chairman;

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

17.4.5 if no Directors are present at the meeting, then the Members present shall elect a chairman for the meeting by an Ordinary Resolution.

17.5 The chairman of the general meeting shall conduct the meeting in such a manner as he thinks fit and may 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. In addition, the chairman may limit the time for Members to speak.

17.6 The chairman, with the consent of any meeting at which a quorum is present may (and shall if

so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for 14 days or more, seven clear days' notice at the least specifying the place, the day and the hour of the adjourned meeting shall be given as in the case of the original meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting.

- 17.7 Every question submitted to a general meeting shall be determined in the first instance by a show of hands of the Members present in person, by proxy or by attorney and entitled to vote, but a poll may be demanded by no fewer than five Members having the right to vote on the resolution or one or more of the Members present in person, by proxy or by attorney and entitled to vote representing, at least one-tenth of the total voting rights of all of the Members having the right to vote on the resolution. Unless a poll is duly demanded in accordance with these Articles, a declaration by the chairman that a resolution has been carried or lost or has or has not been carried by any particular majority and an entry to that effect in the minutes of the proceedings of the Company shall be conclusive evidence of the fact, without proof of the number, proportion or validity of the votes recorded in favour of or against such resolution.
- 17.8 If a poll is demanded, it shall be taken at the meeting at which the same is demanded, or at such other time and place as the chairman presiding shall direct, and the result of such poll shall be deemed the resolution of the meeting. The demand for a poll may be withdrawn.
- 17.9 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 a poll has been demanded.
- 17.10 If a poll shall be duly demanded upon the election of a chairman or on any question of adjournment, it shall be taken at once.
- 17.11 In case of an equality of votes, either on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is taken, as the case may be, shall have a second or casting vote.

18. **VOTES OF MEMBERS**

- 18.1 Subject to any rights or restrictions attached to any Shares, on a show of hands, every Member present in person, by proxy or by attorney and entitled to vote shall have one vote, and on a poll every Member present in person, by proxy or by attorney shall have one vote for each Share held by him, but this provision shall be subject to the conditions with respect to any special voting powers or restrictions for the time being attached to any Shares which may be subject to special conditions, including, without limitation, the provisions of Article 37.
- 18.2 Where there are joint registered holders of any Share any one of such persons may vote at any meeting, either personally, in respect of such Share as if he were solely entitled thereto; and if more than one of such joint holders be present at any meeting personally that one of the said persons so present in person whose name stands first in the Register in respect of such Share shall alone be entitled to vote in respect thereof.
- 18.3 Any Member being under any legal disability may vote by his guardian or other legal representative. Any one of such persons may vote either personally or by proxy or by attorney.
- 18.4 Upon a poll votes may be given personally or by proxy or by attorney and it shall not be necessary for a proxy or attorney to be entitled to attend the meeting in his own right. Deposit of an instrument of proxy shall not preclude a Member from attending and voting at the meeting or any adjournment thereof.

- 18.5 Subject to the provisions of the Companies Law, every instrument appointing a proxy shall be in any common form or in such other form as the Directors may approve and:
- 18.5.1 if in writing but not sent in electronic form, made under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a corporation under its common seal or under the hand of an officer or attorney duly authorised in that capacity; or
 - 18.5.2 if sent in electronic form, submitted by or on behalf of the appointor and authenticated.
- 18.6 Subject to Article 18.7, the instrument appointing a proxy, with the letter or power of attorney or other authority (if any) under which it is signed, or a copy of such authority certified notarially or in some other way approved by the Directors shall
- 18.6.1 in the case of an instrument in writing (including, whether or not the appointment of proxy is by electronic means, any such power of attorney or other authority) be deposited at the Office, or at such other place or places as determined by the Directors or as is specified in the notice convening the meeting or in any notice of any adjourned meeting or in any appointment of proxy sent out by the Company in relation to the meeting, not less than forty-eight hours (excluding any days which are not Business Days) before the time appointed for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote; or
 - 18.6.2 in the case of an appointment by electronic means, where a Relevant Electronic Address has been specified for the purpose of receiving documents or information in electronic form (in the notice convening the meeting, or in any instrument of proxy sent out by the Company in relation to the meeting or in any invitation in electronic form to appoint a proxy issued by the Company in relation to the meeting) be received at such address not less than forty eight 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 appointment proposes to vote; or
 - 18.6.3 in the case of a poll taken more than 48 hours after it was demanded, be deposited or received as aforesaid after the poll has been demanded and not less than 24 hours (excluding any days which are not Business Days) before the time appointed for the taking of a poll; or
 - 18.6.4 in the case of a poll not taken forthwith but not taken more than 48 hours (excluding any days which are not Business Days) after it was demanded, be delivered at the meeting at which the poll was demanded to the Chairman of the meeting or any Director, the Secretary or some other person authorised by the Company,
as the case may be, at which the person named in such instrument proposes to vote, otherwise the person so named shall not be entitled to vote in respect thereof unless the Directors otherwise determine in their discretion.
- 18.7 The Directors may in their absolute discretion elect to treat as valid any instrument appointing a proxy which is deposited later than the times specified in Article 18.6. If the Directors so elect, the person named in such instrument of proxy shall be entitled to vote.
- 18.8 A Member may appoint more than one proxy to attend on the same occasion provided that each proxy is appointed to exercise the rights attached to a different share or shares held by him. Where multiple proxies have been appointed to exercise rights attached to different

shares, on a show of hands those proxy holders taken together will collectively have the same number of votes as the Member who appointed them would have on a show of hands if he were present at the meeting. On a poll, all or any of the rights of a Member may be exercised by one or more duly appointed proxies. Where the same proxy has been appointed by more than one Member, that proxy is permitted to vote on a show of hands both “for” and “against” as applicable in order to reflect the different voting instructions.

