

# Gard Corporate Governance Manual

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## Introduction

The Gard Group is committed to maintaining high standards of corporate governance. We believe that effective corporate governance is essential to the Group and establishes an open and transparent framework for delivering insurance products and services to our members and clients.

The Gard Group Corporate Governance Manual aims to assist the members of the various Boards and Committees in the exercise of their responsibilities to serve the best interests of the Group and its members and clients. The guidelines are intended to ensure that the members of the Boards and Committees will be in a position to review and evaluate the business operations of the Group and make the appropriate decisions as needed. The guidelines are not exhaustive and are not intended to change any statutory regulations, Bye-Laws, Articles of Association or Statutes of the entities of the Gard Group.

Updated information regarding the Gard Group can at any time be found on the Gard website, [www.gard.no](http://www.gard.no).

Bermuda, September, 2011

Lingard Limited  
As Manager for Gard P. & I. (Bermuda) Ltd

## Core purpose and core values

### Core purpose

In a rapidly changing world a critical factor for our organization to succeed is to have a fixed core purpose and values. This is the glue that holds the organisation together as it is growing and the business is diversifying. The Gard core purpose statement embodies what we stand for and our mission:

*To help our members and clients in the marine industries to manage risk and its consequences*

### Core values – F A I R

Our core values are enduring beliefs which Gard, its staff and management hold in common and endeavour to put into action. They guide the organisation, staff and management in performing their work. Fairness and equity form the foundation for Gard's business activities now and in the future.

**F***riendliness* - being friendly and courteous towards colleagues and clients. We look for the positive in people. We aim to create an atmosphere where people feel at home.

**A***daptability* - embracing changes as a way of life. To be curious and to seek opportunities and accept challenges.

**I***ntegrity* - doing the right thing. Bringing integrity into everything we say and do. Striving for honesty, trust, transparency and respect both as individuals and as an organisation.

**R***esult oriented* - To be successful, we must meet our goals on time, set new ones and seek better ways of achieving them.

## The Gard Group

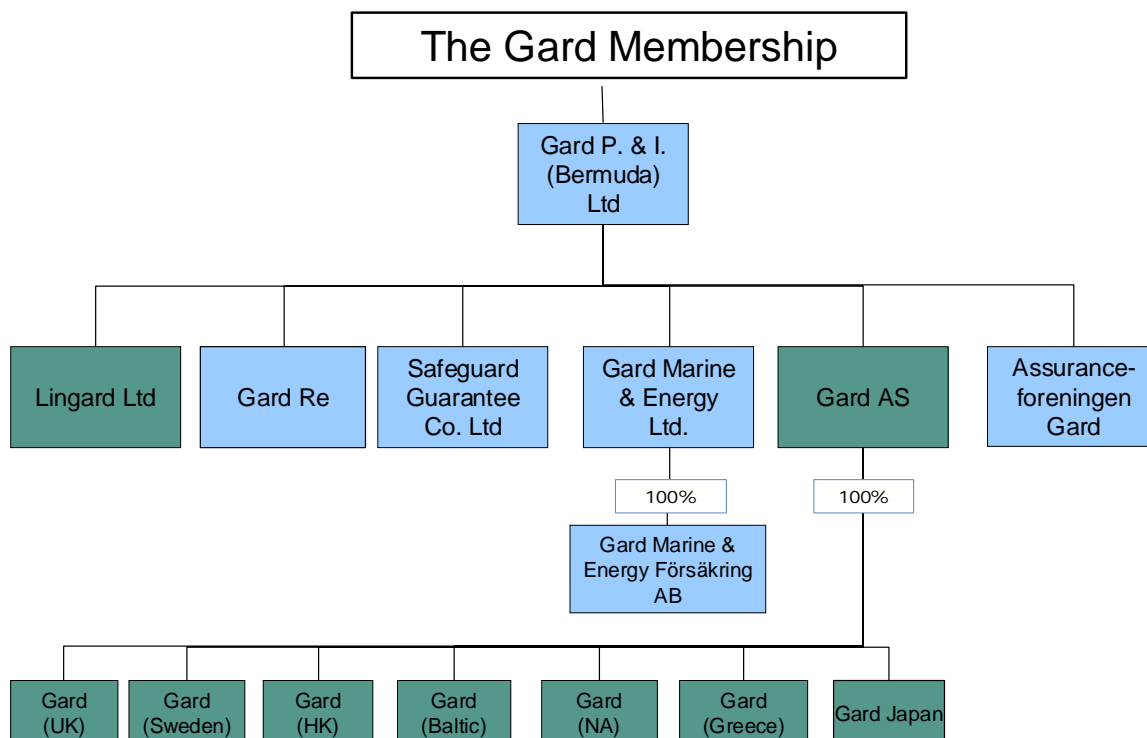
*This section outlines the ownership and governance structure of the Gard Group and some key details about each individual company.*

### Ownership and governance structure

The Gard Group consists of the following legal entities:

- Gard P. & I. (Bermuda) Ltd (“Gard P&I Bermuda”)
- Assuranceforeningen Gard – gjensidig (“Gard P&I Norway”)
- Gard Marine & Energy Limited (“Gard M&E”) including its subsidiary Gard Marine & Energy Försäkring AB
- Gard Reinsurance Co Ltd (“Gard Re”)
- Lingard Limited (“Lingard”)
- Gard AS (the Norwegian agency company) and its subsidiaries
- Safeguard Guarantee Company Ltd (“Safeguard”)

The Gard Group governance structure is as follows:



## Gard P&I Bermuda

Gard P&I Bermuda is a mutual insurance association established in 1988. The company is registered and domiciled in Bermuda and licensed by the Bermuda Monetary Authority as a "Class 2" insurer. The Manager of Gard P&I Bermuda is Lingard Limited.

Gard P&I Bermuda provides P&I and related insurance products to its Members, being shipowners, operators and charterers with ships entered in the club. As a mutual insurance association, the club is owned by its Members. There are no external capital owners.

Gard P&I Bermuda carries out its direct insurance business through a Norwegian branch. The general agent of the branch is Gard AS. The Norwegian branch office is located in Arendal, Norway

The Members of Gard P&I Bermuda are also Members of Gard P&I Norway and vice versa<sup>1</sup>. However, the major part of the two associations' combined portfolio of direct business (currently about 80 per cent) is underwritten by Gard P&I Bermuda through the Norwegian branch as direct insurer. Gard P&I Norway is primarily used as a vehicle for a smaller proportion of the combined P&I portfolio being primarily direct P&I business in certain countries within the EU/EEA area where an EU/EEA based insurer is required in order to comply with the governing EU regulations with regard to cross border activities.

Mutual reinsurance agreements have been entered into between Gard P&I Norway and Gard P&I Bermuda whereby the two associations are reinsuring each other. As to the tonnage entered in Gard P&I Bermuda and reinsured in Gard P&I Norway, the former in its capacity as the reinsured<sup>2</sup>, has been given the right to exercise membership rights<sup>3</sup>. Thus, Gard P&I Bermuda controls the vast majority of all Member votes at the general meeting of Gard P&I Norway giving the former the power to control and govern the business activities of latter. This means in practice that Gard P&I Bermuda is the parent company in the group and that Gard P&I Norway is treated as a subsidiary in the same way as the other wholly owned subsidiaries like Gard M&E, Gard Re, Lingard, Safeguard and Gard AS.

Gard P&I Bermuda and Gard P&I Norway are both members of the International Group of P&I Clubs and parties to the International Group of P&I Clubs' Pooling Agreement being the contractual basis for the sharing of claims among the P&I Clubs and collective purchase of market reinsurances. The two associations are recorded as "Paired Associations" with Gard P&I Bermuda as the principal.

## Gard P&I Norway

Gard P&I Norway is the Norwegian P&I Club founded in Arendal, Norway, in 1907. The company is registered and domiciled in Norway and licensed by the Norwegian Ministry of Finance to carry out P&I and defence insurance.<sup>4</sup> The head office of Gard P&I Norway is in Arendal, Norway.

Gard P&I Norway provides P&I and related insurance products to its Members, being shipowners, operators and charterers with ships entered in the club. As a mutual insurance association, the club is owned by its Members. There are no external capital owners.

Based on the current governance structure Gard P&I Bermuda has the power to govern and control the business activities of Gard P&I Norway. This includes the power to appoint the members of the

<sup>1</sup> See Article 2.6 of the Bye-Laws of Gard P&I Bermuda and Article 4.7 of the Statutes of Gard P&I Norway

<sup>2</sup> See Article 4.2 of the Statutes of Gard P&I Norway

<sup>3</sup> The Board of Directors of Gard P&I Norway adopted at the meeting held on 22 April 2010 the following resolution:

*The Board of Directors resolved pursuant to Article 4.2 of the Statutes of the Association that Gard P. & I. (Bermuda) Ltd shall be treated as the Member and be entitled to exercise Membership rights in respect of all Ships entered in the Association pursuant to the reinsurance agreement between the Association as the reinsurer and Gard P. & I. (Bermuda) Ltd as the reinsured.*

<sup>4</sup> Classes 12 and 17 pursuant to Norwegian regulations of 18 September 1995 on insurance classes.

Board. Based on international accepted accounting standards this creates the required legal basis for consolidation of the two companies' accounts.<sup>5</sup>

As explained above, Gard P&I Bermuda and Gard P&I Norway are recorded as "Paired Associations" under the International Group of P&I Clubs' Pooling Agreement.

## Gard M&E

Gard M&E is a joint stock company, and a wholly owned subsidiary of Gard P&I Bermuda. The company is registered and domiciled in Bermuda and licensed by the Bermuda Monetary Authority as a "Class 3B" insurer covering, inter alia, marine and energy risks. The Manager of Gard M&E is Lingard Limited.

Gard M&E is offering standard marine and energy insurance products on a commercial basis to shipowners and operators, and operators within the international oil and gas industry. Gard M&E carries out its direct insurance business through a Norwegian branch. The general agent of the branch is Gard AS. The Norwegian branch office is located in Arendal, Norway.

In 2008 Gard M&E established Gard Marine & Energy Försäkring AB. Gard M&E Försäkring AB is a Marine & Energy insurance company registered in Sweden. The company is a wholly owned subsidiary of Gard M&E and used as a vehicle for business in the EU/EEA area where an EU/EEA based insurer is required in order to comply with the governing EU regulations with regard to cross border activities. Gard (Sweden) AB in Gothenburg is appointed the agent of Gard M&E Försäkring. The parent company, Gard M&E, reinsures the vast proportion of Gard M&E Försäkring's net retained liabilities.

## Gard Re

Gard Re is a joint stock company and a wholly owned subsidiary of Gard P&I Bermuda. The company is registered and domiciled in Bermuda and licensed by the Bermuda Monetary Authority as a "Class 3A" insurer covering, inter alia, marine (incl. P&I) and energy risks. The Manager of Gard Re is Lingard Limited.

Reinsurance agreements has been entered into between Gard Re as the reinsurer and Gard P&I Bermuda and Gard M&E as the reassured, respectively, covering a certain proportion of the two direct insurers' retained risks, i.e. the proportion of the risks underwritten by Gard P&I Bermuda and Gard M&E not reinsured elsewhere. A stop loss reinsurance agreement has also been entered into between Gard Re and Gard P&I Norway.

## Safeguard

Safeguard is a joint stock company and a wholly owned subsidiary of Gard P&I Bermuda. The company is registered and domiciled in Bermuda and licensed by the Bermuda Monetary Authority as a "Class 3A" insurer. The company is managed by Lingard Limited.

Safeguard is a so-called special purpose vehicle. The sole purpose of Safeguard is to offer the financial security required under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the "Bunker Convention") for mobile offshore units and other vessels ("Specialist Craft") insured outside the reinsurance structure established by the International Group of P&I Clubs. The Company started trading on 21 November 2008 and has been approved as a provider of financial security by all State Parties to the Bunker Convention to which applications have been made.

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<sup>5</sup> Reference is made to the International Accounting Standard 27 Consolidated and Separate Financial Statements (IAS 27).

The background for the establishment of Safeguard is that the provider of financial security (“Bunker Blue Card(s)”) under the Bunker Convention is exposed to risks, described below as Special Risks, falling outside the scope of the traditional reinsurances taken out in the commercial market for Special Craft. Gard P&I Bermuda and the other direct insurers being traditional liability insurers cannot expose their balance sheets to risks falling outside the scope of their reinsurance arrangements without jeopardizing the financial foundation of the companies. The establishment of Safeguard reduces the group’s overall exposure to Special Risks to the value of the investment in Safeguard being the minimum capital required to get the company approved as a provider of financial security.

The term “Special Risks” means in this context liabilities, losses, costs or expenses caused by or arising out of so-called biochem, cyber and nuclear risks. The term Special Risks includes also terrorism if the war risk insurer has used his right to terminate cover with seven days’ notice.

## Lingard Limited

Lingard is a joint stock company registered in Bermuda in August 2006. It is a wholly owned subsidiary of Gard P&I Bermuda and registered and licensed as an Insurance Manager.

Gard P&I Bermuda, Gard Re, Safeguard and Gard M&E have entered into management agreements with Lingard whereby the latter is delegated with the responsibility of administering the day to day business and corporate functions of the companies domiciled in Bermuda.

## Gard AS

Gard AS is a Norwegian joint stock company registered in Arendal, Norway, and a wholly owned subsidiary of Gard P&I Bermuda. Gard AS is registered by the Norwegian Financial Supervisory Authority as an insurance agent.

Gard P&I Bermuda, Gard P&I Norway and Gard M&E have entered into an agency agreements with Gard AS pursuant to which Gard AS act as agent and intermediary with regard to the three insurers’ portfolio of direct business. Gard AS is, *inter alia*, given the power on be half of the above three insurers to conclude contracts of insurance and to handle claims falling within the scope of the insurance cover.

Gard AS has established a service network of wholly owned subsidiaries in;

- i Sweden - Gard (Sweden) AB
- ii Finland - Gard (Baltic) OY,
- iii England – Gard (UK) Limited
- iv The United States – Gard (North America) Inc.
- v Hong Kong – Gard (HK) Limited
- vi Greece – Gard (Greece) Ltd
- vii Gard (Japan) KK

The subsidiaries are the Members and clients’ local contact points and perform, *inter alia*, insurance intermediary services in the local markets on behalf of Gard AS’ principals.

## Members of Boards and Committees

The current members of the governing corporate bodies of the individual entities of the Gard Group are listed in **Appendix 1**.

## Governance principles

*This section contains general governance principles and procedures for the governing corporate bodies of the Gard Group.*

### Composition of committees and boards

The Members of Gard P&I Bermuda and Gard P&I Norway are the owners of the Gard Group. For that reason the composition of the governing corporate bodies of the various legal entities of the group ought to mirror, to the extent possible and practical, the composition of the Memberships of the two associations with regard to, inter alia, the categories of tonnage entered and geographical spread.

### Meetings

Meetings of a governing corporate body of an entity of the group shall be called by the Chairman of the relevant board or committee or its secretary at the request of, or in consultation with, the chairman with no less than seven days notice, if possible. All matters shall be determined by a majority vote, unless otherwise determined in the relevant company's Articles of Association, Statutes or Bye-Laws.

### Agenda and minutes

The agenda documents for the meetings shall be prepared by the Management (in the case of the Bermuda entities Lingard Limited) in consultation with the Chairman of the relevant board or committee. The proposed agenda for each meeting shall, if possible, be sent to the Chairman for approval three weeks before the meeting. The documents shall, if possible, be sent to the members of the relevant board or committee latest one week before the meeting. The secretary to the relevant committee or board is responsible for minutes being taken from each meeting and being approved and circulated to the board or committee, as the case may be, preferably within three weeks after the meeting.

### Attendance

Besides the members of the relevant board or committee, the President/Chief Executive Officer/Managing Director of the legal entity and the secretary to the relevant board or committee shall be present at all meetings unless otherwise decided on a case by case basis. The Chairman decides in consultation with the President/Chief Executive Officer/Managing Director to what extent other representatives of the Management shall attend the meeting.

### Communication with the Management

If any further information is required from the Management, or if a member of a board or committee has any other questions to the Management in relation to any matters to be dealt with by the relevant governing corporate body, such requests should be made to the President, /Chief Executive Officer/Managing Director or the secretary to the relevant board or committee, as the case may be. If additional information is provided on the basis of a request from individual member(s) of the relevant governing corporate body, the President, Chief Executive Officer or Managing Director, as the case may be, and the Chairman of the said committee or board shall always receive copies of the same information if that is required in order for them to be properly informed of all relevant matters.

## Professional secrecy

Members of governing corporate bodies of a company within the Gard Group are bound to observe professional secrecy in relation to any and all matters dealt with or reported to the relevant board or committee. The duty to observe professional secrecy extends to all information the individual member of a governing corporate bodies receive in his/her capacity as members of a board or committee of an entity within the Gard Group regarding the group's business activities and the business activities of the group's owners, clients and/or members unless obliged by law to release such information.

## Conflicts of interest

General conflict of interest principles laid down in the governing legislation and/or the Statutes and/or the Articles of Association and/or the Bye-laws of the individual group company, as the case may be, shall apply for members of a governing corporate body of an entity within the Gard Group.

Notwithstanding the above, a member of a governing corporate body of an entity within the group can in no circumstances concurrently be a member of a governing corporate body of another company or association or other legal entity being involved in business activities competing with the business activities of companies within the group.

## Duty to inform if a conflict of interest situation arises

If a conflict of interest situation arises, or a situation arises which may give reason to assume that such a situation may arise, the relevant member of the board or committee, as the case may be, has a duty to report the matter forthwith to the chairman of the relevant board or committee.

## Gard P. & I. (Bermuda) Ltd

*This section contains details about the governing corporate bodies of Gard P. & I. Bermuda.*

### The General Meeting

The General Meeting is the highest authority in that it elects the members of the Board, approve the annual accounts and, if required, amend the Bye-Laws and other matters as set out in the notice calling the meeting. The General Meeting is a meeting of the Members of Gard P&I Bermuda, being the same Membership as of Gard P&I Norway. The Bye-Laws of Gard P&I Bermuda are attached as **Appendix 2**.

### The Board of Directors

#### *Requirement*

Pursuant to the laws of Bermuda, the association shall have a Board of Directors<sup>6</sup>.

#### *Functions*

The Board of Directors shall ensure that the objectives of the association are furthered in accordance with the Bye-Laws and the decisions of the General Meeting. The most important functions of the Board are, *inter alia*, the management of the business of the association and the establishment of general principles for the administration of the funds of the company<sup>7</sup>.

The Board of Directors shall make recommendations to the General Meeting on the election of the Directors and Alternate Directors; cause the accounts of the association to be audited by the auditor appointed in conformity with the Bye-Laws<sup>8</sup> and submit the audited accounts to the Annual General Meeting, together with its recommendations.

The Board of Directors shall determine the Rules of the association and the Board may empower the Managers to make such amendments to the Rules as the Board considers appropriate; establish general principles for the administration of the funds of the association; determine annually any variation to be made in premium ratings in accordance with the Rules; decide on the levy of deferred calls, supplementary calls and overspill calls or the repayment of excess advance calls, deferred calls, supplementary calls and overspill calls; set the rates at which release contributions are to be levied and decide on the closing of open policy years

The Board of Directors shall further submit to the General Meeting, together with its recommendations, all matters which the Chairman of the Board, the Board, or members of the company representing at least 100 votes, desire to be submitted to the Meeting<sup>9</sup>.

The Board of Directors shall appoint a President/Chief Executive Officer and other officers of the company<sup>10</sup>.

The Board of Directors can delegate any of its powers to committees including two or more of the Directors, but every such committee shall conform to such directions as the Board shall impose on it<sup>11</sup>. The Board of Directors cannot delegate its power to compensate claims under the Omnibus Rule<sup>12</sup>.

<sup>6</sup> See The Companies Act 1981 (Bermuda) and Section 3 of the Bye-laws.

<sup>7</sup> See Section 6 of the Bye-Laws.

<sup>8</sup> See Bye-Law 6.2.m.

<sup>9</sup> See bye-Law 6.2.n.

<sup>10</sup> See Bye-Law 6.2.p.

<sup>11</sup> See Bye-Law 6.4

<sup>12</sup> See Bye-Law 6.5.b.

### Composition

The Board shall consist of not less than 10 and not more than 35 members elected by the General Meeting. Decisions shall be arrived at by a majority vote. In the event of an equal number of votes being cast, the Chairman of the meeting shall have the deciding vote<sup>13</sup>.

### Meetings

The Board normally meets twice a year. A quorum will be formed when five of the Board members are present of whom two have to be members of the Executive Committee<sup>14</sup>. There are no formal requirements as to how many meetings must be held during the year. A resolution in writing signed by all members of the Board being entitled to receive notice of a meeting of the Board shall be as valid and effectual as a resolution passed in a meeting of the Board.

### Remuneration

The remuneration of the members of the Board of Directors is determined by the General Meeting<sup>15</sup>.

## The Executive Committee

### Requirement

Pursuant to the Bye Laws<sup>16</sup>, the association shall have an Executive Committee.

### Functions

Unless otherwise determined by the Board, the Executive Committee shall administer the daily business of the association. The Executive Committee shall also, *inter alia*, make amendments to the Rules, to the extent empowered by the Board; administer the funds of the association in accordance with the general principles laid down by the Board; submit to the Board its proposal for the income and expenditure account and balance sheet, together with the consolidated income and expenditure account and balance sheet; recommend to the Board any variation to be made in premium ratings in accordance with the Rules; recommend to the Board the levy of deferred calls, supplementary calls and overspill calls or the repayment of excess advance calls, deferred calls, supplementary calls and overspill calls; recommend to the Board the rates at which release calls are to be levied; and recommend to the Board the closing of open policy years<sup>17</sup>.

### Composition

The Executive Committee shall consist of at least five but not more than eight Directors and the President<sup>18</sup>. The members of the Executive Committee shall each year be appointed by the Board at the first Board meeting held after the Annual General Meeting<sup>19</sup>.

The Chairman and Deputy Chairman of the Executive Committee shall be elected every year by and from amongst the members of the Executive Committee.

### Meetings

The Executive Committee normally meets four to five times each year. A quorum will be formed when three of the members of the Executive Committee are present<sup>20</sup>. There are no formal requirements as to how many meetings need to be held during the year. A resolution in writing signed by all members of the Executive Committee being entitled to receive notice of a meeting of the Executive Committee shall be as valid and effectual as a resolution passed in a meeting of the Executive Committee.

<sup>13</sup> See Bye-Law 6.8

<sup>14</sup> See Bye-Laws 6.7

<sup>15</sup> See Bye-Law 9.1.d

<sup>16</sup> See the Bye Laws Article 3.

<sup>17</sup> See the Bye Laws Article 7.2.

<sup>18</sup> See the Bye Laws Article 7.1.

<sup>19</sup> See the Bye-Laws Article 7.1.

<sup>20</sup> See the Bye-Laws Article 7.3.

### *Remuneration*

The remuneration of the members of the Executive Committee is determined by the General Meeting<sup>21</sup>.

## The Election Committee

### *Requirement*

Pursuant to the Bye-Laws, Gard P&I Bermuda shall have an Election Committee<sup>22</sup>.

### *Functions*

The Election Committee shall assist in the selection of members to the Board of Directors and the Election Committee of the association. The Election Committee shall make recommendations to the Annual General Meeting for the election of all of the members of the Board of Directors and the Election Committee<sup>23</sup>.

### *Composition*

The Election Committee shall comprise a minimum of three but not more than four members elected by the General Meeting, and the Chairman of the Board of Directors<sup>24</sup>. The Chairman of the Board of Directors is also the Chairman of the Election Committee<sup>25</sup>.

### *Meetings*

The Election Committee meets as often as the Chairman of the Election Committee deems necessary. Normally, the Election Committee meets once a year in order to determine the Election Committee's recommendations to the Annual General Meeting for the election of members to the Board of Directors and the Election Committee.

### *Remuneration*

The remuneration of the members of the Election Committee is determined by the General Meeting<sup>26</sup>.

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<sup>21</sup> See the Bye Laws Article 9.1.d.

<sup>22</sup> See the Bye-Laws Article 3.

<sup>23</sup> See the Bye-Laws Article 8.1.

<sup>24</sup> See the Bye-Laws Article 8.2.

<sup>25</sup> See the Bye-Laws Article 8.3.

<sup>26</sup> See the Bye-Laws Article 9.1.d.

## Gard P&I Norway

*This section contains details about the governing corporate bodies of Gard P&I Norway.*

### The General Meeting

The General Meeting is the highest authority in that it elects the members of the Board of Directors, and the Supervisory Committee, approve the annual accounts and, if required, amend the Statutes and other matters as set out in the notice calling the meeting. The General Meeting is a meeting of the Members of the association and is the forum in which the Members may participate in the running of the club.<sup>27</sup> The Statutes of Gard P&I Norway are attached as **Appendix 3**.

### The Board of Directors

#### *Requirement*

According to the Statutes<sup>28</sup> the club shall have a Board of Directors which is also required pursuant to Norwegian law<sup>29</sup>.

#### *Functions*

The functions of the Board of Directors are set out in the Statutes. Besides being a supervisory body with responsibility for the day-to-day operation of the club and establishing the overall policy for the club, the Board of Directors has important executive functions. The Board of Directors makes decisions in some key areas with regard to the operation of the association. More specific functions are set out in the Statutes<sup>30</sup>. Its supervisory function is to ensure that the purpose of the association is furthered in accordance with the Statutes<sup>31</sup>.

The most important functions in which the Board of Directors makes the final decision are as follows: to determine the Rules; to establish principles for the management of the funds; to determine general variations in the premium ratings; to decide on the levy of deferred calls or supplementary calls and to determine the rates of release calls; and to decide on the closing of open policy years.

The Board of Directors shall make recommendations to the General Meeting on certain matters which shall be decided by the General Meeting which, in practice, means; the approval of the income and expenditure account and balance sheet; amendments to the Statutes of the Club; and the remuneration of the members of the Board and the other committees.

The Board of Directors may delegate powers to the Chief Executive Officer/Managing Director, but remains responsible for supervision of his performance. The Board of Directors cannot delegate its power to compensate claims under the Omnibus Rule<sup>32</sup>.

<sup>27</sup> See The Statutes, Article 13. Based on the resolution of the Board of 22 April 2010, Gard P&I Bermuda controls the vast majority of all member votes at the General Meeting of Gard P&I Norway making the latter to a subsidiary of Gard P&I Bermuda.

<sup>28</sup> See The Statutes, Article 5.

<sup>29</sup> See The Insurance Act of 10 June 2005, section 5-1.

<sup>30</sup> See The Statutes, Article 9.2.

<sup>31</sup> See The Statutes, Article 9.1.

<sup>32</sup> See The Statutes, Article 10.

### *Composition*

The Board of Directors shall consist of the Chief Executive Officer and at least five but not more than eight members elected by the General Meeting<sup>33</sup>. All persons who are Members of the club and all executives of companies which are Members of the club are eligible to serve as members of the Board of Directors, but one half of the members and the Chief Executive Officer must be domiciled in a State within the European Economic Agreement (EEA) area<sup>34</sup>. Two individuals who have special knowledge or expertise which is beneficial to the club may be elected members of the Board of Directors under the special provisions of the Statutes.

### *Meetings*

The Board of Directors meets whenever there is a need to do so. The Board of Directors shall meet at least four times a year. There are no formal requirements as to where the meetings can be held.

### *Remuneration*

The remuneration of the members of the Board of Directors is determined by the General Meeting<sup>35</sup>. The payment of the remuneration to the individual member of the Board of Directors is made in arrears for the year ended.

## The Supervisory Committee

### *Requirement*

The association is required by law to have a Supervisory Committee<sup>36</sup>. The purpose of the Supervisory Committee is briefly set out in the Statutes<sup>37</sup>.

### *Functions*

The function of the Supervisory Committee is to ensure that the club acts in a safe and appropriate manner and in compliance with the law, the Statutes and guidelines established by the General Meeting. The Supervisory Committee has no executive functions. The mandate of the Supervisory Committee is set out in the Instructions for the Supervisory Committee of Assuranceforeningen Gard<sup>38</sup>. The guidelines for the Supervisory Committee of Gard P&I Norway has been approved by the Board and the Supervisory Committee and been adopted by the General Meeting in August 2008. The guidelines are based on guidelines received from the Norwegian Financial Supervisory Authority (the "FSA").

The Supervisory Committee is required to report once a year to the General Meeting and to the Norwegian FSA<sup>39</sup>. The Supervisory Committee receives copies of all documents which are sent to the Board of Directors.

### *Composition*

The Supervisory Committee shall consist of four members elected by the General Meeting<sup>40</sup>. The members of the Supervisory Committee do not need to be Members of the club as opposed to the requirement to be eligible to serve as a member of the Board of Directors.

It is a statutory requirement that one of the members of the Supervisory Committee must be qualified to serve as a judge at the Norwegian Courts. Members of the Board of Directors and the association's auditor cannot be members of the Supervisory Committee<sup>41</sup>.

<sup>33</sup> See The Statutes, Article 6.1.

<sup>34</sup> See The Insurance Act of 10 June 2005, section 5-3 and the Joint Stock Companies Act of 13 June 1997, chapter 6.

<sup>35</sup> See The Statutes, Article 14.1.c.

<sup>36</sup> See The Insurance Act of 10 June 2005, section 5-5.

<sup>37</sup> See The Statutes, Article 11.

<sup>38</sup> See Appendix 9

<sup>39</sup> See The Instructions for the Supervisory Committee, Article 9.

<sup>40</sup> See The Statutes, Article 11.2.

<sup>41</sup> See The Insurance Act of 10 June 2005, section 5-5.

### *Meeting*

The Supervisory Committee shall meet as often as the chairman deems necessary. Normally, the Supervisory Committee meets twice a year.

### *Remuneration*

The remuneration of the members of the Supervisory Committee is determined by the General Meeting<sup>42</sup>. The payment of the remuneration to the individual member of the Supervisory Committee is made in arrears for the year ended.

## The Audit Committee

### *Requirement*

The association is required by law to have an Audit Committee<sup>43</sup>.

### *Functions*

The Audit Committee is a committee of the Board of Directors supporting the Board of Directors in fulfilling its responsibilities with respect to financial reporting, internal accounting controls and auditing matters. The Audit Committee shall identify, understand and assess operational and financial risk. The establishment of the Audit Committee does not alter the Board of Directors' legal responsibilities or tasks.

The function of the Audit Committee is to prepare the follow up of the Board of Directors of the accounting reporting process; to monitor the internal control and risk management system and also the internal audit function. Further, the Audit Committee shall have continuing contact with the auditor in relation to the audit of the annual accounts. The Audit Committee shall consider and monitor the independence of the auditor and shall in particular consider whether other services provided by the auditor to the Association represent a threat to the auditor's independence. The Audit Committee Instructions as adopted by the Board of Directors on 27 January 2011 are attached as **Appendix 10**.

The Audit Committee shall meet a minimum of two times a year and is required to report once a year to the Board of Directors.

### *Composition*

The Audit Committee shall consist of two members of the Board of Directors elected by the Board of Directors.

It is a statutory requirement that the members of the Audit Committee shall at all times, together, have the competence required to comply with the responsibilities. At least one of the members of the Audit Committee shall be independent and have accounting or auditing competence. Formal qualifications are not required.

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<sup>42</sup> See The Statutes, Article 14.1.c.

<sup>43</sup> See the Norwegian Insurance Activity Act of 2005 no. 44 Sections 5-10, 5-11 and 5-12 and Regulations of 11 January 2010 no. 18.

## Gard M&E

*This section contains details about the governing corporate bodies of Gard M&E.*

### The General Meeting

The General Meeting is the highest authority in that it elects the members of the Board, approve the annual accounts and, if required, amend the Bye-Laws and other matters as set out in the notice calling the meeting. The General Meeting is a meeting of the shareholders of Gard M&E. The current shareholder of Gard M&E is Gard P&I Bermuda. The Bye-Laws of Gard M&E, as approved at the Annual General Meeting held on 28 May 2011, are attached as **Appendix 4**.

### The Board of Directors

#### *Requirement*

Pursuant to the law of Bermuda, the company shall have a Board of Directors<sup>44</sup>.

#### *Functions*

The Board of Directors shall manage the business of the company and may exercise all the powers of the company within the parameters of the Bye-Laws<sup>45</sup>. The powers of the Board of Directors are negatively determined. It shall perform all functions that are not within the province of the General Meeting.

The Board of Directors shall make recommendations to the General Meeting on the election of the Directors and Alternate Directors, cause the accounts of the company to be audited by the auditor and submit the audited accounts to the Annual General Meeting, together with its recommendations. Further, the Board of Directors may, *inter alia*, borrow money, mortgage or charge all or any part of the undertaking, property and assets of the company<sup>46</sup>.

The Board of Directors shall appoint a President/Chief Executive Officer and other officers of the company<sup>47</sup>.

The Board of Directors may delegate its powers to any company or person it sees fit for the operation of the company, not exceeding the authorities vested in the Board of Directors under the Bye-Laws<sup>48</sup>. In practice, the day to day running of the company, hereunder issuing insurance policies and handling claims is delegated to Lingard Limited as manager and to Gard AS as agents of the company.

#### *Composition*

The Board of Directors shall consist of not less than two and not more than six Directors elected by the shareholders at the Annual General Meeting<sup>49</sup>. Decisions shall be arrived at by a majority vote<sup>50</sup>.

#### *Meetings*

The Board normally meets every quarter but may meet more frequently if needed<sup>51</sup>. A resolution in writing signed by all members of the Board being entitled to receive notice of a meeting of the Board shall be as valid and effectual as a resolution passed in a meeting of the Board<sup>52</sup>.

#### *Remuneration*

The remuneration of the members of the Board is determined by the General Meeting<sup>53</sup>.

<sup>44</sup> See Companies Act 1981 (Bermuda) and Section 22 of the Bye-Laws.

<sup>45</sup> See Section 27

<sup>46</sup> See Sections 27-29.

<sup>47</sup> See Section 30.

<sup>48</sup> See Section 28.

<sup>49</sup> See Section 17.

<sup>50</sup> See Section 29.1.

<sup>51</sup> See Section 29.1.

<sup>52</sup> See Section 29.9.

## Gard Re

*This section contains details about the governing corporate bodies of Gard Reinsurance Co Ltd.*

### The General Meeting

The General Meeting is the highest authority in that it elects the members of the Board, approves the annual accounts and, if required, amends the Bye-Laws and other matters as set out in the notice calling the meeting. The General Meeting is a meeting of the shareholders of Gard Re. Gard Re is a wholly owned subsidiary of Gard P&I Bermuda. The Bye-Laws of Gard Reinsurance Co Ltd are attached as **Appendix 5**.

### The Board of Directors

#### *Requirement*

The company shall have a Board of Directors.<sup>54</sup>

#### *Functions*

The Board of Directors shall manage the business of the company and may exercise all the powers of the company within the parameters of the Bye-Laws<sup>55</sup>. The powers of the Board of Directors are negatively determined. It shall perform all functions that are not within the province of the General Meeting.

The Board of Directors shall make recommendations to the General Meeting on the election of the members of the Board, cause the accounts of the company to be audited by the auditor and submit the audited accounts to the Annual General Meeting, together with its recommendations.<sup>56</sup>

The Board of Directors appoints the officers of the company<sup>57</sup>.

The Board of Directors may delegate its powers to any company or person it sees fit for the operation of the company, not exceeding the authorities vested in the Board of Directors under the Bye-Laws.

#### *Composition*

The Board of Directors shall consist of not less than two and not more than eight members. Decisions shall be arrived at by a majority vote<sup>58</sup>.

#### *Meetings*

The Board of Directors shall normally meet at least once in every year. The meetings are usually held in connection with board meetings of other entities in the Gard Group.

#### *Remuneration*

The remuneration of the members of the Board is determined by the General Meeting<sup>59</sup>.

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<sup>53</sup> See Section 83.

<sup>54</sup> See section 22.

<sup>55</sup> See section 27.

<sup>56</sup> See section 17.

<sup>57</sup> See section 30.

<sup>58</sup> See section 22.

<sup>59</sup> See section 17.

## Safeguard

*This section contains details about the governing corporate bodies of Safeguard Guarantee Company Ltd.*

### The General Meeting

The General Meeting is the highest authority in that it elects the members of the Board, approve the annual accounts and, if required, amend the Bye-Laws and other matters as set out in the notice calling the meeting. The General Meeting is a meeting of the shareholders of Safeguard. Safeguard is currently a wholly owned subsidiary of Gard P&I Bermuda. The Bye-Laws of Safeguard Guarantee Company Ltd are attached as **Appendix 6**.

### The Board of Directors

#### *Requirement*

The company shall have a Board of Directors.<sup>60</sup>

#### *Functions*

The Board of Directors shall manage the business of the company and may exercise all the powers of the company within the parameters of the Bye-Laws<sup>61</sup>. The powers of the Board of Directors are negatively determined. It shall perform all functions that are not within the province of the General Meeting.

The Board of Directors shall make recommendations to the General Meeting on the election of the members of the Board, cause the accounts of the company to be audited by the auditor and submit the audited accounts to the Annual General Meeting, together with its recommendations.<sup>62</sup>

The Board of Directors appoints the President/Chief Executive Officer of the company<sup>63</sup>.

The Board of Directors may delegate its powers to any company or person it sees fit for the operation of the company, not exceeding the authorities vested in the Board of Directors under the Bye-Laws.

#### *Composition*

The Board of Directors shall consist of not less than two and up to the number in excess thereof as determined by the General Meeting. Decisions shall be arrived at by a majority vote<sup>64</sup>.

#### *Meetings*

The Board of Directors shall meet at least once in every year. The meetings are usually held in connection with board meetings of other entities in the Gard Group.

#### *Remuneration*

The remuneration of the members of the Board is determined by the General Meeting<sup>65</sup>.

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<sup>60</sup> See section 37.

<sup>61</sup> See section 45.

<sup>62</sup> See section 17.

<sup>63</sup> See section 46.c.

<sup>64</sup> See section 54.

<sup>65</sup> See section 43.

## Lingard Limited

*This section contains details about the governing corporate bodies of Lingard Limited.*

### The General Meeting

The General Meeting is the highest authority in that it elects the members of the Board, approves the annual accounts and, if required, amends the Bye-Laws and other matters as set out in the notice calling the meeting. The General Meeting is a meeting of the shareholders of the Lingard Limited. Lingard Limited is currently a wholly owned subsidiary of Gard P&I Bermuda. The Bye-Laws of Lingard, as amended 28 May 2011, are attached as **Appendix 7**.

### The Board of Directors

#### *Requirement*

The company shall have a Board of Directors.

#### *Functions*

The Board of Directors shall manage the business of the company and may exercise all the powers of the company within the parameters of the Bye-Laws<sup>66</sup>. The powers of the Board of Directors are negatively determined. It shall perform all functions that are not within the province of the General Meeting.

