

**CD&P**

**Amended and Restated  
BYE-LAWS  
of  
Tanzanite One Limited**

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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;
Common Shares	the meaning ascribed thereto in Bye-law 3.1;
Company	the company for which these Bye-laws are approved and confirmed;
Director	a director of the Company and shall include an Alternate Director;
Equity Security	a share in the Company or a right to subscribe for, or to convert securities into shares in the Company;
Group	the Company and every company and other entity which is for the time being controlled by or under common control with the Company (for these purposes, "control" means the power to direct management or policies of the person in question, whether by means of an ownership interest or otherwise);
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;

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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;
Relevant Interest	any interest in shares that causes or permits a person to: (a) exercise or to influence (or restrain) the exercise of voting rights on shares (whether through the giving of voting instructions or as a proxy or otherwise); or (b) dispose or to influence (or restrain) the disposal of shares, including <i>inter alia</i> the legal ownership of a share and an interest under an option agreement to acquire a share;
Resident Representative	any person appointed to act as resident representative and includes any deputy or assistant resident representative; and
Secretary	the person appointed to perform any or all of the duties of secretary of the Company and includes any deputy or assistant secretary.

**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.

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## 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 securities, contracts, warrants or other instruments evidencing any shares, option rights, securities having conversion or option rights, or obligations on such terms, conditions and other provisions as are fixed by the Board, including, without limiting the generality of this authority, conditions that preclude or limit any person or persons owning or offering to acquire a specified number or percentage of the outstanding Common Shares, other shares, option rights, securities having conversion or option rights, or obligations of the Company or transferee of the person or persons from exercising, converting, transferring or receiving the shares, option rights, securities having conversion or option rights, or obligations.
- 2.2** The Board shall, in connection with the issue of any shares, have the power to pay such commission and brokerage as may be permitted by law.
- 2.3** Where Equity Securities are held by two or more persons jointly, the offer may be made to the joint holder first named in the Register of Members in respect of the Equity Securities.
- 2.4** In the case of a holder's death or bankruptcy, the offer referred to in Bye-law 2.2 may be made:
- 2.4.1 to the persons claiming to be entitled to the Equity Securities in consequence of the death or bankruptcy by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description; or
- 2.4.2 (until the address of the persons referenced in Bye-law 2.6.1 has been supplied) by giving notice in accordance with Bye-law 26.
- 2.5** Subject to the provisions of 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).
- 2.6** The Company may from time to time do any one or more of the following things:
- 2.6.1 make arrangements on the issue of shares for difference between the Members in the amounts and time of payment of calls on their shares;
- 2.6.2 accept from any Member the whole or part of the amount remaining unpaid on any shares held by such Member, although no part of that amount has been called up;
- 2.6.3 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; and

- 2.6.4 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.

### **3. Rights Attaching to Shares**

- 3.1** At the date these Bye-laws are adopted, the authorised share capital of the Company consists of 166,666,667 common shares of par value US\$0.0003 each (the "Common Shares").
- 3.2** The holders of Common Shares shall, subject to the provisions of 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. Calls on Shares**

- 4.1** The Board may make such calls as it thinks fit upon the Members in respect of any monies (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.
- 4.2** The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
- 4.3** 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.

### **5. 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.

### **6. Forfeiture of Shares**

- 6.1** 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

- 6.2** 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.
- 6.3** A Member whose share or shares have been forfeited as aforesaid 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 and all interest due thereon.
- 6.4** 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.

## **7. Share Certificates**

- 7.1** A Member whose name is entered in the Register of Members as the holder of any certificated shares shall be entitled to a certificate under the seal of the Company (or a facsimile thereof) 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, how much has been paid thereon. 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.
- 7.2** 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.
- 7.3** 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.

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## **8. Uncertificated Shares**

- 9.1** Notwithstanding anything in these Bye-laws to the contrary, any share may be issued, held, registered or converted to uncertificated form. Shares may be transferred without a written instrument if transferred by an appointed agent or otherwise in accordance with the Act.
- 9.2** The Company shall enter on the Register of Members the number of shares which are held by each Member in certificated form or uncertificated form.
- 9.3** Unless the Board otherwise determines, holdings of the same holder or joint holders in certificated form and uncertificated form shall be treated as separate holdings.
- 9.4** A class of share shall not be treated as two classes by virtue only of that class comprising of both certificated shares and uncertificated shares or as a result of any provision of these Bye-laws which applies only in respect of certificated shares or uncertificated shares.