- 18.9 Any Member shall be entitled to appoint by power of attorney some person, whether a Member or not, to act as his attorney for the purposes of receiving notices of general meetings and attending general meetings and voting thereat, and upon such power of attorney being deposited at the Office together with a notice from the attorney giving his address, an entry thereof shall be made in the Register and all notices of meetings held during the continuance in force of such power of attorney shall be served upon the attorney thereby appointed as if such attorney were a Member of the Company and registered owner of the Shares, and all notices, except where otherwise herein expressly provided, shall be deemed duly served if served upon such attorney in accordance with these Articles, and the attorney shall be entitled to attend any general meetings held during the continuance of his appointment and to vote thereat in respect of the Shares of any Member appointing him, such vote to be exercised either personally or by proxy appointed by the attorney in accordance with these Articles. Every such power shall remain in full force notwithstanding the death of or its revocation by other means by the grantor, unless and until express notice in writing of such death or revocation shall have been given to the Company.
- 18.10 A vote given or poll demanded in accordance with the terms of an instrument of proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless a notice of the determination of the proxy or of the authority under which the proxy was executed, shall have been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used.
- 18.11 Subject to the Statutes, a resolution in writing signed, within twenty eight days of the date of circulation of such written resolution, by or on behalf of the requisite majority of eligible Members who, on the date when the resolution is to be passed, would be entitled to vote on the resolution if it were proposed at a meeting, shall be as effective as if the same had been duly passed at a general meeting.
- 18.12 When two or more valid but differing instruments appointing a proxy are received in respect of the same share for use at the same meeting or poll, the one which is last received (regardless of its date or of the date of its signature) shall be treated as replacing and revoking the others as regards that share; if the Company is unable to determine which was last received, none of them shall be treated as valid in respect of that share. The proceedings at a general meeting shall not be invalidated where an appointment of a proxy in respect of that meeting is sent in electronic form as provided in these Articles, but because of a technical problem it cannot be read by the recipient.

19. **CORPORATIONS ACTING BY REPRESENTATIVES AT MEETINGS**

Any corporation which is a Member may by resolution of its directors or other governing body authorise any one or more persons as it thinks fit to act as its representative(s) at any meeting of the Company or of any class of Members or to approve any resolution submitted in writing, and the person so authorised 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 provided that if two or more representatives of one Member purport to exercise a power in respect of the same shares, then (i) if they exercise the power in the same manner, it

shall be exercised in such manner; but (ii) if they exercise the power in a different manner, it shall be deemed not to have been exercised.

20. APPOINTMENT OF DIRECTORS

- 20.1 Unless otherwise determined by Ordinary Resolution, the number of Directors shall not be fewer than four nor more than nine. At no time shall a majority of Directors be resident in the United Kingdom nor resident in or citizens of the United States, and 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 resident outside of the United Kingdom or the United States. Each Director shall immediately inform the Board and the Company of any change to his residency status or citizenship. No person may be appointed as a Director unless he has, in writing, consented to being a Director and declared that he is not ineligible to act under the Companies Law.
- 20.2 Except as provided in this Article 20.2 the Board shall consist of not less than a majority of Independent Directors. If at any time the Board shall cease to consist of a majority of Independent Directors as a result of the death, resignation or removal of an Independent Director, the casual vacancy caused by such Independent Director's death, resignation or removal shall be filled promptly in accordance with these Articles and, pending the filling of such vacancy, the Board may consist of less than a majority of Independent Directors provided that at every board meeting the Independent Directors shall have one more vote than the non-Independent Directors. Notwithstanding the generality of the foregoing, a Director who is not an Independent Director shall not be required to resign as a Director pending the filling of a vacancy caused by an Independent Director's death, resignation or removal in accordance with these Articles.
- 20.3 The Investment Manager shall have the right to appoint two Directors.
- 20.4 A Director need not be a Member but shall be entitled to receive notice of and attend and speak at all General Meetings of the Company.
- 20.5 Subject to Article 20.3, no person shall, unless recommended by the Directors, be eligible for election to the office of Director at any general meeting unless not fewer than three nor more than 10 days before the date appointed for the meeting there shall have been left at the Office (or, if a Relevant Electronic Address or another electronic address has been specified by the Company for such purposes, sent to the Company's Relevant Electronic Address or other electronic address) a notice in writing signed by a Member duly qualified to attend and vote at the meeting for which such notice is given, of his intention to propose such person for election, and also notice in writing signed by that person of his willingness to be elected and containing a declaration that he is not ineligible to act as a Director under the Companies Law.
- 20.6 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. Any Director so appointed shall hold office only until the next following annual general meeting and shall then be eligible for election.
- 20.7 The Company in general meeting may by Ordinary Resolution appoint another person in place of a Director removed from office under Article 26, and without prejudice to the powers of the Directors under Article 20.6 the Company may by Ordinary Resolution appoint any person to be a Director either to fill a casual vacancy or as an additional Director.

21. REMUNERATION OF DIRECTORS

- 21.1 The remuneration of the Directors shall from time to time be determined by the Company by Ordinary Resolution. Such remuneration shall be deemed to accrue from day to day. The Directors may also be paid all travelling, hotel and other expenses properly incurred by them

in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or in connection with the business of the Company.