The Board of Directors shall make recommendations to the General Meeting on the election of the members of the Board, cause the accounts of the company to be audited by the auditor and submit the audited accounts to the Annual General Meeting, together with its recommendations.

The Board of Directors appoints the President/Chief Executive Officer of the company<sup>67</sup>.

The Board of Directors may delegate its powers to any company or person it sees fit for the operation of the company, not exceeding the authorities vested in the Board of Directors under the Bye-Laws.

#### *Composition*

The Board of Directors shall consist of not less than two and not more than six members elected by the shareholder and up to two directors. Decisions shall be arrived at by a majority vote<sup>68</sup>.

#### *Meetings*

The Board of Directors shall meet at least once in every year. The meetings are usually held in connection with board meetings of other entities in the Gard Group.

#### *Remuneration*

The remuneration of the members of the Board is determined by the General Meeting<sup>69</sup>.

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<sup>66</sup> See section 27.1.

<sup>67</sup> See section 30

<sup>68</sup> See section 29.1.

<sup>69</sup> See section 17.

## Gard AS

*This section contains details about the governing corporate bodies of Gard AS.*

### The General Meeting

The General Meeting is the highest authority in that it elects the members of the Board, approve the annual accounts and, if required, amend the Articles of Association and other matters as set out in the notice calling the meeting. The General Meeting is a meeting of the shareholders of Gard AS. The current shareholder is Gard P&I Bermuda. The Articles of Association of Gard AS, as amended at 15 April 2011, are attached as **Appendix 8**.

### The Board of Directors

#### *Requirement*

The company shall have a Board of Directors<sup>70</sup>.

#### *Functions*

The Board of Directors shall manage the business of the company and may exercise all the powers of the company within the parameters of the Articles of Association<sup>71</sup>. The powers of the Board of Directors are negatively determined. It shall perform all functions that are not within the province of the General Meeting.

The Board of Directors shall make recommendations to the General Meeting on the election of the Directors, cause the accounts of the company to be audited by the auditor and submit the audited accounts to the Annual General Meeting, together with its recommendations<sup>72</sup>.

The Board of Directors appoints the Managing Director of the company<sup>73</sup>.

#### *Composition*

The Board of Directors shall consist of four directors elected by the shareholder and up to three directors elected by the employees. Decisions shall be arrived at by a majority vote<sup>74</sup>.

At least half of the directors must have domicile in Norway or in an EU/EEA state<sup>75</sup>.

#### *Meetings*

The Board of Directors shall meet at least once in every quarter. The meetings are usually held in connection with board meetings of other entities in the Gard Group.

#### *Remuneration*

The remuneration of the members of the Board of Directors is determined by the General Meeting.

<sup>70</sup> See The Norwegian Joint Stock Company Act, Section 6-1, and Section 5 of the Articles of Association of Gard AS.

<sup>71</sup> See Section 5 of the Articles.

<sup>72</sup> See The Norwegian Joint Stock Company Act, Chapter 5.

<sup>73</sup> See The Norwegian Joint Stock Company Act Section 6.2.

<sup>74</sup> See Articles of Association, Section 5.

<sup>75</sup> See The Norwegian Joint Stock Company Act, Section 6-11.

## Appendices

1. Members of Boards and Committees of the Gard Group
2. Bye-Laws of Gard P. & I. (Bermuda) Ltd
3. Statues for Assuranceforeningen Gard – gjensidig
4. Bye-Laws of Gard Marine & Energy Limited
5. Bye Laws of Gard Reinsurance Co Ltd
6. Bye-Laws of Safeguard Guarantee Company Ltd
7. Bye-Laws of Lingard Limited
8. Articles of Association for Gard AS
9. Instructions for the Supervisory Committee of Assuranceforeningen Gard – gjensidig -

## APPENDIX 1

### Members of the Board of Directors, the Executive Committee and the Election Committee of Gard P. & I. (Bermuda) Ltd

#### The Board of Directors

Stephen Pan, *Chairman*  
 Bengt Hermelin, *Deputy Chairman*  
 Salah M. Al-Hareky  
 Ian Beveridge  
 K. C. Chang  
 Trond Eilertsen  
 Timothy C. Faries  
 Costas Gerapetritis  
 Hannu Haapanen  
 Herbjørn Hansson  
 Morten W. Høegh  
 Kenneth Hvid  
 Hans Peter Jebsen  
 Robert E. Johnston  
 Sergio Machado  
 Tadeusz Niszczoła  
 Halvor Ribe  
 Patrick Rodgers  
 Michael Say  
 Jane Sy  
 Kazuya Uchida  
 Jan Eyvin Wang  
 Hor Weng Yew  
 Claes Isacson, *President*

World-Wide Shipping Agency Limited, Hong Kong  
 Samco Shipholding Pte. Ltd, Singapore  
 Saudi Aramco, Dhahran  
 Bernhard Schulte, Hamburg  
 Evergreen Marine Corp. (Taiwan) Ltd., Taipei  
 Oslo  
 Bermuda  
 Navios Shipmanagement, Piraeus  
 Neste Shipping OY, Espoo  
 Nordic American Tanker Shipping Limited, Bermuda  
 Leif Høegh (UK) Ltd., London  
 Teekay Norway AS, Stavanger  
 Kristian Gerhard Jebsen Skipsrederi AS, Oslo  
 Overseas Shipholding Group Inc., Tampa  
 Petroleo Brasileiro S.A. - Petrobras, Rio de Janeiro  
 Polish Steamship Co., Szczecin  
 J.J. Uglund Companies, Grimstad  
 Euronav (UK) Agencies Limited, London  
 Aug. Bolten Wm. Miller's Nachfolger, Hamburg  
 Stolt Tankers B. V., Rotterdam  
 Meiji Shipping Co. Ltd., Tokyo  
 Wilh. Wilhelmsen ASA, Oslo  
 AET-Tankers PTE Limited, Kuala Lumpur

#### The Executive Committee

Trond Eilertsen, *Chairman*  
 Tadeusz Niszczoła  
 Morten W. Høegh  
 Jane Sy  
 Michael Say  
 Claes Isacson, *President*

Oslo  
 Polish Steamship Co., Szczecin  
 Leif Høegh (UK) Ltd., London  
 Stolt Tankers B. V., Rotterdam  
 Aug. Bolten Wm. Miller's Nachfolger, Hamburg

#### The Election Committee

Stephen Pan, *Chairman*  
 Bengt Hermelin,  
 Trond Eilertsen,  
 Herbjørn Hansson

World-Wide Shipping Agency Limited, Hong Kong  
 Samco Shipholding Pte. Ltd, Singapore  
 Oslo  
 Nordic American Tanker Shipping Limited, Bermuda

## Members of the Board of Directors, the Supervisory Committee and the Audit Committee of Assuranceforeningen Gard – gjensidig -

### The Board of Directors

Trond Eilertsen, <i>Chairman</i>	Oslo
Tadeusz Niszczoła, <i>Deputy Chairman</i>	Polish Steamship Co., Szczecin
Morten W. Høegh	Leif Høegh (UK) Ltd., London
Jane Sy	Stolt Tankers B.V., Rotterdam
Michael Say	Aug. Bolten Wm. Miller's Nachfolger, Hamburg
Claes Isacson, <i>Managing Director</i>	Gard AS, Arendal

### The Supervisory Committee

Stephen Knudtzon, <i>Chairman</i>	Oslo
Helge Aamodt	Bergshav Management AS, Grimstad
Claus Mørch	Anders Wilhelmsen & Co AS, Oslo
Arne Falkanger Thorsen	BW Gas ASA, Oslo

### The Audit Committee

Trond Eilertsen, <i>Chairman</i>	Oslo
Tadeusz Niszczoła, <i>Deputy Chairman</i>	Polish Steamship Co., Szczecin

## Members of the Board of Directors of Gard Marine & Energy Limited

### The Board of Directors

Trond Eilertsen, <i>Chairman</i>	Oslo
Tadeusz Niszczoła	Polish Steamship Co., Szczecin
Jane Sy	Stolt Tankers B. V., Rotterdam
Graham Everard	Bermuda
Claes Isacson, <i>President</i>	

## Members of the Board of Directors of Safeguard Guarantee Company Ltd

### The Board of Directors

Kjetil Eivindstad, <i>Chairman</i> ,	Arendal
Graham W. Everard	Lingard Limited, Bermuda
Christopher G. Garrod	Bermuda

## Members of the Board of Directors of Gard Reinsurance Co Ltd

### The Board of Directors

Stephen Pan, <i>Chairman</i>	World-Wide Shipping Agency Limited, Hong Kong
Trond Eilertsen	Oslo
Bengt Hermelin	Samco Shipholding Pte. Ltd, Singapore
Claes Isacson	Arendal
Timothy Faries	Bermuda

## Members of the Board of Directors of Lingard Limited

### The Board of Directors

Stephen Pan, *Chairman*  
Graham Everard  
Claes Isacson, *President*

World-Wide Shipping Agency Limited, Hong Kong  
Bermuda

## Members of the Board of Directors of Gard AS

### The Board of Directors

Trond Eilertsen, *Chairman*  
Tadeusz Niszczoła  
Jane Sy  
Claes Isacson  
Andreas Brachel  
Reidar Ebbesvik  
Erica Marcussen

Oslo  
Polish Steamship Co., Szczecin  
Stolt Tankers B. V., Rotterdam  
Arendal  
employee representative, Arendal  
employee representative, Bergen  
employee representative, Arendal

## APPENDIX 2

# Amended and restated Bye-Laws of Gard P. & I. (Bermuda) Ltd

Adopted 25 September 2007, as amended at the AGM held on 24 June 2009 and the AGM held on 23 June 2010.

### CHAPTER 1 GENERAL PROVISIONS

#### Article 1 Interpretation

1. In these Bye-Laws, these words or expressions shall have the following meanings:

<i>The Acts:</i>	The Companies Act 1981 and every Bermuda Statute from time to time in force in so far as the same apply to the Association.
<i>Alternate Director:</i>	A person appointed as an alternative for a Director in accordance with these Bye-Laws and the Acts.
<i>Association:</i>	Gard P. & I. (Bermuda) Ltd.
<i>Board:</i>	the Board of Directors of the Association.
<i>Directors:</i>	the members of the Board for the time being.
<i>General Meeting:</i>	the Members acting in General Meeting.
<i>Insurance:</i>	insurance - including reinsurance and cognate expressions shall be construed accordingly.
<i>Joint Members:</i>	where an entry gives rise to membership of the Association by more than one person, those persons.
<i>Manager:</i>	the Manager for the time being of the Association.
<i>Member:</i>	an owner, operator, charterer or insurer of a ship entitled to membership of the Association pursuant to Article 2.
<i>Norwegian Club:</i>	Assuranceforeningen Gard -gjensidig-.
<i>Rules:</i>	the Rules from time to time in force governing the whole or any part of the insurance provided by the Association.
<i>Ship:</i>	a ship and such other floating structure as may be approved by the Association from time to time.

Headings are for reference only and shall not affect the construction of these Bye-Laws.

#### Article 2 Membership

1. Any entry of a Ship by an owner, operator or charterer shall give rise to membership of the Association.
2. Any entry of a Ship by another insurer by way of reinsurance may, at the discretion of the Board, give rise to membership of the Association by that other insurer or by the owner, operator or charterer of that Ship.
3. Membership may be in respect of one or more of the Ships owned, operated, chartered or insured by the Member, and shall continue until all of the Member's entries have been terminated or shall have ceased.
4. Any entry shall be governed by these Bye-Laws and the Rules.
5. The Members shall have no direct liability for the obligations of the Association.

6. If and so long as the Norwegian Club is reinsured by the Association, the Norwegian Club and the members of the Norwegian Club shall be Members of the Association. The Association shall have all rights (including but not limited to, the right to levy deferred calls and/or supplementary calls) as the Norwegian Club has under the terms of entry agreed between the Norwegian Club and the individual Member.
7. Every Director of the Association whilst holding that office shall be a Member of the Association.

## **CHAPTER 2 GOVERNING CORPORATE BODIES**

### **Article 3 Governing corporate bodies**

The Association shall have a Board of Directors, an Executive Committee and an Election Committee.

### **Article 4 Composition of the Board of Directors**

1. The Board shall consist of not less than ten and not more than thirty-five Directors elected by the General Meeting. At each Annual General Meeting those Directors who have been in office for three years since the last election or re-election shall retire from office but can be re-elected, provided always that a Director cannot serve for a period of more than nine years continuously.
2. As soon as practicable after each Annual General Meeting, the Chairman of the Board and the Deputy Chairman of the Board shall be elected by and from amongst the Directors.

### **Article 5 Directors**

1. All persons who are Members of the Association and all executives of companies which are Members of the Association are eligible to become Directors or Alternate Directors of the Association. The office of Director or Alternate Director shall be vacated when the Director or Alternate Director attains the age of 70 years.
2. In addition, up to five persons not otherwise eligible under Article 5.1 may be elected Directors. Alternates for these Directors also need not be eligible under Article 5.1. Unless elected under this provision, the office of Director or Alternate Director shall be vacated immediately if the Director or Alternate Director ceases to be eligible for election.
3. Any Director or Alternate Director may act by himself or by his firm in a professional capacity for the Association and he or his firm shall be entitled to remuneration for professional services as if he were not a Director or Alternate Director.
4. No person may, in his capacity as a Director or Alternate Director, participate in the handling of a decision upon a matter in which he or those he represents have any material interest of a personal or financial nature.

### **Article 6 Functions of the Board of Directors**

1. The Board shall see to it that the objects of the Association are furthered in accordance with the Acts, these Bye-Laws and the decisions of the General Meeting. All the meetings of the Board shall take place in Bermuda or otherwise at a location outside Norway.
2. The Board shall manage the business of the Association and shall without limiting the generality of the foregoing:
  - a) approve the Bye-Laws and, as and when it deems appropriate, amend the Bye-Laws but the Bye-Laws and any such amendment shall be submitted to the General Meeting, and shall become operative only to such extent as approval is given by such General Meeting;
  - b) determine the Rules of the Association and the Board may empower the Managers to make such amendments to the Rules as the Board considers appropriate;
  - c) establish general principles for the administration of the funds of the Association;
  - d) determine annually any variation to be made in premium ratings in accordance with the Rules;
  - e) decide on the levy of deferred calls, supplementary calls and overspill calls or the repayment of excess advance calls, deferred calls, supplementary calls and overspill calls;
  - f) set the rates at which release contributions are to be levied;

- g) decide on the closing of open policy years;
  - h) pass claims for compensation and where appropriate determine whether a Member shall be compensated for the loss of a ship following confiscation and, if so, on what terms;
  - i) decide on the engagement and dismissal of the Managers and the terms of their contract of employment;
  - j) submit to the Annual General Meeting its recommendations on the election of the Directors and Alternate Directors;
  - k) determine what types of floating structure shall be eligible for entry in the Association and the Board may empower the Managers to make any such determination from time to time;
  - l) cause records of account to be kept in accordance with the Acts;
  - m) cause the accounts of the Association to be audited by the auditor appointed in conformity with these Bye-Laws and submit the audited accounts to the Annual General Meeting, together with its recommendations;
  - n) submit to General Meetings, together with its recommendations, all matters which the Chairman of the Board, the Board, or Members of the Association representing at least 100 votes, desire to be submitted to the Meeting;
  - o) cause the Association to enter into such reinsurance treaties as the Board may deem appropriate;
  - p) engage and dismiss the personnel of the Association and determine their conditions of service; and
  - q) at the first Board meeting following the Annual General Meeting, elect the members of the Executive Committee for the ensuing year from amongst the members of the Board
3. The Board shall exercise its powers, authorities and discretions in Bermuda or otherwise from a location outside Norway.
  4. The Board may delegate any of its powers, other than the power specified in Article 6.5 (b) below, to committees including two or more of the Directors, but every such committee shall conform to such directions as the Board shall impose on it. Any committee so appointed by the Board shall exercise its powers, authorities and discretions in Bermuda or otherwise from a location outside Norway.
  5. The Board may decide in any particular case:
    - a) that the Association shall accept an entry on terms or conditions that vary the provisions of these Bye-Laws or the Rules;
    - b) that the Association shall pay compensation in respect of a liability, loss, cost or expense which is not covered under the Rules where, in view of the objects of the Association, the Board deems that the payment of compensation is natural and desirable. The Board's decisions shall be final and binding on all interested parties. The Board shall not be obliged to give reasons for its decision.
  6. The Board shall determine the authority of the Managers and may from time to time delegate to them such of its powers, subject to such conditions and limitations (if any), as it deems appropriate, provided that the Managers are prohibited from undertaking any actions on behalf of the Association that under Norwegian law cannot be delegated by directors of a company. The Board cannot delegate the power to compensate a claim pursuant to Article 6.5 (b).
  7. A quorum shall be formed when five Directors are present of whom two Directors also shall be members of the Executive Committee. A Director may be represented by a proxy who is himself a Director or by his Alternate.
  8. Decisions shall be arrived at by a majority vote. In the event of an equal number of votes being cast, the chairman of the meeting shall have the deciding vote.
  9. The Board shall have the power to appoint any qualified person to fill a casual vacancy in the Board.
  10. In the event that the number of Directors has been reduced to below ten, the Board may act only for the purpose of increasing the number of Directors to ten, or summoning a General Meeting.

11. A resolution in writing signed by all the Directors shall be as valid as if it had been passed by a meeting of the Board, provided that no such resolution shall be valid unless both the signature of the last Director executing such resolution is affixed outside Norway, and a majority of the Directors execute such resolution outside Norway.
12. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Board. Notice of a meeting of the Board shall be deemed to be duly given to a Director if it is given by post, email or facsimile in accordance with any instructions given by such Director to the Association for this purpose.

#### **Article 7 Executive Committee**

1. The Executive Committee shall consist of at least five but not more than eight Directors and the President. The first members of the Executive Committee shall be elected by the members at the Extraordinary General Meeting called to approve these Bye-Laws. Thereafter, subject to Article 6.4, the Board shall elect the members of the Executive Committee and the members of the Executive Committee shall be elected each year at the first Board meeting held after the Annual General Meeting.
2. The Executive Committee shall administer the daily business of the Association. The Executive Committee shall also:
  - a) make amendments to the Rules, to the extent empowered by the Board;
  - b) administer the funds of the Association in accordance with the general principles laid down by the Board;
  - c) submit to the Board its proposal for the income and expenditure account and balance sheet, together with the consolidated income and expenditure account and balance sheet;
  - d) recommend to the Board any variation to be made in premium ratings in accordance with the Rules;
  - e) recommend to the Board the levy of deferred calls, supplementary calls and overspill calls or the repayment of excess advance calls, deferred calls, supplementary calls and overspill calls;
  - f) recommend to the Board the rates at which release calls are to be levied;
  - g) recommend to the Board the closing of open policy years;
  - h) make recommendations to the Board on the exercise of the Board's powers to compensate for the loss of a Ship following confiscation and, if so, on what terms;
  - i) enter into such reinsurance treaties as it may deem appropriate;
  - j) engage and dismiss the personnel of the Association and determine their conditions of service; and
  - k) establish bank accounts and determine the limits and signing authority on such bank accounts.
3. A quorum shall be formed when three of the members of the Executive Committee are present.
4. The Chairman and Deputy Chairman of the Executive Committee shall be elected every year by and from amongst the members of the Executive Committee.
5. Decisions shall be arrived at by a majority vote. In the event of an equal number of votes being cast, the chairman of the meeting shall have the deciding vote.

#### **Article 8 Election Committee**

1. The Association shall establish an Election Committee which shall make recommendations to the General Meeting for the election of all of the elected members of the Board.
2. The Election Committee shall be comprised of three but not more than four members elected by the General Meeting.
3. The Chairman of the Board shall be Chairman of the Election Committee.

**Article 9 General Meeting**

1. The General Meeting shall:
  - a) approve the Bye-Laws of the Association and any amendments thereto;
  - b) decide on the adoption of the audited accounts of the Association;
  - c) elect the Directors and Alternate Directors;
  - d) determine the remuneration of the members of the Board of Directors and Alternate Directors and members of the Executive Committee and the Election Committee;
  - e) appoint an independent representative of the Members as auditor of the accounts of the Association; and
  - f) make decisions on other matters which according to the Acts and these Bye-Laws are required to be done by the General Meeting.

The General Meeting can only make decisions on matters set out in the notice calling the meeting and on which the Board has made its recommendations.

2. The Annual General Meeting shall be held once in every calendar year, no later than six months after the end of the financial year of the Association. An Extraordinary General Meeting shall be called when required by the Chairman of the Board, the Board, or by Members of the Association representing not less than one-tenth of the total voting rights of all the Members.
3. General Meetings shall be called with not less than 14 days written notice. Such notice shall be given by the Board.
4. The Chairman of the Board, or in his absence the Deputy Chairman, shall take the chair at General Meetings. In the absence of both the Chairman and the Deputy Chairman, the General Meeting shall elect a chairman of the meeting. A Member may be represented by a proxy. A quorum shall be formed when not less than two Members or their proxies are present.
5. Members shall be entitled to a number of votes at General Meetings determined by reference to the total gross tonnage of ships entered in respect of them, whether directly or indirectly, as follows:
  - a) up to 20,000 gross tons - one vote;
  - b) 20,001 - 50,000 gross tons - two votes;
  - c) 50,001 - 100,000 gross tons - three votes;
  - d) 100,001 - 200,000 gross tons - four votes; and
  - e) thereafter, one additional vote for each 200,000 gross tons or part thereof, provided that –
    - (i) entries for a period of less than one year give no voting rights;
    - (ii) in respect of ships not measured in gross tons, the tonnage shall be determined by the Board at the time of entry;
    - (iii) Members whose ships are managed by one firm of managers shall have between them as many votes as they would have held if all the entered ships managed by the firm had belonged to one Member, and if such Members purport to exercise more votes than they are entitled to hereunder, all such votes shall be discounted; and
    - (iv) Joint Members shall have between them as many votes as they would have had if there had been only one Member in respect of the entry and their voting rights shall be vested in the Member named first in the certificate of entry.
6. Decisions shall be arrived at by a majority of the votes cast at the meeting, save that a two-thirds majority shall be required to amend these Bye-Laws and the Association may only be wound-up or amalgamated by a vote in accordance with Article 12.1. In the event of an equal number of votes being cast, the chairman of the meeting shall cast the deciding vote.
7. In the event that the Association has no Members whose risks are insured in the Association, each Director shall have one vote at General Meetings.

8. No General Meeting of the Association shall be held in Norway.

### **CHAPTER 3 MISCELLANEOUS PROVISIONS**

#### **Article 10 Manager**

1. Lingard Limited shall be the Manager of the Association.
2. The Manager shall be entitled to attend meetings of the Board and all sub-committees, (including but not limited to the Executive Committee) established by the Board and all Annual and Extraordinary General Meetings of the Association.
3. Whenever any power, duty or discretion is delegated to the Managers pursuant to these Bye-Laws or the insurance management agreement dated 20 February 2007 between the Association and Lingard Limited, such power, duty or discretion may, subject to any terms, conditions or restrictions imposed upon the Manager in relation thereto either pursuant to these Bye-Laws or, as the case may be the said insurance management agreement, be exercised by any servant or agent of the Manager to whom the same shall have been delegated or sub-delegated.

#### **Article 11 Financial Year**

The Association's financial year shall terminate immediately prior to noon GMT on 20th February each year.

#### **Article 12 Winding up and amalgamation**

1. The General Meeting may decide to wind-up the Association or to amalgamate it with another association if at least two-thirds of the total number of all Member votes are cast in favour of such action. If a majority of the votes cast is in favour of such action but less than two-thirds of all Member votes are cast, the matter may be submitted to another General Meeting in which case winding-up or amalgamation may be decided upon by a majority of three-quarters of the votes cast.
2. Upon winding-up, after the Association's liabilities have been satisfied, any remaining assets shall be disposed of by the General Meeting.

#### **Article 13 Indemnity**

1. Every Director and other officer of the Association shall be indemnified by the Association against, and it shall be the duty of the Directors out of the funds of the Association to pay, all costs, losses and expenses which any such Director, or other officer may incur or become liable to by reason of any contract entered into, or act or thing done, by him as such Director or other officer, or in any other way in the discharge of his duties, provided that the indemnity contained in this Bye-Law shall not extend to any matter which would render it void under the Acts.
2. No Director or other officer of the Association shall be liable for the acts, receipts, neglects or defaults of any other Director or officer, or for joining in any receipt or act for conformity, or for any loss or expense happening to the Association through the insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the Association, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Association shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortuous act of any person with whom any moneys, securities or effects shall be deposited or for any loss occasioned by any error of judgement, omission, default or oversight on his part, or for any other loss or damage or misfortune whatever which shall happen in relation to the execution of the duties of his office or in relation thereto, unless the same happened through his own wilful negligence, wilful default, fraud or dishonesty.
3. The Managers shall be entitled to the same indemnity and exemption from liability as is given to the Directors and other officers of the Association by this Bye-Law.
4. For the purposes of these Bye-Laws, "the Managers" means any one or more of the Managers and any and all servants and agents of the Managers to whom duties of the Managers have been entrusted.

#### **Article 14 Governing law**

These Bye-Laws shall be governed by the laws of Bermuda.

## APPENDIX 3

# Statutes for Assuranceforeningen Gard –gjensidig-

### CHAPTER 1 GENERAL PROVISIONS

#### Article 1 Name and head office

The name of the company is Assuranceforeningen Gard – gjensidig. The Association was founded on 9 October 1907 and has its head office in Arendal, Norway.

#### Article 2 Interpretation

1. In these Statutes these words and expressions shall have the following meanings:

“Association” means Assuranceforeningen Gard – gjensidig;

“Member” means an owner, operator, charterer or insurer of a Ship entitled to membership of the Association pursuant to Article 4;

“Joint Members” means, where an entry gives rise to membership of the Association by more than one person, those persons;

“Rules” means the Rules of the Association for P&I and Defence cover for ships and other floating structures or the Rules of the Association for P&I cover of mobile offshore units, as the case may be.

“Ship” means a ship or such other floating structure as may be approved by the Association from time to time.

2. Headings are for reference only, and shall not affect the construction of these Statutes.

#### Article 3 Purpose

The purpose of the Association is to insure on mutual basis liabilities, losses, costs and expenses incurred by the Members in direct connection with the operation of Ships entered in the Association and to be engaged in other business related thereto.

#### Article 4 Membership

1. Any entry of a Ship by an owner, operator or charterer shall give rise to membership of the Association.
2. Any entry of a Ship by another insurer by way of reinsurance may (at the discretion of the Association) give rise to membership of the Association by that other insurer or by the owner, operator or charterer of that Ship.
3. Membership may be in respect of one or more of the Ships owned, operated, chartered or insured by the Member, and shall continue until all of the Member’s entries have been terminated or shall have ceased.
4. Any entry shall be governed by these Statutes and by the Rules.
5. The Members shall have no direct liability for the obligations of the Association.
6. In accordance with the Rules a deficit may be levied on, and surplus advance calls, deferred calls and supplementary calls, as defined in the Rules, repaid to, the Members in proportion to their net advance calls for the policy year.
7. The Members together with the Association shall be members of Gard P&I (Bermuda) Limited, which membership shall be governed by the Memorandum of Association and Bye-Laws of Gard P&I (Bermuda) Limited.

### CHAPTER 2 GOVERNING CORPORATE BODIES

#### Article 5 Governing corporate bodies

The Association shall have a Board of Directors, a Supervisory Committee and a General Meeting.

#### Article 6 Composition of the Board of Directors

1. The Board of Directors shall consist of the Managing Director and at least five, but not more than eight members elected by the General Meeting. Every year the elected member who has the longest period of service, reckoned in accordance with Article 7.4 shall retire, but may be re-elected.

2. The Chairman and the Deputy Chairman of the Board of Directors shall be elected every year by and from amongst the members of the Board of Directors.

**Article 7 Members of the Board of Directors**

1. All persons who are Members of the Association and all executives of companies which are Members of the Association are eligible to serve as members of the Board of Directors. Member who is no longer eligible shall cease to serve.
2. In addition, up to two persons not otherwise eligible may be elected members of the Board of Directors.
3. No person may be elected or re-elected to the Board of Director after having attained the age of 70 years. A member of the Board of Directors having reached the age limit may continue to serve the remainder of the period for which he has been elected.
4. The period of service of a member of the Board of Director shall be reckoned from the date of his/her last election to the position. If several persons have equally long periods of service, retirement pursuant to Articles 6.1 shall be decided upon by a draw.
5. No person may, in his capacity as member of the Board of Director participate in the handling of a decision upon a matter in which he or those he represents have any material interest of a personal or financial nature.
6. A member of the Board of Directors who incurs liability by reason of his office shall be indemnified and held harmless by the Association against any losses, costs or expenses thereby arising.

**Article 8 Meetings of the Board of Directors**

1. The Board of Directors shall meet regularly and at least four times per year. The Board of Directors shall meet when demanded in writing by a member of the Board of Director or the Managing Director. The meetings are chaired by the Chairman or in his absence the Deputy Chairman. In the absence of both the Chairman and the Deputy Chairman, the members of the Board of Directors present shall elect a chairman for the meeting.
2. A quorum shall be formed when half of the members of the Board of Directors are present. However, the Board of Directors may not adopt a resolution without all members of the Board of Directors having been given an opportunity, in so far as possible, to participate in the discussion of the matter in question.
3. Decisions shall be arrived at by a majority vote. However, those who have voted in favour of a resolution involving an amendment or change must always constitute more than one third of the members of the Board of Directors. In the event of an equal number of votes being cast, the chairman of the meeting shall have the deciding vote.
4. Minutes shall be taken of the meetings of the Board of Directors. The minutes shall be signed by all members of the Board of Directors participating in the meeting. Members of the Board of Directors having not participated in a meeting shall be informed about decisions taken at that meeting.

**Article 9 Functions of the Board of Directors**

1. The Board of Directors is responsible for the daily business of the Association; for making such decisions as are not within the province of any other governing corporate body; and for seeing to that the purpose of the Association is furthered in accordance with these Statutes, the governing law, and the decisions of the General Meeting.
2. The Board of Directors shall also:
  - a) determine the Rules;
  - b) establish general principles for the administration of the funds of the Association and administer the funds in accordance with the agreed principles;
  - c) determine annually any variation to be made in premium ratings in accordance with the Rules;
  - d) decide on the levy of deferred calls, supplementary calls and overspill calls or the repayment of excess advance calls, deferred calls, supplementary calls and overspill calls as defined in the Rules;
  - e) set the rates at which release calls are to be levied;
  - f) decide on the closing of open policy years;
  - g) determine whether a Member should be compensated for the loss of a Ship, pursuant to Rule 49 of the Rules;
  - h) decide on the engagement and dismissal of the Managing Director and on his condition of service;
  - i) determine which types of floating structure shall be eligible for entry with the Association;
  - j) enter into such reinsurance treaties as deemed appropriate;
  - k) pass claims for compensation;

- l) submit to the Annual General Meeting, together with its recommendations, the income and expenditure account and balance sheet and the consolidated income and expenditure account and balance sheet; and
  - m) submit to the General Meeting, together with its recommendations, all matters which the Chairman of the Board of Directors or Members of the Association representing at least 100 votes desire to be submitted to the General Meeting.
- 3 In any particular case the Board of Directors may decide:
- a) that the Association shall accept an entry on terms or conditions that vary the provisions of these Statutes or the Rules; and
  - b) that the Association shall pay compensation in respect of a liability, loss, cost or expense which is not covered under the Rules where in view of the purpose of the Association this is deemed natural and desirable. The Board of Directors' decision is final and it shall be under no obligation to give reasons for its decision.

#### **Article 10 Managing Director**

The Association shall have a Managing Director. The Managing Director shall administer the daily business of the Association, implement decisions of the Board of Directors and otherwise take care of the interests of the Association. The Board of Directors shall determine the authority of the Managing Director and may, to the extent necessary, delegate its powers to him, except that it shall itself make any decision which it is empowered to make under Article 9.3.b.

#### **Article 11 Supervisory Committee**

1. The Supervisory Committee shall carry out the supervision of the operations of the Association in accordance with instructions established by the General Meeting.
2. The Supervisory Committee shall consist of four members elected by the General Meeting. Every year the member who has the longest period of service, reckoned from the date of his last election, shall retire from the Supervisory Committee, but may be re-elected. If several members have equally long periods of service, retirement shall be decided upon by a draw.
3. The Chairman and Deputy Chairman of the Supervisory Committee shall be elected every year by and from amongst the members of the Supervisory Committee.

#### **Article 12 General Meeting**

1. The General Meeting is the Association's highest authority.
2. General Meetings shall be called by the Board of Directors with not less than 14 days' written notice.
3. The Chairman of the Board of Directors, or, in his absence, the Deputy Chairman shall take the chair at General Meetings. In the absence of both the Chairman and the Deputy Chairman, the General Meeting shall elect a chairman of the meeting.
4. The Chairman of the Meeting is responsible for making a record of the Members present at the meeting either in person or by proxy. The record shall state how many votes each of the Members present in person or by proxy represent.
5. The Chairman of the Meeting is also responsible for minutes being taken of the meeting. Any resolutions adopted by the General Meeting shall be entered in the minutes with a statement of the voting result. The record of those present at the meeting shall be included in the minutes. The minutes of the meeting shall be signed by the Chairman of the meeting and at least one other person elected by the General Meeting among those present. The minutes shall be available to the Members at the Association's premises and shall be stored in an adequate manner.
6. A quorum shall be formed regardless of the number of Members present. A Member may be represented by a proxy.
7. Members shall be entitled to a number of votes at General Meetings determined by reference to the total gross tonnage of ships entered by them, as follows:
  - a up to 20,000 gross tons – one vote;
  - b 20,001 – 50,000 gross tons – two votes;
  - c 50,001 – 100,000 gross tons – three votes;
  - d 100,001 – 200,000 gross tons – four votes;
  - e thereafter, one additional vote for each 200,000 gross tons or part thereof, provided that
    - (i) entries for a period of less than one year give no voting rights;

- (ii) in respect of ships not measured in gross tons, tonnage shall be determined by the Association at the time of entry;
  - (iii) Members whose ships are managed by one firm of managers shall have between them as many votes as they would have held if all the entered ships managed by the firm had belonged to one Member, and if such Members purport to exercise more votes than they are entitled to hereunder, all such votes shall be discounted; and
  - (iv) Joint Members shall have between them as many votes as they would have had if there had been only one Member in respect of the entry, and their voting rights shall be vested in the Member named first in the certificate of entry.
8. Decisions shall be arrived at by a majority vote, save that a two thirds majority shall be required to amend these Statutes in accordance with Article 15, and the Association may only be dissolved or amalgamated by a vote in accordance with Article 18. In the event of an equal number of votes being cast, the Chairman of the meeting shall cast the deciding vote.

#### **Article 13 Annual General Meeting**

1. The Annual General Meeting shall be held no later than six months after the end of the financial year, to:
  - a) approve the income and expenditure account and balance sheet and the consolidated income and expenditure account and balance sheet;
  - b) elect the members of the Board of Directors and the Supervisory Committee;
  - c) determine the remuneration of the members of the Board of Directors and the Supervisory Committee;
  - d) elect auditor and determine his remuneration; and
  - e) decide on other matters which are within the province of the General Meeting and which are set out in the notice calling the meeting.
2. The Annual Account together with the Auditor's report and the Board of Directors' recommendation shall be made available to the Members at the head office of the Association not less than one week before the Annual General Meeting and shall only be sent to the Members on request.

#### **Article 14 Extraordinary General Meeting**

1. An Extraordinary General Meeting shall be called for the determination of specifically declared matters when the Board of Directors deem it necessary.
2. An Extraordinary General Meeting shall also be called by the Board of Directors within two weeks for the determination of specifically declared matters, when demanded in writing by the auditor elected pursuant to Article 13 or by Members who together represent at least 100 votes.

### **CHAPTER 3 MISCELLANEOUS PROVISIONS**

#### **Article 15 Changes to the Statutes**

These statutes can only be changed by the General Meeting.

#### **Article 16 Signatories for the Association**

The Association is committed by the signature of the Chairman of the Board of Directors, or by the signatures of two members of the Board of Directors jointly, or by the signature of the Managing Director.

#### **Article 17 Financial year**

The Association's financial year shall terminate immediately prior to noon GMT on 20th February each year.

#### **Article 18 Dissolution of the Association**

1. The General Meeting may decide to dissolve the Association or to amalgamate it with another association if at least two thirds of the total number of all Member votes are cast in favour of such action. If a majority of the votes cast is in favour of such action, but less than two thirds of all Member votes are cast, the matter may be submitted to another General Meeting in which case dissolution or amalgamation may be decided upon by a majority of three quarters of the votes cast.
2. Upon dissolution, any surplus realised after discharge of the liabilities of the Association shall be disposed of by the General Meeting. In case of amalgamation any such surplus may, in the discretion of the General Meeting, be so disposed of or transferred to the new Association.

**Article 19 Governing law and arbitration**

1. These Statutes shall be governed by Norwegian law.
  
2. Unless otherwise agreed, disputes between the Association and a Member or a former Member arising out of membership of the Association or these Statutes shall be resolved by arbitration in accordance with the Norwegian Arbitration Act of 14 May 2004, No 25. Each party shall nominate one arbitrator and those so nominated shall appoint an umpire. If the arbitrators cannot agree on an umpire or a party fails to nominate his arbitrator, the nomination shall be made by the Chief Justice of the Oslo City Court. Reasons shall be given for the award. Arbitration proceedings shall take place in Oslo. The award shall not be published unless the parties involved consent to it.