## **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.

## **10. Disclosure of Interests in Shares**

- 10.1** The Company may, by giving notice in writing, require the holder of a share to give to the Company, within two (2) business days after receiving the notice, a statement in writing setting out:
- 10.1.1** full details of the holder's Relevant Interest and of the circumstances giving rise to that Relevant Interest; and
- 10.1.2** the name and address of each other person who has a Relevant Interest together with full details of:
- (i) the nature and extent of the Relevant Interest; and
  - (ii) the circumstances that give rise to the person's Relevant Interest; and
- 10.1.3** the name and address of each person who has given the holder of the shares or the person as referred to in Bye-law 10.1.2 above instructions about:
- (i) the acquisition or disposal of a Relevant Interest; or
  - (ii) the exercise of any voting or other rights attached to a Relevant Interest;
  - (iii) any other matter relating to a Relevant Interest;

A matter referred to in paragraph 10.1.2 or 10.1.3 need only be disclosed to the extent to which it is known to the person making the disclosure.

**10.2** Where a statement is delivered to the Company containing any details as referred to in Bye-laws 10.1.2 or 10.1.3, the Company may, by giving notice in writing, require a holder of a share to give to the Company or to use its best endeavours to procure that any other persons as referred to in Bye-laws 10.1.2 or 10.1.3 above to give to the Company, within two (2) days after receiving the notice, a statement in writing setting out the details as referred to in Bye-laws 10.1.1, 10.1.2 and/or 10.1.3 above.

**REGISTRATION OF SHARES**

**11. Register of Members**

**11.1** 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.

**11.2** The Register of Members shall be open to inspection 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.

**12. 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.

**13. Transfer of Registered Shares**

**13.1** Subject to these Bye-laws, any Member may transfer all or any of his shares by an instrument of transfer which 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] of shares of the Company.

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

Signed by:

In the presence of:

\_\_\_\_\_

\_\_\_\_\_

Transferor

Witness

Transferee

Witness

- 13.2** 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 transferred to the transferee in the Register of Members.
- 13.3** 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.
- 13.4** 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.
- 13.5** The Board may in its absolute discretion and without assigning any reason therefor refuse to register the transfer of a share which is not fully paid. 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 one month after the date on which the transfer was lodged with the Company, send to the transferor and transferee notice of the refusal.

#### **14. Transmission of Registered Shares**

- 14.1** 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 provisions of 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.
- 14.2** Any person becoming entitled to a share in consequence of the death or bankruptcy of any Member or of any event giving rise to transmission by operation of law may himself upon producing such evidence as the Board may deem sufficient be registered as a Member 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:
- 14.2.1** in the case of a certificated share, the person becoming entitled shall execute in favour of such transferee 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 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

**14.2.2** in the case of an uncertificated share procure that either instructions are given to effect transfer of such uncertificated shares to that person or change the uncertificated share into certificated form and execute an instrument of transfer of that certificated share to that person.

**14.3** 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.

**14.4** 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 the said 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**

**15. Power to Alter Capital**

**15.1** 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.

- 15.2** 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.

## **16. Variation of Rights Attaching to Shares**

- 16.1** 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. 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.
- 16.2** The Company may from time to time purchase its own shares in accordance with the provisions of Section 42A of the Act.

## **DIVIDENDS AND CAPITALISATION**

### **17. Dividends**

- 17.1** The Company may by resolution, 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 may fix the time for payment of such dividend, but no dividend shall exceed the amount recommended by the Board. No unpaid dividend shall bear interest as against the Company.
- 17.2** With the sanction of a resolution of the Company and on the recommendation of the Board, payment of any dividend may be satisfied wholly or in part by the distribution of specific assets and in particular of paid up shares or debentures of any other company.
- 17.3** The Board may fix any date as the record date for determining the Members entitled to receive any dividend.
- 17.4** The Board may, if authorised by a resolution of the Company, offer any holders of any particular class of shares the right to elect to receive further shares (whether or not of that class), credited as fully paid, instead of cash in respect of all or part of any dividend.
- 17.5** 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.
- 17.6** 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.