- 21.2 If any Director, being willing, shall be called upon to render or to perform and shall render or perform extra or special services of any kind or shall travel or go or reside in any country not his usual place of residence for any business or purposes of the Company, he shall be entitled to receive such sum as the Directors may think fit for expenses and also such remuneration as the Directors may think fit, either as a fixed sum or as a percentage of profits or otherwise, and such remuneration may, as the Directors shall determine, be either in addition to or in substitution for any other remuneration he may be entitled to receive, and the same shall be charged as part of the ordinary working expenses.

22. **DIRECTORS' INTERESTS**

- 22.1 Provided that each Director has disclosed his respective interests in accordance with the Companies Law:

22.1.1 A Director may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise, and no such Director shall be accountable to the Company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company unless the Company otherwise directs.

22.1.2 Provided that the Board authorises the transaction in good faith after the Director's interest has been disclosed or the transaction is fair to the Company at the time it is approved, a Director or intending Director shall not be disqualified by his office from entering into a contract or arrangement with the Company, either as vendor, purchaser, lessor, lessee, mortgagor, mortgagee, manager, agent, broker or otherwise, and no such contract or arrangement or any contract or arrangement entered into by or on behalf of the Company, with any person, firm or company of or in which any Director shall be in any way interested shall be avoided, nor shall any person so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding the office of Director, or of the fiduciary relationship thereby established. Any Director, so contracting or being so interested as aforesaid, shall immediately after becoming aware of the fact that he is interested in a transaction or proposed transaction with the Company disclose to the Board the nature of that interest unless the transaction or proposed transaction is between the Director and the Company, and is to be entered into in the ordinary course of the Company's business and on usual terms and conditions. A failure by a Director to comply does not affect the validity of a transaction entered into by the Company or the Director. A Director shall be counted in the quorum at the Board Meeting but he may not vote in respect of any contract or arrangement in which he is so interested. A Director may occupy any other office or place of profit in the Company (except that of auditor) or act in any professional capacity to the Company in conjunction with his office of Director, and on such terms as to remuneration and otherwise as the Directors shall approve.

23. **BORROWING POWERS**

The Directors may exercise all the powers of the Company to borrow money to give guarantees, hypothecate, mortgage, charge or pledge all or part of the Company's assets, property or undertaking and uncalled capital, or any part thereof, and, subject to compliance with the Memorandum and these Articles, to issue securities whether outright or as security

for any debt, liability or obligation of the Company or of any third party.

24. POWERS AND DUTIES OF DIRECTORS

24.1 The business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and registering the Company, and may exercise all such powers of the Company as are not, by the Statutes or by these Articles, required to be exercised by the Company in general meeting, subject, nevertheless, to any of these Articles, to the provisions of the Statutes and to such regulations, being not inconsistent with these Articles or the Statutes as may be prescribed by the Company by Ordinary Resolution; but no regulation made by the Company shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.

24.2 Subject to any restriction thereon contained in the Statutes, the Directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons (not resident in the United Kingdom), whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purpose and with such powers, authorities and discretion (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretion vested in him.

24.3 A power of attorney given by the Company shall be valid if executed by the Company under the common signature of the Company.

24.4 The Directors shall cause minutes to be made in books provided for the purpose:

24.4.1 of all appointments of officers made by the Directors;

24.4.2 of the names of the Directors present at all meetings of the Company and of the Directors and of committees of the Directors; and

24.4.3 of all resolutions and proceedings at all meetings of the Company, of the Directors and of committees of the Directors.

25. DIRECTORS' INSURANCE

Without prejudice to the provisions of Article 38, 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.

26. RETIREMENT AND REMOVAL OF DIRECTORS

26.1 The office of Director shall, ipso facto, be vacated:

26.1.1 if he resigns his office by writing under his hand deposited at the Office;

26.1.2 if he shall have absented himself (such absence not being absence with leave or by

arrangement with the Directors on the affairs of the Company) from meetings of the Directors for six months in succession and the other Directors shall have resolved that his office shall be vacated;

- 26.1.3 if he has his affairs declared en désastre or has a preliminary vesting order made against his Guernsey realty, becomes bankrupt, suspends payment or compounds with his creditors, or is adjudged insolvent;
- 26.1.4 if he becomes prohibited from being a Director by reason of an order made under any provisions of any law or enactment;
- 26.1.5 if he is requested to resign in writing signed by all his co-Directors (being not less than two in number);
- 26.1.6 if the Company shall by Ordinary Resolution declare that he shall cease to be a Director;
- 26.1.7 if he becomes resident in the United Kingdom and, as a result thereof, a majority of the Directors are resident in the United Kingdom; or
- 26.1.8 if he becomes 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,

provided that until an entry of his office having been so vacated be made in the minutes of the Directors, his acts as a Director shall be as effectual as if his office were not vacated.

26.2 The Directors shall not be required to hold any qualification Shares. At the first annual general meeting and at each annual general meeting thereafter:

- 26.2.1 any Director who was elected or last re-elected a Director at or before the annual general meeting held in the third calendar year before the current year shall retire by rotation; and
- 26.2.2 such further Directors (if any) shall retire by rotation as would bring the number retiring by rotation up to one-third of the number of Directors in office at the date of the notice of the meeting (or, if their number is not a multiple of three, the number nearest to but not greater than one-third).

27. **PROCEEDINGS OF DIRECTORS**

- 27.1 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. All meetings of Directors shall take place outside of the United Kingdom and any decision reached or resolution passed by the Directors at any meeting not held outside of the United Kingdom or at which a majority of Directors resident in the United Kingdom is present shall be invalid and of no effect.
- 27.2 Questions arising at any meeting shall, subject to any requirements in these Articles relating to the special consent of the Independent Directors, be decided by the affirmative vote of a majority of the Directors then holding office.
- 27.3 A Director may, and the Secretary on the requisition of a Director, shall summon a meeting of the Directors.
- 27.4 27.4.1 Subject to the provisions hereof, a meeting of Directors or of a committee of Directors may be validly held notwithstanding that such Directors may not be in the same place provided that:
 - (A) they are in constant communication with each other throughout by telephone, television or some other form of communication; and
 - (B) all Directors entitled to attend such meeting so agree.