## APPENDIX 4

### Bye Laws Gard Marine & Energy Limited

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**INTERPRETATION**

## 1 Definitions and Interpretation

## 1.1 In these Bye-Laws, unless the context otherwise requires:

“**Alternate Director**” means an alternate Director appointed to the Board as provided for in these Bye-Laws;

“**Auditor**” means the person or firm for the time being appointed as auditor of the Company;

“**Bermuda**” means the Islands of Bermuda;

“**Board**” means the Directors of the Company appointed or elected pursuant to these Bye-Laws and acting by resolution as provided for in the Act and in these Bye-Laws or the Directors present at a meeting of Directors at which there is a quorum;

“**Companies Acts**” means every Bermuda statute from time to time in force concerning companies insofar as the same applies to the Company;

“**Company**” means the company incorporated in Bermuda under the name of Gard Marine & Energy Limited on 9 December, 2003;

“**Director**” means such person or persons appointed or elected to the Board from time to time pursuant to these Bye-Laws and includes an Alternate Director;

“**Indemnified Person**” means any Director, Officer, Resident Representative, member of a committee duly constituted under these Bye-Laws and any liquidator, manager or trustee for the time being acting in relation to the affairs of the Company, and his heirs, executors and administrators;

“**Officer**” means a person appointed by the Board pursuant to these Bye-Laws but shall not include the Auditor;

“**paid up**” means paid up or credited as paid up;

“**Register**” means the Register of Shareholders of the Company maintained by the Company in Bermuda;

“**Registered Office**” means the registered office of the Company which shall be at such place in Bermuda as the Board shall from time to time determine;

“**Resident Representative**” means (if any) the individual or the company appointed to perform the duties of resident representative set out in the Companies Acts and includes any assistant or deputy Resident Representative appointed by the Board to perform any of the duties of the Resident Representative;

“**Resolution**” means a resolution of the Shareholders passed in a general meeting or, where required, of a separate class or separate classes of shareholders passed in a separate general meeting or in either case adopted by resolution in writing, in accordance with the provisions of these Bye-Laws;

“**Seal**” means the common seal of the Company and includes any authorised duplicate thereof;

“**Secretary**” means the individual or the company appointed by the Board to perform any of the duties of the Secretary and includes a temporary or assistant or deputy Secretary;

“**share**” means share in the capital of the Company and includes a fraction of a share;

“**Shareholder**” means a shareholder or member of the Company provided that for the purposes of Bye-Law 42 it shall also include any holder of notes, debentures or bonds issued by the Company;

“**these Bye-Laws**” means these Bye-Laws in their present form.

1.2 For the purposes of these Bye-Laws, a corporation which is a shareholder shall be deemed to be present in person at a general meeting if, in accordance with the Companies Acts, its authorised representative is present.

1.3 Words importing only the singular number include the plural number and vice versa.

1.4 Words importing only the masculine gender include the feminine and neuter genders respectively.

- 1.5 Words importing persons include companies, associations, bodies of persons, whether corporate or not.
- 1.6 A reference to writing shall include typewriting, printing, lithography, photography and electronic record.
- 1.7 Any words or expressions defined in the Companies Acts in force at the date when these Bye-Laws or any part thereof are adopted shall bear the same meaning in these Bye-Laws or such part (as the case may be).

## REGISTERED OFFICE

### 2 Registered Office

The Registered Office shall be at such place in Bermuda as the Board shall from time to time appoint.

## SHARES AND SHARE RIGHTS

### 3 Share Rights

- 3.1 Subject to any special rights conferred on the holders of any share or class of shares, any share in the Company may be issued with or have attached thereto such preferred, deferred, qualified or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise, as the Company may by Resolution determine or, if there has not been any such determination or so far as the same shall not make specific provision, as the Board may determine.
- 3.2 Subject to the Companies Acts, any preference shares may, with the sanction of a resolution of the Board, be issued on terms:
  - 3.2.1 that they are to be redeemed on the happening of a specified event or on a given date; and/or,
  - 3.2.2 that they are liable to be redeemed at the option of the Company; and/or,
  - 3.2.3 if authorised by the memorandum of association of the Company, that they are liable to be redeemed at the option of the holder.

The terms and manner of redemption shall be provided for in such resolution of the Board and shall be attached to but shall not form part of these Bye-Laws.

- 3.3 The Board may, at its discretion and without the sanction of a Resolution, authorise the purchase by the Company of its own shares upon such terms as the Board may in its discretion determine, provided always that such purchase is effected in accordance with the provisions of the Companies Acts.
- 3.4 The Board may, at its discretion and without the sanction of a Resolution, authorise the acquisition by the Company of its own shares, to be held as treasury shares, upon such terms as the Board may in its discretion determine, provided always that such acquisition is effected in accordance with the provisions of the Companies Acts. The Company shall be entered in the Register as a Shareholder in respect of the shares held by the Company as treasury shares and shall be a Shareholder of the Company but subject always to the provisions of the Companies Acts and for the avoidance of doubt the Company shall not exercise any rights and shall not enjoy or participate in any of the rights attaching to those shares save as expressly provided for in the Companies Act.

### 4 Modification of Rights

- 4.1 Subject to the Companies Acts, all or any of the special rights for the time being attached to any class of shares for the time being issued may from time to time (whether or not the Company is being wound up) be altered or abrogated with the consent in writing of the holders of not less than seventy five percent (75%) of the issued shares of that class or with the sanction of a resolution passed at a separate general meeting of the holders of such shares voting in person or by proxy. To any such separate general meeting, all the provisions of these Bye-Laws as to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be one or more persons holding or representing by proxy any of the shares of the relevant class, that every holder of shares of the relevant class shall be entitled on a poll to one vote for every such share held by him and that any holder of shares of the relevant class present in person or by proxy may demand a poll.
- 4.2 The special rights conferred upon the holders of any shares or class of shares shall not, unless otherwise expressly provided in the rights attaching to or the terms of issue of such shares, be deemed to be altered by the creation or issue of further shares ranking *pari passu* therewith.

### 5 Shares

- 5.1 Subject to the provisions of these Bye-Laws, the unissued shares of the Company (whether forming part of the original capital or any increased capital) shall be at the disposal of the Board, which may offer, allot, grant options over or otherwise dispose of them to such persons, at such times and for such consideration and upon such terms and conditions as the Board may determine.
- 5.2 Subject to the provisions of these Bye-Laws, any shares of the Company held by the Company as treasury shares shall be at the disposal of the Board, which may hold all or any of the shares, dispose of or transfer all or any of the shares for cash or other consideration, or cancel all or any of the shares.

- 5.3 The Board may in connection with the issue of any shares exercise all powers of paying commission and brokerage conferred or permitted by law.
- 5.4 Except as ordered by a court of competent jurisdiction or as required by law, no person shall be recognised by the Company as holding any share upon trust and the Company shall not be bound by or required in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or in any fractional part of a share or (except only as otherwise provided in these Bye-Laws or by law) any other right in respect of any share except an absolute right to the entirety thereof in the registered holder.
- 6 Certificates
- 6.1 The Company shall be under no obligation to complete and deliver a share certificate unless specifically called upon to do so by the person to whom the shares have been issued. In the case of a share held jointly by several persons, delivery of a certificate to one of several joint holders shall be sufficient delivery to all.
- 6.2 If a share certificate is defaced, lost or destroyed, it may be replaced without fee but on such terms (if any) as to evidence and indemnity and to payment of the costs and out of pocket expenses of the Company in investigating such evidence and preparing such indemnity as the Board may think fit and, in case of defacement, on delivery of the old certificate to the Company.
- 6.3 All certificates for share or loan capital or other securities of the Company (other than letters of allotment, scrip certificates and other like documents) shall, except to the extent that the terms and conditions for the time being relating thereto otherwise provide, be issued under the Seal or signed by a Director, the Secretary or any person authorised by the Board for that purpose. The Board may by resolution determine, either generally or in any particular case, that any signatures on any such certificates need not be autographic but may be affixed to such certificates by some mechanical means or may be printed thereon or that such certificates need not be signed by any persons.
- 7 Lien
- 7.1 The Company shall have a first and paramount lien on every share (not being a fully paid share) for all monies, whether presently payable or not, called or payable, at a date fixed by or in accordance with the terms of issue of such share in respect of such share, and the Company shall also have a first and paramount lien on every share (other than a fully paid share) standing registered in the name of a Shareholder, whether singly or jointly with any other person, for all the debts and liabilities of such Shareholder or his estate to the Company, whether the same shall have been incurred before or after notice to the Company of any interest of any person other than such Shareholder, and whether the time for the payment or discharge of the same shall have actually arrived or not, and notwithstanding that the same are joint debts or liabilities of such Shareholder or his estate and any other person, whether a Shareholder or not. The Company's lien on a share shall extend to all dividends payable thereon. The Board may at any time, either generally or in any particular case, waive any lien that has arisen or declare any share to be wholly or in part exempt from the provisions of this Bye-Law.
- 7.2 The Company may sell, in such manner as the Board may think fit, any share on which the Company has a lien but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of fourteen (14) days after a notice in writing, stating and demanding payment of the sum presently payable and giving notice of the intention to sell in default of such payment, has been served on the holder for the time being of the share.
- 7.3 The net proceeds of sale by the Company of any shares on which it has a lien shall be applied in or towards payment or discharge of the debt or liability in respect of which the lien exists so far as the same is presently payable, and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the share prior to the sale) be paid to the person who was the holder of the share immediately before such sale. For giving effect to any such sale, the Board may authorise some person to transfer the share sold to the purchaser thereof. The purchaser shall be registered as the holder of the share and he shall not be bound to see to the application of the purchase money, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings relating to the sale.
- 8 Calls on Shares
- 8.1 The Board may from time to time make calls upon the Shareholders (for the avoidance of doubt excluding the Company in respect of any nil or partly paid shares held by the Company as treasury shares) in respect of any monies unpaid on their shares (whether on account of the par value of the shares or by way of premium) and not by the terms of issue thereof made payable at a date fixed by or in accordance with such terms of issue, and each Shareholder shall (subject to the Company serving upon him at least fourteen (14) days notice specifying the time or times and place of payment) pay to the Company at the time or times and place so specified the amount called on his shares. A call may be revoked or postponed as the Board may determine.
- 8.2 A call may be made payable by instalments and shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed.
- 8.3 The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

- 8.4 If a sum called in respect of the share shall not be paid before or on the day appointed for payment thereof the person from whom the sum is due shall pay interest on the sum from the day appointed for the payment thereof to the time of actual payment at such rate as the Board may determine, but the Board shall be at liberty to waive payment of such interest wholly or in part.
- 8.5 Any sum which, by the terms of issue of a share, becomes payable on allotment or at any date fixed by or in accordance with such terms of issue, whether on account of the nominal amount of the share or by way of premium, shall for all the purposes of these Bye-Laws be deemed to be a call duly made, notified and payable on the date on which, by the terms of issue, the same becomes payable and, in case of non-payment, all the relevant provisions of these Bye-Laws as to payment of interest, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.
- 8.6 The Board may on the issue of shares differentiate between the allottees or holders as to the amount of calls to be paid and the times of payment.
- 9 Forfeiture of Shares
- 9.1 If a Shareholder fails to pay any call or instalment of a call on the day appointed for payment thereof, the Board may at any time thereafter during such time as any part of such call or instalment remains unpaid serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
- 9.2 The notice shall name a further day (not being less than fourteen (14) days from the date of the notice) on or before which, and the place where, the payment required by the notice is to be made and shall state that, in the event of non-payment on or before the day and at the place appointed, the shares in respect of which such call is made or instalment is payable will be liable to be forfeited. The Board may accept the surrender of any share liable to be forfeited hereunder and, in such case, references in these Bye-Laws to forfeiture shall include surrender.
- 9.3 If the requirements of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls or instalments and interest due in respect thereof has been made, be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
- 9.4 When any share has been forfeited, notice of the forfeiture shall be served upon the person who was before forfeiture the holder of the share but no forfeiture shall be in any manner invalidated by any omission or neglect to give such notice as aforesaid.
- 9.5 A forfeited share shall be deemed to be the property of the Company and may be sold, re-offered or otherwise disposed of 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 Board shall think fit, and at any time before a sale, re-allotment or disposition the forfeiture may be cancelled on such terms as the Board may think fit.
- 9.6 A person whose shares have been forfeited shall thereupon cease to be a Shareholder in respect of the forfeited shares but shall, notwithstanding the forfeiture, remain liable to pay to the Company all monies which at the date of forfeiture were presently payable by him to the Company in respect of the shares with interest thereon at such rate as the Board may determine from the date of forfeiture until payment, and the Company may enforce payment without being under any obligation to make any allowance for the value of the shares forfeited.
- 9.7 An affidavit in writing that the deponent is a Director of the Company or the Secretary and that a share has been duly forfeited on the date stated in the affidavit shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The Company may receive the consideration (if any) given for the share on the sale, re-allotment or disposition thereof and the Board may authorise some person to transfer the share to the person to whom the same is sold, re-allotted or disposed of, and he shall thereupon be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any) nor shall his title to the share be affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale, re-allotment or disposal of the share.

## REGISTER OF SHAREHOLDERS

### 10 Register of Shareholders

The Secretary shall establish and maintain the Register at the Registered Office in the manner prescribed by the Companies Acts. Unless the Board otherwise determines, the Register shall be open to inspection in the manner prescribed by the Companies Acts between 10:00 a.m. and 12:00 noon on every working day. Unless the Board so determines, no Shareholder or intending Shareholder shall be entitled to have entered in the Register any indication of any trust or any equitable, contingent, future or partial interest in any share or any fractional part of a share and if any such entry exists or is permitted by the Board it shall not be deemed to abrogate any of the provisions of Bye-Law 5.4.

**REGISTER OF DIRECTORS AND OFFICERS**

## 11 Register of Directors and Officers

The Secretary shall establish and maintain a register of the Directors and Officers of the Company as required by the Companies Acts. The register of Directors and Officers shall be open to inspection in the manner prescribed by the Companies Acts between 10:00 a.m. and 12:00 noon on every working day.

**TRANSFER OF SHARES**

## 12 Transfer of Shares

- 12.1 Subject to the Companies Acts and to such of the restrictions contained in these Bye-Laws as may be applicable, any Shareholder may transfer all or any of his shares by an instrument of transfer in the usual common form or in any other form which the Board may approve. No such instrument shall be required on the redemption of a share or on the purchase by the Company of a share.
- 12.2 The instrument of transfer of a share shall be signed by or on behalf of the transferor and where any share is not fully-paid, the transferee. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof. All instruments of transfer when registered may be retained by the Company. The Board may, in its absolute discretion and without assigning any reason therefor, decline to register any transfer of any share which is not a fully-paid share. The Board may also decline to register any transfer unless:
- 12.2.1 the instrument of transfer is duly stamped (if required by law) and lodged with the Company, accompanied by the certificate for the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer,
- 12.2.2 the instrument of transfer is in respect of only one class of share, and
- 12.2.3 where applicable, the permission of the Bermuda Monetary Authority with respect thereto has been obtained.
- 12.3 Subject to any directions of the Board from time to time in force, the Secretary may exercise the powers and discretions of the Board under this Bye-Law.
- 12.4 If the Board declines to register a transfer it shall, within three (3) months after the date on which the instrument of transfer was lodged, send to the transferee notice of such refusal.
- 12.5 No fee shall be charged by the Company for registering any transfer, probate, letters of administration, certificate of death or marriage, power of attorney, stop notice, order of court or other instrument relating to or affecting the title to any share, or otherwise making an entry in the Register relating to any share.

**TRANSMISSION OF SHARES**

## 13 Transmission of Shares

- 13.1 In the case of the death of a Shareholder, the survivor or survivors, where the deceased was a joint holder, and the estate representative, where he was sole holder, shall be the only person recognised by the Company as having any title to his shares; but nothing herein contained shall release the estate of a deceased holder (whether the sole or joint) from any liability in respect of any share held by him solely or jointly with other persons. For the purpose of this Bye-Law, estate representative means the person to whom probate or letters of administration has or have been granted in Bermuda or, failing any such person, such other person as the Board may in its absolute discretion determine to be the person recognised by the Company for the purpose of this Bye-Law.
- 13.2 Any person becoming entitled to a share in consequence of the death of a Shareholder or otherwise by operation of applicable law may, subject as hereafter provided and upon such evidence being produced as may from time to time be required by the Board as to his entitlement, either be registered himself as the holder of the share or elect to have some person nominated by him registered as the transferee thereof. If the person so becoming entitled elects to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have his nominee registered, he shall signify his election by signing an instrument of transfer of such share in favour of his nominee. All the limitations, restrictions and provisions of these Bye-Laws relating to the right to transfer and the registration of transfer of shares shall be applicable to any such notice or instrument of transfer as aforesaid as if the death of the Shareholder or other event giving rise to the transmission had not occurred and the notice or instrument of transfer was an instrument of transfer signed by such Shareholder.
- 13.3 A person becoming entitled to a share in consequence of the death of a Shareholder or otherwise by operation of applicable law shall (upon such evidence being produced as may from time to time be required by the Board as to his entitlement) be entitled to receive and may give a discharge for any dividends or other monies payable in respect of the share, but he shall not be entitled in respect of the share to receive notices of or to attend or vote at general meetings of the Company or, save as aforesaid, to exercise in respect of the share any of the rights or privileges of a Shareholder until he shall have become registered as the holder thereof. The Board may at any time give notice requiring such person to elect either to be registered himself or to transfer the share and, if the notice is not complied with within sixty (60) days, the Board may thereafter withhold payment of all dividends and other monies payable in respect of the shares until the requirements of the notice have been complied with.

- 13.4 Subject to any directions of the Board from time to time in force, the Secretary may exercise the powers and discretions of the Board under this Bye-Law.

## SHARE CAPITAL

### 14 Increase of Capital

- 14.1 The Company may from time to time increase its capital by such sum to be divided into shares of such par value as the Company by Resolution shall prescribe.
- 14.2 The Company may, by the Resolution increasing the capital, direct that the new shares or any of them shall be offered in the first instance either at par or at a premium or (subject to the provisions of the Companies Acts) at a discount to all the holders for the time being of shares of any class or classes in proportion to the number of such shares held by them respectively or make any other provision as to the issue of the new shares.
- 14.3 The new shares shall be subject to all the provisions of these Bye-Laws with reference to lien, the payment of calls, forfeiture, transfer, transmission and otherwise.

### 15 Alteration of Capital

- 15.1 The Company may from time to time by Resolution:
- 15.1.1 divide its shares into several classes and attach thereto respectively any preferential, deferred, qualified or special rights, privileges or conditions;
- 15.1.2 consolidate and divide all or any of its share capital into shares of larger par value than its existing shares;
- 15.1.3 sub-divide its shares or any of them into shares of smaller par value than is fixed by its memorandum, 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;
- 15.1.4 make provision for the issue and allotment of shares which do not carry any voting rights;
- 15.1.5 cancel shares which, at the date of the passing of the Resolution in that behalf, 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; and
- 15.1.6 change the currency denomination of its share capital.
- 15.2 Where any difficulty arises in regard to any division, consolidation, or sub-division under this Bye-Law, the Board may settle the same as it thinks expedient and, in particular, may arrange for the sale of the shares representing fractions and the distribution of the net proceeds of sale in due proportion amongst the Shareholders who would have been entitled to the fractions, and for this purpose the Board may authorise some person to transfer the shares representing fractions to the purchaser thereof, who shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings relating to the sale.
- 15.3 Subject to the Companies Acts and to any confirmation or consent required by law or these Bye-Laws, the Company may by Resolution from time to time convert any preference shares into redeemable preference shares.

### 16 Reduction of Capital

- 16.1 Subject to the Companies Acts, its memorandum and any confirmation or consent required by law or these Bye-Laws, the Company may from time to time by Resolution authorise the reduction of its issued share capital or any share premium account in any manner.
- 16.2 In relation to any such reduction, the Company may by Resolution determine the terms upon which such reduction is to be effected including, in the case of a reduction of part only of a class of shares, those shares to be affected.

## GENERAL MEETINGS AND RESOLUTIONS IN WRITING

### 17 General Meetings and Resolutions in Writing

- 17.1 The Board shall convene and the Company shall hold general meetings as Annual General Meetings in accordance with the requirements of the Companies Acts at such times and places as the Board shall appoint. The Board may, whenever it thinks fit, and shall, when required by the Companies Acts, convene general meetings other than Annual General Meetings which shall be called Special General Meetings.
- 17.2 Except in the case of the removal of Auditors or Directors, anything which may be done by resolution of the Shareholders in general meeting or by resolution of any class of Shareholders in a separate general meeting may be done by resolution in writing, signed by the Shareholders (or the holders of such class of shares) who at the date of the notice of the resolution in writing represent the majority of votes that would be required if the resolution had been voted on at a meeting of the Shareholders. Such resolution in writing may be signed by the Shareholder or its proxy, or in the case of a Shareholder that is a corporation (whether or not a company within the meaning of the Companies Acts) by its representative on behalf of such Shareholder, in as many counterparts as may be necessary.
- 17.3 Notice of any resolution in writing to be made under this Bye-Law shall be given to all the Shareholders who would be entitled to attend a meeting and vote on the resolution. The requirement to give notice of

any resolution in writing to be made under this Bye-Law to such Shareholders shall be satisfied by giving to those Shareholders a copy of that resolution in writing in the same manner as that required for a notice of a general meeting of the Company at which the resolution could have been considered, except that the length of the period of notice shall not apply. The date of the notice shall be set out in the copy of the resolution in writing.

- 17.4 The accidental omission to give notice, in accordance with this Bye-Law, of a resolution in writing to, or the non-receipt of such notice by, any person entitled to receive such notice shall not invalidate the passing of the resolution in writing.
- 17.5 For the purposes of this Bye-Law, the date of the resolution in writing is the date when the resolution in writing is signed by, or on behalf of, the Shareholder who establishes the majority of votes required for the passing of the resolution in writing and any reference in any enactment to the date of passing of a resolution is, in relation to a resolution in writing made in accordance with this Bye-Law, a reference to such date.
- 17.6 A resolution in writing made in accordance with this Bye-Law is as valid as if it had been passed by the Company in general meeting or, if applicable, by a meeting of the relevant class of Shareholders of the Company, as the case may be. A resolution in writing made in accordance with this Bye-Law shall constitute minutes for the purposes of the Companies Acts and these Bye-Laws.
- 18 Notice of General Meetings
- 18.1 An Annual General Meeting shall be called by not less than five (5) days notice in writing and a Special General Meeting shall be called by not less than five (5) days notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, day and time of the meeting, and, the nature of the business to be considered. Notice of every general meeting shall be given in any manner permitted by these Bye-Laws to all Shareholders other than such as, under the provisions of these Bye-Laws or the terms of issue of the shares they hold, are not entitled to receive such notice from the Company and every Director and to any Resident Representative who or which has delivered a written notice upon the Registered Office requiring that such notice be sent to him or it. Notwithstanding that a meeting of the Company is called by shorter notice than that specified in this Bye-Law, it shall be deemed to have been duly called if it is so agreed:
- 18.1.1 in the case of a meeting called as an Annual General Meeting, by all the Shareholders entitled to attend and vote thereat;
- 18.1.2 in the case of any other meeting, by a majority in number of the Shareholders having the right to attend and vote at the meeting, being a majority together holding not less than ninety-five percent (95%) in nominal value of the shares giving that right.
- 18.2 The accidental omission to give notice of a meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send such instrument of proxy to, or the non-receipt of notice of a meeting or such instrument of proxy by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting.
- 18.3 The Board may cancel or postpone a meeting of the Shareholders after it has been convened and notice of such cancellation or postponement shall be served in accordance with these Bye-Laws upon all Shareholders entitled to notice of the meeting so cancelled or postponed setting out, where the meeting is postponed to a specific date, notice of the new meeting in accordance with this Bye-Law.
- 19 Proceedings at General Meetings
- 19.1 In accordance with the Companies Acts, a general meeting may be held with only one individual present provided that the requirement for a quorum is satisfied. No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business, but the absence of a quorum shall not preclude the appointment, choice or election of a chairman, which shall not be treated as part of the business of the meeting. Save as otherwise provided by these Bye-Laws, at least one Shareholder present in person or by proxy and entitled to vote shall be a quorum for all purposes.
- 19.2 If within five (5) minutes (or such longer time as the chairman of the meeting may determine to wait) after the time appointed for the meeting, a quorum is not present, the meeting, if convened on the requisition of Shareholders, shall be dissolved. In any other case, it shall stand adjourned to such other day and such other time and place as the chairman of the meeting may determine and at such adjourned meeting one Shareholder present in person or by proxy and entitled to vote shall be a quorum. The Company shall give not less than five (5) days notice of any meeting adjourned through want of a quorum and such notice shall state that the one Shareholder present in person or by proxy (whatever the number of shares held by them) and entitled to vote shall be a quorum.
- 19.3 A meeting of the Shareholders or any class thereof may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone, or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.
- 19.4 Each Director, and upon giving the notice referred to in Bye-Law 18.1 above, the Resident Representative, if any, shall be entitled to attend and speak at any general meeting of the Company.

- 19.5 The Board may choose one of their number to preside as chairman at every general meeting. If there is no such chairman, or if at any meeting the chairman is not present within five (5) minutes after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors present shall choose one of their number to act or if only one Director is present he shall preside as chairman if willing to act. If no Director is present, or if each of the Directors present declines to take the chair, the persons present and entitled to vote on a poll shall elect one of their number to be chairman.
- 19.6 The chairman of the meeting may, with the consent by resolution of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at 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 three (3) months or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as expressly provided by these Bye-Laws, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## 20 Voting

- 20.1 Save where a greater majority is required by the Companies Acts or these Bye-Laws, any question proposed for consideration at any general meeting shall be decided on by a simple majority of votes cast.
- 20.2 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands or by a count of votes received in the form of electronic records, unless (before or on the declaration of the result of the show of hands or count of votes received as electronic records or on the withdrawal of any other demand for a poll) a poll is demanded by:
- 20.2.1 the chairman of the meeting; or
- 20.2.2 at least three (3) Shareholders present in person or represented by proxy; or
- 20.2.3 any Shareholder or Shareholders present in person or represented by proxy and holding between them not less than one tenth (1/10) of the total voting rights of all the Shareholders having the right to vote at such meeting; or
- 20.2.4 a Shareholder or Shareholders present in person or represented by proxy holding shares conferring the right to vote at such meeting, being shares on which an aggregate sum has been paid up equal to not less than one tenth (1/10) of the total sum paid up on all such shares conferring such right.
- The demand for a poll may be withdrawn by the person or any of the persons making it at any time prior to the declaration of the result. Unless a poll is so demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has, on a show of hands or count of votes received as electronic records, been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost shall be final and conclusive, and an entry to that effect in the minute book of the Company shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded for or against such resolution.
- 20.3 If a poll is duly demanded, the result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 20.4 A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken in such manner and either forthwith or at such time (being not later than three (3) months after the date of the demand) and place as the chairman shall direct. It shall not be necessary (unless the chairman otherwise directs) for notice to be given of a poll.
- 20.5 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded and it may be withdrawn at any time before the close of the meeting or the taking of the poll, whichever is the earlier.
- 20.6 On a poll, votes may be cast either personally or by proxy.
- 20.7 A person entitled to more than one vote on a poll need not use all his votes or cast all the votes he uses in the same way.
- 20.8 In the case of an equality of votes at a general meeting, whether on a show of hands or count of votes received as electronic records or on a poll, the chairman of such meeting shall not be entitled to a second or casting vote and the resolution shall fail.
- 20.9 In the case of joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the joint holding.
- 20.10 A Shareholder who is a patient for any purpose of any statute or applicable law relating to mental health or in respect of whom an order has been made by any Court having jurisdiction for the protection or management of the affairs of persons incapable of managing their own affairs may vote, whether on a show of hands or on a poll, by his receiver, committee, *curator bonis* or other person in the nature of a receiver, committee or *curator bonis* appointed by such Court and such receiver, committee, *curator bonis* or other person may vote on a poll by proxy, and may otherwise act and be treated as such Shareholder for the purpose of general meetings.

- 20.11 No Shareholder shall, unless the Board otherwise determines, be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
- 20.12 If:
- 20.12.1 any objection shall be raised to the qualification of any voter; or,
  - 20.12.2 any votes have been counted which ought not to have been counted or which might have been rejected; or,
  - 20.12.3 any votes are not counted which ought to have been counted,
- the objection or error shall not vitiate the decision of the meeting or adjourned meeting on any resolution unless the same is raised or pointed out at the meeting or, as the case may be, the adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any objection or error shall be referred to the chairman of the meeting and shall only vitiate the decision of the meeting on any resolution if the chairman decides that the same may have affected the decision of the meeting. The decision of the chairman on such matters shall be final and conclusive.
- 21 Proxies and Corporate Representatives
- 21.1 The instrument appointing a proxy or corporate representative shall be in writing executed by the appointor or his attorney authorised by him in writing or, if the appointor is a corporation, either under its seal or executed by an officer, attorney or other person authorised to sign the same.
- 21.2 Any Shareholder may appoint a proxy or (if a corporation) representative for a specific general meeting, and adjournments thereof, or may appoint a standing proxy or (if a corporation) representative, by serving on the Company at the Registered Office, or at such place or places as the Board may otherwise specify for the purpose, a proxy or (if a corporation) an authorisation. Any standing proxy or authorisation shall be valid for all general meetings and adjournments thereof or resolutions in writing, as the case may be, until notice of revocation is received at the Registered Office or at such place or places as the Board may otherwise specify for the purpose. Where a standing proxy or authorisation exists, its operation shall be deemed to have been suspended at any general meeting or adjournment thereof at which the Shareholder is present or in respect to which the Shareholder has specially appointed a proxy or representative. The Board may from time to time require such evidence as it shall deem necessary as to the due execution and continuing validity of any standing proxy or authorisation and the operation of any such standing proxy or authorisation shall be deemed to be suspended until such time as the Board determines that it has received the requested evidence or other evidence satisfactory to it.
- 21.3 Notwithstanding Bye-law 21.2, a Shareholder may appoint a proxy which shall be irrevocable in accordance with its terms and the holder thereof shall be the only person entitled to vote the relevant shares at any meeting of the shareholders at which such holder is present. Notice of the appointment of any such proxy shall be given to the Company at its Registered Office, and shall include the name, address, telephone number and electronic mail address of the proxy holder. The Company shall give to the proxy holder notice of all meetings of Shareholders of the Company and shall be obliged to recognise the holder of such proxy until such time as the holder notifies the Company in writing that the proxy is no longer in force.
- 21.4 Subject to Bye-Law 21.2 and 21.3, the instrument appointing a proxy or corporate representative together with such other evidence as to its due execution as the Board may from time to time require, shall be delivered at the Registered Office (or at such place as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case or the case of a resolution in writing, in any document sent therewith) prior to the holding of the relevant meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of a meeting or adjourned meeting, before the time appointed for the taking of the poll, or, in the case of a resolution in writing, prior to the effective date of the resolution in writing and in default the instrument of proxy or authorisation shall not be treated as valid.
- 21.5 Subject to Bye-Law 21.2 and 21.3, the decision of the chairman of any general meeting as to the validity of any appointments of a proxy shall be final.
- 21.6 Instruments of proxy or authorisation shall be in any common form or in such other form as the Board may approve and the Board may, if it thinks fit, send out with the notice of any meeting or any resolution in writing forms of instruments of proxy or authorisation for use at that meeting or in connection with that resolution in writing. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll, to speak at the meeting and to vote on any amendment of a resolution in writing or amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy or authorisation shall, unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates.
- 21.7 A vote given in accordance with the terms of an instrument of proxy or authorisation shall be valid notwithstanding the previous death or unsoundness of mind of the principal, or revocation of the instrument of proxy or of the corporate authority, provided that no intimation in writing of such death, unsoundness of mind or revocation shall have been received by the Company at the Registered Office (or such other place as may be specified for the delivery of instruments of proxy or

authorisation in the notice convening the meeting or other documents sent therewith) at least one hour before the commencement of the meeting or adjourned meeting, or the taking of the poll, or the day before the effective date of any resolution in writing at which the instrument of proxy or authorisation is used.

- 21.8 Subject to the Companies Acts, the Board may at its discretion waive any of the provisions of these Bye-Laws related to proxies or authorisations and, in particular, may accept such verbal or other assurances as it thinks fit as to the right of any person to attend, speak and vote on behalf of any Shareholder at general meetings or to sign resolutions in writing.

## BOARD OF DIRECTORS

### 22 Appointment and Removal of Directors

- 22.1 The number of Directors shall be not less than two (2) and not more than six (6) or such numbers in excess thereof as the Company by Resolution may from time to time determine and, subject to the Companies Acts and these Bye-Laws, the Directors shall be elected or appointed by the Company by Resolution and shall serve for such term as the Company by Resolution may determine, or in the absence of such determination, until the termination of the next Annual General Meeting following their appointment. All Directors, upon election or appointment (except upon re-election at an Annual General Meeting), must provide written acceptance of their appointment, in such form as the Board may think fit, by notice in writing to the Registered Office within thirty (30) days of their appointment.
- 22.2 The Company may by Resolution increase the maximum number of Directors. Any one or more vacancies in the Board not filled by the Shareholders at any general meeting of the Shareholders shall be deemed casual vacancies for the purposes of these Bye-Laws. Without prejudice to the power of the Company by Resolution in pursuance of any of the provisions of these Bye-Laws to appoint any person to be a Director, the Board, so long as a quorum of Directors remains in office, shall have power at any time and from time to time to appoint any individual to be a Director so as to fill a casual vacancy.
- 22.3 The Company may in a Special General Meeting called for that purpose remove a Director, provided notice of any such meeting shall be served upon the Director concerned not less than fourteen (14) days before the meeting and he shall be entitled to be heard at that meeting. Any vacancy created by the removal of a Director at a Special General Meeting may be filled at the meeting by the election of another Director in his place or, in the absence of any such election, by the Board.

### 23 Resignation and Disqualification of Directors

The office of a Director shall be vacated upon the happening of any of the following events:

- 23.1 if he resigns his office by notice in writing delivered to the Registered Office or tendered at a meeting of the Board;
- 23.2 if he becomes of unsound mind or a patient for any purpose of any statute or applicable law relating to mental health and the Board resolves that his office is vacated;
- 23.3 if he becomes bankrupt under the laws of any country or compounds with his creditors;
- 23.4 if he is prohibited by law from being a Director; or
- 23.5 if he ceases to be a Director by virtue of the Companies Acts or is removed from office pursuant to these Bye-Laws.

### 24 Alternate Directors

- 24.1 A Director may appoint and remove his own Alternate Director. Any appointment or removal of an Alternate Director by a Director shall be effected by delivery of a written notice of appointment or removal to the Secretary at the Registered Office, signed by such Director, and such notice shall be effective immediately upon receipt or on any later date specified in that notice. Any Alternate Director may be removed by resolution of the Board. Subject as aforesaid, the office of Alternate Director shall continue until the next annual election of Directors or, if earlier, the date on which the relevant Director ceases to be a Director. An Alternate Director may also be a Director in his own right and may act as alternate to more than one Director.
- 24.2 An Alternate Director shall be entitled to receive notices of all meetings of Directors, to attend, be counted in the quorum and vote at any such meeting at which any Director to whom he is alternate is not personally present, and generally to perform all the functions of any Director to whom he is alternate in his absence.
- 24.3 Every person acting as an Alternate Director shall (except as regards powers to appoint an alternate and remuneration) be subject in all respects to the provisions of these Bye-Laws relating to Directors and shall alone be responsible to the Company for his acts and defaults and shall not be deemed to be the agent of or for any Director for whom he is alternate. An Alternate Director may be paid expenses and shall be entitled to be indemnified by the Company to the same extent *mutatis mutandis* as if he were a Director. Every person acting as an Alternate Director shall have one vote for each Director for whom he acts as alternate (in addition to his own vote if he is also a Director). The signature of an Alternate Director to any resolution in writing of the Board or a committee of the Board shall, unless the terms of his appointment provides to the contrary, be as effective as the signature of the Director or Directors to whom he is alternate.

### 25 Directors' Fees and Additional Remuneration and Expenses

The amount, if any, of Directors' fees shall from time to time be determined by the Company by Resolution or in the absence of such a determination, by the Board. Unless otherwise determined to the contrary, such fees shall be deemed to accrue from day to day. Each Director may be paid his reasonable travel, hotel and incidental expenses in attending and returning from meetings of the Board or committees constituted pursuant to these Bye-Laws or general meetings and shall be paid all expenses properly and reasonably incurred by him in the conduct of the Company's business or in the discharge of his duties as a Director. Any Director who, by request, goes or resides abroad for any purposes of the Company or who performs services which in the opinion of the Board go beyond the ordinary duties of a Director may be paid such extra remuneration (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Bye-Law.

## 26 Directors' Interests

- 26.1 A Director may hold any other office or place of profit with the Company (except that of Auditor) in conjunction with his office of Director for such period and upon such terms as the Board may determine, and may be paid such extra remuneration therefor (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Bye-Law.
- 26.2 A Director may act by himself or his firm in a professional capacity for the Company (otherwise than as Auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.
- 26.3 Subject to the provisions of the Companies Acts, a Director may notwithstanding his office be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested; and be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is interested. The Board may also cause the voting power conferred by the shares in any other company held or owned by the Company to be exercised in such manner in all respects as it thinks fit, including the exercise thereof in favour of any resolution appointing the Directors or any of them to be directors or officers of such other company, or voting or providing for the payment of remuneration to the directors or officers of such other company.
- 26.4 So long as, where it is necessary, he declares the nature of his interest at the first opportunity at a meeting of the Board or by writing to the Directors as required by the Companies Acts, a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from any office or employment to which these Bye-Laws allow him to be appointed or from any transaction or arrangement in which these Bye-Laws allow him to be interested, and no such transaction or arrangement shall be liable to be avoided on the ground of any interest or benefit.
- 26.5 Subject to the Companies Acts and any further disclosure required thereby, a general notice to the Directors by a Director or Officer declaring that he is a director or officer or has an interest in a person and is to be regarded as interested in any transaction or arrangement made with that person, shall be a sufficient declaration of interest in relation to any transaction or arrangement so made.

## POWERS AND DUTIES OF THE BOARD

### 27 Powers and Duties of the Board

- 27.1 Subject to the provisions of the Companies Acts, these Bye-Laws and to any directions given by the Company by Resolution, the Board shall manage the business of the Company and may pay all expenses incurred in promoting and incorporating the Company and may exercise all the powers of the Company. No alteration of these Bye-Laws and no such direction shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Bye-Law shall not be limited by any special power given to the Board by these Bye-Laws and a meeting of the Board at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the Board.
- 27.2 The Board may exercise all the powers of the Company except those powers that are required by the Companies Acts or these Bye-Laws to be exercised by the Shareholders.
- 27.3 All cheques, promissory notes, drafts, bills of exchange and other instruments, whether negotiable or transferable or not, and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board shall from time to time by resolution determine.
- 27.4 The Board on behalf of the Company may provide benefits, whether by the payment of gratuities or pensions or otherwise, for any person including any Director or former Director who has held any executive office or employment with the Company or with any body corporate which is or has been a subsidiary or affiliate of the Company or a predecessor in the business of the Company or of any such subsidiary or affiliate, and to any member of his family or any person who is or was dependent on him, and may contribute to any fund and pay premiums for the purchase or provision of any such gratuity, pension or other benefit, or for the insurance of any such person.