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

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

## **19. Method of Payment**

- 19.1** Any dividend or other monies payable in respect of a share may be paid by cheque or draft sent through the post directed to the registered address of the Members (in the case of joint Members, the senior joint holder, seniority being determined by the order in which the names stand in the Register of Members) or person entitled thereto, or by direct transfer to such bank account as such Member or person entitled thereto may direct. Every such cheque shall be made payable to the order of the person to whom it is sent or to such persons as the Member may direct, and payment of the cheque or warrant shall be a good discharge to the Company. Every such cheque or warrant shall be sent at the risk of the person entitled to the money represented thereby. If two or more persons are registered as joint holders of any shares any one can give an effective receipt for any dividend paid in respect of such shares.
- 19.2** The Board may deduct from the dividends or distributions payable to any Member all monies due from such Member to the Company on account of calls or otherwise.
- 19.3** Any dividend and or other monies payable in respect of a share which has remained unclaimed for *six* years from the date when it became due for payment shall, if the Board so resolves, be forfeited and cease to remain owing by the Company. The payment of any unclaimed dividend or other moneys payable in respect of a share may (but need not) be paid by the Company into an account separate from the Company's own account. Such payment shall not constitute the Company a trustee in respect thereof.
- 19.4** The Company shall be entitled to cease sending dividend warrants and cheques by post or otherwise to a Member if those instruments have been returned undelivered to, or left uncashed by, that Member on at least two consecutive occasions, or, following one such occasion, reasonable enquiries have failed to establish the Member's new address. The entitlement conferred on the Company by this Bye-law 19.4 in respect of any Member shall cease if the Member claims a dividend or cashes a dividend warrant or cheque.

## **20. Capitalisation**

- 20.1** Subject to Bye-law 2, the Board may resolve to capitalise any sum 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 sum in paying up unissued shares to be allotted as fully paid bonus shares pro-rata to the Members.
- 20.2** Subject to Bye-law 2, the Board may resolve to capitalise any sum for the time being standing to the credit of a reserve account or sums otherwise available for dividend or distribution by applying such amounts in paying up in full partly paid or nil paid shares of those Members who would have been entitled to such sums if they were distributed by way of dividend or distribution.

## **MEETINGS OF MEMBERS**

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**21. Annual General Meetings**

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

**22. Special General Meetings**

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

**23. 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 of the Company, forthwith proceed to convene a special general meeting of the Company and the provisions of the Act shall apply.

**24. Notice**

**24.1** At least 21 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 and that the election of Directors will take place thereat.

**24.2** At least 14 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 PROVIDED that 21 days notice of a special general meeting shall be given where such meeting is called for the passing of a resolution removing a person as a Director or for the passing of a resolution requiring a seventy-five percent (75%) majority of the votes cast.

**24.3** 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 of the Company.

**24.4** A general meeting of the Company 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 aggregate par value of the shares giving a right to attend and vote thereat in the case of a special general meeting.

**24.5** 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.

**25. Giving Notice**

**25.1** A notice may be given by the Company to any Member either by delivering it to such Member in person or by sending it to such Member's address in the Register of Members or to such other

address given for the purpose. For the purposes of this Bye-law 25, a notice may be sent by letter mail, courier service, cable, telex, telecopier, facsimile, electronic mail or other mode of representing words in a legible form.

**25.2** 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.

**25.3** Any notice 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, at the time when it was posted, delivered to the courier or to the cable company or transmitted by telex, facsimile, electronic mail, or such other method as the case may be.

## **26. Participating in General Meetings by Telephone**

Members may participate in any general meeting by means of such telephone, electronic or other communication facilities 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. Postponement of General Meetings**

The Secretary may postpone any general meeting called in accordance with the provisions of these Bye-laws (other than a meeting requisitioned under these Bye-laws) provided that notice of postponement is given to each Member 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 the provisions of these Bye-laws.

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## **28. Quorum at General Meetings**

- 28.1** At any general meeting of the Company three or more Members who are entitled to vote and who are present in person or represented by proxy at the start of and throughout the meeting shall form a quorum for the transaction of business provided that if the Company (or a class of Members in respect of a class meeting) shall have only one or two Members, then one or two Members (as the case may be) present in person or by proxy shall constitute the necessary quorum.
- 28.2** 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. If the meeting shall be adjourned to the same day one week later or the Secretary shall determine that the meeting is adjourned to a specific date, time and place, it is not necessary to give notice of the adjourned meeting other than by announcement at the meeting being adjourned. If the Secretary shall determine that the meeting be adjourned to an unspecified date, time or place, fresh notice of the resumption of the meeting shall be given to each Member entitled to attend and vote thereat in accordance with the provisions of these Bye-laws.

## **29. Chairman to Preside**

The Chairman, if there be one, and if not the President, shall act as chairman at all meetings of the Members at which such person is present. In their absence or unwillingness to act, the Deputy Chairman or Vice President, if present, shall act as chairman and in the absence of all of them a chairman shall be appointed or elected by those present at the meeting and entitled to vote.