Provided further that no Directors physically present in the United Kingdom at the time of any such meeting may participate in a meeting by means of telephone, television or other means of electronic or telephonic communication.

- 27.4.2 A person so participating in the meeting shall be deemed to be present in person and shall accordingly be counted in the quorum and be entitled to vote. Such a meeting shall be deemed to take place where the chairman of the meeting then is (except where the chairman is physically present in the United Kingdom).
- 27.5 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 except that where the number of Directors has been fixed at one pursuant to Article 20.1, a sole Director shall be deemed to form a quorum and provided that if a majority of Directors present are not resident outside of the United Kingdom, the Directors present, irrespective of number, shall not constitute a quorum. For the purposes of this Article an alternate director shall be counted in the quorum at a meeting at which the Director appointing him is not present.
- 27.6 If and for so long as there is a sole Director, he may exercise all the powers conferred on the Directors by the Articles by resolution in writing signed by him.
- 27.7 The continuing Directors or 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 by or pursuant to these Articles as the necessary quorum of the Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company, but for no other purpose.
- 27.8 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 the same, the Directors present may choose one of their number to be chairman of the meeting.
- 27.9 The Directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit (provided that any such committee shall be composed of all or a majority of Directors who are resident outside of the United Kingdom and no such committee shall meet in the United Kingdom); 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 Directors.
- 27.10 A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.
- 27.11 A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.
- 27.12 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 of the Directors or person acting as aforesaid, 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.
- 27.13 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. No such resolution shall be valid if a majority of the Directors sign the resolution in the United Kingdom.

28. MANAGING DIRECTOR

- 28.1 The Directors may from time to time appoint one or more of their body (other than a Director resident in the United Kingdom) to the office of Managing Director for such period and on such terms as they think fit, and subject to the terms of any agreement entered into in any particular case, may revoke such appointment. The appointment of a Director so appointed shall be automatically determined if he cease from any cause to be a Director.
- 28.2 A Managing Director shall receive such remuneration (whether by way of salary, commission, or participation in profits or partly in one way and partly in another) as the Directors may determine.
- 28.3 The Directors may entrust to and confer upon a Managing Director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers.

29. ALTERNATE DIRECTORS

- 29.1 Any Director may at any time by writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint any person (including another Director) to be his alternate Director (provided that such appointment is accompanied by a consent to act signed by such person and that such person is eligible to be a Director of the Company under the Companies Law) and may in like manner at any time terminate such appointment provided that a Director who is not resident in the United Kingdom may not appoint as his alternate any person who is United Kingdom resident.
- 29.2 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 such office or if his appointor ceases to be a Director.
- 29.3 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 such meeting at which the Director appointing him is not personally present and generally at such meeting to perform all functions of his appointor as a Director and for the purposes of the proceedings at such meeting the provisions of these presents shall apply as if he (instead of his appointor) were a Director. If he shall be himself a Director or shall attend any such meeting as an alternate for more than one Director his voting rights shall be cumulative. If his appointor is for the time being temporarily unable to act through ill-health or disability his signature to any resolution in writing of the Directors shall be as effective as the signature of his appointor. To such extent as the Directors may from time to time determine in relation to any committees of the Directors, the foregoing provisions of this paragraph shall also apply mutatis mutandis to any meeting of any such committee of which his appointor is a member.
- 29.4 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent mutatis mutandis as if he were a Director but he shall not be entitled to receive from the Company in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.

30. SECRETARY

- 30.1 The Secretary of the Company shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them.

- 30.2 Where the Company has appointed a Secretary, and without prejudice to the responsibility of any other person or to any other responsibilities he may hold, the functions and responsibilities of a Secretary are those which are set out in any agreement under which the Secretary is appointed from time to time or, failing such agreement, the Secretary shall take reasonable steps to ensure:
- 30.2.1 that all registers and indexes are maintained in accordance with the provisions of the Companies Law;
 - 30.2.2 that all notices and documents required to be filed or served upon the Registrar or other persons are duly so filed or served;
 - 30.2.3 that all resolutions, records and minutes of the Company are properly kept;
 - 30.2.4 that copies of the Memorandum and Articles are kept fully up to date; and
 - 30.2.5 that the Directors are aware of any obligations imposed by: -
 - (a) the Memorandum and Articles; and
 - (b) (if applicable) the rules of any stock exchange that the Company is listed on.

31. **THE SEAL**

- 31.1 The Company may have a common seal (the "**Seal**") and if the Directors resolve to adopt a Seal the following provisions shall apply.
- 31.2 The Seal shall have the Company's name engraved on it in legible letters.
- 31.3 The Directors shall provide for the safe custody of the Seal, which shall only be used pursuant to a resolution passed at a meeting of the Directors, or a Committee of the Directors authorised to use the Seal, and in the presence either of two Directors or of one Director and the Secretary or of such person or persons as the Directors may from time to time appoint, and such person or persons, as the case may be, shall sign every instrument to which the Seal is affixed.
- 31.4 The Company may have for use in any territory, district or place abroad an official seal which shall bear on its face the Company's name in legible characters with the addition of the name of the territory, district or place where it is to be used.