- 27.5 The Board may from time to time appoint one or more of its body to be a managing director, joint managing director or an assistant managing director or to hold any other employment or executive office with the Company for such period and upon such terms as the Board may determine and may revoke or terminate any such appointments. Any such revocation or termination as aforesaid shall be without prejudice to any claim for damages that such Director may have against the Company or the Company may have against such Director for any breach of any contract of service between him and the Company which may be involved in such revocation or termination. Any person so appointed shall receive such remuneration (if any) (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and either in addition to or in lieu of his remuneration as a Director.
- 28 Delegation of the Board's Powers
- 28.1 The Board may by power of attorney appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under these Bye-Laws) and for such period and subject to such conditions as it may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney and of such attorney as the Board may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Such attorney may, if so authorised by the power of attorney, execute any deed, instrument or other document on behalf of the Company.
- 28.2 The Board may entrust to and confer upon any Director, Officer or, without prejudice to the provisions of Bye-Law 28.3, other person any of the powers, authorities and discretions exercisable by it upon such terms and conditions with such restrictions as it thinks fit, and either collaterally with, or to the exclusion of, its own powers, authorities and discretions, and may from time to time revoke or vary all or any of such powers, authorities and discretions, but no person dealing in good faith and without notice of such revocation or variation shall be affected thereby.
- 28.3 The Board may delegate any of its powers, authorities and discretions to committees, consisting of such person or persons (whether a member or members of its body or not) as it thinks fit. Any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, and in conducting its proceedings conform to any regulations which may be imposed upon it by the Board. If no regulations are imposed by the Board the proceedings of a committee with two (2) or more members shall be, as far as is practicable, governed by the Bye-Laws regulating the proceedings of the Board.
- 29 Proceedings of the Board
- 29.1 The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Questions arising at any meeting shall be determined by a majority of votes. In the case of an equality of votes, the motion shall be deemed to have been lost. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Board.
- 29.2 Notice of a meeting of the Board may be given to a Director by word of mouth or in any manner permitted by these Bye-Laws. A Director may retrospectively waive the requirement for notice of any meeting by consenting in writing to the business conducted at the meeting.
- 29.3 The quorum necessary for the transaction of the business of the Board may be fixed by the Board and, unless so fixed at any other number, shall be two (2) individuals. Any Director who ceases to be a Director at a meeting of the Board may continue to be present and to act as a Director and be counted in the quorum until the termination of the meeting if no other Director objects and if otherwise a quorum of Directors would not be present.
- 29.4 A Director who to his knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract, transaction or arrangement with the Company and has complied with the provisions of the Companies Acts and these Bye-Laws with regard to disclosure of his interest shall be entitled to vote in respect of any contract, transaction or arrangement in which he is so interested and if he shall do so his vote shall be counted, and he shall be taken into account in ascertaining whether a quorum is present.
- 29.5 The Resident Representative shall, upon delivering written notice of an address for the purposes of receipt of notice to the Registered Office, be entitled to receive notice of, attend and be heard at, and to receive minutes of all meetings of the Board.
- 29.6 So long as a quorum of Directors remains in office, the continuing Directors may act notwithstanding any vacancy in the Board but, if no such quorum remains, the continuing Directors or a sole continuing Director may act only for the purpose of calling a general meeting.
- 29.7 The Board may choose one of their number to preside as chairman at every meeting of the Board. If there is no such chairman, or if at any meeting the chairman is not present within five (5) minutes after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors present may choose one of their number to be chairman of the meeting.
- 29.8 The meetings and proceedings of any committee consisting of two (2) or more members shall be governed by the provisions contained in these Bye-Laws for regulating the meetings and proceedings of the Board so far as the same are applicable and are not superseded by any regulations imposed by the Board.

- 29.9 A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Board (or by an Alternate Director, as provided for in these Bye-Laws) or by all the members of a committee for the time being shall be as valid and effectual as a resolution passed at a meeting of the Board or, as the case may be, of such committee duly called and constituted. Such resolution may be contained in one document or in several documents in the like form each signed by one or more of the Directors or members of the committee concerned.
- 29.10 A meeting of the Board or a committee appointed by the Board may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting. Such a meeting shall be deemed to take place where the largest group of those Directors participating in the meeting is physically assembled, or, if there is no such group, where the chairman of the meeting then is.
- 29.11 All acts done by the Board or by any committee or by any person acting as a Director or member of a committee or any person duly authorised by the Board or any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board or such committee or person acting as aforesaid or that they or any of them were disqualified or had vacated their office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director, member of such committee or person so authorised.

## OFFICERS

### 30 Officers

- 30.1 The Officers of the Company, who may or may not be Directors, may be appointed by the Board at any time. Any person appointed pursuant to this Bye-Law shall hold office for such period and upon such terms as the Board may determine and the Board may revoke or terminate any such appointment. Any such revocation or termination shall be without prejudice to any claim for damages that such Officer may have against the Company or the Company may have against such Officer for any breach of any contract of service between him and the Company which may be involved in such revocation or termination. Save as provided in the Companies Acts or these Bye-Laws, the powers and duties of the Officers of the Company shall be such (if any) as are determined from time to time by the Board.
- 30.2 The provisions of these Bye-Laws as to resignation and disqualification of Directors shall *mutatis mutandis* apply to the resignation and disqualification of Officers.

## MINUTES

### 31 Minutes

- 31.1 The Board shall cause minutes to be made and books kept for the purpose of recording:
- 31.1.1 all appointments of Officers made by the Board;
  - 31.1.2 the names of the Directors and other persons (if any) present at each meeting of the Board and of any committee; and
  - 31.1.3 all proceedings at meetings of the Company, of the holders of any class of shares in the Company, of the Board and of committees appointed by the Board or the Shareholders.
- 31.2 Shareholders shall only be entitled to see the Register of Directors and Officers, the Register, the financial information provided for in Bye-Law 38.3 and the minutes of meetings of the Shareholders of the Company.

## SECRETARY AND RESIDENT REPRESENTATIVE

### 32 Secretary and Resident Representative

- 32.1 The Secretary (including one or more deputy or assistant secretaries) and, if required, the Resident Representative, shall be appointed by the Board at such remuneration (if any) and upon such terms as it may think fit and any Secretary and Resident Representative so appointed may be removed by the Board. The duties of the Secretary and the duties of the Resident Representative shall be those prescribed by the Companies Acts together with such other duties as shall from time to time be prescribed by the Board.
- 32.2 A provision of the Companies Acts or these Bye-Laws requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

## THE SEAL

### 33 The Seal

- 33.1 The Board may authorise the production of a common seal of the Company and one or more duplicate common seals of the Company, which shall consist of a circular device with the name of the Company around the outer margin thereof and the country and year of registration in Bermuda across the centre thereof.
- 33.2 Any document required to be under seal or executed as a deed on behalf of the Company may be:
- 33.2.1 executed under the Seal in accordance with these Bye-Laws; or
  - 33.2.2 signed or executed by any person authorised by the Board for that purpose, without the use of the Seal.

- 33.3 The Board shall provide for the custody of every Seal. A Seal shall only be used by authority of the Board or of a committee constituted by the Board. Subject to these Bye-Laws, any instrument to which a Seal is affixed shall be attested by the signature of:
- 33.3.1 a Director; or
  - 33.3.2 the Secretary; or
  - 33.3.3 any one person authorised by the Board for that purpose.

#### **DIVIDENDS AND OTHER PAYMENTS**

##### **34 Dividends and Other Payments**

- 34.1 The Board may from time to time declare dividends or distributions out of contributed surplus to be paid to the Shareholders according to their rights and interests, including such interim dividends as appear to the Board to be justified by the position of the Company. The Board, in its discretion, may determine that any dividend shall be paid in cash or shall be satisfied, subject to Bye-Law 36, in paying up in full shares in the Company to be issued to the Shareholders credited as fully paid or partly paid or partly in one way and partly the other. The Board may also pay any fixed cash dividend which is payable on any shares of the Company half yearly or on such other dates, whenever the position of the Company, in the opinion of the Board, justifies such payment.
- 34.2 Except insofar as the rights attaching to, or the terms of issue of, any share otherwise provide:
- 34.2.1 all dividends or distributions out of contributed surplus may be declared and paid according to the amounts paid up on the shares in respect of which the dividend or distribution is paid, and an amount paid up on a share in advance of calls may be treated for the purpose of this Bye-Law as paid-up on the share;
  - 34.2.2 dividends or distributions out of contributed surplus may be apportioned and paid pro rata according to the amounts paid-up on the shares during any portion or portions of the period in respect of which the dividend or distribution is paid.
- 34.3 The Board may deduct from any dividend, distribution or other monies payable to a Shareholder by the Company on or in respect of any shares all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in respect of shares of the Company.
- 34.4 No dividend, distribution or other monies payable by the Company on or in respect of any share shall bear interest against the Company.
- 34.5 Any dividend, distribution or interest, or part thereof payable in cash, or any other sum payable in cash to the holder of shares may be paid by cheque or warrant sent through the post or by courier addressed to the holder at his address in the Register or, in the case of joint holders, addressed to the holder whose name stands first in the Register in respect of the shares at his registered address as appearing in the Register or addressed to such person at such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall, unless the holder or joint holders otherwise direct, be made payable to the order of the holder or, in the case of joint holders, to the order of the holder whose name stands first in the Register in respect of such shares, and shall be sent at his or their risk and payment of the cheque or warrant by the bank on which it is drawn shall constitute a good discharge to the Company. Any one of two (2) or more joint holders may give effectual receipts for any dividends, distributions or other monies payable or property distributable in respect of the shares held by such joint holders.
- 34.6 Any dividend or distribution out of contributed surplus unclaimed for a period of six (6) years from the date of declaration of such dividend or distribution shall be forfeited and shall revert to the Company and the payment by the Board of any unclaimed dividend, distribution, interest or other sum payable on or in respect of the share into a separate account shall not constitute the Company a trustee in respect thereof.
- 34.7 The Board may also, in addition to its other powers, direct payment or satisfaction of any dividend or distribution out of contributed surplus wholly or in part by the distribution of specific assets, and in particular of paid-up shares or debentures of any other company, and where any difficulty arises in regard to such distribution or dividend, the Board may settle it as it thinks expedient, and in particular, may authorise any person to sell and transfer any fractions or may ignore fractions altogether, and may fix the value for distribution or dividend purposes of any such specific assets and may determine that cash payments shall be made to any Shareholders upon the footing of the values so fixed in order to secure equality of distribution and may vest any such specific assets in trustees as may seem expedient to the Board, provided that such dividend or distribution may not be satisfied by the distribution of any partly paid shares or debentures of any company without the sanction of a Resolution.

##### **35 Reserves**

The Board may, before declaring any dividend or distribution out of contributed surplus, set aside such sums as it thinks proper as reserves which shall, at the discretion of the Board, be applicable for any purpose of the Company and pending such application may, also at such discretion, either be employed in the business of the Company or be invested in such investments as the Board may from time to time think fit. The Board may also without placing the same to reserve carry forward any sums which it may think it prudent not to distribute.

**CAPITALISATION OF PROFITS****36 Capitalisation of Profits**

- 36.1 The Board may from time to time resolve to capitalise all or any part of any amount for the time being standing to the credit of any reserve or fund which is available for distribution or to the credit of any share premium account and accordingly that such amount be set free for distribution amongst the Shareholders or any class of Shareholders who would be entitled thereto if distributed by way of dividend and in the same proportions, on the footing that the same be not paid in cash but be applied either in or towards paying up amounts for the time being unpaid on any shares in the Company held by such Shareholders respectively or in payment up in full of unissued shares, debentures or other obligations of the Company, to be allotted and distributed credited as fully paid amongst such Shareholders, or partly in one way and partly in the other, provided that for the purpose of this Bye-Law, a share premium account may be applied only in paying up of unissued shares to be issued to such Shareholders credited as fully paid.
- 36.2 Where any difficulty arises in regard to any distribution under this Bye-Law, the Board may settle the same as it thinks expedient and, in particular, may authorise any person to sell and transfer any fractions or may resolve that the distribution should be as nearly as may be practicable in the correct proportion but not exactly so or may ignore fractions altogether, and may determine that cash payments should be made to any Shareholders in order to adjust the rights of all parties, as may seem expedient to the Board. The Board may appoint any person to sign on behalf of the persons entitled to participate in the distribution any contract necessary or desirable for giving effect thereto and such appointment shall be effective and binding upon the Shareholders.

**RECORD DATES****37 Record Dates**

Notwithstanding any other provisions of these Bye-Laws, the Company may by Resolution or the Board may fix any date as the record date for any dividend, distribution, allotment or issue and for the purpose of identifying the persons entitled to receive notices of any general meeting and to vote at any general meeting. Any such record date may be on or at any time before or after any date on which such dividend, distribution, allotment or issue is declared, paid or made or such notice is despatched.

**ACCOUNTING RECORDS****38 Accounting Records**

- 38.1 The Board shall cause to be kept accounting records sufficient to give a true and fair view of the state of the Company's affairs and to show and explain its transactions, in accordance with the Companies Acts.
- 38.2 The records of account shall be kept at the Registered Office or at such other place or places as the Board thinks fit, and shall at all times be open to inspection by the Directors, PROVIDED that if the records of account are kept at some place outside Bermuda, there shall be kept at an office of the Company in Bermuda such records as will enable the Directors to ascertain with reasonable accuracy the financial position of the Company at the end of each three (3) month period. No Shareholder (other than an Officer of the Company) shall have any right to inspect any accounting record or book or document of the Company except as conferred by law or authorised by the Board or by Resolution.
- 38.3 A copy of every balance sheet and statement of income and expenditure, including every document required by law to be annexed thereto, which is to be laid before the Company in general meeting, together with a copy of the Auditors' report, shall be sent to each person entitled thereto in accordance with the requirements of the Companies Acts.

**AUDIT****39 Audit**

Save and to the extent that an audit is waived in the manner permitted by the Companies Acts, Auditors shall be appointed and their duties regulated in accordance with the Companies Acts, any other applicable law and such requirements not inconsistent with the Companies Acts as the Board may from time to time determine.

**SERVICE OF NOTICES AND OTHER DOCUMENTS****40 Service of Notices and Other Documents**

- 40.1 Any notice or other document (including but not limited to a share certificate, any notice of a general meeting of the Company, any instrument of proxy and any document to be sent in accordance with Bye-Law 38.3) may be sent to, served on or delivered to any Shareholder by the Company
- 40.1.1 personally;
- 40.1.2 by sending it through the post (by airmail where applicable) in a pre-paid letter addressed to such Shareholder at his address as appearing in the Register;
- 40.1.3 by sending it by courier to or leaving it at the Shareholder's address appearing in the Register;
- 40.1.4 where applicable, by sending it by email or facsimile or other mode of representing or reproducing words in a legible and non-transitory form or by sending an electronic record

- of it by electronic means, in each case to an address or number supplied by such Shareholder for the purposes of communication in such manner; or
- 40.1.5 by publication of an electronic record of it on a website and notification of such publication (which shall include the address of the website, the place on the website where the document may be found, and how the document may be accessed on the website) by any of the methods set out in paragraphs 40.1.1, 40.1.2, 40.1.3 or 40.1.4 of this Bye-Law, in accordance with the Companies Acts.
- In the case of joint holders of a share, service or delivery of any notice or other document on or to one of the joint holders shall for all purposes be deemed as sufficient service on or delivery to all the joint holders.
- 40.2 Any notice or other document shall be deemed to have been served on or delivered to any Shareholder by the Company
- 40.2.1 if sent by personal delivery, at the time of delivery;
- 40.2.2 if sent by post, forty-eight (48) hours after it was put in the post;
- 40.2.3 if sent by courier or facsimile, twenty-four (24) hours after sending;
- 40.2.4 if sent by email or other mode of representing or reproducing words in a legible and non-transitory form or as an electronic record by electronic means, twelve (12) hours after sending; or
- 40.2.5 if published as an electronic record on a website, at the time that the notification of such publication shall be deemed to have been delivered to such Shareholder,
- and in proving such service or delivery, it shall be sufficient to prove that the notice or document was properly addressed and stamped and put in the post, published on a website in accordance with the Companies Acts and the provisions of these Bye-Laws, or sent by courier, facsimile, email or as an electronic record by electronic means, as the case may be, in accordance with these Bye-Laws.
- Each Shareholder and each person becoming a Shareholder subsequent to the adoption of these Bye-laws, by virtue of its holding or its acquisition and continued holding of a share, as applicable, shall be deemed to have acknowledged and agreed that any notice or other document (excluding a share certificate) may be provided by the Company by way of accessing them on a website instead of being provided by other means.
- 40.3 Any notice or other document delivered, sent or given to a Shareholder in any manner permitted by these Bye-Laws shall, notwithstanding that such Shareholder is then dead or bankrupt or that any other event has occurred, and whether or not the Company has notice of the death or bankruptcy or other event, be deemed to have been duly served or delivered in respect of any share registered in the name of such Shareholder as sole or joint holder unless his name shall, at the time of the service or delivery of the notice or document, have been removed from the Register as the holder of the share, and such service or delivery shall for all purposes be deemed as sufficient service or delivery of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the share.
- 40.4 Save as otherwise provided, the provisions of these Bye-Laws as to service of notices and other documents on Shareholders shall *mutatis mutandis* apply to service or delivery of notices and other documents to the Company or any Director, Alternate Director or Resident Representative pursuant to these Bye-Laws.

## WINDING UP

### 41 Winding Up

If the Company shall be wound up, the liquidator may, with the sanction of a Resolution of the Company and any other sanction required by the Companies Acts, divide amongst the Shareholders in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may for such purposes set such values as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Shareholders or different classes of Shareholders. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trust for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no Shareholder shall be compelled to accept any shares or other assets upon which there is any liability.

## INDEMNITY

### 42 Indemnity

- 42.1 Subject to the proviso below, every Indemnified Person shall be indemnified and held harmless out of the assets of the Company against all liabilities, loss, damage or expense (including but not limited to liabilities under contract, tort and statute or any applicable foreign law or regulation and all reasonable legal and other costs including defence costs incurred in defending any legal proceedings whether civil or criminal and expenses properly payable) incurred or suffered by him by or by reason of any act done, conceived in or omitted in the conduct of the Company's business or in the discharge of his duties and the indemnity contained in this Bye-Law shall extend to any Indemnified Person acting in any office or trust in the reasonable belief that he has been appointed or elected to such office or trust notwithstanding any defect in such appointment or election

- PROVIDED ALWAYS that the indemnity contained in this Bye-Law shall not extend to any matter which would render it void pursuant to the Companies Acts.
- 42.2 No Indemnified Person shall be liable to the Company for the acts, defaults or omissions of any other Indemnified Person.
- 42.3 To the extent that any Indemnified Person is entitled to claim an indemnity pursuant to these Bye-Laws in respect of amounts paid or discharged by him, the relevant indemnity shall take effect as an obligation of the Company to reimburse the person making such payment or effecting such discharge.
- 42.4 Each Shareholder and the Company agree to waive any claim or right of action he or it may at any time have, whether individually or by or in the right of the Company, against any Indemnified Person on account of any action taken by such Indemnified Person or the failure of such Indemnified Person to take any action in the performance of his duties with or for the Company PROVIDED HOWEVER that such waiver shall not apply to any claims or rights of action arising out of the fraud of such Indemnified Person or to recover any gain, personal profit or advantage to which such Indemnified Person is not legally entitled.
- 42.5 The Company shall advance moneys to any Indemnified Person for the costs, charges, and expenses incurred by the Indemnified Person in defending any civil or criminal proceedings against them, on condition and receipt of an undertaking in a form satisfactory to the Company that the Indemnified Person shall repay such portion of the advance attributable to any claim of fraud or dishonesty if such a claim is proved against the Indemnified Person.
- 42.6 The advance of moneys would not be paid unless the advance was duly authorized upon a determination that the indemnification of the Indemnified Person was appropriate because the Indemnified Person had met the standard of conduct which would entitle the Indemnified Person to indemnification and further the determination referred to above must be made by a majority vote of the Board at a meeting duly constituted by a quorum of Directors not party to the proceedings in respect of which the indemnification is, or would be, claimed; or, in the case such meeting cannot be constituted by lack of disinterested quorum by an independent third party; or, alternatively, by a majority vote of the Shareholders.

#### **AMALGAMATION**

##### 43 Amalgamation

Any resolution proposed for consideration at any general meeting to approve the amalgamation of the Company with any other company, wherever incorporated, shall require the approval of a simple majority of votes cast at such meeting and the quorum for such meeting shall be that required in Bye-Law 19.1 and a poll may be demanded in respect of such resolution in accordance with the provisions of Bye-Law 20.2.

#### **CONTINUATION**

##### 44 Continuation

Subject to the Companies Acts, the Board may approve the discontinuation of the Company in Bermuda and the continuation of the Company in a jurisdiction outside Bermuda. The Board, having resolved to approve the discontinuation of the Company, may further resolve not to proceed with any application to discontinue the Company in Bermuda or may vary such application as it sees fit.

#### **ALTERATION OF BYE-LAWS**

##### 45 Alteration of Bye-Laws

These Bye-Laws may be amended from time to time by resolution of the Board, but subject to approval by Resolution.

## APPENDIX 5

### Bye-Laws of Gard Reinsurance Co Ltd

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**BYE - LAWS**  
of  
**Gard Reinsurance Co Ltd**

**INTERPRETATION**

1 Interpretation

1.1 In these Bye-Laws, unless the context otherwise requires:

“**Bermuda**” means the Islands of Bermuda;

“**Board**” means the Board of Directors of the Company or the Directors present at a meeting of Directors at which there is a quorum;

“**Companies Acts**” means every Bermuda statute from time to time in force concerning companies insofar as the same applies to the Company;

“**Company**” means the company incorporated in Bermuda under the name of **Gard Reinsurance Co Ltd** on **22 February 2010**;

“**Director**” means such person or persons as shall be appointed to the Board from time to time pursuant to these Bye-Laws;

“**Indemnified Person**” means any Director, Officer, Resident Representative, member of a committee duly constituted under these Bye-Laws and any liquidator, manager or trustee for the time being acting in relation to the affairs of the Company, and his heirs, executors and administrators;

“**Officer**” means a person appointed by the Board pursuant to these Bye-Laws and shall not include an auditor of the Company;

“**paid up**” means paid up or credited as paid up;

“**Register**” means the Register of Shareholders of the Company;

“**Registered Office**” means the registered office for the time being of the Company;

“**Resident Representative**” means (if any) the individual or the company appointed to perform the duties of resident representative set out in the Companies Acts and includes any assistant or deputy Resident Representative appointed by the Board to perform any of the duties of the Resident Representative;

“**Resolution**” means a resolution of the Shareholders passed in general meeting or, where required, of a separate class or separate classes of shareholders passed in a separate general meeting or in either case adopted by resolution in writing, in accordance with the provisions of these Bye-Laws;

“**Seal**” means the common seal of the Company and includes any authorised duplicate thereof;

“**Secretary**” includes a temporary or assistant or deputy Secretary and the individual or the company appointed by the Board to perform any of the duties of the Secretary;

“**share**” means share in the capital of the Company and includes a fraction of a share;

“**Shareholder**” means a shareholder or member of the Company provided that for the purposes of Bye-Law 42 it shall also include any holder of notes, debentures or bonds issued by the Company;

“**these Bye-Laws**” means these Bye-Laws in their present form.

1.2 For the purposes of these Bye-Laws, a corporation which is a shareholder shall be deemed to be present in person at a general meeting if, in accordance with the Companies Acts, its authorised representative is present.

1.3 Words importing only the singular number include the plural number and vice versa.

1.4 Words importing only the masculine gender include the feminine and neuter genders respectively.

1.5 Words importing persons include companies or associations or bodies of persons, whether corporate or un-incorporate.

- 1.6 A reference to writing shall include typewriting, printing, lithography, photography and electronic record.
- 1.7 Any words or expressions defined in the Companies Acts in force at the date when these Bye-Laws or any part thereof are adopted shall bear the same meaning in these Bye-Laws or such part (as the case may be).

## REGISTERED OFFICE

### 2 Registered Office

- 2.1 The Registered Office shall be at such place in Bermuda as the Board shall from time to time appoint.

## SHARES AND SHARE RIGHTS

### 3 Share Rights

- 3.1 Subject to any special rights conferred on the holders of any share or class of shares, any share in the Company may be issued with or have attached thereto such preferred, deferred, qualified or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise, as the Company may by Resolution determine or, if there has not been any such determination or so far as the same shall not make specific provision, as the Board may determine.
- 3.2 Subject to the Companies Acts, any preference shares may, with the sanction of a resolution of the Board, be issued on terms:
- 3.2.1 that they are to be redeemed on the happening of a specified event or on a given date; and/or,
- 3.2.2 that they are liable to be redeemed at the option of the Company; and/or,
- 3.2.3 if authorised by the memorandum of association of the Company, that they are liable to be redeemed at the option of the holder.

The terms and manner of redemption shall be provided for in such resolution of the Board and shall be attached to but shall not form part of these Bye-Laws.

- 3.3 The Board may, at its discretion and without the sanction of a Resolution, authorise the purchase by the Company of its own shares upon such terms as the Board may in its discretion determine, provided always that such purchase is effected in accordance with the provisions of the Companies Acts.
- 3.4 The Board may, at its discretion and without the sanction of a Resolution, authorise the acquisition by the Company of its own shares, to be held as treasury shares, upon such terms as the Board may in its discretion determine, provided always that such acquisition is effected in accordance with the provisions of the Companies Acts. The Company shall be entered in the Register as a Shareholder in respect of the shares held by the Company as treasury shares and shall be a Shareholder of the Company but subject always to the provisions of the Companies Acts and for the avoidance of doubt the Company shall not exercise any rights and shall not enjoy or participate in any of the rights attaching to those shares save as expressly provided for in the Companies Act.

### 4 Modification of Rights

- 4.1 Subject to the Companies Acts, all or any of the special rights for the time being attached to any class of shares for the time being issued may from time to time (whether or not the Company is being wound up) be altered or abrogated with the consent in writing of the holders of not less than seventy five percent (75%) of the issued shares of that class or with the sanction of a resolution passed at a separate general meeting of the holders of such shares voting in person or by proxy. To any such separate general meeting, all the provisions of these Bye-Laws as to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be one or more persons holding or representing by proxy any of the shares of the relevant class, that every holder of shares of the relevant class shall be entitled on a poll to one vote for every such share held by him and that any holder of shares of the relevant class present in person or by proxy may demand a poll.

- 4.2 The special rights conferred upon the holders of any shares or class of shares shall not, unless otherwise expressly provided in the rights attaching to or the terms of issue of such shares, be deemed to be altered by the creation or issue of further shares ranking *pari passu* therewith.

## 5 Shares

- 5.1 Subject to the provisions of these Bye-Laws, the unissued shares of the Company (whether forming part of the original capital or any increased capital) shall be at the disposal of the Board, which may offer, allot, grant options over or otherwise dispose of them to such persons, at such times and for such consideration and upon such terms and conditions as the Board may determine.
- 5.2 Subject to the provisions of these Bye-Laws, any shares of the Company held by the Company as treasury shares shall be at the disposal of the Board, which may hold all or any of the shares, dispose of or transfer all or any of the shares for cash or other consideration, or cancel all or any of the shares.
- 5.3 The Board may in connection with the issue of any shares exercise all powers of paying commission and brokerage conferred or permitted by law.
- 5.4 Except as ordered by a court of competent jurisdiction or as required by law, no person shall be recognised by the Company as holding any share upon trust and the Company shall not be bound by or required in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or in any fractional part of a share or (except only as otherwise provided in these Bye-Laws or by law) any other right in respect of any share except an absolute right to the entirety thereof in the registered holder.

## 6 Certificates

- 6.1 The Company shall be under no obligation to complete and deliver a share certificate unless specifically called upon to do so by the person to whom the shares have been issued. In the case of a share held jointly by several persons, delivery of a certificate to one of several joint holders shall be sufficient delivery to all.
- 6.2 If a share certificate is defaced, lost or destroyed, it may be replaced without fee but on such terms (if any) as to evidence and indemnity and to payment of the costs and out of pocket expenses of the Company in investigating such evidence and preparing such indemnity as the Board may think fit and, in case of defacement, on delivery of the old certificate to the Company.
- 6.3 All certificates for share or loan capital or other securities of the Company (other than letters of allotment, scrip certificates and other like documents) shall, except to the extent that the terms and conditions for the time being relating thereto otherwise provide, be issued under the Seal or signed by a Director, the Secretary or any person authorised by the Board for that purpose. The Board may by resolution determine, either generally or in any particular case, that any signatures on any such certificates need not be autographic but may be affixed to such certificates by some mechanical means or may be printed thereon or that such certificates need not be signed by any persons.

## 7 Lien

- 7.1 The Company shall have a first and paramount lien on every share (not being a fully paid share) for all monies, whether presently payable or not, called or payable, at a date fixed by or in accordance with the terms of issue of such share in respect of such share, and the Company shall also have a first and paramount lien on every share (other than a fully paid share) standing registered in the name of a Shareholder, whether singly or jointly with any other person, for all the debts and liabilities of such Shareholder or his estate to the Company, whether the same shall have been incurred before or after notice to the Company of any interest of any person other than such Shareholder, and whether the time for the payment or discharge of the same shall have actually arrived or not, and notwithstanding that the same are joint debts or liabilities of such Shareholder or his estate and any other person, whether a Shareholder or not. The Company's lien on a share shall extend to all dividends payable thereon. The Board may at any time, either generally or in any particular case, waive any lien that has arisen or declare any share to be wholly or in part exempt from the provisions of this Bye-Law.
- 7.2 The Company may sell, in such manner as the Board may think fit, any share on which the Company has a lien but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of fourteen (14) days after a notice in writing, stating and demanding payment of the sum presently payable and giving notice of the intention to sell in default of such payment, has been served on the holder for the time being of the share.

- 7.3 The net proceeds of sale by the Company of any shares on which it has a lien shall be applied in or towards payment or discharge of the debt or liability in respect of which the lien exists so far as the same is presently payable, and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the share prior to the sale) be paid to the person who was the holder of the share immediately before such sale. For giving effect to any such sale, the Board may authorise some person to transfer the share sold to the purchaser thereof. The purchaser shall be registered as the holder of the share and he shall not be bound to see to the application of the purchase money, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings relating to the sale.

## 8 Calls on Shares

- 8.1 The Board may from time to time make calls upon the Shareholders (for the avoidance of doubt excluding the Company in respect of any nil or partly paid shares held by the Company as treasury shares) in respect of any monies unpaid on their shares (whether on account of the par value of the shares or by way of premium) and not by the terms of issue thereof made payable at a date fixed by or in accordance with such terms of issue, and each Shareholder shall (subject to the Company serving upon him at least fourteen (14) days notice specifying the time or times and place of payment) pay to the Company at the time or times and place so specified the amount called on his shares. A call may be revoked or postponed as the Board may determine.
- 8.2 A call may be made payable by instalments and shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed.
- 8.3 The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
- 8.4 If a sum called in respect of the share shall not be paid before or on the day appointed for payment thereof the person from whom the sum is due shall pay interest on the sum from the day appointed for the payment thereof to the time of actual payment at such rate as the Board may determine, but the Board shall be at liberty to waive payment of such interest wholly or in part.
- 8.5 Any sum which, by the terms of issue of a share, becomes payable on allotment or at any date fixed by or in accordance with such terms of issue, whether on account of the nominal amount of the share or by way of premium, shall for all the purposes of these Bye-Laws be deemed to be a call duly made, notified and payable on the date on which, by the terms of issue, the same becomes payable and, in case of non-payment, all the relevant provisions of these Bye-Laws as to payment of interest, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.
- 8.6 The Board may on the issue of shares differentiate between the allottees or holders as to the amount of calls to be paid and the times of payment.

## 9 Forfeiture of Shares

- 9.1 If a Shareholder fails to pay any call or instalment of a call on the day appointed for payment thereof, the Board may at any time thereafter during such time as any part of such call or instalment remains unpaid serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
- 9.2 The notice shall name a further day (not being less than fourteen (14) days from the date of the notice) on or before which, and the place where, the payment required by the notice is to be made and shall state that, in the event of non-payment on or before the day and at the place appointed, the shares in respect of which such call is made or instalment is payable will be liable to be forfeited. The Board may accept the surrender of any share liable to be forfeited hereunder and, in such case, references in these Bye-Laws to forfeiture shall include surrender.
- 9.3 If the requirements of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls or instalments and interest due in respect thereof has been made, be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
- 9.4 When any share has been forfeited, notice of the forfeiture shall be served upon the person who was before forfeiture the holder of the share but no forfeiture shall be in any manner invalidated by any omission or neglect to give such notice as aforesaid.

- 9.5 A forfeited share shall be deemed to be the property of the Company and may be sold, re-offered or otherwise disposed of 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 Board shall think fit, and at any time before a sale, re-allotment or disposition the forfeiture may be cancelled on such terms as the Board may think fit.
- 9.6 A person whose shares have been forfeited shall thereupon cease to be a Shareholder in respect of the forfeited shares but shall, notwithstanding the forfeiture, remain liable to pay to the Company all monies which at the date of forfeiture were presently payable by him to the Company in respect of the shares with interest thereon at such rate as the Board may determine from the date of forfeiture until payment, and the Company may enforce payment without being under any obligation to make any allowance for the value of the shares forfeited.
- 9.7 An affidavit in writing that the deponent is a Director of the Company or the Secretary and that a share has been duly forfeited on the date stated in the affidavit shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The Company may receive the consideration (if any) given for the share on the sale, re-allotment or disposition thereof and the Board may authorise some person to transfer the share to the person to whom the same is sold, re-allotted or disposed of, and he shall thereupon be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any) nor shall his title to the share be affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale, re-allotment or disposal of the share.

## REGISTER OF SHAREHOLDERS

### 10 Register of Shareholders

The Secretary shall establish and maintain the Register at the Registered Office in the manner prescribed by the Companies Acts. Unless the Board otherwise determines, the Register shall be open to inspection in the manner prescribed by the Companies Acts between 10:00 a.m. and 12:00 noon on every working day. Unless the Board so determines, no Shareholder or intending Shareholder shall be entitled to have entered in the Register any indication of any trust or any equitable, contingent, future or partial interest in any share or any fractional part of a share and if any such entry exists or is permitted by the Board it shall not be deemed to abrogate any of the provisions of Bye-Law 5.4.

## REGISTER OF DIRECTORS AND OFFICERS

### 11 Register of Directors and Officers

The Secretary shall establish and maintain a register of the Directors and Officers of the Company as required by the Companies Acts. The register of Directors and Officers shall be open to inspection in the manner prescribed by the Companies Acts between 10:00 a.m. and 12:00 noon on every working day.

## TRANSFER OF SHARES

### 12 Transfer of Shares

- 12.1 Subject to the Companies Acts and to such of the restrictions contained in these Bye-Laws as may be applicable, any Shareholder may transfer all or any of his shares by an instrument of transfer in the usual common form or in any other form which the Board may approve. No such instrument shall be required on the redemption of a share or on the purchase by the Company of a share.
- 12.2 The instrument of transfer of a share shall be signed by or on behalf of the transferor and where any share is not fully-paid, the transferee. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof. All instruments of transfer when registered may be retained by the Company. The Board may, in its absolute discretion and without assigning any reason therefor, decline to register any transfer of any share which is not a fully-paid share. The Board may also decline to register any transfer unless:
- 12.2.1 the instrument of transfer is duly stamped (if required by law) and lodged with the Company, accompanied by the certificate for the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer,
- 12.2.2 the instrument of transfer is in respect of only one class of share, and

- 12.2.3 where applicable, the permission of the Bermuda Monetary Authority with respect thereto has been obtained.
- 12.3 Subject to any directions of the Board from time to time in force, the Secretary may exercise the powers and discretions of the Board under this Bye-Law.
- 12.4 If the Board declines to register a transfer it shall, within three (3) months after the date on which the instrument of transfer was lodged, send to the transferee notice of such refusal.
- 12.5 No fee shall be charged by the Company for registering any transfer, probate, letters of administration, certificate of death or marriage, power of attorney, stop notice, order of court or other instrument relating to or affecting the title to any share, or otherwise making an entry in the Register relating to any share.

## TRANSMISSION OF SHARES

### 13 Transmission of Shares

- 13.1 In the case of the death of a Shareholder, the survivor or survivors, where the deceased was a joint holder, and the estate representative, where he was sole holder, shall be the only person recognised by the Company as having any title to his shares; but nothing herein contained shall release the estate of a deceased holder (whether the sole or joint) from any liability in respect of any share held by him solely or jointly with other persons. For the purpose of this Bye-Law, estate representative means the person to whom probate or letters of administration has or have been granted in Bermuda or, failing any such person, such other person as the Board may in its absolute discretion determine to be the person recognised by the Company for the purpose of this Bye-Law.
- 13.2 Any person becoming entitled to a share in consequence of the death of a Shareholder or otherwise by operation of applicable law may, subject as hereafter provided and upon such evidence being produced as may from time to time be required by the Board as to his entitlement, either be registered himself as the holder of the share or elect to have some person nominated by him registered as the transferee thereof. If the person so becoming entitled elects to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have his nominee registered, he shall signify his election by signing an instrument of transfer of such share in favour of his nominee. All the limitations, restrictions and provisions of these Bye-Laws relating to the right to transfer and the registration of transfer of shares shall be applicable to any such notice or instrument of transfer as aforesaid as if the death of the Shareholder or other event giving rise to the transmission had not occurred and the notice or instrument of transfer was an instrument of transfer signed by such Shareholder.
- 13.3 A person becoming entitled to a share in consequence of the death of a Shareholder or otherwise by operation of applicable law shall (upon such evidence being produced as may from time to time be required by the Board as to his entitlement) be entitled to receive and may give a discharge for any dividends or other monies payable in respect of the share, but he shall not be entitled in respect of the share to receive notices of or to attend or vote at general meetings of the Company or, save as aforesaid, to exercise in respect of the share any of the rights or privileges of a Shareholder until he shall have become registered as the holder thereof. The Board may at any time give notice requiring such person to elect either to be registered himself or to transfer the share and, if the notice is not complied with within sixty (60) days, the Board may thereafter withhold payment of all dividends and other monies payable in respect of the shares until the requirements of the notice have been complied with.
- 13.4 Subject to any directions of the Board from time to time in force, the Secretary may exercise the powers and discretions of the Board under this Bye-Law.

**SHARE CAPITAL****14 Increase of Capital**

- 14.1 The Company may from time to time increase its capital by such sum to be divided into shares of such par value as the Company by Resolution shall prescribe.
- 14.2 The Company may, by the Resolution increasing the capital, direct that the new shares or any of them shall be offered in the first instance either at par or at a premium or (subject to the provisions of the Companies Acts) at a discount to all the holders for the time being of shares of any class or classes in proportion to the number of such shares held by them respectively or make any other provision as to the issue of the new shares.
- 14.3 The new shares shall be subject to all the provisions of these Bye-Laws with reference to lien, the payment of calls, forfeiture, transfer, transmission and otherwise.

**15 Alteration of Capital****15.1 The Company may from time to time by Resolution:**

- 15.1.1 divide its shares into several classes and attach thereto respectively any preferential, deferred, qualified or special rights, privileges or conditions;
- 15.1.2 consolidate and divide all or any of its share capital into shares of larger par value than its existing shares;
- 15.1.3 sub-divide its shares or any of them into shares of smaller par value than is fixed by its memorandum, 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;
- 15.1.4 make provision for the issue and allotment of shares which do not carry any voting rights;
- 15.1.5 cancel shares which, at the date of the passing of the Resolution in that behalf, 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; and
- 15.1.6 change the currency denomination of its share capital.

15.2 Where any difficulty arises in regard to any division, consolidation, or sub-division under this Bye-Law, the Board may settle the same as it thinks expedient and, in particular, may arrange for the sale of the shares representing fractions and the distribution of the net proceeds of sale in due proportion amongst the Shareholders who would have been entitled to the fractions, and for this purpose the Board may authorise some person to transfer the shares representing fractions to the purchaser thereof, who shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings relating to the sale.

15.3 Subject to the Companies Acts and to any confirmation or consent required by law or these Bye-Laws, the Company may by Resolution from time to time convert any preference shares into redeemable preference shares.

**16 Reduction of Capital**

- 16.1 Subject to the Companies Acts, its memorandum and any confirmation or consent required by law or these Bye-Laws, the Company may from time to time by Resolution authorise the reduction of its issued share capital or any share premium account in any manner.
- 16.2 In relation to any such reduction, the Company may by Resolution determine the terms upon which such reduction is to be effected including, in the case of a reduction of part only of a class of shares, those shares to be affected.

**GENERAL MEETINGS AND RESOLUTIONS IN WRITING**

## 17 General Meetings and Resolutions in Writing

- 17.1 The Board shall convene and the Company shall hold general meetings as Annual General Meetings in accordance with the requirements of the Companies Acts at such times and places as the Board shall appoint. The Board may, whenever it thinks fit, and shall, when required by the Companies Acts, convene general meetings other than Annual General Meetings which shall be called Special General Meetings.
- 17.2 Except in the case of the removal of auditors or Directors, anything which may be done by resolution of the Shareholders in general meeting or by resolution of any class of Shareholders in a separate general meeting may be done by resolution in writing, signed by the Shareholders (or the holders of such class of shares) who at the date of the notice of the resolution in writing represent the majority of votes that would be required if the resolution had been voted on at a meeting of the Shareholders. Such resolution in writing may be signed by the Shareholder or its proxy, or in the case of a Shareholder that is a corporation (whether or not a company within the meaning of the Companies Acts) by its representative on behalf of such Shareholder, in as many counterparts as may be necessary.
- 17.3 Notice of any resolution in writing to be made under this Bye-Law shall be given to all the Shareholders who would be entitled to attend a meeting and vote on the resolution. The requirement to give notice of any resolution in writing to be made under this Bye-Law to such Shareholders shall be satisfied by giving to those Shareholders a copy of that resolution in writing in the same manner as that required for a notice of a general meeting of the Company at which the resolution could have been considered, except that the length of the period of notice shall not apply. The date of the notice shall be set out in the copy of the resolution in writing.
- 17.4 The accidental omission to give notice, in accordance with this Bye-Law, of a resolution in writing to, or the non-receipt of such notice by, any person entitled to receive such notice shall not invalidate the passing of the resolution in writing.
- 17.5 For the purposes of this Bye-Law, the date of the resolution in writing is the date when the resolution in writing is signed by, or on behalf of, the Shareholder who establishes the majority of votes required for the passing of the resolution in writing and any reference in any enactment to the date of passing of a resolution is, in relation to a resolution in writing made in accordance with this Bye-Law, a reference to such date.
- 17.6 A resolution in writing made in accordance with this Bye-Law is as valid as if it had been passed by the Company in general meeting or, if applicable, by a meeting of the relevant class of Shareholders of the Company, as the case may be. A resolution in writing made in accordance with this Bye-Law shall constitute minutes for the purposes of the Companies Acts and these Bye-Laws.

## 18 Notice of General Meetings

- 18.1 An Annual General Meeting shall be called by not less than five (5) days notice in writing and a Special General Meeting shall be called by not less than five (5) days notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, day and time of the meeting, and, the nature of the business to be considered. Notice of every general meeting shall be given in any manner permitted by these Bye-Laws to all Shareholders other than such as, under the provisions of these Bye-Laws or the terms of issue of the shares they hold, are not entitled to receive such notice from the Company and every Director and to any Resident Representative who or which has delivered a written notice upon the Registered Office requiring that such notice be sent to him or it.
- 18.1.1 Notwithstanding that a meeting of the Company is called by shorter notice than that specified in this Bye-Law, it shall be deemed to have been duly called if it is so agreed:
- 18.1.2 in the case of a meeting called as an Annual General Meeting, by all the Shareholders entitled to attend and vote thereat;
- 18.1.3 in the case of any other meeting, by a majority in number of the Shareholders having the right to attend and vote at the meeting, being a majority together holding not less than ninety-five percent (95%) in nominal value of the shares giving that right.

- 18.2 The accidental omission to give notice of a meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send such instrument of proxy to, or the non-receipt of notice of a meeting or such instrument of proxy by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting.
- 18.3 The Board may cancel or postpone a meeting of the Shareholders after it has been convened and notice of such cancellation or postponement shall be served in accordance with these Bye-Laws upon all Shareholders entitled to notice of the meeting so cancelled or postponed setting out, where the meeting is postponed to a specific date, notice of the new meeting in accordance with this Bye-Law.

## 19 Proceedings at General Meetings

- 19.1 In accordance with the Companies Acts, a general meeting may be held with only one individual present provided that the requirement for a quorum is satisfied. No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business, but the absence of a quorum shall not preclude the appointment, choice or election of a chairman, which shall not be treated as part of the business of the meeting. Save as otherwise provided by these Bye-Laws, at least one Shareholder present in person or by proxy and entitled to vote shall be a quorum for all purposes.
- 19.2 If within five (5) minutes (or such longer time as the chairman of the meeting may determine to wait) after the time appointed for the meeting, a quorum is not present, the meeting, if convened on the requisition of Shareholders, shall be dissolved. In any other case, it shall stand adjourned to such other day and such other time and place as the chairman of the meeting may determine and at such adjourned meeting one Shareholder present in person or by proxy and entitled to vote shall be a quorum. The Company shall give not less than five (5) days notice of any meeting adjourned through want of a quorum and such notice shall state that the one Shareholder present in person or by proxy (whatever the number of shares held by them) and entitled to vote shall be a quorum.
- 19.3 A meeting of the Shareholders or any class thereof may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone, or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.
- 19.4 Each Director, and upon giving the notice referred to in Bye-Law 18.1 above, the Resident Representative, if any, shall be entitled to attend and speak at any general meeting of the Company.
- 19.5 The Board may choose one of their number to preside as chairman at every general meeting. If there is no such chairman, or if at any meeting the chairman is not present within five (5) minutes after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors present shall choose one of their number to act or if only one Director is present he shall preside as chairman if willing to act. If no Director is present, or if each of the Directors present declines to take the chair, the persons present and entitled to vote on a poll shall elect one of their number to be chairman.
- 19.6 The chairman of the meeting may, with the consent by resolution of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at 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 three (3) months or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as expressly provided by these Bye-Laws, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## 20 Voting

- 20.1 Save where a greater majority is required by the Companies Acts or these Bye-Laws, any question proposed for consideration at any general meeting shall be decided on by a simple majority of votes cast.
- 20.2 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands or by a count of votes received in the form of electronic records, unless (before or on the declaration of the result of the show of hands or count of votes received as electronic records or on the withdrawal of any other demand for a poll) a poll is demanded by:
- 20.2.1 the chairman of the meeting; or

- 20.2.2 at least three (3) Shareholders present in person or represented by proxy; or
- 20.2.3 any Shareholder or Shareholders present in person or represented by proxy and holding between them not less than one tenth (1/10) of the total voting rights of all the Shareholders having the right to vote at such meeting; or
- 20.2.4 a Shareholder or Shareholders present in person or represented by proxy holding shares conferring the right to vote at such meeting, being shares on which an aggregate sum has been paid up equal to not less than one tenth (1/10) of the total sum paid up on all such shares conferring such right.

The demand for a poll may be withdrawn by the person or any of the persons making it at any time prior to the declaration of the result. Unless a poll is so demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has, on a show of hands or count of votes received as electronic records, been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost shall be final and conclusive, and an entry to that effect in the minute book of the Company shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded for or against such resolution.

- 20.3 If a poll is duly demanded, the result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 20.4 A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken in such manner and either forthwith or at such time (being not later than three (3) months after the date of the demand) and place as the chairman shall direct. It shall not be necessary (unless the chairman otherwise directs) for notice to be given of a poll.
- 20.5 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded and it may be withdrawn at any time before the close of the meeting or the taking of the poll, whichever is the earlier.
- 20.6 On a poll, votes may be cast either personally or by proxy.
- 20.7 A person entitled to more than one vote on a poll need not use all his votes or cast all the votes he uses in the same way.
- 20.8 In the case of an equality of votes at a general meeting, whether on a show of hands or count of votes received as electronic records or on a poll, the chairman of such meeting shall not be entitled to a second or casting vote and the resolution shall fail.
- 20.9 In the case of joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the joint holding.
- 20.10 A Shareholder who is a patient for any purpose of any statute or applicable law relating to mental health or in respect of whom an order has been made by any Court having jurisdiction for the protection or management of the affairs of persons incapable of managing their own affairs may vote, whether on a show of hands or on a poll, by his receiver, committee, *curator bonis* or other person in the nature of a receiver, committee or *curator bonis* appointed by such Court and such receiver, committee, *curator bonis* or other person may vote on a poll by proxy, and may otherwise act and be treated as such Shareholder for the purpose of general meetings.
- 20.11 No Shareholder shall, unless the Board otherwise determines, be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
- 20.12 If:
- 20.12.1 any objection shall be raised to the qualification of any voter; or,
- 20.12.2 any votes have been counted which ought not to have been counted or which might have been rejected; or,
- 20.12.3 any votes are not counted which ought to have been counted,

the objection or error shall not vitiate the decision of the meeting or adjourned meeting on any resolution unless the same is raised or pointed out at the meeting or, as the case may be, the adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any objection or error shall be referred to the chairman of the meeting and shall only vitiate the decision of the meeting on any resolution if the chairman decides that the same may have affected the decision of the meeting. The decision of the chairman on such matters shall be final and conclusive.

## 21 Proxies and Corporate Representatives

- 21.1 The instrument appointing a proxy or corporate representative shall be in writing executed by the appointor or his attorney authorised by him in writing or, if the appointor is a corporation, either under its seal or executed by an officer, attorney or other person authorised to sign the same.
- 21.2 Any Shareholder may appoint a proxy or (if a corporation) representative for a specific general meeting, and adjournments thereof, or may appoint a standing proxy or (if a corporation) representative, by serving on the Company at the Registered Office, or at such place or places as the Board may otherwise specify for the purpose, a proxy or (if a corporation) an authorisation. Any standing proxy or authorisation shall be valid for all general meetings and adjournments thereof or resolutions in writing, as the case may be, until notice of revocation is received at the Registered Office or at such place or places as the Board may otherwise specify for the purpose. Where a standing proxy or authorisation exists, its operation shall be deemed to have been suspended at any general meeting or adjournment thereof at which the Shareholder is present or in respect to which the Shareholder has specially appointed a proxy or representative. The Board may from time to time require such evidence as it shall deem necessary as to the due execution and continuing validity of any standing proxy or authorisation and the operation of any such standing proxy or authorisation shall be deemed to be suspended until such time as the Board determines that it has received the requested evidence or other evidence satisfactory to it.
- 21.3 Subject to Bye-Law 21.2, the instrument appointing a proxy or corporate representative together with such other evidence as to its due execution as the Board may from time to time require, shall be delivered at the Registered Office (or at such place as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case or the case of a resolution in writing, in any document sent therewith) prior to the holding of the relevant meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of a meeting or adjourned meeting, before the time appointed for the taking of the poll, or, in the case of a resolution in writing, prior to the effective date of the resolution in writing and in default the instrument of proxy or authorisation shall not be treated as valid.
- 21.4 Instruments of proxy or authorisation shall be in any common form or in such other form as the Board may approve and the Board may, if it thinks fit, send out with the notice of any meeting or any resolution in writing forms of instruments of proxy or authorisation for use at that meeting or in connection with that resolution in writing. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll, to speak at the meeting and to vote on any amendment of a resolution in writing or amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy or authorisation shall, unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates.
- 21.5 A vote given in accordance with the terms of an instrument of proxy or authorisation shall be valid notwithstanding the previous death or unsoundness of mind of the principal, or revocation of the instrument of proxy or of the corporate authority, provided that no intimation in writing of such death, unsoundness of mind or revocation shall have been received by the Company at the Registered Office (or such other place as may be specified for the delivery of instruments of proxy or authorisation in the notice convening the meeting or other documents sent therewith) at least one hour before the commencement of the meeting or adjourned meeting, or the taking of the poll, or the day before the effective date of any resolution in writing at which the instrument of proxy or authorisation is used.
- 21.6 Subject to the Companies Acts, the Board may at its discretion waive any of the provisions of these Bye-Laws related to proxies or authorisations and, in particular, may accept such verbal or other assurances as it thinks fit as to the right of any person to attend, speak and vote on behalf of any Shareholder at general meetings or to sign resolutions in writing.

## BOARD OF DIRECTORS

### 22 Appointment and Removal of Directors

- 22.1 The number of Directors shall be not less than two (2) and not more than eight (8) or such numbers in excess thereof as the Company by Resolution may from time to time determine and, subject to the Companies Acts and these Bye-Laws, the Directors shall be elected or appointed by the Company by Resolution and shall serve for such term as the Company by Resolution may determine, or in the absence of such determination, until the termination of the next Annual General Meeting following their appointment. All Directors, upon election or appointment (except upon re-election at an Annual General Meeting), must provide written acceptance of their appointment, in such form as the Board may think fit, by notice in writing to the Registered Office within thirty (30) days of their appointment.
- 22.2 The Company may by Resolution increase the maximum number of Directors. Any one or more vacancies in the Board not filled by the Shareholders at any general meeting of the Shareholders shall be deemed casual vacancies for the purposes of these Bye-Laws. Without prejudice to the power of the Company by Resolution in pursuance of any of the provisions of these Bye-Laws to appoint any person to be a Director, the Board, so long as a quorum of Directors remains in office, shall have power at any time and from time to time to appoint any individual to be a Director so as to fill a casual vacancy.
- 22.3 The Company may in a Special General Meeting called for that purpose remove a Director, provided notice of any such meeting shall be served upon the Director concerned not less than fourteen (14) days before the meeting and he shall be entitled to be heard at that meeting. Any vacancy created by the removal of a Director at a Special General Meeting may be filled at the meeting by the election of another Director in his place or, in the absence of any such election, by the Board.

### 23 Resignation and Disqualification of Directors

The office of a Director shall be vacated upon the happening of any of the following events:

- 23.1 if he resigns his office by notice in writing delivered to the Registered Office or tendered at a meeting of the Board;
- 23.2 if he becomes of unsound mind or a patient for any purpose of any statute or applicable law relating to mental health and the Board resolves that his office is vacated;
- 23.3 if he becomes bankrupt under the laws of any country or compounds with his creditors;
- 23.4 if he is prohibited by law from being a Director;
- 23.5 if he ceases to be a Director by virtue of the Companies Acts or is removed from office pursuant to these Bye-Laws.

### 24 Alternate Directors

- 24.1 A Director may appoint and remove his own Alternate Director. Any appointment or removal of an Alternate Director by a Director shall be effected by delivery of a written notice of appointment or removal to the Secretary at the Registered Office, signed by such Director, and such notice shall be effective immediately upon receipt or on any later date specified in that notice. Any Alternate Director may be removed by resolution of the Board. Subject as aforesaid, the office of Alternate Director shall continue until the next annual election of Directors or, if earlier, the date on which the relevant Director ceases to be a Director. An Alternate Director may also be a Director in his own right and may act as alternate to more than one Director.
- 24.2 An Alternate Director shall be entitled to receive notices of all meetings of Directors, to attend, be counted in the quorum and vote at any such meeting at which any Director to whom he is alternate is not personally present, and generally to perform all the functions of any Director to whom he is alternate in his absence.
- 24.3 Every person acting as an Alternate Director shall (except as regards powers to appoint an alternate and remuneration) be subject in all respects to the provisions of these Bye-Laws relating to Directors and shall alone be responsible to the Company for his acts and defaults and shall not be deemed to be the agent of or for any Director for whom he is alternate. An Alternate Director may be paid expenses and shall be entitled to be indemnified by the Company to the same extent *mutatis mutandis* as if he were a Director. Every person acting as an Alternate Director shall have one vote for each

Director for whom he acts as alternate (in addition to his own vote if he is also a Director). The signature of an Alternate Director to any resolution in writing of the Board or a committee of the Board shall, unless the terms of his appointment provides to the contrary, be as effective as the signature of the Director or Directors to whom he is alternate.

## 25 Directors' Fees and Additional Remuneration and Expenses

The amount, if any, of Directors' fees shall from time to time be determined by the Company by Resolution or in the absence of such a determination, by the Board. Unless otherwise determined to the contrary, such fees shall be deemed to accrue from day to day. Each Director may be paid his reasonable travel, hotel and incidental expenses in attending and returning from meetings of the Board or committees constituted pursuant to these Bye-Laws or general meetings and shall be paid all expenses properly and reasonably incurred by him in the conduct of the Company's business or in the discharge of his duties as a Director. Any Director who, by request, goes or resides abroad for any purposes of the Company or who performs services which in the opinion of the Board go beyond the ordinary duties of a Director may be paid such extra remuneration (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Bye-Law.

## 26 Directors' Interests

- 26.1 A Director may hold any other office or place of profit with the Company (except that of auditor) in conjunction with his office of Director for such period and upon such terms as the Board may determine, and may be paid such extra remuneration therefor (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Bye-Law.
- 26.2 A Director may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.
- 26.3 Subject to the provisions of the Companies Acts, a Director may notwithstanding his office be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested; and be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is interested. The Board may also cause the voting power conferred by the shares in any other company held or owned by the Company to be exercised in such manner in all respects as it thinks fit, including the exercise thereof in favour of any resolution appointing the Directors or any of them to be directors or officers of such other company, or voting or providing for the payment of remuneration to the directors or officers of such other company.
- 26.4 So long as, where it is necessary, he declares the nature of his interest at the first opportunity at a meeting of the Board or by writing to the Directors as required by the Companies Acts, a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from any office or employment to which these Bye-Laws allow him to be appointed or from any transaction or arrangement in which these Bye-Laws allow him to be interested, and no such transaction or arrangement shall be liable to be avoided on the ground of any interest or benefit.
- 26.5 Subject to the Companies Acts and any further disclosure required thereby, a general notice to the Directors by a Director or Officer declaring that he is a director or officer or has an interest in a person and is to be regarded as interested in any transaction or arrangement made with that person, shall be a sufficient declaration of interest in relation to any transaction or arrangement so made.

## POWERS AND DUTIES OF THE BOARD

### 27 Powers and Duties of the Board

- 27.1 Subject to the provisions of the Companies Acts, these Bye-Laws and to any directions given by the Company by Resolution, the Board shall manage the business of the Company and may pay all expenses incurred in promoting and incorporating the Company and may exercise all the powers of the Company. No alteration of these Bye-Laws and no such direction shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Bye-Law shall not be limited by any special power given to the Board by these Bye-Laws and a meeting of the Board at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the Board.

- 27.2 The Board may exercise all the powers of the Company except those powers that are required by the Companies Acts or these Bye-Laws to be exercised by the Shareholders.
- 27.3 All cheques, promissory notes, drafts, bills of exchange and other instruments, whether negotiable or transferable or not, and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board shall from time to time by resolution determine.
- 27.4 The Board on behalf of the Company may provide benefits, whether by the payment of gratuities or pensions or otherwise, for any person including any Director or former Director who has held any executive office or employment with the Company or with any body corporate which is or has been a subsidiary or affiliate of the Company or a predecessor in the business of the Company or of any such subsidiary or affiliate, and to any member of his family or any person who is or was dependent on him, and may contribute to any fund and pay premiums for the purchase or provision of any such gratuity, pension or other benefit, or for the insurance of any such person.
- 27.5 The Board may from time to time appoint one or more of its body to be a managing director, joint managing director or an assistant managing director or to hold any other employment or executive office with the Company for such period and upon such terms as the Board may determine and may revoke or terminate any such appointments. Any such revocation or termination as aforesaid shall be without prejudice to any claim for damages that such Director may have against the Company or the Company may have against such Director for any breach of any contract of service between him and the Company which may be involved in such revocation or termination. Any person so appointed shall receive such remuneration (if any) (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and either in addition to or in lieu of his remuneration as a Director.

## 28 Delegation of the Board's Powers

- 28.1 The Board may by power of attorney appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under these Bye-Laws) and for such period and subject to such conditions as it may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney and of such attorney as the Board may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Such attorney may, if so authorised by the power of attorney, execute any deed, instrument or other document on behalf of the Company.
- 28.2 The Board may entrust to and confer upon any Director, Officer or, without prejudice to the provisions of Bye-Law 28.3, other person any of the powers, authorities and discretions exercisable by it upon such terms and conditions with such restrictions as it thinks fit, and either collaterally with, or to the exclusion of, its own powers, authorities and discretions, and may from time to time revoke or vary all or any of such powers, authorities and discretions, but no person dealing in good faith and without notice of such revocation or variation shall be affected thereby.
- 28.3 The Board may delegate any of its powers, authorities and discretions to committees, consisting of such person or persons (whether a member or members of its body or not) as it thinks fit. Any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, and in conducting its proceedings conform to any regulations which may be imposed upon it by the Board. If no regulations are imposed by the Board the proceedings of a committee with two (2) or more members shall be, as far as is practicable, governed by the Bye-Laws regulating the proceedings of the Board.

## 29 Proceedings of the Board

- 29.1 The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Questions arising at any meeting shall be determined by a majority of votes. In the case of an equality of votes, the motion shall be deemed to have been lost. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Board.
- 29.2 Notice of a meeting of the Board may be given to a Director by word of mouth or in any manner permitted by these Bye-Laws. A Director may retrospectively waive the requirement for notice of any meeting by consenting in writing to the business conducted at the meeting.
- 29.3 The quorum necessary for the transaction of the business of the Board may be fixed by the Board and, unless so fixed at any other number, shall be two (2) individuals. Any Director who ceases to be

- a Director at a meeting of the Board may continue to be present and to act as a Director and be counted in the quorum until the termination of the meeting if no other Director objects and if otherwise a quorum of Directors would not be present.
- 29.4 A Director who to his knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract, transaction or arrangement with the Company and has complied with the provisions of the Companies Acts and these Bye-Laws with regard to disclosure of his interest shall be entitled to vote in respect of any contract, transaction or arrangement in which he is so interested and if he shall do so his vote shall be counted, and he shall be taken into account in ascertaining whether a quorum is present.
- 29.5 The Resident Representative shall, upon delivering written notice of an address for the purposes of receipt of notice to the Registered Office, be entitled to receive notice of, attend and be heard at, and to receive minutes of all meetings of the Board.
- 29.6 So long as a quorum of Directors remains in office, the continuing Directors may act notwithstanding any vacancy in the Board but, if no such quorum remains, the continuing Directors or a sole continuing Director may act only for the purpose of calling a general meeting.
- 29.7 The Board may choose one of their number to preside as chairman at every meeting of the Board. If there is no such chairman, or if at any meeting the chairman is not present within five (5) minutes after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors present may choose one of their number to be chairman of the meeting.
- 29.8 The meetings and proceedings of any committee consisting of two (2) or more members shall be governed by the provisions contained in these Bye-Laws for regulating the meetings and proceedings of the Board so far as the same are applicable and are not superseded by any regulations imposed by the Board.
- 29.9 A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Board (or by an Alternate Director, as provided for in these Bye-Laws) or by all the members of a committee for the time being shall be as valid and effectual as a resolution passed at a meeting of the Board or, as the case may be, of such committee duly called and constituted. Such resolution may be contained in one document or in several documents in the like form each signed by one or more of the Directors or members of the committee concerned.
- 29.10 A meeting of the Board or a committee appointed by the Board may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting. Such a meeting shall be deemed to take place where the largest group of those Directors participating in the meeting is physically assembled, or, if there is no such group, where the chairman of the meeting then is.
- 29.11 All acts done by the Board or by any committee or by any person acting as a Director or member of a committee or any person duly authorised by the Board or any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board or such committee or person acting as aforesaid or that they or any of them were disqualified or had vacated their office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director, member of such committee or person so authorised.

## OFFICERS

### 30 Officers

- 30.1 The Officers of the Company, who may or may not be Directors, may be appointed by the Board at any time. Any person appointed pursuant to this Bye-Law shall hold office for such period and upon such terms as the Board may determine and the Board may revoke or terminate any such appointment. Any such revocation or termination shall be without prejudice to any claim for damages that such Officer may have against the Company or the Company may have against such Officer for any breach of any contract of service between him and the Company which may be involved in such revocation or termination. Save as provided in the Companies Acts or these Bye-Laws, the powers and duties of the Officers of the Company shall be such (if any) as are determined from time to time by the Board.
- 30.2 The provisions of these Bye-Laws as to resignation and disqualification of Directors shall *mutatis mutandis* apply to the resignation and disqualification of Officers.

### MINUTES

#### 31 Minutes

- 31.1 The Board shall cause minutes to be made and books kept for the purpose of recording:
- 31.1.1 all appointments of Officers made by the Board;
  - 31.1.2 the names of the Directors and other persons (if any) present at each meeting of the Board and of any committee; and
  - 31.1.3 all proceedings at meetings of the Company, of the holders of any class of shares in the Company, of the Board and of committees appointed by the Board or the Shareholders.
- 31.2 Shareholders shall only be entitled to see the Register of Directors and Officers, the Register, the financial information provided for in Bye-Law 38.3 and the minutes of meetings of the Shareholders of the Company.

### SECRETARY AND RESIDENT REPRESENTATIVE

#### 32 Secretary and Resident Representative

- 32.1 The Secretary (including one or more deputy or assistant secretaries) and, if required, the Resident Representative, shall be appointed by the Board at such remuneration (if any) and upon such terms as it may think fit and any Secretary and Resident Representative so appointed may be removed by the Board. The duties of the Secretary and the duties of the Resident Representative shall be those prescribed by the Companies Acts together with such other duties as shall from time to time be prescribed by the Board.
- 32.2 A provision of the Companies Acts or these Bye-Laws requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

### THE SEAL

#### 33 The Seal

- 33.1 The Board may authorise the production of a common seal of the Company and one or more duplicate common seals of the Company, which shall consist of a circular device with the name of the Company around the outer margin thereof and the country and year of registration in Bermuda across the centre thereof.
- 33.2 Any document required to be under seal or executed as a deed on behalf of the Company may be:
- 33.2.1 executed under the Seal in accordance with these Bye-Laws; or
  - 33.2.2 signed or executed by any person authorised by the Board for that purpose, without the use of the Seal.

- 33.3 The Board shall provide for the custody of every Seal. A Seal shall only be used by authority of the Board or of a committee constituted by the Board. Subject to these Bye-Laws, any instrument to which a Seal is affixed shall be attested by the signature of:
- 33.3.1 a Director; or
  - 33.3.2 the Secretary; or
  - 33.3.3 any one person authorised by the Board for that purpose.

## **DIVIDENDS AND OTHER PAYMENTS**

### **34 Dividends and Other Payments**

- 34.1 The Board may from time to time declare dividends or distributions out of contributed surplus to be paid to the Shareholders according to their rights and interests, including such interim dividends as appear to the Board to be justified by the position of the Company. The Board, in its discretion, may determine that any dividend shall be paid in cash or shall be satisfied, subject to Bye-Law 36, in paying up in full shares in the Company to be issued to the Shareholders credited as fully paid or partly paid or partly in one way and partly the other. The Board may also pay any fixed cash dividend which is payable on any shares of the Company half yearly or on such other dates, whenever the position of the Company, in the opinion of the Board, justifies such payment.
- 34.2 Except insofar as the rights attaching to, or the terms of issue of, any share otherwise provide:
- 34.2.1 all dividends or distributions out of contributed surplus may be declared and paid according to the amounts paid up on the shares in respect of which the dividend or distribution is paid, and an amount paid up on a share in advance of calls may be treated for the purpose of this Bye-Law as paid-up on the share;
  - 34.2.2 dividends or distributions out of contributed surplus may be apportioned and paid pro rata according to the amounts paid-up on the shares during any portion or portions of the period in respect of which the dividend or distribution is paid.
- 34.3 The Board may deduct from any dividend, distribution or other monies payable to a Shareholder by the Company on or in respect of any shares all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in respect of shares of the Company.
- 34.4 No dividend, distribution or other monies payable by the Company on or in respect of any share shall bear interest against the Company.
- 34.5 Any dividend, distribution or interest, or part thereof payable in cash, or any other sum payable in cash to the holder of shares may be paid by cheque or warrant sent through the post or by courier addressed to the holder at his address in the Register or, in the case of joint holders, addressed to the holder whose name stands first in the Register in respect of the shares at his registered address as appearing in the Register or addressed to such person at such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall, unless the holder or joint holders otherwise direct, be made payable to the order of the holder or, in the case of joint holders, to the order of the holder whose name stands first in the Register in respect of such shares, and shall be sent at his or their risk and payment of the cheque or warrant by the bank on which it is drawn shall constitute a good discharge to the Company. Any one of two (2) or more joint holders may give effectual receipts for any dividends, distributions or other monies payable or property distributable in respect of the shares held by such joint holders.
- 34.6 Any dividend or distribution out of contributed surplus unclaimed for a period of six (6) years from the date of declaration of such dividend or distribution shall be forfeited and shall revert to the Company and the payment by the Board of any unclaimed dividend, distribution, interest or other sum payable on or in respect of the share into a separate account shall not constitute the Company a trustee in respect thereof.
- 34.7 The Board may also, in addition to its other powers, direct payment or satisfaction of any dividend or distribution out of contributed surplus wholly or in part by the distribution of specific assets, and in particular of paid-up shares or debentures of any other company, and where any difficulty arises in regard to such distribution or dividend, the Board may settle it as it thinks expedient, and in particular, may authorise any person to sell and transfer any fractions or may ignore fractions altogether, and may fix the value for distribution or dividend purposes of any such specific assets and may determine that

cash payments shall be made to any Shareholders upon the footing of the values so fixed in order to secure equality of distribution and may vest any such specific assets in trustees as may seem expedient to the Board, provided that such dividend or distribution may not be satisfied by the distribution of any partly paid shares or debentures of any company without the sanction of a Resolution.

### 35 Reserves

The Board may, before declaring any dividend or distribution out of contributed surplus, set aside such sums as it thinks proper as reserves which shall, at the discretion of the Board, be applicable for any purpose of the Company and pending such application may, also at such discretion, either be employed in the business of the Company or be invested in such investments as the Board may from time to time think fit. The Board may also without placing the same to reserve carry forward any sums which it may think it prudent not to distribute.

## CAPITALISATION OF PROFITS

### 36 Capitalisation of Profits

- 36.1 The Board may from time to time resolve to capitalise all or any part of any amount for the time being standing to the credit of any reserve or fund which is available for distribution or to the credit of any share premium account and accordingly that such amount be set free for distribution amongst the Shareholders or any class of Shareholders who would be entitled thereto if distributed by way of dividend and in the same proportions, on the footing that the same be not paid in cash but be applied either in or towards paying up amounts for the time being unpaid on any shares in the Company held by such Shareholders respectively or in payment up in full of unissued shares, debentures or other obligations of the Company, to be allotted and distributed credited as fully paid amongst such Shareholders, or partly in one way and partly in the other, provided that for the purpose of this Bye-Law, a share premium account may be applied only in paying up of unissued shares to be issued to such Shareholders credited as fully paid.
- 36.2 Where any difficulty arises in regard to any distribution under this Bye-Law, the Board may settle the same as it thinks expedient and, in particular, may authorise any person to sell and transfer any fractions or may resolve that the distribution should be as nearly as may be practicable in the correct proportion but not exactly so or may ignore fractions altogether, and may determine that cash payments should be made to any Shareholders in order to adjust the rights of all parties, as may seem expedient to the Board. The Board may appoint any person to sign on behalf of the persons entitled to participate in the distribution any contract necessary or desirable for giving effect thereto and such appointment shall be effective and binding upon the Shareholders.

## RECORD DATES

### 37 Record Dates

Notwithstanding any other provisions of these Bye-Laws, the Company may by Resolution or the Board may fix any date as the record date for any dividend, distribution, allotment or issue and for the purpose of identifying the persons entitled to receive notices of any general meeting and to vote at any general meeting. Any such record date may be on or at any time before or after any date on which such dividend, distribution, allotment or issue is declared, paid or made or such notice is despatched.

## ACCOUNTING RECORDS

### 38 Accounting Records

- 38.1 The Board shall cause to be kept accounting records sufficient to give a true and fair view of the state of the Company's affairs and to show and explain its transactions, in accordance with the Companies Acts.
- 38.2 The records of account shall be kept at the Registered Office or at such other place or places as the Board thinks fit, and shall at all times be open to inspection by the Directors, PROVIDED that if the records of account are kept at some place outside Bermuda, there shall be kept at an office of the Company in Bermuda such records as will enable the Directors to ascertain with reasonable accuracy the financial position of the Company at the end of each three (3) month period. No Shareholder (other than an Officer of the Company) shall have any right to inspect any accounting record or book or document of the Company except as conferred by law or authorised by the Board or by Resolution.
- 38.3 A copy of every balance sheet and statement of income and expenditure, including every document required by law to be annexed thereto, which is to be laid before the Company in general meeting, together with a copy of the auditors' report, shall be sent to each person entitled thereto in accordance with the requirements of the Companies Acts.

**AUDIT**

## 39 Audit

Save and to the extent that an audit is waived in the manner permitted by the Companies Acts, auditors shall be appointed and their duties regulated in accordance with the Companies Acts, any other applicable law and such requirements not inconsistent with the Companies Acts as the Board may from time to time determine.

**SERVICE OF NOTICES AND OTHER DOCUMENTS**

## 40 Service of Notices and Other Documents

40.1 Any notice or other document (including but not limited to a share certificate, any notice of a general meeting of the Company, any instrument of proxy and any document to be sent in accordance with Bye-Law 38.3) may be sent to, served on or delivered to any Shareholder by the Company

40.1.1 personally;

40.1.2 by sending it through the post (by airmail where applicable) in a pre-paid letter addressed to such Shareholder at his address as appearing in the Register;

40.1.3 by sending it by courier to or leaving it at the Shareholder's address appearing in the Register;

40.1.4 where applicable, by sending it by email or facsimile or other mode of representing or reproducing words in a legible and non-transitory form or by sending an electronic record of it by electronic means, in each case to an address or number supplied by such Shareholder for the purposes of communication in such manner; or

40.1.5 by publication of an electronic record of it on a website and notification of such publication (which shall include the address of the website, the place on the website where the document may be found, and how the document may be accessed on the website) by any of the methods set out in paragraphs 40.1.1, 40.1.2, 40.1.3 or 40.1.4 of this Bye-Law, in accordance with the Companies Acts.

In the case of joint holders of a share, service or delivery of any notice or other document on or to one of the joint holders shall for all purposes be deemed as sufficient service on or delivery to all the joint holders.

40.2 Any notice or other document shall be deemed to have been served on or delivered to any Shareholder by the Company

40.2.1 if sent by personal delivery, at the time of delivery;

40.2.2 if sent by post, forty-eight (48) hours after it was put in the post;

40.2.3 if sent by courier or facsimile, twenty-four (24) hours after sending;

40.2.4 if sent by email or other mode of representing or reproducing words in a legible and non-transitory form or as an electronic record by electronic means, twelve (12) hours after sending; or

40.2.5 if published as an electronic record on a website, at the time that the notification of such publication shall be deemed to have been delivered to such Shareholder,

and in proving such service or delivery, it shall be sufficient to prove that the notice or document was properly addressed and stamped and put in the post, published on a website in accordance with the Companies Acts and the provisions of these Bye-Laws, or sent by courier, facsimile, email or as an electronic record by electronic means, as the case may be, in accordance with these Bye-Laws.

Each Shareholder and each person becoming a Shareholder subsequent to the adoption of these Bye-laws, by virtue of its holding or its acquisition and continued holding of a share, as applicable, shall be deemed to have acknowledged and agreed that any notice or other document (excluding a share

certificate) may be provided by the Company by way of accessing them on a website instead of being provided by other means.

- 40.3 Any notice or other document delivered, sent or given to a Shareholder in any manner permitted by these Bye-Laws shall, notwithstanding that such Shareholder is then dead or bankrupt or that any other event has occurred, and whether or not the Company has notice of the death or bankruptcy or other event, be deemed to have been duly served or delivered in respect of any share registered in the name of such Shareholder as sole or joint holder unless his name shall, at the time of the service or delivery of the notice or document, have been removed from the Register as the holder of the share, and such service or delivery shall for all purposes be deemed as sufficient service or delivery of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the share.
- 40.4 Save as otherwise provided, the provisions of these Bye-Laws as to service of notices and other documents on Shareholders shall *mutatis mutandis* apply to service or delivery of notices and other documents to the Company or any Director, Alternate Director or Resident Representative pursuant to these Bye-Laws.

## WINDING UP

### 41 Winding Up

If the Company shall be wound up, the liquidator may, with the sanction of a Resolution of the Company and any other sanction required by the Companies Acts, divide amongst the Shareholders in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may for such purposes set such values as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Shareholders or different classes of Shareholders. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trust for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no Shareholder shall be compelled to accept any shares or other assets upon which there is any liability.

## INDEMNITY

### 42 Indemnity

- 42.1 Subject to the proviso below, every Indemnified Person shall be indemnified and held harmless out of the assets of the Company against all liabilities, loss, damage or expense (including but not limited to liabilities under contract, tort and statute or any applicable foreign law or regulation and all reasonable legal and other costs and expenses properly payable) incurred or suffered by him by or by reason of any act done, conceived in or omitted in the conduct of the Company's business or in the discharge of his duties and the indemnity contained in this Bye-Law shall extend to any Indemnified Person acting in any office or trust in the reasonable belief that he has been appointed or elected to such office or trust notwithstanding any defect in such appointment or election PROVIDED ALWAYS that the indemnity contained in this Bye-Law shall not extend to any matter which would render it void pursuant to the Companies Acts.
- 42.2 No Indemnified Person shall be liable to the Company for the acts, defaults or omissions of any other Indemnified Person.
- 42.3 Every Indemnified Person shall be indemnified out of the assets of the Company against all liabilities incurred by him by or by reason of any act done, conceived in or omitted in the conduct of the Company's business or in the discharge of his duties in defending any proceedings, whether civil or criminal, in which judgement is given in his favour, or in which he is acquitted, or in connection with any application under the Companies Acts in which relief from liability is granted to him by the court.
- 42.4 To the extent that any Indemnified Person is entitled to claim an indemnity pursuant to these Bye-Laws in respect of amounts paid or discharged by him, the relevant indemnity shall take effect as an obligation of the Company to reimburse the person making such payment or effecting such discharge.
- 42.5 Each Shareholder and the Company agree to waive any claim or right of action he or it may at any time have, whether individually or by or in the right of the Company, against any Indemnified Person on account of any action taken by such Indemnified Person or the failure of such Indemnified Person to take any action in the performance of his duties with or for the Company PROVIDED HOWEVER that such waiver shall not apply to any claims or rights of action arising out of the fraud of such

Indemnified Person or to recover any gain, personal profit or advantage to which such Indemnified Person is not legally entitled.