32. **DIVIDENDS AND RESERVES**

- 32.1 The Company may from time to time by Ordinary Resolution declare dividends to be paid to the Members in accordance with the procedure set out in the Companies Law and subject to their right and interest and the amount of such dividends or distributions paid in respect of one class of Shares may be different from that of another class. No dividend shall be declared in excess of the amount recommended by the Directors. The declaration of the Directors as to the amount available for dividends shall be final and conclusive.
- 32.2 The Directors may from time to time pay to the Members such interim dividends as appear to the Directors to be justified. The Directors will declare and pay dividends, half-yearly or at such other frequency as the Directors consider appropriate, such that, for the purposes of Section 357(7) of the Taxation (International and Other Provisions) Act 2010 (formerly Section 40E(6) of the Finance Act 2008) of the United Kingdom:
- 32.2.1 all of the Company's cash income attributable to the Ordinary Shares (as determined by the Directors) received, less (at the discretion of the Directors) reasonable expenses, is paid out to Ordinary Shareholders;
 - 32.2.2 all of the Company's cash income attributable to the Extended Life Shares (as determined by the Directors) received, less (at the discretion of the Directors)

reasonable expenses, is paid out to Extended Life Shareholders; and

- 32.2.3 all of the Company's cash income attributable to the New Global Shares (as determined by the Directors) received, less (at the discretion of the Directors) reasonable expenses, is paid out to New Global Shareholders.
- 32.3 Any rights pursuant to this Article 32 for the Directors to set aside any amount from, make alternative use of, forfeit, deduct from or otherwise limit any dividend, shall at all times remain subject to the requirement that the Company pays out a sufficient amount of cash income to satisfy these provisions.
- 32.4 No dividend may be authorised by the Directors unless they are satisfied, on reasonable grounds, and in accordance with the Companies Law, that the Company will, immediately after the dividend is paid, satisfy the solvency test (as defined in the Companies Law).
- 32.5 The Directors may, before recommending any dividend, set aside out of the amount to be paid as a dividend such sum as they think proper as a reserve fund, to meet contingencies or for equalising dividends and the Directors may invest the sum so set apart as a reserve fund in such securities as they may select.
- 32.6 All dividends in respect of a particular class of Shares shall be apportioned and paid pro rata among the Shares of such class except that if any Share is issued on terms providing that it shall rank for dividend as if paid up (in whole or in part) as from a particular date (either past or future) such Share shall rank for dividend accordingly.
- 32.7 The Directors may deduct from the dividends or bonus payable to any Member all such sums of money as may be due from him to the Company on account of calls or otherwise.
- 32.8 No dividend or other amount payable on or in respect of a Share shall bear interest against the Company.
- 32.9 The receipt of the person appearing by the Register to be the holder of any Shares shall be a sufficient discharge to the Company for any dividend or other moneys payable in respect of such Shares; and where several persons are the joint holders of a Share the receipts of any one of them shall be a good discharge to the Company for any dividends or other moneys payable thereon.
- 32.10 A transfer of Shares shall not pass the right to any dividend declared thereon before the registration of the transfer.
- 32.11 The Directors may retain the dividend payable upon Shares in respect of which any person is entitled to become a Member until such person shall be registered as a Member in respect thereof or shall duly transfer the same.
- 32.12 Unless otherwise directed, any dividend may be paid by cheque or warrant sent through the post to the registered address of the Member entitled thereto, or in the case of joint holders to that one whose name stands first on the Register in respect of the joint holding and every cheque or warrant so sent shall be payable to the order of the person to whom it is sent, and the payment of any such cheque or warrant shall operate as a good discharge to the Company in respect of the dividend represented thereby, notwithstanding that it may subsequently appear that the same has been stolen or that the endorsement thereon has been forged.
- 32.13 All dividends unclaimed for one year after having been declared may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed.
- 32.14 Any dividend which has remained unclaimed for a period of 12 years from the date of declaration thereof shall, if the Directors so resolve, be forfeited and cease to remain owing by the Company and shall thenceforth belong to the Company absolutely.
- 32.15 The Directors may deduct from any dividend, distribution of other amount payable to a

Member by the Company any withholding, Relevant Law Deduction or other tax (and associated costs and expenses) attributable to that Member (or, if different, any direct or indirect beneficial owner(s) of the shares held by such Member) and may take any steps necessary to effectuate such withholding, Relevant Law Deduction or payment of tax.

33. CAPITALISATION OF PROFITS OR RESERVES

33.1 The Company by Ordinary Resolution (or, with respect to paying-up Capital Distribution Shares pursuant to Article 4.3.2(E)(1), by resolution of the Directors) may upon the recommendation of the Directors resolve that it is desirable to capitalise any part of the amount for the time being 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 the sum be set free for distribution amongst the Members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any Shares held by such Members respectively or paying up in full unissued Shares of the Company to be allotted and issued and distributed credited as fully paid up to and amongst such Members in the proportion aforesaid, or partly in the one way and partly in the other.

33.2 Whenever such a resolution as aforesaid shall have been passed the Directors shall make all the appropriations and applications of the profits or reserves resolved to be capitalised thereby, and all allotments and issues of fully paid Shares, if any, and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of Shares becoming distributable in fractions, and also to authorise any person to enter on behalf of all the Members entitled thereto into an agreement with the Company providing for the allotment and issue to them respectively, credited as fully paid up, 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 profits or reserves 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.

34. ACCOUNTS

34.1 The Directors shall keep proper books of account with respect to all the transactions, assets and liabilities of the Company in accordance with the Statutes.