- 42.6 Expenses incurred in defending any civil or criminal action or proceeding for which indemnification is required pursuant to these Bye-Laws shall be paid by the Company in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of the Indemnified Person to repay such amount if any allegation of fraud or dishonesty is proved against the Indemnified Person.

#### **AMALGAMATION**

##### 43 Amalgamation

Any resolution proposed for consideration at any general meeting to approve the amalgamation of the Company with any other company, wherever incorporated, shall require the approval of a simple majority of votes cast at such meeting and the quorum for such meeting shall be that required in Bye-Law 19.1 and a poll may be demanded in respect of such resolution in accordance with the provisions of Bye-Law 20.2.

#### **CONTINUATION**

##### 44 Continuation

Subject to the Companies Acts, the Board may approve the discontinuation of the Company in Bermuda and the continuation of the Company in a jurisdiction outside Bermuda. The Board, having resolved to approve the discontinuation of the Company, may further resolve not to proceed with any application to discontinue the Company in Bermuda or may vary such application as it sees fit.

#### **ALTERATION OF BYE-LAWS**

##### 45 Alteration of Bye-Laws

These Bye-Laws may be amended from time to time by resolution of the Board, but subject to approval by Resolution.

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## INTERPRETATION

### 1. Definitions

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

**Act** the Companies Act 1981 as amended from time to time;

**Alternate Director** an alternate director appointed in accordance with these Bye-laws;

**Auditor** includes an individual or partnership;

**Board** the board of directors appointed or elected pursuant to these Bye-laws and acting by resolution in accordance with the Act and these Bye-laws or the directors present at a meeting of directors at which there is a quorum;

**Company** the company for which these Bye-laws are approved and confirmed;

**Director** a director of the Company and shall include an Alternate Director;

**Member** the person registered in the Register of Members as the holder of shares in the Company and, when two or more persons are so registered as joint holders of shares, means the person whose name stands first in the Register of Members as one of such joint holders or all of such persons, as the context so requires;

**Notice** written notice as further provided in these Bye-laws unless otherwise specifically stated;

**Officer** any person appointed by the Board to hold an office in the Company;

**Register of Directors and Officers** the register of directors and officers referred to in these Bye-laws;

**Register of Members** the register of members referred to in these Bye-laws;

**Resident Representative** any person appointed to act as resident representative and includes any deputy or assistant resident representative;

**Secretary** the person appointed to perform any or all of the duties of secretary of the Company and includes any deputy or assistant secretary and any person appointed by the Board to perform any of the duties of the Secretary; and

**Treasury Share** a share of the Company that was or is treated as having been acquired and held by the Company and has been held continuously by the Company since it was so acquired and has not been cancelled.

1.2 In these Bye-laws, where not inconsistent with the context:

- (a) words denoting the plural number include the singular number and vice versa;
- (b) words denoting the masculine gender include the feminine and neuter genders;
- (c) words importing persons include companies, associations or bodies of persons whether corporate or not;
- (d) the words:
  - (i) "may" shall be construed as permissive; and
  - (ii) "shall" shall be construed as imperative; and
- (e) unless otherwise provided herein, words or expressions defined in the Act shall bear the same meaning in these Bye-laws.

1.3 In these Bye-laws expressions referring to writing or its cognates shall, unless the contrary intention appears, include facsimile, printing, lithography, photography, electronic mail and other modes of representing words in visible form.

- 1.4 Headings used in these Bye-laws are for convenience only and are not to be used or relied upon in the construction hereof.

## SHARES

### 2. Power to Issue Shares

- 2.1 Subject to these Bye-laws and to any resolution of the Members to the contrary, and without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, the Board shall have the power to issue any unissued shares on such terms and conditions as it may determine and any shares or class of shares may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise as the Company may by resolution of the Members prescribe.
- 2.2 Subject to the Act, any preference shares may be issued or converted into shares that (at a determinable date or at the option of the Company or the holder) are liable to be redeemed on such terms and in such manner as may be determined by the Board (before the issue or conversion).

### 3. Power of the Company to Purchase its Shares

- 3.1 The Company may purchase its own shares for cancellation or acquire them as Treasury Shares in accordance with the Act on such terms as the Board shall think fit.
- 3.2 The Board may exercise all the powers of the Company to purchase or acquire all or any part of its own shares in accordance with the Act.

### 4. Rights Attaching to Shares

- 4.1 Subject to any resolution of the Members to the contrary (and without prejudice to any special rights conferred thereby on the holders of any other shares or class of shares), the share capital shall be divided into shares of a single class the holders of which shall, subject to these Bye-laws:
- (a) be entitled to one vote per share;
  - (b) be entitled to such dividends as the Board may from time to time declare;
  - (c) in the event of a winding-up or dissolution of the Company, whether voluntary or involuntary or for the purpose of a reorganisation or otherwise or upon any distribution of capital, be entitled to the surplus assets of the Company; and
  - (d) generally be entitled to enjoy all of the rights attaching to shares.
- 4.2 All the rights attaching to a Treasury Share shall be suspended and shall not be exercised by the Company while it holds such Treasury Share and, except where required by the Act, all Treasury Shares shall be excluded from the calculation of any percentage or fraction of the share capital, or shares, of the Company.

### 5. Calls on Shares

- 5.1 The Board may make such calls as it thinks fit upon the Members in respect of any moneys (whether in respect of nominal value or premium) unpaid on the shares allotted to or held by such Members and, if a call is not paid on or before the day appointed for payment thereof, the Member may at the discretion of the Board be liable to pay the Company interest on the amount of such call at such rate as the Board may determine, from the date when such call was payable up to the actual date of payment. The Board may differentiate between the holders as to the amount of calls to be paid and the times of payment of such calls.
- 5.2 The joint holders of a share shall be jointly and severally liable to pay all calls and any interest, costs and expenses in respect thereof.
- 5.3 The Company may accept from any Member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up.

### 6. Prohibition on Financial Assistance

The Company shall not give, whether directly or indirectly, whether by means of loan, guarantee, provision of security or otherwise, any financial assistance for the purpose of the acquisition or proposed acquisition by any person of any shares in the Company, but nothing in this Bye-law shall prohibit transactions permitted under the Act.

**7. Forfeiture of Shares**

- 7.1** If any Member fails to pay, on the day appointed for payment thereof, any call in respect of any share allotted to or held by such Member, the Board may, at any time thereafter during such time as the call remains unpaid, direct the Secretary to forward such Member a notice in writing in the form, or as near thereto as circumstances admit, of the following:

Notice of Liability to Forfeiture for Non-Payment of Call  
• (the "Company")

You have failed to pay the call of [amount of call] made on the [ ] day of [ ], 200[ ], in respect of the [number] share(s) [number in figures] standing in your name in the Register of Members of the Company, on the [ ] day of [ ], 200[ ], the day appointed for payment of such call. You are hereby notified that unless you pay such call together with interest thereon at the rate of [ ] per annum computed from the said [ ] day of [ ], 200[ ] at the registered office of the Company the share(s) will be liable to be forfeited.

Dated this [ ] day of [ ], 200[ ]

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[Signature of Secretary] By Order of the Board

- 7.2** If the requirements of such notice are not complied with, any such share may at any time thereafter before the payment of such call and the interest due in respect thereof be forfeited by a resolution of the Board to that effect, and such share shall thereupon become the property of the Company and may be disposed of as the Board shall determine. Without limiting the generality of the foregoing, the disposal may take place by sale, repurchase, redemption or any other method of disposal permitted by and consistent with these Bye-laws and the Act.
- 7.3** A Member whose share or shares have been so forfeited shall, notwithstanding such forfeiture, be liable to pay to the Company all calls owing on such share or shares at the time of the forfeiture, together with all interest due thereon and any costs and expenses incurred by the Company in connection therewith.
- 7.4** The Board may accept the surrender of any shares which it is in a position to forfeit on such terms and conditions as may be agreed. Subject to those terms and conditions, a surrendered share shall be treated as if it had been forfeited.

**8. Share Certificates**

- 8.1** Every Member shall be entitled to a certificate under the common seal (or a facsimile thereof) of the Company or bearing the signature (or a facsimile thereof) of a Director or the Secretary or a person expressly authorised to sign specifying the number and, where appropriate, the class of shares held by such Member and whether the same are fully paid up and, if not, specifying the amount paid on such shares. The Board may by resolution determine, either generally or in a particular case, that any or all signatures on certificates may be printed thereon or affixed by mechanical means.
- 8.2** The Company shall be under no obligation to complete and deliver a share certificate unless specifically called upon to do so by the person to whom the shares have been allotted.
- 8.3** If any share certificate shall be proved to the satisfaction of the Board to have been worn out, lost, mislaid, or destroyed the Board may cause a new certificate to be issued and request an indemnity for the lost certificate if it sees fit.

**9. Fractional Shares**

The Company may issue its shares in fractional denominations and deal with such fractions to the same extent as its whole shares and shares in fractional denominations shall have in proportion to the respective fractions represented thereby all of the rights of whole shares including (but without limiting the generality of the foregoing) the right to vote, to receive dividends and distributions and to participate in a winding-up.

**REGISTRATION OF SHARES**

**10. Register of Members**

- 10.1 The Board shall cause to be kept in one or more books a Register of Members and shall enter therein the particulars required by the Act.
- 10.2 The Register of Members shall be open to inspection without charge at the registered office of the Company on every business day, subject to such reasonable restrictions as the Board may impose, so that not less than two hours in each business day be allowed for inspection. The Register of Members may, after notice has been given in accordance with the Act, be closed for any time or times not exceeding in the whole thirty days in each year.

**11. Registered Holder Absolute Owner**

The Company shall be entitled to treat the registered holder of any share as the absolute owner thereof and accordingly shall not be bound to recognise any equitable claim or other claim to, or interest in, such share on the part of any other person.

**12. Transfer of Registered Shares**

- 12.1 An instrument of transfer shall be in writing in the form of the following, or as near thereto as circumstances admit, or in such other form as the Board may accept:

Transfer of a Share or Shares  
• (the "Company")

FOR VALUE RECEIVED..... [amount], I, [name of transferor] hereby sell, assign and transfer unto [transferee] of [address], [number] shares of the Company.

DATED this [ ] day of [ ], 200[ ]

Signed by:	In the presence of:
Transferor	Witness
Transferee	Witness

- 12.2 Such instrument of transfer shall be signed by or on behalf of the transferor and transferee, provided that, in the case of a fully paid share, the Board may accept the instrument signed by or on behalf of the transferor alone. The transferor shall be deemed to remain the holder of such share until the same has been registered as having been transferred to the transferee in the Register of Members.
- 12.3 The Board may refuse to recognise any instrument of transfer unless it is accompanied by the certificate in respect of the shares to which it relates and by such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.
- 12.4 The joint holders of any share may transfer such share to one or more of such joint holders, and the surviving holder or holders of any share previously held by them jointly with a deceased Member may transfer any such share to the executors or administrators of such deceased Member.
- 12.5 The Board may in its absolute discretion and without assigning any reason therefor refuse to register the transfer of a share. The Board shall refuse to register a transfer unless all applicable consents, authorisations and permissions of any governmental body or agency in Bermuda have been obtained. If the Board refuses to register a transfer of any share the Secretary shall, within three months after the date on which the transfer was lodged with the Company, send to the transferor and transferee notice of the refusal.

**13. Transmission of Registered Shares**

- 13.1 In the case of the death of a Member, the survivor or survivors where the deceased Member was a joint holder, and the legal personal representatives of the deceased Member where the deceased Member was a sole holder, shall be the only persons recognised by the Company as having any title to the deceased Member's interest in the shares. Nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by

such deceased Member with other persons. Subject to the Act, for the purpose of this Bye-law, legal personal representative means the executor or administrator of a deceased Member or such other person as the Board may, in its absolute discretion, decide as being properly authorised to deal with the shares of a deceased Member.

- 13.2** Any person becoming entitled to a share in consequence of the death or bankruptcy of any Member may be registered as a Member upon such evidence as the Board may deem sufficient or may elect to nominate some person to be registered as a transferee of such share, and in such case the person becoming entitled shall execute in favour of such nominee an instrument of transfer in writing in the form, or as near thereto as circumstances admit, of the following:

Transfer by a Person Becoming Entitled on Death/Bankruptcy of a Member

- (the "Company")

I/We, having become entitled in consequence of the [death/bankruptcy] of [name and address of deceased/bankrupt Member] to [number] share(s) standing in the Register of Members of the Company in the name of the said [name of deceased/bankrupt Member] instead of being registered myself/ourselves, elect to have [name of transferee] (the "Transferee") registered as a transferee of such share(s) and I/we do hereby accordingly transfer the said share(s) to the Transferee to hold the same unto the Transferee, his or her executors, administrators and assigns, subject to the conditions on which the same were held at the time of the execution hereof; and the Transferee does hereby agree to take the said share(s) subject to the same conditions.

DATED this [ ] day of [ ], 200[ ]

Signed by:

In the presence of:

\_\_\_\_\_

\_\_\_\_\_

Transferor

Witness

\_\_\_\_\_

\_\_\_\_\_

Transferee

Witness

- 13.3** On the presentation of the foregoing materials to the Board, accompanied by such evidence as the Board may require to prove the title of the transferor, the transferee shall be registered as a Member. Notwithstanding the foregoing, the Board shall, in any case, have the same right to decline or suspend registration as it would have had in the case of a transfer of the share by that Member before such Member's death or bankruptcy, as the case may be.
- 13.4** Where two or more persons are registered as joint holders of a share or shares, then in the event of the death of any joint holder or holders the remaining joint holder or holders shall be absolutely entitled to such share or shares and the Company shall recognise no claim in respect of the estate of any joint holder except in the case of the last survivor of such joint holders.

## ALTERATION OF SHARE CAPITAL

### 14. Power to Alter Capital

- 14.1** The Company may if authorised by resolution of the Members increase, divide, consolidate, subdivide, change the currency denomination of, diminish or otherwise alter or reduce its share capital in any manner permitted by the Act.
- 14.2** Where, on any alteration or reduction of share capital, fractions of shares or some other difficulty would arise, the Board may deal with or resolve the same in such manner as it thinks fit.

### 15. Variation of Rights Attaching to Shares

If, at any time, the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound-up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class or with the sanction of a resolution passed by a majority of the votes cast at a separate

general meeting of the holders of the shares of the class at which meeting the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class. 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.

## **DIVIDENDS AND CAPITALISATION**

### **16. Dividends**

- 16.1** The Board may, subject to these Bye-laws and in accordance with the Act, declare a dividend to be paid to the Members, in proportion to the number of shares held by them, and such dividend may be paid in cash or wholly or partly in specie in which case the Board may fix the value for distribution in specie of any assets. No unpaid dividend shall bear interest as against the Company.
- 16.2** The Board may fix any date as the record date for determining the Members entitled to receive any dividend.
- 16.3** The Company may pay dividends in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.
- 16.4** The Board may declare and make such other distributions (in cash or in specie) to the Members as may be lawfully made out of the assets of the Company. No unpaid distribution shall bear interest as against the Company.

### **17. Power to Set Aside Profits**

The Board may, before declaring a dividend, set aside out of the surplus or profits of the Company, such amount as it thinks proper as a reserve to be used to meet contingencies or for equalising dividends or for any other purpose.

### **18. Method of Payment**

- 18.1** Any dividend, interest, or other moneys payable in cash in respect of the shares may be paid by cheque or draft sent through the post directed to the Member at such Member's address in the Register of Members, or to such person and to such address as the holder may in writing direct.
- 18.2** In the case of joint holders of shares, any dividend, interest or other moneys payable in cash in respect of shares may be paid by cheque or draft sent through the post directed to the address of the holder first named in the Register of Members, or to such person and to such address as the joint holders may in writing direct. If two or more persons are registered as joint holders of any shares any one can give an effectual receipt for any dividend paid in respect of such shares.
- 18.3** The Board may deduct from the dividends or distributions payable to any Member all moneys due from such Member to the Company on account of calls or otherwise.

### **19. Capitalisation**

- 19.1** The Board may capitalise any amount for the time being standing to the credit of any of the Company's share premium or other reserve accounts or to the credit of the profit and loss account or otherwise available for distribution by applying such amount in paying up unissued shares to be allotted as fully paid bonus shares pro rata to the Members.
- 19.2** The Board may capitalise any amount for the time being standing to the credit of a reserve account or amounts otherwise available for dividend or distribution by applying such amounts in paying up in full, partly or nil paid shares of those Members who would have been entitled to such amounts if they were distributed by way of dividend or distribution.

## **MEETINGS OF MEMBERS**

### **20. Annual General Meetings**

The annual general meeting shall be held in each year (other than the year of incorporation) at such time and place as the President or the Chairman (if any) or any two Directors or any Director and the Secretary or the Board shall appoint.

### **21. Special General Meetings**

The President or the Chairman (if any) or any two Directors or any Director and the Secretary or the Board may convene a special general meeting whenever in their judgment such a meeting is necessary.

**22. Requisitioned General Meetings**

The Board shall, on the requisition of Members holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up share capital of the Company as at the date of the deposit carries the right to vote at general meetings, forthwith proceed to convene a special general meeting and the provisions of the Act shall apply.

**23. Notice**

**23.1** At least five days' notice of an annual general meeting shall be given to each Member entitled to attend and vote thereat, stating the date, place and time at which the meeting is to be held, that the election of Directors will take place thereat, and as far as practicable, the other business to be conducted at the meeting.

**23.2** At least five days' notice of a special general meeting shall be given to each Member entitled to attend and vote thereat, stating the date, time, place and the general nature of the business to be considered at the meeting.

**23.3** The Board may fix any date as the record date for determining the Members entitled to receive notice of and to vote at any general meeting.

**23.4** A general meeting shall, notwithstanding that it is called on shorter notice than that specified in these Bye-laws, be deemed to have been properly called if it is so agreed by (i) all the Members entitled to attend and vote thereat in the case of an annual general meeting; and (ii) by a majority in number of the Members having the right to attend and vote at the meeting, being a majority together holding not less than 95% in nominal value of the shares giving a right to attend and vote thereat in the case of a special general meeting.

**23.5** The accidental omission to give notice of a general meeting to, or the non-receipt of a notice of a general meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

**24. Giving Notice and Access**

**24.1** A notice may be given by the Company to a Member:

- (a) by delivering it to such Member in person; or
- (b) by sending it by letter mail or courier to such Member's address in the Register of Members; or
- (c) by transmitting it by electronic means (including facsimile and electronic mail, but not telephone) in accordance with such directions as may be given by such Member to the Company for such purpose; or
- (d) in accordance with Bye-law 24.4.

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

**24.3** Any notice (save for one delivered in accordance with Bye-law 24.4) shall be deemed to have been served at the time when the same would be delivered in the ordinary course of transmission and, in proving such service, it shall be sufficient to prove that the notice was properly addressed and prepaid, if posted, and the time when it was posted, delivered to the courier, or transmitted by electronic means.

**24.4** Where a Member indicates his consent (in a form and manner satisfactory to the Board), to receive information or documents by accessing them on a website rather than by other means, or receipt in this manner is otherwise permitted by the Act, the Board may deliver such information or documents by notifying the Member of their availability and including therein the address of the website, the place on the website where the information or document may be found, and instructions as to how the information or document may be accessed on the website.

**24.5** In the case of information or documents delivered in accordance with Bye-law 24.4, service shall be deemed to have occurred when (i) the Member is notified in accordance with that Bye-law; and (ii) the information or document is published on the website.

**25. Postponement of General Meeting**

The Secretary may postpone any general meeting called in accordance with these Bye-laws (other than a meeting requisitioned under these Bye-laws) provided that notice of postponement is given to the Members before the time for such meeting. Fresh notice of the date, time and place for the postponed meeting shall be given to each Member in accordance with these Bye-laws.

**26. Electronic Participation in Meetings**

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

**27. Quorum at General Meetings**

**27.1** At any general meeting two or more persons present in person and representing in person or by proxy in excess of 50% of the total issued voting shares in the Company throughout the meeting shall form a quorum for the transaction of business, provided that if the Company shall at any time have only one Member, one Member present in person or by proxy shall form a quorum for the transaction of business at any general meeting held during such time.

**27.2** If within half an hour from the time appointed for the meeting a quorum is not present, then, in the case of a meeting convened on a requisition, the meeting shall be deemed cancelled and, in any other case, the meeting shall stand adjourned to the same day one week later, at the same time and place or to such other day, time or place as the Secretary may determine. Unless the meeting is adjourned to a specific date, time and place announced at the meeting being adjourned, fresh notice of the resumption of the meeting shall be given to each Member entitled to attend and vote thereat in accordance with these Bye-laws.

**28. Chairman to Preside at General Meetings**

Unless otherwise agreed by a majority of those attending and entitled to vote thereat, the Chairman, if there be one, and if not the President, if there be one, shall act as chairman at all general meetings at which such person is present. In their absence a chairman shall be appointed or elected by those present at the meeting and entitled to vote.

**29. Voting on Resolutions**

**29.1** Subject to the Act and these Bye-laws, any question proposed for the consideration of the Members at any general meeting shall be decided by the affirmative votes of a majority of the votes cast in accordance with these Bye-laws and in the case of an equality of votes the resolution shall fail.

**29.2** No Member shall be entitled to vote at a general meeting unless such Member has paid all the calls on all shares held by such Member.

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

**29.4** In the event that a Member participates in a general meeting by telephone, electronic or other communication facilities or means, the chairman of the meeting shall direct the manner in which such Member may cast his vote on a show of hands.

**29.5** At any general meeting if an amendment is proposed to any resolution under consideration and the chairman of the meeting rules on whether or not the proposed amendment is out of order, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.

**29.6** At any general meeting a declaration by the chairman of the meeting that a question proposed for consideration has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in a book containing the minutes of the proceedings of the Company shall, subject to these Bye-laws, be conclusive evidence of that fact.

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

**30.1** Notwithstanding the foregoing, a poll may be demanded by any of the following persons:

- (a) the chairman of such meeting; or
- (b) at least three Members present in person or represented by proxy; or

- (c) any Member or Members present in person or represented by proxy and holding between them not less than one-tenth of the total voting rights of all the Members having the right to vote at such meeting; or
- (d) any Member or Members present in person or represented by proxy holding shares in the Company conferring the right to vote at such meeting, being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total amount paid up on all such shares conferring such right.

**30.2** Where a poll is demanded, subject to any rights or restrictions for the time being lawfully attached to any class of shares, every person present at such meeting shall have one vote for each share of which such person is the holder or for which such person holds a proxy and such vote shall be counted by ballot as described herein, or in the case of a general meeting at which one or more Members are present by telephone, electronic or other communication facilities or means, in such manner as the chairman of the meeting may direct and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded and shall replace any previous resolution upon the same matter which has been the subject of a show of hands. A person entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.

**30.3** A poll demanded for the purpose of electing a chairman of the meeting or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and in such manner during such meeting as the chairman (or acting chairman) of the meeting may direct. Any business other than that upon which a poll has been demanded may be conducted pending the taking of the poll.

**30.4** Where a vote is taken by poll, each person physically present and entitled to vote shall be furnished with a ballot paper on which such person shall record his vote in such manner as shall be determined at the meeting having regard to the nature of the question on which the vote is taken, and each ballot paper shall be signed or initialled or otherwise marked so as to identify the voter and the registered holder in the case of a proxy. Each person present by telephone, electronic or other communication facilities or means shall cast his vote in such manner as the chairman shall direct. At the conclusion of the poll, the ballot papers and votes cast in accordance with such directions shall be examined and counted by a committee of not less than two Members or proxy holders appointed by the chairman for the purpose and the result of the poll shall be declared by the chairman.

### **31. Voting by Joint Holders of Shares**

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

### **32. Instrument of Proxy**

**32.1** An instrument appointing a proxy shall be in writing in substantially the following form or such other form as the chairman of the meeting shall accept:

- Proxy
- (the "Company")

I/We, [insert names here], being a Member of the Company with [number] shares, HEREBY APPOINT [name] of [address] or failing him, [name] of [address] to be my/our proxy to vote for me/us at the meeting of the Members to be held on the [ ] day of [ ], 200[ ] and at any adjournment thereof. (Any restrictions on voting to be inserted here.)

Signed this [ ] day of [ ], 200[ ]

\_\_\_\_\_

Member(s)

**32.2** The instrument appointing a proxy must be received by the Company at the registered office or at such other place or in such manner as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting at which the person named in the instrument appointing a proxy proposes to vote, and an instrument appointing a proxy which is not received in the manner so prescribed shall be invalid.

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

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

**33. Representation of Corporate Member**

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

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

**34. Adjournment of General Meeting**

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

**35. Written Resolutions**

**35.1** Subject to these Bye-laws, anything which may be done by resolution of the Company in general meeting or by resolution of a meeting of any class of the Members may, without a meeting be done by written resolution in accordance with this Bye-law.

**35.2** Notice of a written resolution shall be given, and a copy of the resolution shall be circulated to all Members who would be entitled to attend a meeting and vote thereon. The accidental omission to give notice to, or the non-receipt of a notice by, any Member does not invalidate the passing of a resolution.

**35.3** A written resolution is passed when it is signed by, or in the case of a Member that is a corporation, on behalf of, the Members who at the date that the notice is given represent such majority of votes as would be required if the resolution was voted on at a meeting of Members at which all Members entitled to attend and vote thereat were present and voting.

**35.4** A resolution in writing may be signed in any number of counterparts

**35.5** A resolution in writing made in accordance with this Bye-law is as valid as if it had been passed by the Company in general meeting or by a meeting of the relevant class of Members, as the case may be, and any reference in any Bye-law to a meeting at which a resolution is passed or to Members voting in favour of a resolution shall be construed accordingly.

**35.6** A resolution in writing made in accordance with this Bye-law shall constitute minutes for the purposes of the Act.

**35.7** This Bye-law shall not apply to:

- (a) a resolution passed to remove an Auditor from office before the expiration of his term of office; or
- (b) a resolution passed for the purpose of removing a Director before the expiration of his term of office.

**35.8** For the purposes of this Bye-law, the effective date of the resolution is the date when the resolution is signed by, or in the case of a Member that is a corporation whether or not a company within the meaning of the Act, on behalf of, the last Member whose signature results in the necessary voting majority being achieved and any reference in any Bye-law to the date of passing of a resolution is, in relation to a resolution made in accordance with this Bye-law, a reference to such date.

**36. Directors Attendance at General Meetings**

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

**DIRECTORS AND OFFICERS****37. Election of Directors**

**37.1** The Board of Directors shall be elected or appointed in the first place at the statutory meeting of the Company and thereafter, except in the case of a casual vacancy, at the annual general meeting or at any special general meeting called for that purpose.

**37.2** At any general meeting the Members may authorise the Board to fill any vacancy in their number left unfilled at a general meeting.

**38. Number of Directors**

The Board shall consist of not less than two Directors or such number in excess thereof as the Members may determine.

**39. Term of Office of Directors**

Directors shall hold office for such term as the Members may determine or, in the absence of such determination, until the next annual general meeting or until their successors are elected or appointed or their office is otherwise vacated.

**40. Alternate Directors**

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

**40.2** Unless the Members otherwise resolve, any Director may appoint a person or persons to act as a Director in the alternative to himself by notice deposited with the Secretary. Any person so elected or appointed shall have all the rights and powers of the Director or Directors for whom such person is appointed in the alternative provided that such person shall not be counted more than once in determining whether or not a quorum is present.

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

**40.4** An Alternate Director shall cease to be such if the Director for whom he was appointed to act as a Director in the alternative ceases for any reason to be a Director, but he may be re-appointed by the Board as an alternate to the person appointed to fill the vacancy in accordance with these Bye-laws.

**41. Removal of Directors**

**41.1** Subject to any provision to the contrary in these Bye-laws, the Members entitled to vote for the election of Directors may, at any special general meeting convened and held in accordance with these Bye-laws, remove a Director provided that the notice of any such meeting convened for the purpose of removing a Director shall contain a statement of the intention so to do and be served on such Director not less than 14 days before the meeting and at such meeting the Director shall be entitled to be heard on the motion for such Director's removal.

**41.2** If a Director is removed from the Board under this Bye-law the Members may fill the vacancy at the meeting at which such Director is removed. In the absence of such election or appointment, the Board may fill the vacancy.

**42. Vacancy in the Office of Director**

**42.1** The office of Director shall be vacated if the Director:

- (a) is removed from office pursuant to these Bye-laws or is prohibited from being a Director by law;
- (b) is or becomes bankrupt, or makes any arrangement or composition with his creditors generally;
- (c) is or becomes of unsound mind or dies; or
- (d) resigns his office by notice to the Company.

**42.2** The Board shall have the power to appoint any person as a Director to fill a vacancy on the Board occurring as a result of the death, disability, disqualification or resignation of any Director and to appoint an Alternate Director to any Director so appointed.

**43. Remuneration of Directors**

The remuneration (if any) of the Directors shall be determined by the Company in general meeting and shall be deemed to accrue from day to day. The Directors may also be paid all travel, hotel and other expenses properly incurred by them in attending and returning from the meetings of the Board, any committee

appointed by the Board, general meetings, or in connection with the business of the Company or their duties as Directors generally.

**44. Defect in Appointment**

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

**45. Directors to Manage Business**

The business of the Company shall be managed and conducted by the Board. In managing the business of the Company, the Board may exercise all such powers of the Company as are not, by the Act or by these Bye-laws, required to be exercised by the Company in general meeting.

**46. Powers of the Board of Directors**

The Board may:

- (a) appoint, suspend, or remove any manager, secretary, clerk, agent or employee of the Company and may fix their remuneration and determine their duties;
- (b) exercise all the powers of the Company to borrow money and to mortgage or charge or otherwise grant a security interest in its undertaking, property and uncalled capital, or any part thereof, and may issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or any third party;
- (c) appoint one or more Directors to the office of managing director or chief executive officer of the Company, who shall, subject to the control of the Board, supervise and administer all of the general business and affairs of the Company;
- (d) appoint a person to act as manager of the Company's day-to-day business and may entrust to and confer upon such manager such powers and duties as it deems appropriate for the transaction or conduct of such business;
- (e) by power of attorney, appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Board, to be an attorney of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board) and for such period and subject to such conditions as it may think fit and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board may think fit and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions so vested in the attorney;
- (f) procure that the Company pays all expenses incurred in promoting and incorporating the Company;
- (g) delegate any of its powers (including the power to sub-delegate) to a committee of one or more persons appointed by the Board which may consist partly or entirely of non-Directors, provided that every such committee shall conform to such directions as the Board shall impose on them and provided further that the meetings and proceedings of any such committee shall be governed by the provisions of these Bye-laws regulating the meetings and proceedings of the Board, so far as the same are applicable and are not superseded by directions imposed by the Board;
- (h) delegate any of its powers (including the power to sub-delegate) to any person on such terms and in such manner as the Board may see fit;
- (i) present any petition and make any application in connection with the liquidation or reorganisation of the Company;
- (j) in connection with the issue of any share, pay such commission and brokerage as may be permitted by law; and
- (k) authorise any company, firm, person or body of persons to act on behalf of the Company for any specific purpose and in connection therewith to execute any deed, agreement, document or instrument on behalf of the Company.

**47. Register of Directors and Officers**

The Board shall cause to be kept in one or more books at the registered office of the Company a Register of Directors and Officers and shall enter therein the particulars required by the Act.

**48. Appointment of Officers**

The Board may appoint such officers (who may or may not be Directors) as the Board may determine.

**49. Appointment of Secretary**

The Secretary shall be appointed by the Board from time to time.

**50. Duties of Officers**

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

**51. Remuneration of Officers**

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

**52. Conflicts of Interest**

**52.1** Any Director, or any Director's firm, partner or any company with whom any Director is associated, may act in any capacity for, be employed by or render services to the Company and such Director or such Director's firm, partner or company shall be entitled to remuneration as if such Director were not a Director. Nothing herein contained shall authorise a Director or Director's firm, partner or company to act as Auditor to the Company.

**52.2** A Director who is directly or indirectly interested in a contract or proposed contract or arrangement with the Company shall declare the nature of such interest as required by the Act.

**52.3** Following a declaration being made pursuant to this Bye-law, and unless disqualified by the chairman of the relevant Board meeting, a Director may vote in respect of any contract or proposed contract or arrangement in which such Director is interested and may be counted in the quorum for such meeting.

**53. Indemnification and Exculpation of Directors and Officers**

**53.1** The Directors, resident representative, Secretary and other Officers (such term to include any person appointed to any committee by the Board) for the time being acting in relation to any of the affairs of the Company or any subsidiary thereof and the liquidator or trustees (if any) for the time being acting in relation to any of the affairs of the Company or any subsidiary thereof and every one of them, and their heirs, executors and administrators, shall be indemnified and secured harmless out of the assets of the Company from and against all actions, costs, charges, losses, damages and expenses which they or any of them, their heirs, executors or administrators, shall or may incur or sustain by or by reason of any act done, concurred in or omitted in or about the execution of their duty, or supposed duty, or in their respective offices or trusts, and none of them shall be answerable for the acts, receipts, neglects or defaults of the others of them or for joining in any receipts for the sake of conformity, or for any bankers or other persons with whom any moneys or effects belonging to the Company shall or may be lodged or deposited for safe custody, or for insufficiency or deficiency of any security upon which any moneys of or belonging to the Company shall be placed out on or invested, or for any other loss, misfortune or damage which may happen in the execution of their respective offices or trusts, or in relation thereto, PROVIDED THAT this indemnity shall not extend to any matter in respect of any fraud or dishonesty which may attach to any of the said persons. Each Member agrees to waive any claim or right of action such Member might have, whether individually or by or in the right of the Company, against any Director or Officer on account of any action taken by such Director or Officer, or the failure of such Director or Officer to take any action in the performance of his duties with or for the Company or any subsidiary thereof, PROVIDED THAT such waiver shall not extend to any matter in respect of any fraud or dishonesty which may attach to such Director or Officer.

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

**53.3** The Company may advance moneys to a Director or Officer for the costs, charges and expenses incurred by the Director or Officer in defending any civil or criminal proceedings against him, on condition that the Director or Officer shall repay the advance if any allegation of fraud or dishonesty is proved against him.

**MEETINGS OF THE BOARD OF DIRECTORS****54. Board Meetings**

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

**55. Notice of Board Meetings**

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

**56. Electronic Participation in Meetings**

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

**57. Quorum at Board Meetings**

The quorum necessary for the transaction of business at a meeting of the Board shall be two Directors.

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

The Board may act notwithstanding any vacancy in its number but, if and so long as its number is reduced below the number fixed by these Bye-laws as the quorum necessary for the transaction of business at meetings of the Board, the continuing Directors or Director may act for the purpose of (i) summoning a general meeting; or (ii) preserving the assets of the Company.

**59. Chairman to Preside**

Unless otherwise agreed by a majority of the Directors attending, the Chairman, if there be one, and if not, the President, if there be one, shall act as chairman at all meetings of the Board at which such person is present. In their absence a chairman shall be appointed or elected by the Directors present at the meeting.

**60. Written Resolutions**

A resolution signed by all the Directors, which may be in counterparts, shall be as valid as if it had been passed at a meeting of the Board duly called and constituted, such resolution to be effective on the date on which the last Director signs the resolution. For the purposes of this Bye-law only, "the Directors" shall not include an Alternate Director.

**61. Validity of Prior Acts of the Board**

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

**CORPORATE RECORDS****62. Minutes**

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

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

**63. Place Where Corporate Records Kept**

Minutes prepared in accordance with the Act and these Bye-laws shall be kept by the Secretary at the registered office of the Company.

**64. Form and Use of Seal**

**64.1** The Company may adopt a seal in such form as the Board may determine. The Board may adopt one or more duplicate seals for use in or outside Bermuda.

**64.2** A seal may, but need not, be affixed to any deed, instrument or document, and if the seal is to be affixed thereto, it shall be attested by the signature of (i) any Director, or (ii) any Officer, or (iii) the Secretary, or (iv) any person authorised by the Board for that purpose.

**64.3** A Resident Representative may, but need not, affix the seal of the Company to certify the authenticity of any copies of documents.

**ACCOUNTS****65. Books of Account**

- 65.1** The Board shall cause to be kept proper records of account with respect to all transactions of the Company and in particular with respect to:
- (a) all amounts of money received and expended by the Company and the matters in respect of which the receipt and expenditure relates;
  - (b) all sales and purchases of goods by the Company; and
  - (c) all assets and liabilities of the Company.
- 65.2** Such records of account shall be kept at the registered office of the Company, or subject to the Act, at such other place as the Board thinks fit and shall be available for inspection by the Directors during normal business hours.

**66. Financial Year End**

The financial year end of the Company may be determined by resolution of the Board and failing such resolution shall be 31<sup>st</sup> December in each year.

**AUDITS****67. Annual Audit**

Subject to any rights to waive laying of accounts or appointment of an Auditor pursuant to the Act, the accounts of the Company shall be audited at least once in every year.

**68. Appointment of Auditor**

- 68.1** Subject to the Act, at the annual general meeting or at a subsequent special general meeting in each year, an independent representative of the Members shall be appointed by them as Auditor of the accounts of the Company.
- 68.2** The Auditor may be a Member but no Director, Officer or employee of the Company shall, during his continuance in office, be eligible to act as an Auditor of the Company.

**69. Remuneration of Auditor**

Save in the case of an Auditor appointed pursuant to Bye-law 74, the remuneration of the Auditor shall be fixed by the Company in general meeting or in such manner as the Members may determine. In the case of an Auditor appointed pursuant to Bye-law 74, the remuneration of the Auditor shall be fixed by the Board.

**70. Duties of Auditor**

- 70.1** The financial statements provided for by these Bye-laws shall be audited by the Auditor in accordance with generally accepted auditing standards. The Auditor shall make a written report thereon in accordance with generally accepted auditing standards.
- 70.2** The generally accepted auditing standards referred to in this Bye-law may be those of a country or jurisdiction other than Bermuda or such other generally accepted auditing standards as may be provided for in the Act. If so, the financial statements and the report of the Auditor shall identify the generally accepted auditing standards used.

**71. Access to Records**

The Auditor shall at all reasonable times have access to all books kept by the Company and to all accounts and vouchers relating thereto, and the Auditor may call on the Directors or Officers for any information in their possession relating to the books or affairs of the Company.

**72. Financial Statements**

Subject to any rights to waive laying of accounts pursuant to the Act, financial statements as required by the Act shall be laid before the Members in general meeting. A resolution in writing made in accordance with Bye-law 35 receiving, accepting, adopting, approving or otherwise acknowledging financial statements shall be deemed to be the laying of such statements before the Members in general meeting.

**73. Distribution of Auditor's Report**

The report of the Auditor shall be submitted to the Members in general meeting.

**74. Vacancy in the Office of Auditor**

The Board may fill any casual vacancy in the office of the auditor.

**VOLUNTARY WINDING-UP AND DISSOLUTION****75. Winding-Up**

If the Company shall be wound up the liquidator may, with the sanction of a resolution of the Members, divide amongst the Members in specie or in kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may, for such purpose, set such value as he deems fair upon any property to be divided as aforesaid 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 the trustees upon such trusts for the benefit of the Members as the liquidator shall think fit, but so that no Member shall be compelled to accept any shares or other securities or assets whereon there is any liability.

#### **CHANGES TO CONSTITUTION**

##### **76. Changes to Bye-laws**

No Bye-law may be rescinded, altered or amended and no new Bye-law may be made save in accordance with the Act and until the same has been approved by a resolution of the Board and by a resolution of the Members.

##### **77. Changes to the Memorandum of Association**

No alteration or amendment to the Memorandum of Association may be made save in accordance with the Act and until same has been approved by a resolution of the Board and by a resolution of the Members.

##### **78. Discontinuance**

The Board may exercise all the powers of the Company to discontinue the Company to a jurisdiction outside Bermuda pursuant to the Act.

## **APPENDIX 7**

### **Bye-Laws of Lingard Limited**

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**INTERPRETATION**

## 1 Definitions and Interpretation

## 1.1 In these Bye-Laws, unless the context otherwise requires:

“**Alternate Director**” means an alternate Director appointed to the Board as provided for in these Bye-Laws;

“**Auditor**” means the person or firm for the time being appointed as auditor of the Company;

“**Bermuda**” means the Islands of Bermuda;

“**Board**” means the Directors of the Company appointed or elected pursuant to these Bye-Laws and acting by resolution as provided for in the Act and in these Bye-Laws or the Directors present at a meeting of Directors at which there is a quorum;

“**Companies Acts**” means every Bermuda statute from time to time in force concerning companies insofar as the same applies to the Company;

“**Company**” means the company incorporated in Bermuda under the name of **Lingard Limited on 18 August, 2006**;

“**Director**” means such person or persons appointed or elected to the Board from time to time pursuant to these Bye-Laws and includes an Alternate Director;

“**Indemnified Person**” means any Director, Officer, Resident Representative, member of a committee duly constituted under these Bye-Laws and any liquidator, manager or trustee for the time being acting in relation to the affairs of the Company, and his heirs, executors and administrators;

“**Officer**” means a person appointed by the Board pursuant to these Bye-Laws but shall not include the Auditor;

“**paid up**” means paid up or credited as paid up;

“**Register**” means the Register of Shareholders of the Company maintained by the Company in Bermuda;

“**Registered Office**” means the registered office of the Company which shall be at such place in Bermuda as the Board shall from time to time determine;

“**Resident Representative**” means (if any) the individual or the company appointed to perform the duties of resident representative set out in the Companies Acts and includes any assistant or deputy Resident Representative appointed by the Board to perform any of the duties of the Resident Representative;

“**Resolution**” means a resolution of the Shareholders passed in a general meeting or, where required, of a separate class or separate classes of shareholders passed in a separate general meeting or in either case adopted by resolution in writing, in accordance with the provisions of these Bye-Laws;

“**Seal**” means the common seal of the Company and includes any authorised duplicate thereof;

“**Secretary**” means the individual or the company appointed by the Board to perform any of the duties of the Secretary and includes a temporary or assistant or deputy Secretary;

“**share**” means share in the capital of the Company and includes a fraction of a share;

“**Shareholder**” means a shareholder or member of the Company provided that for the purposes of Bye-Law 42 it shall also include any holder of notes, debentures or bonds issued by the Company;

“**these Bye-Laws**” means these Bye-Laws in their present form.

1.2 For the purposes of these Bye-Laws, a corporation which is a shareholder shall be deemed to be present in person at a general meeting if, in accordance with the Companies Acts, its authorised representative is present.

1.3 Words importing only the singular number include the plural number and vice versa.

1.4 Words importing only the masculine gender include the feminine and neuter genders respectively.

1.5 Words importing persons include companies, associations, bodies of persons, whether corporate or not.

- 1.6 A reference to writing shall include typewriting, printing, lithography, photography and electronic record.
- 1.7 Any words or expressions defined in the Companies Acts in force at the date when these Bye-Laws or any part thereof are adopted shall bear the same meaning in these Bye-Laws or such part (as the case may be).

## REGISTERED OFFICE

### 2 Registered Office

The Registered Office shall be at such place in Bermuda as the Board shall from time to time appoint.

## SHARES AND SHARE RIGHTS

### 3 Share Rights

- 3.1 Subject to any special rights conferred on the holders of any share or class of shares, any share in the Company may be issued with or have attached thereto such preferred, deferred, qualified or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise, as the Company may by Resolution determine or, if there has not been any such determination or so far as the same shall not make specific provision, as the Board may determine.
- 3.2 Subject to the Companies Acts, any preference shares may, with the sanction of a resolution of the Board, be issued on terms:
- 3.2.1 that they are to be redeemed on the happening of a specified event or on a given date; and/or,
- 3.2.2 that they are liable to be redeemed at the option of the Company; and/or,
- 3.2.3 if authorised by the memorandum of association of the Company, that they are liable to be redeemed at the option of the holder.

The terms and manner of redemption shall be provided for in such resolution of the Board and shall be attached to but shall not form part of these Bye-Laws.

- 3.3 The Board may, at its discretion and without the sanction of a Resolution, authorise the purchase by the Company of its own shares upon such terms as the Board may in its discretion determine, provided always that such purchase is effected in accordance with the provisions of the Companies Acts.
- 3.4 The Board may, at its discretion and without the sanction of a Resolution, authorise the acquisition by the Company of its own shares, to be held as treasury shares, upon such terms as the Board may in its discretion determine, provided always that such acquisition is effected in accordance with the provisions of the Companies Acts. The Company shall be entered in the Register as a Shareholder in respect of the shares held by the Company as treasury shares and shall be a Shareholder of the Company but subject always to the provisions of the Companies Acts and for the avoidance of doubt the Company shall not exercise any rights and shall not enjoy or participate in any of the rights attaching to those shares save as expressly provided for in the Companies Act.

### 4 Modification of Rights

- 4.1 Subject to the Companies Acts, all or any of the special rights for the time being attached to any class of shares for the time being issued may from time to time (whether or not the Company is being wound up) be altered or abrogated with the consent in writing of the holders of not less than seventy five percent (75%) of the issued shares of that class or with the sanction of a resolution passed at a separate general meeting of the holders of such shares voting in person or by proxy. To any such separate general meeting, all the provisions of these Bye-Laws as to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be one or more persons holding or representing by proxy any of the shares of the relevant class, that every holder of shares of the relevant class shall be entitled on a poll to one vote for every such share held by him and that any holder of shares of the relevant class present in person or by proxy may demand a poll.
- 4.2 The special rights conferred upon the holders of any shares or class of shares shall not, unless otherwise expressly provided in the rights attaching to or the terms of issue of such shares, be deemed to be altered by the creation or issue of further shares ranking *pari passu* therewith.

### 5 Shares

- 5.1 Subject to the provisions of these Bye-Laws, the unissued shares of the Company (whether forming part of the original capital or any increased capital) shall be at the disposal of the Board, which may offer, allot, grant options over or otherwise dispose of them to such persons, at such times and for such consideration and upon such terms and conditions as the Board may determine.
- 5.2 Subject to the provisions of these Bye-Laws, any shares of the Company held by the Company as treasury shares shall be at the disposal of the Board, which may hold all or any of the shares, dispose of or transfer all or any of the shares for cash or other consideration, or cancel all or any of the shares.
- 5.3 The Board may in connection with the issue of any shares exercise all powers of paying commission and brokerage conferred or permitted by law.
- 5.4 Except as ordered by a court of competent jurisdiction or as required by law, no person shall be recognised by the Company as holding any share upon trust and the Company shall not be bound

by or required in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share or in any fractional part of a share or (except only as otherwise provided in these Bye-Laws or by law) any other right in respect of any share except an absolute right to the entirety thereof in the registered holder.

## 6 Certificates

- 6.1 The Company shall be under no obligation to complete and deliver a share certificate unless specifically called upon to do so by the person to whom the shares have been issued. In the case of a share held jointly by several persons, delivery of a certificate to one of several joint holders shall be sufficient delivery to all.
- 6.2 If a share certificate is defaced, lost or destroyed, it may be replaced without fee but on such terms (if any) as to evidence and indemnity and to payment of the costs and out of pocket expenses of the Company in investigating such evidence and preparing such indemnity as the Board may think fit and, in case of defacement, on delivery of the old certificate to the Company.
- 6.3 All certificates for share or loan capital or other securities of the Company (other than letters of allotment, scrip certificates and other like documents) shall, except to the extent that the terms and conditions for the time being relating thereto otherwise provide, be issued under the Seal or signed by a Director, the Secretary or any person authorised by the Board for that purpose. The Board may by resolution determine, either generally or in any particular case, that any signatures on any such certificates need not be autographic but may be affixed to such certificates by some mechanical means or may be printed thereon or that such certificates need not be signed by any persons.

## 7 Lien

- 7.1 The Company shall have a first and paramount lien on every share (not being a fully paid share) for all monies, whether presently payable or not, called or payable, at a date fixed by or in accordance with the terms of issue of such share in respect of such share, and the Company shall also have a first and paramount lien on every share (other than a fully paid share) standing registered in the name of a Shareholder, whether singly or jointly with any other person, for all the debts and liabilities of such Shareholder or his estate to the Company, whether the same shall have been incurred before or after notice to the Company of any interest of any person other than such Shareholder, and whether the time for the payment or discharge of the same shall have actually arrived or not, and notwithstanding that the same are joint debts or liabilities of such Shareholder or his estate and any other person, whether a Shareholder or not. The Company's lien on a share shall extend to all dividends payable thereon. The Board may at any time, either generally or in any particular case, waive any lien that has arisen or declare any share to be wholly or in part exempt from the provisions of this Bye-Law.
- 7.2 The Company may sell, in such manner as the Board may think fit, any share on which the Company has a lien but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of fourteen (14) days after a notice in writing, stating and demanding payment of the sum presently payable and giving notice of the intention to sell in default of such payment, has been served on the holder for the time being of the share.
- 7.3 The net proceeds of sale by the Company of any shares on which it has a lien shall be applied in or towards payment or discharge of the debt or liability in respect of which the lien exists so far as the same is presently payable, and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the share prior to the sale) be paid to the person who was the holder of the share immediately before such sale. For giving effect to any such sale, the Board may authorise some person to transfer the share sold to the purchaser thereof. The purchaser shall be registered as the holder of the share and he shall not be bound to see to the application of the purchase money, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings relating to the sale.

## 8 Calls on Shares

- 8.1 The Board may from time to time make calls upon the Shareholders (for the avoidance of doubt excluding the Company in respect of any nil or partly paid shares held by the Company as treasury shares) in respect of any monies unpaid on their shares (whether on account of the par value of the shares or by way of premium) and not by the terms of issue thereof made payable at a date fixed by or in accordance with such terms of issue, and each Shareholder shall (subject to the Company serving upon him at least fourteen (14) days notice specifying the time or times and place of payment) pay to the Company at the time or times and place so specified the amount called on his shares. A call may be revoked or postponed as the Board may determine.
- 8.2 A call may be made payable by instalments and shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed.
- 8.3 The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
- 8.4 If a sum called in respect of the share shall not be paid before or on the day appointed for payment thereof the person from whom the sum is due shall pay interest on the sum from the day appointed for the payment thereof to the time of actual payment at such rate as the Board may determine, but the Board shall be at liberty to waive payment of such interest wholly or in part.

- 8.5 Any sum which, by the terms of issue of a share, becomes payable on allotment or at any date fixed by or in accordance with such terms of issue, whether on account of the nominal amount of the share or by way of premium, shall for all the purposes of these Bye-Laws be deemed to be a call duly made, notified and payable on the date on which, by the terms of issue, the same becomes payable and, in case of non-payment, all the relevant provisions of these Bye-Laws as to payment of interest, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.
- 8.6 The Board may on the issue of shares differentiate between the allottees or holders as to the amount of calls to be paid and the times of payment.
- 9 Forfeiture of Shares
- 9.1 If a Shareholder fails to pay any call or instalment of a call on the day appointed for payment thereof, the Board may at any time thereafter during such time as any part of such call or instalment remains unpaid serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
- 9.2 The notice shall name a further day (not being less than fourteen (14) days from the date of the notice) on or before which, and the place where, the payment required by the notice is to be made and shall state that, in the event of non-payment on or before the day and at the place appointed, the shares in respect of which such call is made or instalment is payable will be liable to be forfeited. The Board may accept the surrender of any share liable to be forfeited hereunder and, in such case, references in these Bye-Laws to forfeiture shall include surrender.
- 9.3 If the requirements of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls or instalments and interest due in respect thereof has been made, be forfeited by a resolution of the Board to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
- 9.4 When any share has been forfeited, notice of the forfeiture shall be served upon the person who was before forfeiture the holder of the share but no forfeiture shall be in any manner invalidated by any omission or neglect to give such notice as aforesaid.
- 9.5 A forfeited share shall be deemed to be the property of the Company and may be sold, re-offered or otherwise disposed of 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 Board shall think fit, and at any time before a sale, re-allotment or disposition the forfeiture may be cancelled on such terms as the Board may think fit.
- 9.6 A person whose shares have been forfeited shall thereupon cease to be a Shareholder in respect of the forfeited shares but shall, notwithstanding the forfeiture, remain liable to pay to the Company all monies which at the date of forfeiture were presently payable by him to the Company in respect of the shares with interest thereon at such rate as the Board may determine from the date of forfeiture until payment, and the Company may enforce payment without being under any obligation to make any allowance for the value of the shares forfeited.
- 9.7 An affidavit in writing that the deponent is a Director of the Company or the Secretary and that a share has been duly forfeited on the date stated in the affidavit shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The Company may receive the consideration (if any) given for the share on the sale, re-allotment or disposition thereof and the Board may authorise some person to transfer the share to the person to whom the same is sold, re-allotted or disposed of, and he shall thereupon be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any) nor shall his title to the share be affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale, re-allotment or disposal of the share.

## REGISTER OF SHAREHOLDERS

### 10 Register of Shareholders

The Secretary shall establish and maintain the Register at the Registered Office in the manner prescribed by the Companies Acts. Unless the Board otherwise determines, the Register shall be open to inspection in the manner prescribed by the Companies Acts between 10:00 a.m. and 12:00 noon on every working day.

Unless the Board so determines, no Shareholder or intending Shareholder shall be entitled to have entered in the Register any indication of any trust or any equitable, contingent, future or partial interest in any share or any fractional part of a share and if any such entry exists or is permitted by the Board it shall not be deemed to abrogate any of the provisions of Bye-Law 5.4.

## REGISTER OF DIRECTORS AND OFFICERS

### 11 Register of Directors and Officers

The Secretary shall establish and maintain a register of the Directors and Officers of the Company as required by the Companies Acts. The register of Directors and Officers shall be open to inspection in the manner prescribed by the Companies Acts between 10:00 a.m. and 12:00 noon on every working day.

## TRANSFER OF SHARES

### 12 Transfer of Shares

- 12.1 Subject to the Companies Acts and to such of the restrictions contained in these Bye-Laws as may be applicable, any Shareholder may transfer all or any of his shares by an instrument of transfer in the usual common form or in any other form which the Board may approve. No such instrument shall be required on the redemption of a share or on the purchase by the Company of a share.
- 12.2 The instrument of transfer of a share shall be signed by or on behalf of the transferor and where any share is not fully-paid, the transferee. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof. All instruments of transfer when registered may be retained by the Company. The Board may, in its absolute discretion and without assigning any reason therefor, decline to register any transfer of any share which is not a fully-paid share. The Board may also decline to register any transfer unless:
- 12.2.1 the instrument of transfer is duly stamped (if required by law) and lodged with the Company, accompanied by the certificate for the shares to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer,
- 12.2.2 the instrument of transfer is in respect of only one class of share, and
- 12.2.3 where applicable, the permission of the Bermuda Monetary Authority with respect thereto has been obtained.
- 12.3 Subject to any directions of the Board from time to time in force, the Secretary may exercise the powers and discretions of the Board under this Bye-Law.
- 12.4 If the Board declines to register a transfer it shall, within three (3) months after the date on which the instrument of transfer was lodged, send to the transferee notice of such refusal.
- 12.5 No fee shall be charged by the Company for registering any transfer, probate, letters of administration, certificate of death or marriage, power of attorney, stop notice, order of court or other instrument relating to or affecting the title to any share, or otherwise making an entry in the Register relating to any share.

## TRANSMISSION OF SHARES

### 13 Transmission of Shares

- 13.1 In the case of the death of a Shareholder, the survivor or survivors, where the deceased was a joint holder, and the estate representative, where he was sole holder, shall be the only person recognised by the Company as having any title to his shares; but nothing herein contained shall release the estate of a deceased holder (whether the sole or joint) from any liability in respect of any share held by him solely or jointly with other persons. For the purpose of this Bye-Law, estate representative means the person to whom probate or letters of administration has or have been granted in Bermuda or, failing any such person, such other person as the Board may in its absolute discretion determine to be the person recognised by the Company for the purpose of this Bye-Law.
- 13.2 Any person becoming entitled to a share in consequence of the death of a Shareholder or otherwise by operation of applicable law may, subject as hereafter provided and upon such evidence being produced as may from time to time be required by the Board as to his entitlement, either be registered himself as the holder of the share or elect to have some person nominated by him registered as the transferee thereof. If the person so becoming entitled elects to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have his nominee registered, he shall signify his election by signing an instrument of transfer of such share in favour of his nominee. All the limitations, restrictions and provisions of these Bye-Laws relating to the right to transfer and the registration of transfer of shares shall be applicable to any such notice or instrument of transfer as aforesaid as if the death of the Shareholder or other event giving rise to the transmission had not occurred and the notice or instrument of transfer was an instrument of transfer signed by such Shareholder.
- 13.3 A person becoming entitled to a share in consequence of the death of a Shareholder or otherwise by operation of applicable law shall (upon such evidence being produced as may from time to time be required by the Board as to his entitlement) be entitled to receive and may give a discharge for any dividends or other monies payable in respect of the share, but he shall not be entitled in respect of the share to receive notices of or to attend or vote at general meetings of the Company or, save as aforesaid, to exercise in respect of the share any of the rights or privileges of a Shareholder until he shall have become registered as the holder thereof. The Board may at any time give notice requiring such person to elect either to be registered himself or to transfer the share and, if the notice is not complied with within sixty (60) days, the Board may thereafter withhold payment of all dividends and other monies payable in respect of the shares until the requirements of the notice have been complied with.
- 13.4 Subject to any directions of the Board from time to time in force, the Secretary may exercise the powers and discretions of the Board under this Bye-Law.

**SHARE CAPITAL****14 Increase of Capital**

- 14.1 The Company may from time to time increase its capital by such sum to be divided into shares of such par value as the Company by Resolution shall prescribe.
- 14.2 The Company may, by the Resolution increasing the capital, direct that the new shares or any of them shall be offered in the first instance either at par or at a premium or (subject to the provisions of the Companies Acts) at a discount to all the holders for the time being of shares of any class or classes in proportion to the number of such shares held by them respectively or make any other provision as to the issue of the new shares.
- 14.3 The new shares shall be subject to all the provisions of these Bye-Laws with reference to lien, the payment of calls, forfeiture, transfer, transmission and otherwise.

**15 Alteration of Capital**

- 15.1 The Company may from time to time by Resolution:
  - 15.1.2 divide its shares into several classes and attach thereto respectively any preferential, deferred, qualified or special rights, privileges or conditions;
  - 15.1.3 consolidate and divide all or any of its share capital into shares of larger par value than its existing shares;
  - 15.1.4 sub-divide its shares or any of them into shares of smaller par value than is fixed by its memorandum, 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;
  - 15.1.5 make provision for the issue and allotment of shares which do not carry any voting rights;
  - 15.1.6 cancel shares which, at the date of the passing of the Resolution in that behalf, 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; and
  - 15.1.6 change the currency denomination of its share capital.
- 15.2 Where any difficulty arises in regard to any division, consolidation, or sub-division under this Bye-Law, the Board may settle the same as it thinks expedient and, in particular, may arrange for the sale of the shares representing fractions and the distribution of the net proceeds of sale in due proportion amongst the Shareholders who would have been entitled to the fractions, and for this purpose the Board may authorise some person to transfer the shares representing fractions to the purchaser thereof, who shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings relating to the sale.
- 15.3 Subject to the Companies Acts and to any confirmation or consent required by law or these Bye-Laws, the Company may by Resolution from time to time convert any preference shares into redeemable preference shares.

**16 Reduction of Capital**

- 16.1 Subject to the Companies Acts, its memorandum and any confirmation or consent required by law or these Bye-Laws, the Company may from time to time by Resolution authorise the reduction of its issued share capital or any share premium account in any manner.
- 16.2 In relation to any such reduction, the Company may by Resolution determine the terms upon which such reduction is to be effected including, in the case of a reduction of part only of a class of shares, those shares to be affected.

**GENERAL MEETINGS AND RESOLUTIONS IN WRITING****17 General Meetings and Resolutions in Writing**

- 17.1 The Board shall convene and the Company shall hold general meetings as Annual General Meetings in accordance with the requirements of the Companies Acts at such times and places as the Board shall appoint. The Board may, whenever it thinks fit, and shall, when required by the Companies Acts, convene general meetings other than Annual General Meetings which shall be called Special General Meetings.
- 17.2 Except in the case of the removal of Auditors or Directors, anything which may be done by resolution of the Shareholders in general meeting or by resolution of any class of Shareholders in a separate general meeting may be done by resolution in writing, signed by the Shareholders (or the holders of such class of shares) who at the date of the notice of the resolution in writing represent the majority of votes that would be required if the resolution had been voted on at a meeting of the Shareholders. Such resolution in writing may be signed by the Shareholder or its proxy, or in the case of a Shareholder that is a corporation (whether or not a company within the meaning of the Companies Acts) by its representative on behalf of such Shareholder, in as many counterparts as may be necessary.
- 17.3 Notice of any resolution in writing to be made under this Bye-Law shall be given to all the Shareholders who would be entitled to attend a meeting and vote on the resolution. The requirement to give notice of any resolution in writing to be made under this Bye-Law to such Shareholders shall be satisfied by giving to those Shareholders a copy of that resolution in writing in the same manner as that required for a notice of a general meeting of the Company at which the resolution could have been considered,

except that the length of the period of notice shall not apply. The date of the notice shall be set out in the copy of the resolution in writing.

- 17.4 The accidental omission to give notice, in accordance with this Bye-Law, of a resolution in writing to, or the non-receipt of such notice by, any person entitled to receive such notice shall not invalidate the passing of the resolution in writing.
- 17.5 For the purposes of this Bye-Law, the date of the resolution in writing is the date when the resolution in writing is signed by, or on behalf of, the Shareholder who establishes the majority of votes required for the passing of the resolution in writing and any reference in any enactment to the date of passing of a resolution is, in relation to a resolution in writing made in accordance with this Bye-Law, a reference to such date.
- 17.6 A resolution in writing made in accordance with this Bye-Law is as valid as if it had been passed by the Company in general meeting or, if applicable, by a meeting of the relevant class of Shareholders of the Company, as the case may be. A resolution in writing made in accordance with this Bye-Law shall constitute minutes for the purposes of the Companies Acts and these Bye-Laws.

## 18 Notice of General Meetings

- 18.1 An Annual General Meeting shall be called by not less than five (5) days notice in writing and a Special General Meeting shall be called by not less than five (5) days notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, day and time of the meeting, and, the nature of the business to be considered. Notice of every general meeting shall be given in any manner permitted by these Bye-Laws to all Shareholders other than such as, under the provisions of these Bye-Laws or the terms of issue of the shares they hold, are not entitled to receive such notice from the Company and every Director and to any Resident Representative who or which has delivered a written notice upon the Registered Office requiring that such notice be sent to him or it.
- 18.1.2 Notwithstanding that a meeting of the Company is called by shorter notice than that specified in this Bye-Law, it shall be deemed to have been duly called if it is so agreed:
- 18.1.3 in the case of a meeting called as an Annual General Meeting, by all the Shareholders entitled to attend and vote thereat;
- 18.1.4 in the case of any other meeting, by a majority in number of the Shareholders having the right to attend and vote at the meeting, being a majority together holding not less than ninety-five percent (95%) in nominal value of the shares giving that right.
- 18.2 The accidental omission to give notice of a meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send such instrument of proxy to, or the non-receipt of notice of a meeting or such instrument of proxy by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting.
- 18.3 The Board may cancel or postpone a meeting of the Shareholders after it has been convened and notice of such cancellation or postponement shall be served in accordance with these Bye-Laws upon all Shareholders entitled to notice of the meeting so cancelled or postponed setting out, where the meeting is postponed to a specific date, notice of the new meeting in accordance with this Bye-Law.

## 19 Proceedings at General Meetings

- 19.1 In accordance with the Companies Acts, a general meeting may be held with only one individual present provided that the requirement for a quorum is satisfied. No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business, but the absence of a quorum shall not preclude the appointment, choice or election of a chairman, which shall not be treated as part of the business of the meeting. Save as otherwise provided by these Bye-Laws, at least one Shareholder present in person or by proxy and entitled to vote shall be a quorum for all purposes.
- 19.2 If within five (5) minutes (or such longer time as the chairman of the meeting may determine to wait) after the time appointed for the meeting, a quorum is not present, the meeting, if convened on the requisition of Shareholders, shall be dissolved. In any other case, it shall stand adjourned to such other day and such other time and place as the chairman of the meeting may determine and at such adjourned meeting one Shareholder present in person or by proxy and entitled to vote shall be a quorum. The Company shall give not less than five (5) days notice of any meeting adjourned through want of a quorum and such notice shall state that the one Shareholder present in person or by proxy (whatever the number of shares held by them) and entitled to vote shall be a quorum.
- 19.3 A meeting of the Shareholders or any class thereof may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone, or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.
- 19.4 Each Director, and upon giving the notice referred to in Bye-Law 18.1 above, the Resident Representative, if any, shall be entitled to attend and speak at any general meeting of the Company.
- 19.5 The Board may choose one of their number to preside as chairman at every general meeting. If there is no such chairman, or if at any meeting the chairman is not present within five (5) minutes after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors

present shall choose one of their number to act or if only one Director is present he shall preside as chairman if willing to act. If no Director is present, or if each of the Directors present declines to take the chair, the persons present and entitled to vote on a poll shall elect one of their number to be chairman.

- 19.6 The chairman of the meeting may, with the consent by resolution of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at 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 three (3) months or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as expressly provided by these Bye-Laws, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 20 Voting
- 20.1 Save where a greater majority is required by the Companies Acts or these Bye-Laws, any question proposed for consideration at any general meeting shall be decided on by a simple majority of votes cast.
- 20.2 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands or by a count of votes received in the form of electronic records, unless (before or on the declaration of the result of the show of hands or count of votes received as electronic records or on the withdrawal of any other demand for a poll) a poll is demanded by:
- 20.2.1 the chairman of the meeting; or
- 20.2.2 at least three (3) Shareholders present in person or represented by proxy; or
- 20.2.3 any Shareholder or Shareholders present in person or represented by proxy and holding between them not less than one tenth (1/10) of the total voting rights of all the Shareholders having the right to vote at such meeting; or
- 20.2.4 a Shareholder or Shareholders present in person or represented by proxy holding shares conferring the right to vote at such meeting, being shares on which an aggregate sum has been paid up equal to not less than one tenth (1/10) of the total sum paid up on all such shares conferring such right.
- The demand for a poll may be withdrawn by the person or any of the persons making it at any time prior to the declaration of the result. Unless a poll is so demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has, on a show of hands or count of votes received as electronic records, been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost shall be final and conclusive, and an entry to that effect in the minute book of the Company shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded for or against such resolution.
- 20.3 If a poll is duly demanded, the result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 20.4 A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken in such manner and either forthwith or at such time (being not later than three (3) months after the date of the demand) and place as the chairman shall direct. It shall not be necessary (unless the chairman otherwise directs) for notice to be given of a poll.
- 20.5 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded and it may be withdrawn at any time before the close of the meeting or the taking of the poll, whichever is the earlier.
- 20.6 On a poll, votes may be cast either personally or by proxy.
- 20.7 A person entitled to more than one vote on a poll need not use all his votes or cast all the votes he uses in the same way.
- 20.8 In the case of an equality of votes at a general meeting, whether on a show of hands or count of votes received as electronic records or on a poll, the chairman of such meeting shall not be entitled to a second or casting vote and the resolution shall fail.
- 20.9 In the case of joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the joint holding.
- 20.10 A Shareholder who is a patient for any purpose of any statute or applicable law relating to mental health or in respect of whom an order has been made by any Court having jurisdiction for the protection or management of the affairs of persons incapable of managing their own affairs may vote, whether on a show of hands or on a poll, by his receiver, committee, *curator bonis* or other person in the nature of a receiver, committee or *curator bonis* appointed by such Court and such receiver, committee, *curator bonis* or other person may vote on a poll by proxy, and may otherwise act and be treated as such Shareholder for the purpose of general meetings.
- 20.11 No Shareholder shall, unless the Board otherwise determines, be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
- 20.12 If:

- 20.12.1 any objection shall be raised to the qualification of any voter; or,
- 20.12.2 any votes have been counted which ought not to have been counted or which might have been rejected; or,
- 20.12.3 any votes are not counted which ought to have been counted,
- 20.12.4 the objection or error shall not vitiate the decision of the meeting or adjourned meeting on any resolution unless the same is raised or pointed out at the meeting or, as the case may be, the adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any objection or error shall be referred to the chairman of the meeting and shall only vitiate the decision of the meeting on any resolution if the chairman decides that the same may have affected the decision of the meeting. The decision of the chairman on such matters shall be final and conclusive.

## 21 Proxies and Corporate Representatives

- 21.1 The instrument appointing a proxy or corporate representative shall be in writing executed by the appointor or his attorney authorised by him in writing or, if the appointor is a corporation, either under its seal or executed by an officer, attorney or other person authorised to sign the same.
- 21.2 Any Shareholder may appoint a proxy or (if a corporation) representative for a specific general meeting, and adjournments thereof, or may appoint a standing proxy or (if a corporation) representative, by serving on the Company at the Registered Office, or at such place or places as the Board may otherwise specify for the purpose, a proxy or (if a corporation) an authorisation. Any standing proxy or authorisation shall be valid for all general meetings and adjournments thereof or resolutions in writing, as the case may be, until notice of revocation is received at the Registered Office or at such place or places as the Board may otherwise specify for the purpose. Where a standing proxy or authorisation exists, its operation shall be deemed to have been suspended at any general meeting or adjournment thereof at which the Shareholder is present or in respect to which the Shareholder has specially appointed a proxy or representative. The Board may from time to time require such evidence as it shall deem necessary as to the due execution and continuing validity of any standing proxy or authorisation and the operation of any such standing proxy or authorisation shall be deemed to be suspended until such time as the Board determines that it has received the requested evidence or other evidence satisfactory to it.
- 21.3 Notwithstanding Bye-law 21.2, a Shareholder may appoint a proxy which shall be irrevocable in accordance with its terms and the holder thereof shall be the only person entitled to vote the relevant shares at any meeting of the shareholders at which such holder is present. Notice of the appointment of any such proxy shall be given to the Company at its Registered Office, and shall include the name, address, telephone number and electronic mail address of the proxy holder. The Company shall give to the proxy holder notice of all meetings of Shareholders of the Company and shall be obliged to recognise the holder of such proxy until such time as the holder notifies the Company in writing that the proxy is no longer in force.
- 21.4 Subject to Bye-Law 21.2 and 21.3, the instrument appointing a proxy or corporate representative together with such other evidence as to its due execution as the Board may from time to time require, shall be delivered at the Registered Office (or at such place as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case or the case of a resolution in writing, in any document sent therewith) prior to the holding of the relevant meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of a meeting or adjourned meeting, before the time appointed for the taking of the poll, or, in the case of a resolution in writing, prior to the effective date of the resolution in writing and in default the instrument of proxy or authorisation shall not be treated as valid.
- 21.5 Subject to Bye-Law 21.2 and 21.3, the decision of the chairman of any general meeting as to the validity of any appointments of a proxy shall be final.
- 21.6 Instruments of proxy or authorisation shall be in any common form or in such other form as the Board may approve and the Board may, if it thinks fit, send out with the notice of any meeting or any resolution in writing forms of instruments of proxy or authorisation for use at that meeting or in connection with that resolution in writing. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll, to speak at the meeting and to vote on any amendment of a resolution in writing or amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy or authorisation shall, unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates.
- 21.7 A vote given in accordance with the terms of an instrument of proxy or authorisation shall be valid notwithstanding the previous death or unsoundness of mind of the principal, or revocation of the instrument of proxy or of the corporate authority, provided that no intimation in writing of such death, unsoundness of mind or revocation shall have been received by the Company at the Registered Office (or such other place as may be specified for the delivery of instruments of proxy or authorisation in the notice convening the meeting or other documents sent therewith) at least one hour before the commencement of the meeting or adjourned meeting, or the taking of the poll, or the day before the effective date of any resolution in writing at which the instrument of proxy or authorisation is used.

- 21.8 Subject to the Companies Acts, the Board may at its discretion waive any of the provisions of these Bye-Laws related to proxies or authorisations and, in particular, may accept such verbal or other assurances as it thinks fit as to the right of any person to attend, speak and vote on behalf of any Shareholder at general meetings or to sign resolutions in writing.

## BOARD OF DIRECTORS

### 22 Appointment and Removal of Directors

- 22.1 The number of Directors shall be not less than two (2) and not more than six (6) or such numbers in excess thereof as the Company by Resolution may from time to time determine and, subject to the Companies Acts and these Bye-Laws, the Directors shall be elected or appointed by the Company by Resolution and shall serve for such term as the Company by Resolution may determine, or in the absence of such determination, until the termination of the next Annual General Meeting following their appointment. All Directors, upon election or appointment (except upon re-election at an Annual General Meeting), must provide written acceptance of their appointment, in such form as the Board may think fit, by notice in writing to the Registered Office within thirty (30) days of their appointment.
- 22.2 The Company may by Resolution increase the maximum number of Directors. Any one or more vacancies in the Board not filled by the Shareholders at any general meeting of the Shareholders shall be deemed casual vacancies for the purposes of these Bye-Laws. Without prejudice to the power of the Company by Resolution in pursuance of any of the provisions of these Bye-Laws to appoint any person to be a Director, the Board, so long as a quorum of Directors remains in office, shall have power at any time and from time to time to appoint any individual to be a Director so as to fill a casual vacancy.
- 22.3 The Company may in a Special General Meeting called for that purpose remove a Director, provided notice of any such meeting shall be served upon the Director concerned not less than fourteen (14) days before the meeting and he shall be entitled to be heard at that meeting. Any vacancy created by the removal of a Director at a Special General Meeting may be filled at the meeting by the election of another Director in his place or, in the absence of any such election, by the Board.

### 23 Resignation and Disqualification of Directors

The office of a Director shall be vacated upon the happening of any of the following events:

- 23.1 if he resigns his office by notice in writing delivered to the Registered Office or tendered at a meeting of the Board;
- 23.2 if he becomes of unsound mind or a patient for any purpose of any statute or applicable law relating to mental health and the Board resolves that his office is vacated;
- 23.3 if he becomes bankrupt under the laws of any country or compounds with his creditors;
- 23.4 if he is prohibited by law from being a Director; or
- 23.5 if he ceases to be a Director by virtue of the Companies Acts or is removed from office pursuant to these Bye-Laws.

### 24 Alternate Directors

- 24.1 A Director may appoint and remove his own Alternate Director. Any appointment or removal of an Alternate Director by a Director shall be effected by delivery of a written notice of appointment or removal to the Secretary at the Registered Office, signed by such Director, and such notice shall be effective immediately upon receipt or on any later date specified in that notice. Any Alternate Director may be removed by resolution of the Board. Subject as aforesaid, the office of Alternate Director shall continue until the next annual election of Directors or, if earlier, the date on which the relevant Director ceases to be a Director. An Alternate Director may also be a Director in his own right and may act as alternate to more than one Director.
- 24.2 An Alternate Director shall be entitled to receive notices of all meetings of Directors, to attend, be counted in the quorum and vote at any such meeting at which any Director to whom he is alternate is not personally present, and generally to perform all the functions of any Director to whom he is alternate in his absence.
- 24.3 Every person acting as an Alternate Director shall (except as regards powers to appoint an alternate and remuneration) be subject in all respects to the provisions of these Bye-Laws relating to Directors and shall alone be responsible to the Company for his acts and defaults and shall not be deemed to be the agent of or for any Director for whom he is alternate. An Alternate Director may be paid expenses and shall be entitled to be indemnified by the Company to the same extent *mutatis mutandis* as if he were a Director. Every person acting as an Alternate Director shall have one vote for each Director for whom he acts as alternate (in addition to his own vote if he is also a Director). The signature of an Alternate Director to any resolution in writing of the Board or a committee of the Board shall, unless the terms of his appointment provides to the contrary, be as effective as the signature of the Director or Directors to whom he is alternate.

### 25 Directors' Fees and Additional Remuneration and Expenses

The amount, if any, of Directors' fees shall from time to time be determined by the Company by Resolution or in the absence of such a determination, by the Board. Unless otherwise determined to the contrary, such fees shall be deemed to accrue from day to day. Each Director may be paid his reasonable travel, hotel and incidental expenses in attending and returning from meetings of the Board or committees constituted

pursuant to these Bye-Laws or general meetings and shall be paid all expenses properly and reasonably incurred by him in the conduct of the Company's business or in the discharge of his duties as a Director. Any Director who, by request, goes or resides abroad for any purposes of the Company or who performs services which in the opinion of the Board go beyond the ordinary duties of a Director may be paid such extra remuneration (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Bye-Law.