34.2 Subject to the Statutes, the books of account shall be kept at the Office, or at such other place or places as the Directors shall think fit and shall at all times be open to the inspection of the Directors, and the Secretary.

34.3 Financial statements in accordance with accounting principles generally accepted in the U.S. shall be prepared on an annual and quarterly basis and laid before the Company at its annual general meeting in each year. The financial statements shall be accompanied by a report of the Directors as to the principal activities of the Company in the course of the financial year. The report and balance sheet shall be signed on behalf of the Directors by at least two of the Directors of the Company, or if there is only one Director for the time being, by that Director.

34.4 A copy of the Directors' report and financial statements with the auditor's report (if any) attached thereto shall, within 12 months after the end of the financial year to which they relate, be delivered or sent by post to the registered address of every Member. The quarterly financial statements will be sent to Members within a reasonable time after they are proposed in accordance with any applicable legal, accounting, and exchange requirement.

35. **AUDIT**

- 35.1 Auditors shall be appointed and their duties regulated in accordance with the Statutes.
- 35.2 The Company's annual financial statements must be audited by an independent accountancy firm of international standing.

36. **NOTICES**

- 36.1 A notice may be given by the Company to any Member either personally or by sending it by post in a pre-paid envelope addressed to the Member at his registered address or by being transmitted by facsimile to the facsimile number from time to time held by the Company for that Member or by being transmitted to his Relevant Electronic Address or by Electronic Communication in accordance with this Article. A notice shall, unless the contrary is shown, be deemed to have been:

- 36.1.1 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;
- 36.1.2 received in the case of a notice sent elsewhere by airmail, on the third day after posting;
- 36.1.3 served in the case of a notice sent by facsimile, immediately after it was transmitted in accordance with Article 36.2;
- 36.1.4 served in the case of a notice transmitted by electronic means, immediately after it was transmitted in accordance with Article 36.2,

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.

- 36.2 Any document or notice which, in accordance with these Articles, may be transmitted by the Company in electronic form and by electronic means shall, if so transmitted, be deemed to be regarded as served immediately after it was transmitted unless the contrary is shown. Proof (in accordance with the formal recommendations of best practice contained in the guidance issued by the United Kingdom Institute of Chartered Secretaries and Administrators) that a communication was transmitted by electronic means by the Company shall be conclusive evidence of such transmission.

- 36.3 Any document required under these Articles, the Statutes or the Rules required to be sent:

- 36.3.1 to the Company; or
- 36.3.2 by the Company; or
- 36.3.3 to the Members or their proxies,

may be sent in electronic format or communicated by means of a website.

- 36.4 The Members consent to the receipt of Electronic Communications to a Relevant Electronic Address specified and provided to the Company for that purpose when such a Relevant Electronic Address is provided to the Company.

- 36.5 The Company consents to the receipt of Electronic Communications to a Relevant Electronic Address specified and provided to the Members for that purpose when such a Relevant Electronic Address is provided to the Members.

- 36.6 The Members consent to the receipt of Electronic Communications by means of a website when they provide such consent to the Company (either generally or in a specific case) or pursuant to Article 36.7 below is deemed to have agreed, that notices, document or information can be sent or supplied to the Member in that form and has not revoked such

agreement; provided that the Electronic Communications are made in accordance with the Companies Law and are available in a form, and by a means, that the Company reasonably considers will enable the recipient to read it and retain a copy of it and provided that the Company notifies the recipient of:

- 36.6.1 the presence of the document on the website;
 - 36.6.2 the address of the website;
 - 36.6.3 the place on the website where it may be accessed; and
 - 36.6.4 how to access the document.
- 36.7 If a Member has been asked individually by the Company to agree that the Company may serve, send or supply notices, documents or other information generally, or specific notices, documents or other information, to them by means of a website (for the avoidance of doubt, whether before or after the adoption of this Article) and the Company does not receive a response within a period of 28 days beginning with the date on which the Company's request was sent (or such longer period as the Directors may specify), such Member will be deemed to have agreed to receive such notices, documents or other information by means of a website in accordance with Article 36.6 above. A Member can revoke any such deemed election in accordance with Article 36.8 below.
- 36.8 Any amendment or revocation of a notification given to the Company or agreement (or deemed agreement) under this Article shall only take effect if in writing, signed (or authenticated by electronic means) by the Member and on actual receipt by the company thereof.
- 36.9 If the notice referred to in Article 36.6 is in relation to a notice of a Company meeting, the notification must state that it concerns a notice of a Company meeting and specify the place, date and time of the meeting.
- 36.10 The Electronic Communication must be made available by the Company on the website throughout the period specified by the applicable provisions of the Companies Law, the Rules or these Articles, or, if no such period is specified, the period of 28 days beginning with the day on which the notification required under Article 36.6 is sent to the Member.
- 36.11 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.
- 36.12 A notice may be given by the Company to the persons entitled to a Share in consequence of the death or bankruptcy of a Member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.
- 36.13 Notice of every general meeting shall be given in any manner hereinbefore authorised to:
- 36.13.1 every Member who has supplied to the Company a registered address for the giving of notices to him;
 - 36.13.2 every person upon whom the ownership of a Share devolves by reason of his being a legal personal representative or a trustee in bankruptcy of a Member where the Member but for his death or bankruptcy would be entitled to receive notice of the meeting; and,
 - 36.13.3 each Director who is not a Member.
- No other person shall be entitled to receive notices of general meetings.