## 26 Directors' Interests

- 26.1 A Director may hold any other office or place of profit with the Company (except that of Auditor) in conjunction with his office of Director for such period and upon such terms as the Board may determine, and may be paid such extra remuneration therefor (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Bye-Law.
- 26.2 A Director may act by himself or his firm in a professional capacity for the Company (otherwise than as Auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.
- 26.3 Subject to the provisions of the Companies Acts, a Director may notwithstanding his office be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested; and be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is interested. The Board may also cause the voting power conferred by the shares in any other company held or owned by the Company to be exercised in such manner in all respects as it thinks fit, including the exercise thereof in favour of any resolution appointing the Directors or any of them to be directors or officers of such other company, or voting or providing for the payment of remuneration to the directors or officers of such other company.
- 26.4 So long as, where it is necessary, he declares the nature of his interest at the first opportunity at a meeting of the Board or by writing to the Directors as required by the Companies Acts, a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from any office or employment to which these Bye-Laws allow him to be appointed or from any transaction or arrangement in which these Bye-Laws allow him to be interested, and no such transaction or arrangement shall be liable to be avoided on the ground of any interest or benefit.
- 26.5 Subject to the Companies Acts and any further disclosure required thereby, a general notice to the Directors by a Director or Officer declaring that he is a director or officer or has an interest in a person and is to be regarded as interested in any transaction or arrangement made with that person, shall be a sufficient declaration of interest in relation to any transaction or arrangement so made.

## POWERS AND DUTIES OF THE BOARD

### 27 Powers and Duties of the Board

- 27.1 Subject to the provisions of the Companies Acts, these Bye-Laws and to any directions given by the Company by Resolution, the Board shall manage the business of the Company and may pay all expenses incurred in promoting and incorporating the Company and may exercise all the powers of the Company. No alteration of these Bye-Laws and no such direction shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Bye-Law shall not be limited by any special power given to the Board by these Bye-Laws and a meeting of the Board at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the Board.
- 27.2 The Board may exercise all the powers of the Company except those powers that are required by the Companies Acts or these Bye-Laws to be exercised by the Shareholders.
- 27.3 All cheques, promissory notes, drafts, bills of exchange and other instruments, whether negotiable or transferable or not, and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board shall from time to time by resolution determine.
- 27.4 The Board on behalf of the Company may provide benefits, whether by the payment of gratuities or pensions or otherwise, for any person including any Director or former Director who has held any executive office or employment with the Company or with any body corporate which is or has been a subsidiary or affiliate of the Company or a predecessor in the business of the Company or of any such subsidiary or affiliate, and to any member of his family or any person who is or was dependent on him, and may contribute to any fund and pay premiums for the purchase or provision of any such gratuity, pension or other benefit, or for the insurance of any such person.
- 27.5 The Board may from time to time appoint one or more of its body to be a managing director, joint managing director or an assistant managing director or to hold any other employment or executive office with the Company for such period and upon such terms as the Board may determine and may revoke or terminate any such appointments. Any such revocation or termination as aforesaid shall be without prejudice to any claim for damages that such Director may have against the Company or

the Company may have against such Director for any breach of any contract of service between him and the Company which may be involved in such revocation or termination. Any person so appointed shall receive such remuneration (if any) (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and either in addition to or in lieu of his remuneration as a Director.

## 28 Delegation of the Board's Powers

- 28.1 The Board may by power of attorney appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under these Bye-Laws) and for such period and subject to such conditions as it may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney and of such attorney as the Board may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Such attorney may, if so authorised by the power of attorney, execute any deed, instrument or other document on behalf of the Company.
- 28.2 The Board may entrust to and confer upon any Director, Officer or, without prejudice to the provisions of Bye-Law 28.3, other person any of the powers, authorities and discretions exercisable by it upon such terms and conditions with such restrictions as it thinks fit, and either collaterally with, or to the exclusion of, its own powers, authorities and discretions, and may from time to time revoke or vary all or any of such powers, authorities and discretions, but no person dealing in good faith and without notice of such revocation or variation shall be affected thereby.
- 28.3 The Board may delegate any of its powers, authorities and discretions to committees, consisting of such person or persons (whether a member or members of its body or not) as it thinks fit. Any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, and in conducting its proceedings conform to any regulations which may be imposed upon it by the Board. If no regulations are imposed by the Board the proceedings of a committee with two (2) or more members shall be, as far as is practicable, governed by the Bye-Laws regulating the proceedings of the Board.

## 29 Proceedings of the Board

- 29.1 The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Questions arising at any meeting shall be determined by a majority of votes. In the case of an equality of votes, the motion shall be deemed to have been lost. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Board.
- 29.2 Notice of a meeting of the Board may be given to a Director by word of mouth or in any manner permitted by these Bye-Laws. A Director may retrospectively waive the requirement for notice of any meeting by consenting in writing to the business conducted at the meeting.
- 29.3 The quorum necessary for the transaction of the business of the Board may be fixed by the Board and, unless so fixed at any other number, shall be two (2) individuals. Any Director who ceases to be a Director at a meeting of the Board may continue to be present and to act as a Director and be counted in the quorum until the termination of the meeting if no other Director objects and if otherwise a quorum of Directors would not be present.
- 29.4 A Director who to his knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract, transaction or arrangement with the Company and has complied with the provisions of the Companies Acts and these Bye-Laws with regard to disclosure of his interest shall be entitled to vote in respect of any contract, transaction or arrangement in which he is so interested and if he shall do so his vote shall be counted, and he shall be taken into account in ascertaining whether a quorum is present.
- 29.5 The Resident Representative shall, upon delivering written notice of an address for the purposes of receipt of notice to the Registered Office, be entitled to receive notice of, attend and be heard at, and to receive minutes of all meetings of the Board.
- 29.6 So long as a quorum of Directors remains in office, the continuing Directors may act notwithstanding any vacancy in the Board but, if no such quorum remains, the continuing Directors or a sole continuing Director may act only for the purpose of calling a general meeting.
- 29.7 The Board may choose one of their number to preside as chairman at every meeting of the Board. If there is no such chairman, or if at any meeting the chairman is not present within five (5) minutes after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors present may choose one of their number to be chairman of the meeting.
- 29.8 The meetings and proceedings of any committee consisting of two (2) or more members shall be governed by the provisions contained in these Bye-Laws for regulating the meetings and proceedings of the Board so far as the same are applicable and are not superseded by any regulations imposed by the Board.
- 29.9 A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Board (or by an Alternate Director, as provided for in these Bye-Laws) or by all the members of a committee for the time being shall be as valid and effectual as a resolution passed at a meeting of the Board or, as the case may be, of such committee duly called and constituted. Such resolution may be contained in one document or in several documents in the like form each signed by one or more of the Directors or members of the committee concerned.

- 29.10 A meeting of the Board or a committee appointed by the Board may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting. Such a meeting shall be deemed to take place where the largest group of those Directors participating in the meeting is physically assembled, or, if there is no such group, where the chairman of the meeting then is.
- 29.11 All acts done by the Board or by any committee or by any person acting as a Director or member of a committee or any person duly authorised by the Board or any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board or such committee or person acting as aforesaid or that they or any of them were disqualified or had vacated their office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director, member of such committee or person so authorised.

## OFFICERS

### 30 Officers

- 30.1 The Officers of the Company, who may or may not be Directors, may be appointed by the Board at any time. Any person appointed pursuant to this Bye-Law shall hold office for such period and upon such terms as the Board may determine and the Board may revoke or terminate any such appointment. Any such revocation or termination shall be without prejudice to any claim for damages that such Officer may have against the Company or the Company may have against such Officer for any breach of any contract of service between him and the Company which may be involved in such revocation or termination. Save as provided in the Companies Acts or these Bye-Laws, the powers and duties of the Officers of the Company shall be such (if any) as are determined from time to time by the Board.
- 30.2 The provisions of these Bye-Laws as to resignation and disqualification of Directors shall *mutatis mutandis* apply to the resignation and disqualification of Officers.

## MINUTES

### 31 Minutes

- 31.1 The Board shall cause minutes to be made and books kept for the purpose of recording:
- 31.1.1 all appointments of Officers made by the Board;
  - 31.1.2 the names of the Directors and other persons (if any) present at each meeting of the Board and of any committee; and
  - 31.1.3 all proceedings at meetings of the Company, of the holders of any class of shares in the Company, of the Board and of committees appointed by the Board or the Shareholders.
- 31.2 Shareholders shall only be entitled to see the Register of Directors and Officers, the Register, the financial information provided for in Bye-Law 38.3 and the minutes of meetings of the Shareholders of the Company.

## SECRETARY AND RESIDENT REPRESENTATIVE

### 32 Secretary and Resident Representative

- 32.1 The Secretary (including one or more deputy or assistant secretaries) and, if required, the Resident Representative, shall be appointed by the Board at such remuneration (if any) and upon such terms as it may think fit and any Secretary and Resident Representative so appointed may be removed by the Board. The duties of the Secretary and the duties of the Resident Representative shall be those prescribed by the Companies Acts together with such other duties as shall from time to time be prescribed by the Board.
- 32.2 A provision of the Companies Acts or these Bye-Laws requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

## THE SEAL

### 33 The Seal

- 33.1 The Board may authorise the production of a common seal of the Company and one or more duplicate common seals of the Company, which shall consist of a circular device with the name of the Company around the outer margin thereof and the country and year of registration in Bermuda across the centre thereof.
- 33.2 Any document required to be under seal or executed as a deed on behalf of the Company may be:
- 33.2.1 executed under the Seal in accordance with these Bye-Laws; or
  - 33.2.2 signed or executed by any person authorised by the Board for that purpose, without the use of the Seal.
- 33.3 The Board shall provide for the custody of every Seal. A Seal shall only be used by authority of the Board or of a committee constituted by the Board. Subject to these Bye-Laws, any instrument to which a Seal is affixed shall be attested by the signature of:
- 33.3.1 a Director; or
  - 33.3.2 the Secretary; or
  - 33.3.3 any one person authorised by the Board for that purpose.

**DIVIDENDS AND OTHER PAYMENTS****34 Dividends and Other Payments**

- 34.1 The Board may from time to time declare dividends or distributions out of contributed surplus to be paid to the Shareholders according to their rights and interests, including such interim dividends as appear to the Board to be justified by the position of the Company. The Board, in its discretion, may determine that any dividend shall be paid in cash or shall be satisfied, subject to Bye-Law 36, in paying up in full shares in the Company to be issued to the Shareholders credited as fully paid or partly paid or partly in one way and partly the other. The Board may also pay any fixed cash dividend which is payable on any shares of the Company half yearly or on such other dates, whenever the position of the Company, in the opinion of the Board, justifies such payment.
- 34.2 Except insofar as the rights attaching to, or the terms of issue of, any share otherwise provide:
- 34.2.1 all dividends or distributions out of contributed surplus may be declared and paid according to the amounts paid up on the shares in respect of which the dividend or distribution is paid, and an amount paid up on a share in advance of calls may be treated for the purpose of this Bye-Law as paid-up on the share;
- 34.2.2 dividends or distributions out of contributed surplus may be apportioned and paid pro rata according to the amounts paid-up on the shares during any portion or portions of the period in respect of which the dividend or distribution is paid.
- 34.3 The Board may deduct from any dividend, distribution or other monies payable to a Shareholder by the Company on or in respect of any shares all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in respect of shares of the Company.
- 34.4 No dividend, distribution or other monies payable by the Company on or in respect of any share shall bear interest against the Company.
- 34.5 Any dividend, distribution or interest, or part thereof payable in cash, or any other sum payable in cash to the holder of shares may be paid by cheque or warrant sent through the post or by courier addressed to the holder at his address in the Register or, in the case of joint holders, addressed to the holder whose name stands first in the Register in respect of the shares at his registered address as appearing in the Register or addressed to such person at such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall, unless the holder or joint holders otherwise direct, be made payable to the order of the holder or, in the case of joint holders, to the order of the holder whose name stands first in the Register in respect of such shares, and shall be sent at his or their risk and payment of the cheque or warrant by the bank on which it is drawn shall constitute a good discharge to the Company. Any one of two (2) or more joint holders may give effectual receipts for any dividends, distributions or other monies payable or property distributable in respect of the shares held by such joint holders.
- 34.6 Any dividend or distribution out of contributed surplus unclaimed for a period of six (6) years from the date of declaration of such dividend or distribution shall be forfeited and shall revert to the Company and the payment by the Board of any unclaimed dividend, distribution, interest or other sum payable on or in respect of the share into a separate account shall not constitute the Company a trustee in respect thereof.
- 34.7 The Board may also, in addition to its other powers, direct payment or satisfaction of any dividend or distribution out of contributed surplus wholly or in part by the distribution of specific assets, and in particular of paid-up shares or debentures of any other company, and where any difficulty arises in regard to such distribution or dividend, the Board may settle it as it thinks expedient, and in particular, may authorise any person to sell and transfer any fractions or may ignore fractions altogether, and may fix the value for distribution or dividend purposes of any such specific assets and may determine that cash payments shall be made to any Shareholders upon the footing of the values so fixed in order to secure equality of distribution and may vest any such specific assets in trustees as may seem expedient to the Board, provided that such dividend or distribution may not be satisfied by the distribution of any partly paid shares or debentures of any company without the sanction of a Resolution.

**35 Reserves**

The Board may, before declaring any dividend or distribution out of contributed surplus, set aside such sums as it thinks proper as reserves which shall, at the discretion of the Board, be applicable for any purpose of the Company and pending such application may, also at such discretion, either be employed in the business of the Company or be invested in such investments as the Board may from time to time think fit. The Board may also without placing the same to reserve carry forward any sums which it may think it prudent not to distribute.

**CAPITALISATION OF PROFITS****36 Capitalisation of Profits**

- 36.1 The Board may from time to time resolve to capitalise all or any part of any amount for the time being standing to the credit of any reserve or fund which is available for distribution or to the credit of any share premium account and accordingly that such amount be set free for distribution amongst the Shareholders or any class of Shareholders who would be entitled thereto if distributed by way of dividend and in the same proportions, on the footing that the same be not paid in cash but be applied either in or towards paying up amounts for the time being unpaid on any shares in the

Company held by such Shareholders respectively or in payment up in full of unissued shares, debentures or other obligations of the Company, to be allotted and distributed credited as fully paid amongst such Shareholders, or partly in one way and partly in the other, provided that for the purpose of this Bye-Law, a share premium account may be applied only in paying up of unissued shares to be issued to such Shareholders credited as fully paid.

- 36.2 Where any difficulty arises in regard to any distribution under this Bye-Law, the Board may settle the same as it thinks expedient and, in particular, may authorise any person to sell and transfer any fractions or may resolve that the distribution should be as nearly as may be practicable in the correct proportion but not exactly so or may ignore fractions altogether, and may determine that cash payments should be made to any Shareholders in order to adjust the rights of all parties, as may seem expedient to the Board. The Board may appoint any person to sign on behalf of the persons entitled to participate in the distribution any contract necessary or desirable for giving effect thereto and such appointment shall be effective and binding upon the Shareholders.

## **RECORD DATES**

### **37 Record Dates**

Notwithstanding any other provisions of these Bye-Laws, the Company may by Resolution or the Board may fix any date as the record date for any dividend, distribution, allotment or issue and for the purpose of identifying the persons entitled to receive notices of any general meeting and to vote at any general meeting. Any such record date may be on or at any time before or after any date on which such dividend, distribution, allotment or issue is declared, paid or made or such notice is despatched.

## **ACCOUNTING RECORDS**

### **38 Accounting Records**

- 38.1 The Board shall cause to be kept accounting records sufficient to give a true and fair view of the state of the Company's affairs and to show and explain its transactions, in accordance with the Companies Acts.
- 38.2 The records of account shall be kept at the Registered Office or at such other place or places as the Board thinks fit, and shall at all times be open to inspection by the Directors, PROVIDED that if the records of account are kept at some place outside Bermuda, there shall be kept at an office of the Company in Bermuda such records as will enable the Directors to ascertain with reasonable accuracy the financial position of the Company at the end of each three (3) month period. No Shareholder (other than an Officer of the Company) shall have any right to inspect any accounting record or book or document of the Company except as conferred by law or authorised by the Board or by Resolution.
- 38.3 A copy of every balance sheet and statement of income and expenditure, including every document required by law to be annexed thereto, which is to be laid before the Company in general meeting, together with a copy of the Auditors' report, shall be sent to each person entitled thereto in accordance with the requirements of the Companies Acts.

## **AUDIT**

### **39 Audit**

Save and to the extent that an audit is waived in the manner permitted by the Companies Acts, Auditors shall be appointed and their duties regulated in accordance with the Companies Acts, any other applicable law and such requirements not inconsistent with the Companies Acts as the Board may from time to time determine.

## **SERVICE OF NOTICES AND OTHER DOCUMENTS**

### **40 Service of Notices and Other Documents**

- 40.1 Any notice or other document (including but not limited to a share certificate, any notice of a general meeting of the Company, any instrument of proxy and any document to be sent in accordance with Bye-Law 38.3) may be sent to, served on or delivered to any Shareholder by the Company
- 40.1.1 personally;
- 40.1.2 by sending it through the post (by airmail where applicable) in a pre-paid letter addressed to such Shareholder at his address as appearing in the Register;
- 40.1.3 by sending it by courier to or leaving it at the Shareholder's address appearing in the Register;
- 40.1.4 where applicable, by sending it by email or facsimile or other mode of representing or reproducing words in a legible and non-transitory form or by sending an electronic record of it by electronic means, in each case to an address or number supplied by such Shareholder for the purposes of communication in such manner; or
- 40.1.5 by publication of an electronic record of it on a website and notification of such publication (which shall include the address of the website, the place on the website where the document may be found, and how the document may be accessed on the website) by any of the methods set out in paragraphs 40.1.1, 40.1.2, 40.1.3 or 40.1.4 of this Bye-Law, in accordance with the Companies Acts.

- In the case of joint holders of a share, service or delivery of any notice or other document on or to one of the joint holders shall for all purposes be deemed as sufficient service on or delivery to all the joint holders.
- 40.2 Any notice or other document shall be deemed to have been served on or delivered to any Shareholder by the Company
- 40.2.1 if sent by personal delivery, at the time of delivery;
- 40.2.2 if sent by post, forty-eight (48) hours after it was put in the post;
- 40.2.3 if sent by courier or facsimile, twenty-four (24) hours after sending;
- 40.2.4 if sent by email or other mode of representing or reproducing words in a legible and non-transitory form or as an electronic record by electronic means, twelve (12) hours after sending; or
- 40.2.5 if published as an electronic record on a website, at the time that the notification of such publication shall be deemed to have been delivered to such Shareholder,
- and in proving such service or delivery, it shall be sufficient to prove that the notice or document was properly addressed and stamped and put in the post, published on a website in accordance with the Companies Acts and the provisions of these Bye-Laws, or sent by courier, facsimile, email or as an electronic record by electronic means, as the case may be, in accordance with these Bye-Laws.
- Each Shareholder and each person becoming a Shareholder subsequent to the adoption of these Bye-laws, by virtue of its holding or its acquisition and continued holding of a share, as applicable, shall be deemed to have acknowledged and agreed that any notice or other document (excluding a share certificate) may be provided by the Company by way of accessing them on a website instead of being provided by other means.
- 40.3 Any notice or other document delivered, sent or given to a Shareholder in any manner permitted by these Bye-Laws shall, notwithstanding that such Shareholder is then dead or bankrupt or that any other event has occurred, and whether or not the Company has notice of the death or bankruptcy or other event, be deemed to have been duly served or delivered in respect of any share registered in the name of such Shareholder as sole or joint holder unless his name shall, at the time of the service or delivery of the notice or document, have been removed from the Register as the holder of the share, and such service or delivery shall for all purposes be deemed as sufficient service or delivery of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the share.
- 40.4 Save as otherwise provided, the provisions of these Bye-Laws as to service of notices and other documents on Shareholders shall *mutatis mutandis* apply to service or delivery of notices and other documents to the Company or any Director, Alternate Director or Resident Representative pursuant to these Bye-Laws.

## WINDING UP

### 41 Winding Up

If the Company shall be wound up, the liquidator may, with the sanction of a Resolution of the Company and any other sanction required by the Companies Acts, divide amongst the Shareholders in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may for such purposes set such values as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Shareholders or different classes of Shareholders. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trust for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no Shareholder shall be compelled to accept any shares or other assets upon which there is any liability.

## INDEMNITY

### 42 Indemnity

- 42.1 Subject to the proviso below, every Indemnified Person shall be indemnified and held harmless out of the assets of the Company against all liabilities, loss, damage or expense (including but not limited to liabilities under contract, tort and statute or any applicable foreign law or regulation and all reasonable legal and other costs including defence costs incurred in defending any legal proceedings whether civil or criminal and expenses properly payable) incurred or suffered by him by or by reason of any act done, conceived in or omitted in the conduct of the Company's business or in the discharge of his duties and the indemnity contained in this Bye-Law shall extend to any Indemnified Person acting in any office or trust in the reasonable belief that he has been appointed or elected to such office or trust notwithstanding any defect in such appointment or election PROVIDED ALWAYS that the indemnity contained in this Bye-Law shall not extend to any matter which would render it void pursuant to the Companies Acts.
- 42.2 No Indemnified Person shall be liable to the Company for the acts, defaults or omissions of any other Indemnified Person.
- 42.3 To the extent that any Indemnified Person is entitled to claim an indemnity pursuant to these Bye-Laws in respect of amounts paid or discharged by him, the relevant indemnity shall take effect as an obligation of the Company to reimburse the person making such payment or effecting such discharge.

- 42.4 Each Shareholder and the Company agree to waive any claim or right of action he or it may at any time have, whether individually or by or in the right of the Company, against any Indemnified Person on account of any action taken by such Indemnified Person or the failure of such Indemnified Person to take any action in the performance of his duties with or for the Company PROVIDED HOWEVER that such waiver shall not apply to any claims or rights of action arising out of the fraud of such Indemnified Person or to recover any gain, personal profit or advantage to which such Indemnified Person is not legally entitled.
- 42.5 The Company shall advance moneys to any Indemnified Person for the costs, charges, and expenses incurred by the Indemnified Person in defending any civil or criminal proceedings against them, on condition and receipt of an undertaking in a form satisfactory to the Company that the Indemnified Person shall repay such portion of the advance attributable to any claim of fraud or dishonesty if such a claim is proved against the Indemnified Person.
- 42.6 The advance of moneys would not be paid unless the advance was duly authorized upon a determination that the indemnification of the Indemnified Person was appropriate because the Indemnified Person had met the standard of conduct which would entitle the Indemnified Person to indemnification and further the determination referred to above must be made by a majority vote of the Board at a meeting duly constituted by a quorum of Directors not party to the proceedings in respect of which the indemnification is, or would be, claimed; or, in the case such meeting cannot be constituted by lack of disinterested quorum by an independent third party; or, alternatively, by a majority vote of the Shareholders.

#### **AMALGAMATION**

##### **43 Amalgamation**

Any resolution proposed for consideration at any general meeting to approve the amalgamation of the Company with any other company, wherever incorporated, shall require the approval of a simple majority of votes cast at such meeting and the quorum for such meeting shall be that required in Bye-Law 19.1 and a poll may be demanded in respect of such resolution in accordance with the provisions of Bye-Law 20.2.

#### **CONTINUATION**

##### **44 Continuation**

Subject to the Companies Acts, the Board may approve the discontinuation of the Company in Bermuda and the continuation of the Company in a jurisdiction outside Bermuda. The Board, having resolved to approve the discontinuation of the Company, may further resolve not to proceed with any application to discontinue the Company in Bermuda or may vary such application as it sees fit.

#### **ALTERATION OF BYE-LAWS**

##### **45 Alteration of Bye-Laws**

These Bye-Laws may be amended from time to time by resolution of the Board, but subject to approval by Resolution.

## APPENDIX 8

### Articles of Association - Gard AS

As approved by the Annual General Meeting held on 15 April 2011

#### 1. Company name

The company's name shall be Gard AS

#### 2. Location of company

The company is located in Arendal

#### 3. Business

The company's business is insurance intermediary activities on behalf of insurance business for Norwegian and foreign marine and energy insurers, and other related business.

#### 4. Share capital

The Share capital is NOK 30,000,000 divided on 50,000 shares, each with a face value of NOK 600.

#### 5. Board of Directors and Chief Executive Officer

The Board of Directors shall consist of four (4) representatives and up to four (4) deputy representatives elected by the shareholders. In addition up to three (3) representatives shall be elected by and from the employees. Time of service for the Directors elected by and from the employees is two years.

In the event of an equal number of votes being cast, the chairman of the meeting shall not have the deciding vote.

#### 6. Authorisation to sign on behalf of the company

The Chairman of the board and the Chief Executive Officer together have authorization to sign on behalf of the company. The Board of Directors may grant power of procuration.

#### 7. Annual General Meeting

The Annual General Meeting shall decide on the following matters:

- Approve the accounts and the annual report, including dividend to shareholders
- Elect board members
- Elect an auditor
- Other matters pursuant to the Joint Stock Company Act or pursuant to the Articles of Association.

All decisions of the Annual General Meeting require approval of shareholders representing a minimum of 2/3 of the share capital.

#### 8. Accounting year

The accounting year ends at 12:00 GMT on 20 February every year.

## APPENDIX 9

### Instructions for the Supervisory Committee of Assuranceforeningen Gard –gjensidig-

#### Instruks for kontrollkomiteen Assuranceforeningen Gard - gjensidig

##### § 1

Komiteen skal se til at Assuranceforeningen Gard – gjensidig - ("selskapet") virker på en hensiktsmessig og trygghende måte i samsvar med lov, vedtekter, samt pålegg fra Kredittilsynet. Komiteen skal spesielt se til at selskapet har trygghende styringssystemer og interne kontrollordninger.

Komiteen skal føre tilsyn med selskaper hvor forsikringsselskapet har slik bestemmende innflytelse som nevnt i aksjeloven § 1-3 (datterselskaper).

##### § 2

Komiteen skal møtes så ofte formannen finner det påkrevet. Kredittilsynet og medlemmer av komiteen kan kreve at formannen kaller komiteen sammen til møte. Møtene ledes av formannen eller i hans fravær av nestformannen. Hvis begge er fraværende, velges en møteleder. Komiteen er vedtaksfør når minst halvparten av medlemmene er til stede. I tilfelle stemmelikhet gjør møtelederens stemme utslaget.

Komiteen skal under møtelederens ansvar føre en møteprotokoll. Protokollen skal være innbundet og forhåndspaginert.

##### § 3

Komiteens behov for arbeidshjelp skal drøftes med administrerende direktør. Styret skal stille til disposisjon den arbeidshjelp som komiteen etter slike drøftelser ber om. Hvis komiteen mener at den ikke får den arbeidshjelp den har bedt om, skal den ta dette opp på første generalforsamling.

I samråd med styrets formann kan komiteen for selskapets regning engasjere eksterne sakkyndig bistand.

Arbeidshjelp som stilles til disposisjon for komiteen og engasjerte sakkyndige har samme rett til innsyn som komiteens medlemmer. De har taushetsplikt som angitt i forsikringslovens § 1-6.

#### Instructions for the Supervisory Committee of Assuranceforeningen Gard - gjensidig

##### § 1

The Supervisory Committee shall see to it that Assuranceforeningen Gard (the "Association") operates in a safe and appropriate manner, in compliance with the law, the Statutes of the Association as well as the directions of the Financial Supervisory Authority of Norway ("Kredittilsynet"). In particular, the Supervisory Committee shall ensure that the Association has satisfactory management systems and internal control routines.

The Supervisory Committee shall carry out the supervision of companies where the Association has a controlling interest as defined in Section 1-3 of the Norwegian Joint Stock Company Act.

##### § 2

The Supervisory Committee shall meet as often as the Chairman deems it necessary. Kredittilsynet and the members of the Supervisory Committee can require the Chairman to call the Supervisory Committee together to a meeting. The meeting is to be chaired by the Chairman, or in his absence, by the Vice Chairman. In the absence of both the Chairman and the Vice Chairman, the remaining members of the Supervisory Committee are to elect a chairman of the meeting. A quorum is formed when at least one half of the members are present. In the event of an equal number of votes being cast, the Chairman of the meeting shall have the deciding vote.

The Chairman of the meeting shall be responsible for ensuring that minutes are kept of the meetings of the Supervisory Committee. The minutes shall be bound and paginated.

##### § 3

The Supervisory Committee's requirement for administrative assistance shall be discussed with the Managing Director. The administrative assistance requested by the Supervisory Committee in these consultations shall be placed at its disposition by the Board of Directors. If the Supervisory Committee considers that they have not received the administrative assistance which they have demanded, they shall take the matter up at the next General Meeting.

In consultation with the Chairman of the Board of Directors, the Supervisory Committee may engage expert assistance externally, for the account of the Association.

**§ 4**

Komiteen skal ha løpende og nært samarbeid med internrevisor, controller eller annen tjenestemann som har et særlig ansvar for de interne kontrollordninger i selskapet. De skal ha tilsvarende samarbeid med selskapets ansvarshavende aktuar eller annen tjenestemann som har et særlig ansvar for selskapets forsikringstekniske avsetninger.

Komiteen skal også arbeide nært sammen med selskapets revisor samt med revisorer i datterselskaper.

**§ 5**

Komiteens medlemmer har rett til å gjøre seg kjent med all foreliggende informasjon om selskapets kunder og selskapets egen virksomhet. Samme rett har komiteens medlemmer når det gjelder selskapets datterselskaper.

Styret, selskapets tjenestemenn og revisorer har plikt til å sørge for at komiteen får alle opplysninger som den mener å trenge for å kunne utføre sitt verv.

Styrets medlemmer, selskapets tjenestemenn og revisorer kan kalles inn til komiteens møter.

**§ 6**

Komiteen skal regelmessig gå gjennom styrets protokoller. Den skal ved å innhente relevant informasjon og dokumentasjon forvise seg om at styret og administrerende direktør benytter seg av styrings- og kontrollsystemer som setter dem i stand til å føre kontroll med virksomheten, herunder selskapets finansielle og forsikringstekniske risikoeksponering. Den skal på tilsvarende måte forvise seg om at styret og administrerende direktør har regnskapsmessig oversikt over driften og at de følger opp sine beslutninger med full tilbakerapportering av iverksatte aktiviteter.

Komiteen skal ellers foreta de undersøkelser den finner påkrevet.

Komiteen skal hvert år utarbeide en arbeidsplan for sin virksomhet. Virksomheten skal tilpasses selskapets størrelse og organisasjon.

The administrative assistance which is placed at the Supervisory Committee's disposal and experts engaged have the same rights of inspection as the members of the Supervisory Committee. They are subject to the duty of confidentiality set out in Sections 1-6 of the Norwegian Insurance Act.

**§ 4**

The Supervisory Committee shall have a continuous and close co-operation with the internal auditor, controller or other staff members who have special responsibility for the internal control routines in the Associations. The Supervisory Committee shall have a similar closer co-operation with the Association's actuary or other members of staff with special responsibility for estimating the Association's technical reserves.

The Supervisory Committee shall also work in close co-operation with the Association's auditor and the auditors in subsidiary companies.

**§ 5**

The Supervisory Committee have the right of access to all available information regarding the Association's customers and the Association's business activities. The members of the Supervisory Committee have the same right in respect of the Association's subsidiary companies.

The Board of Directors, the staff and the auditor are obliged to see to it that the Supervisory Committee receives all information which it deems necessary to carry out its duties.

The members of the Board of Directors, the Association's staff members and the auditor may be called to attend the meetings of the Supervisory Committee.

**§ 6**

The Supervisory Committee shall regularly review the minutes from the Board of Directors' meetings. The Supervisory Committee shall gather all relevant information and ensure that the Board of Directors and the Managing Director makes use of the Association's governance and control procedures enabling them to monitor and supervise the business activities including the

Association's financial and technical risk exposure. The Supervisory Committee shall also ensure that the Board of Directors and the Managing Director have an overview of the Association's accounts and its business activities and that all decisions are followed up and that reports are made on the effects of measures that are implemented.

The Supervisory Committee shall further conduct such investigations as it deems necessary.

The Supervisory Committee shall every year make a plan for its activities. The activities shall be relative to the scope of activities of the Association.

**§ 7**

Forhold som komiteen finner uheldig kan den, sammen med administrerende direktør, ta opp med de ansvarlige tjenestemenn på et hvilket som helst nivå i selskapet. Skriftlige antegnelser eller merknader skal rettes til styret med kopi til revisor. Komiteen kan ta opp et hvilket som helst spørsmål som vedrører selskapets eller et datterselskaps virksomhet og organisering.

**§ 8**

Får komiteen kjennskap til betydelige forsømmelse, feil eller misligheter av større betydning eller rekkevidde, eller den mener at selskapet har lidt eller står i fare for å lide store tap, skal den straks ta dette opp med Kredittilsynet. Generalforsamlingen og styret kan også kontakte Kredittilsynet med opplysninger om mangler eller uregelmessigheter. Det samme gjelder hvis den av andre grunner finner det ønskelig eller hensiktsmessig å orientere Kredittilsynet.

Bestemmelsene i denne paragraf gjelder også selskapets datterselskaper.

Det enkelte medlem av komiteen kan også ta slik kontakt som nevnt i denne paragraf.

**§ 9**

Komiteen skal gi uttalelser til generalforsamlingen om årsoppgjøret og tilrå om resultatregnskap og balanse bør fastsettes som selskapets regnskap.

Komiteen skal hvert år gi melding til generalforsamlingen og Kredittilsynet om sitt arbeid og forsikringsselskapets stilling.

**§10**

Komiteens medlemmer har taushetsplikt om det de i stillings medfør får kjennskap til om forsikringsselskapets eller annen finansinstitusjons kunde. Taushetsplikten gjelder ikke overfor Kredittilsynet, styret, revisor eller overfor kontrollkomiteen i annen finansinstitusjon. Taushetsplikten gjelder ikke opplysninger som noen krever med hjemmel i lov.

Opplysninger om selskapets eller annen finansinstitusjons forhold skal ikke gis til uvedkommende.

Som finansinstitusjon regnes etter denne paragraf også fonds- og eiendomsmeglerforetak, samt forvaltningsselskap for aksjefond.

**§ 7**

The Supervisory Committee may discuss, together with the Managing Director, any irregularity with the responsible employee at any level in the Association. Written notes or comments shall be presented to the Board of Directors with a copy to the auditor. The Supervisory Committee may address any issue regarding the activities or organization of the Association and its subsidiaries

**§ 8**

If the Supervisory Committee becomes aware of major acts of negligence, error or irregularities of great importance or extent, or if they consider that the Association has incurred or is at risk of incurring large losses, it shall immediately take the matter up with Kredittilsynet. The General Meeting and the Board of Directors may also contact Kredittilsynet with information about any defects or irregularities. This same shall apply if the Supervisory Committee finds it desirable or appropriate to notify the Kredittilsynet for other reasons.

The provisions of this Article also apply to the Association's subsidiary companies.

An individual member of the Supervisory Committee may also take contact with the Kredittilsynet as outlined in this Article.

**§ 9**

The Supervisory Committee shall issue a statement to the General Meeting on the operating result and advise whether the income and expenditure account and balance sheet should be adopted as the Association's accounts.

Every year the Supervisory Committee shall provide the General Meeting and Kredittilsynet with a report on its work and the Association's operations.

**§ 10**

The members of the Supervisory Committee have a duty of confidentiality in respect of matters, of which they obtain knowledge in the course of their duties, regarding a member of the Association or a customer of another financial institution. The duty of confidentiality does not apply towards Kredittilsynet, the Board of Directors, the auditor or the Supervisory Committee of another finance institution. Furthermore, the duty of confidentiality does not apply where a member of the Supervisory Committee is obliged pursuant to compulsory law to provide information.

Information in respect of the operations of the Association or another finance institution shall not be given to any unauthorized person.

Under this Article, a stock broker or a real estate agency, as well as a fund manager, are also deemed to be finance institutions.

Adopted at the General Meeting of Assuranceforeningen Gard – gjensidig-  
Arendal, 15 August 2008

Axel C. Eitzen

Chairman of the Board of Directors

## APPENDIX 10

# Audit Committee instructions – Assuranceforeningen Gard – gjensidig

As adopted by the Board of Directors on 27 January 2011

### 1. The scope of the Audit Committee's responsibilities

The Audit Committee is a committee of the Board of Directors that supports the Board of Directors in fulfilling its responsibilities with respect to financial reporting, internal accounting controls and auditing matters in accordance with the Norwegian Insurance Activity Act of 2005 no. 44, Sections 5-10, 5-11 and 5-12.

The Audit Committee shall identify, understand and assess operational and financial risk. The establishment of the Audit Committee does not alter the Board of Directors' legal responsibilities or tasks.

### 2. Composition

Two members of the Board of Directors shall be elected as members of the Audit Committee.

### 3. Meetings

The Audit Committee shall meet two times a year at a minimum, but may meet more frequently if deemed advisable. Meetings may be held in the form decided by the Audit Committee. Notice of the meeting shall be given in writing, if possible, and minutes shall be taken. The Audit Committee may request the CEO to meet or the Audit Committee may summon representatives of management to attend the meetings as necessary.

### 4. Financial reporting

The Audit Committee shall discuss important accounting matters with the management and the Association's external auditors in connection with the preparation of the annual financial statements, including the accounting notes.

The Audit Committee shall discuss with management the Association's procedures for reporting to the relevant regulatory authorities.

### 5. Auditing matters

The Audit Committee shall verify and ensure that the Association has satisfactory auditing procedures.

The Audit Committee shall make recommendations to the Board of Directors and the general meeting with regard to the appointment, retention and termination of the external auditors as well as with regard to the external auditor's fees. The Audit Committee shall consider communications from the external auditors, communications on audit planning and findings, and issues on material weaknesses in accounting and internal accounting control systems in the attention of the auditor.

The Audit Committee shall exercise oversight of the work of the external auditors (including the resolution of disagreements between management and the external auditors regarding financial reporting).

The Audit Committee shall assess and follow up on independence issues related to the external auditors.

### 6. Complaints

The Audit Committee shall establish and review procedures for the correct handling and registering of any complaints regarding accounting, internal accounting controls or auditing matters. These procedures shall ensure that employees may confidentially and if desired, anonymously submit complaints about any questionable accounting or auditing matter.

### 7. Risk management

The Audit Committee shall identify, understand and assess operational and financial risks.

**8. Reporting**

The Audit Committee shall report to the Board of Directors on an annual basis in connection the financial reporting, internal accounting controls and auditing procedures.

**9. Other**

The Audit Committee shall review these instructions and make suggestions to the Board of Directors regarding amendments to these instructions when necessary.

The Audit Committee may carry out matters it deems necessary to fulfill its tasks with appropriate funding and may use independent counsel and other advisors in this connection.