37. **WINDING UP**

If the Company shall be wound up the liquidator may, with prior approval of the Ordinary Shareholders, the Extended Life Shareholders and the New Global Shareholders by Ordinary Resolution passed at a separate general meeting of each of the Ordinary Shareholders, the Extended Life Shareholders and the New Global Shareholders, respectively, and any other sanction required by the Statutes, divide among the Members entitled to the same in specie or kind the whole or any part of the assets of the Company to which they are entitled (whether they shall consist of property of the same kind or not) and may for such purposes set such value as he deems fair upon any one or more class or classes or property and may determine how such division shall be carried out as between the Members or different classes of Members. The liquidator may, with the like sanction, vest the whole or any part of such 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 whereon there is any liability.

38. **INDEMNITY**

Subject to the Companies Law, the Directors, Secretary and other officers or servants or agents for the time being of the Company shall be indemnified out of the assets of the Company from and against all actions, costs, charges, losses, damages and expenses in respect of which they may lawfully be indemnified which they or any of them shall or 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, except such (if any) as they shall incur or sustain by or through their own breach of trust, breach of duty, or negligence respectively, and none of them shall be answerable for the acts, receipts, negligence or defaults of the other or others of them, or for joining in any receipt for the sake of conformity, or for any bankers or other persons with whom any moneys or effects belonging to the Company shall or may be lodged or deposited for safe custody, or for any bankers, brokers, or other persons into whose hands any money or assets of the Company may come, or for any defect of title of the Company to any property purchased, or for the insufficiency or deficiency or defect of title of the Company, to any security upon which any moneys of the Company shall be invested, or for any loss or damage occasioned by an error of judgement or oversight on their part, or for any other loss, damage or misfortune whatsoever which shall happen in the execution of their respective offices or in relation thereto, except the same shall happen by or through their own breach of trust, breach of duty, or negligence respectively.

39. **INSPECTION OF REGISTERS AND OTHER RECORDS**

- 39.1 A Director shall be entitled at any time to inspect the Register, the minute books, the annual validation, the registers of Directors and secretaries and the index, if any, of Members.
- 39.2 A Member shall be entitled, in accordance with the Statutes, to inspect the Register and the other documents mentioned in Article 39.1 other than the minutes of proceedings at Directors' meetings.
- 39.3 Any person who is not a Director or a Member shall be entitled, on fulfilling the requirements in the Companies Law, to inspect the Register, the registers of Directors and secretaries and the index, if any, of Members.
- 39.4 The rights of inspection herein referred to shall be exercisable between 9am and 5pm on any weekday when banks in Guernsey are open for business.
- 39.5 Subject to Article 39.2, no Member shall (as such) have any right of inspecting any accounting records or other books or documents of the Company except as conferred by the Statutes or

authorised by the Directors or by Ordinary Resolution.

40. **COMMON SIGNATURE**

The common signature of the Company may be either:

40.1.1 **"NB Distressed Debt Investment Fund Limited"** with the addition of the signature(s) of one or more officer(s) of the Company authorised generally or specifically by the Board for such purpose, or such other person or persons as the Board may from time to time appoint, or

40.1.2 if the Board resolves that the Company shall have a common seal, the common seal of the Company affixed in such manner as these Articles may from time to time provide.

41. **CONVERSION OF ORDINARY SHARES INTO EXTENDED LIFE SHARES**

41.1 Notwithstanding anything contained in Article 14.2 and subject to Articles 41.6 and 41.7, as at a Conversion Date each holder of Ordinary Shares may convert some or all Ordinary Shares held by him into Extended Life Shares on a one-for-one basis (the "**Conversion**") by notifying the Company in advance of such Conversion Date either through submission of the relevant instruction mechanism (for Members holding Ordinary Shares in Uncertificated form) or through submission of a conversion notice in the form specified by the Directors (the "**Conversion Notice**") and the return of the relevant share certificate to the Company's registrars (for Members holding Ordinary Shares in Certificated form).

41.2 The Conversion shall be effected by way of redesignation of Ordinary Shares into Extended Life Shares or in such other manner as the Directors may determine in accordance with the Companies Law.

41.3 Following the expiry of the Ordinary Share Investment Period, whenever an Existing Asset is realised the proportion of the net realisation proceeds attributable to the Ordinary Shares will be returned to Ordinary Shareholders in accordance with Article 4.3.2, whereas the proportion of the net realisation proceeds attributable to the Extended Life Shares will be reinvested in accordance with the Company's investment policy. Any asset acquired after the expiry of the Ordinary Share Investment Period will be attributable solely to the Extended Life Shares and will therefore be allocated solely to the Class Fund created in respect of the Extended Life Shares. Following the expiry of the New Investment Period, the proceeds of realising any assets attributable to the Extended Life Shares will be distributed only to the holders of Extended Life Shares.

41.4 The costs and expenses of implementing the Conversion shall be attributed to the Class Fund relating to the Extended Life Shares.

41.5 The Conversion will become effective on the Conversion Date and upon the conversion of an Ordinary Share becoming effective, the holder thereof shall cease to be entitled to any rights in respect thereof (excepting always the right to receive a dividend which has become due and payable in respect thereof prior to such Conversion being effected) and accordingly his name shall be removed from the Register with respect thereto and entered in the Register in respect of the corresponding Extended Life Share and shall receive all the rights accruing to the Extended Life Shares as is designated to such Extended Life Shares in accordance with these Articles.

41.6 The Directors may amend the process for effecting the Conversions (including the time for submitting the Conversion Notice ("**Conversion Notice Date**") and the procedure for submitting the Conversion Notice and the Conversion Date) in such manner as they see fit including, without limitation, for the purposes of facilitating conversions of Ordinary Shares in Uncertificated or Certificated form or to facilitate electronic communications. The Directors

may, in their absolute discretion, reject any Conversion Notice in respect of the Conversion given at any time after the Conversion Notice Date and/or given otherwise than in accordance with these Articles. A Conversion Notice once submitted shall be irrevocable save with the consent of the Company. The Directors may, at their sole discretion, give effect to any or all Conversion Notices received at any time after the Conversion Notice Date.

41.7 The Directors may, in their absolute discretion, determine not to implement the Conversion in or into, and to exclude from participation in the Conversion, persons who are, or who appear to the Directors to be, resident in or citizens of, any jurisdiction or territory in which such Conversion is or may be, in the opinion of the Directors, unlawful or impractical (whether with or without the observance of any specific formalities). Any such persons who are excluded from participation in the Conversion for this reason but who believe that they are not resident in or citizens of, any jurisdiction or territory in which such Conversion is or may be, in the opinion of the Directors, unlawful or impractical or that they should not be regarded as such by the Directors may submit a declaration in the form specified by the Directors (along with such evidence as the Directors may in their absolute discretion require) within such period of time as the Directors may in their absolute discretion require, requesting that their Ordinary Shares be converted into Extended Life Shares. If the Directors, in their absolute discretion, determine to accept such request, such Shareholder's Ordinary Shares will be converted into Extended Life Shares on such date as the Directors at their absolute discretion may determine on the same basis as Ordinary Shares were converted into Extended Life Shares on the Conversion Date.

41.8 At any time in the period of 30 days immediately following the Conversion Date, the Directors may, at their sole discretion, allow any Ordinary Shareholder to convert some or all Ordinary Shares held by him into Extended Life Shares on the same basis as Ordinary Shares were converted into Extended Life Shares on the Conversion Date.

42. **UNTRACEABLE MEMBERS**

42.1 The Company shall be entitled to sell at the best price reasonably obtainable the shares of a Member or any shares to which a person is entitled by transmission on death or bankruptcy if and provided that:-

42.1.1 for a period of twelve years no cheque or warrant sent by the Company through the post in a pre-paid letter addressed to the Member or to the person so entitled to the share at his address in the Register or otherwise the last known address given by the Member or the person entitled by transmission to which cheques and warrants are to be sent has been cashed and no communication has been received by the Company from the Member or the person so entitled;

42.1.2 the Company has at the expiration of the said period of twelve years by advertisement in a newspaper circulating in the area in which the address referred to in Article 42.1.1 above is located given notice of its intention to sell such shares;

42.1.3 the Company has not during the period of three months after the date of the advertisement and prior to the exercise of the power of sale received any communication from the Member or person so entitled; and

42.1.4 if the shares are quoted on any stock exchange, the Company has given notice in writing to the quotations department of such stock exchange of its intention to sell such shares.

42.2 The Company shall also be entitled to sell at the best price reasonably obtainable at the time of sale any additional Certificated shares in the Company issued either in Certificated or Uncertificated form during the period of 12 years immediately preceding the date of publication of the advertisements referred to in Article 42.1.2 above in right of any share to

which Article 42.1 applies (or in right of any share so issued), if the criteria in Articles 42.1.1 to 42.1.4 are otherwise satisfied in relation to the additional shares.

- 42.3 To give effect to any such sale the Board may appoint any person to execute as transferor an instrument of transfer of the said shares and such instrument of transfer of the said shares shall be as effective as if it had been executed by the registered holder of, or person entitled by transmission to, such shares and the title of the purchaser or other transferee shall not be affected by any irregularity or invalidity in the proceedings relating thereto. The net proceeds of sale shall belong to the Company, which shall be obliged to account to the former Member or other person previously entitled as aforesaid for an amount equal to such proceeds and shall enter the name of such former Member or other person in the books of the Company as a creditor for such amount unless and until forfeited under this Article. No trust shall be created in respect of the debt, no interest shall be payable in respect of the same and the Company shall not be required to account for any money earned on the net proceeds, which may be employed in the business of the Company or invested in such investments (other than shares of the Company) as the Board may from time to time think fit. For the purpose of enforcing its powers under this Article and to the extent permissible under the Regulations and the Rules, the Board may require any relevant shares held in Uncertificated form to be changed into Certificated form. If no valid claim for the money has been received by the Company during a period of six years from the date on which the relevant shares were sold by the Company under this Article, the money will be forfeited and will belong to the Company.

43. **RECORD DATES**

- 43.1 Subject to any restriction thereon contained in the Statutes, for the purposes of serving notices of meetings, whether under the Laws or under a provision in these Articles or any other instrument, the Directors may determine that those persons who are entered on the Register at the close of business on a day determined by the Directors shall be persons who are entitled to receive such notices provided that such day may not be more than 21 days before the day on which the notices of the meeting are sent.
- 43.2 For the purposes of determining which persons are entitled to attend or vote at a meeting, and how many votes they may cast, the Directors may specify in the notice of the meeting a time, being not more than 48 hours before the time fixed for the meeting, by which a person must be entered on the Register in order to have the right to attend or vote at the meeting.
- 43.3 Notwithstanding any provision to the contrary in these Articles, changes to entries on the Register after the time specified under Article 43.2 may at the discretion of the Directors be disregarded in determining the rights of any person to attend or vote at the meeting.
- 43.4 Subject to any restriction thereon contained in the Statutes or in the terms of issue of any Share in the Company, for the purposes of issuing any Share, making any distribution or paying any dividend, the Directors may determine that those persons who are entered on the Register at the close of business on a day determined by the Directors shall be the persons who are entitled to receive such Shares, dividends or distributions provided that such day may not be more than 6 months before or after any date on which such dividend, distribution or issuance is given, made or paid (as appropriate).