## **30. Voting on Resolutions**

- 30.1** Subject to the provisions of the Act and these Bye-laws, any question proposed for the consideration of the Members at a general meeting shall unless specifically stated to the contrary requires a majority of the votes cast at the general meeting in accordance with the provisions of these Bye-laws and in the case of an equality of votes the resolution shall fail. Where a three quarters or 75% majority of the votes cast at the general meeting is required such proposed question shall be decided by the affirmative votes of three quarters or 75% of the votes cast in accordance with the provisions of these Bye-laws.
- 30.2** 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.
- 30.3** 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 the provisions of 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 or her hand.

- 30.4** At any general meeting if an amendment shall be proposed to any resolution under consideration and the chairman of the meeting shall rule on whether the proposed amendment is out of order, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.
- 30.5** 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 the provisions of these Bye-laws, be conclusive evidence of that fact.

### **31. Power to Demand a Vote on a Poll**

- 31.1** 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 sum paid up on all such shares conferring such right.
- 31.2** 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, 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.
- 31.3** A poll demanded for the purpose of electing a chairman of the meeting or on a question of adjournment shall be taken forthwith and a poll demanded on any other question shall be taken in such manner and at such time and place at such meeting as the chairman (or acting chairman) of the meeting may direct and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.
- 31.4** Where a vote is taken by poll, each person 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 initialed or otherwise marked so as to identify the voter and the registered holder in the case of a proxy. At the conclusion of the poll, the ballot papers 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.

### **32. 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.

### **33. Instrument of Proxy**

**33.1** An instrument appointing a proxy 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 in respect of \_\_\_\_\_ of the shares held by me/us at the meeting of the Members 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)

**33.2** 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.

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

### **34. Representation of Corporate Member**

**34.1** 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 of the Members 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.

**34.2** 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.

### **35. Adjournment of General Meeting**

The chairman of any general meeting at which a quorum is present, and shall if so directed, 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 the provisions of these Bye-laws.

### **36. Written Resolutions**

- 36.1** Subject to the following, 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 and without any previous notice being required, be done by resolution in writing 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, all the Members who at the date of the resolution would be entitled to attend the meeting and vote on the resolution.
- 36.2** A resolution in writing may be 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, all the Members, or all the Members of the relevant class thereof, in as many counterparts as may be necessary.
- 36.3** 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.
- 36.4** A resolution in writing made in accordance with this Bye-law shall constitute minutes for the purposes of the Act.
- 36.5** 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.
- 36.6** For the purposes of this Bye-law, the 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 to sign 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.

### **37. Directors Attendance at General Meetings**

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

## **DIRECTORS AND OFFICERS**

### **38. Election of Directors**

- 38.1** The Board shall consist of such number of Directors being not less than two Directors and not more than fifteen Directors as the Board may from time to time determine.

- 38.2** Only persons who are proposed or nominated in accordance with this Bye-law shall be eligible for election as Directors. Any Member or the Board may propose any persons for election as a Director. Where any person, other than a Director retiring at the meeting or a person proposed for re-election or election as a Director by the Board, is to be proposed for election as a Director, notice must be given to the Company at its registered office of the intention to propose him and of his willingness to serve as a Director. That notice must be given not less than **7 days** prior to the meeting at which Directors are to be elected .
- 38.3** Where the number of persons validly proposed for re-election or election as a Director is greater than the number of Directors to be elected, the persons receiving the most votes (up to the number of Directors to be elected) shall be elected as Directors, and an absolute majority of the votes cast shall not be a prerequisite to the election of such Directors.
- 38.4** At any general meeting the Members may authorise the Board to fill any vacancy in their number left unfilled at a general meeting.

### **39. Alternate Directors**

- 39.1** At any general meeting of the Company, the Members may elect a person or persons to act as a Director in the alternative to any one or more Directors of the Company or may authorise the Board to appoint such Alternate Directors.
- 39.2** 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 in writing 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.
- 39.3** 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.
- 39.4** An Alternate Director shall cease to be such if the Director for whom such Alternate Director was appointed ceases for any reason to be a Director but may be re-appointed by the Board as an alternate to the person appointed to fill the vacancy in accordance with these Bye-laws.

### **40. Removal of Directors**

- 40.1** 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 before the expiration of his period of office (but such removal shall be without prejudice to any claim such Director may have for breach of any contract of service between him and the Company) 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 21 days before the meeting and at such meeting the Director shall be entitled to be heard on the motion for such Director's removal.

- 40.2** If a Director is removed from the Board under the provisions of 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. The person so appointed shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last appointed or reappointed a Director.

#### **41. Retirement by Rotation**

- 41.1** At the annual general meeting every year, any Director who is still in office at the start of the annual general meeting which falls to the nearest third anniversary of the annual general meeting at which he was appointed or was last reappointed shall retire by rotation.
- 41.2** Subject to Bye-law 41.1, at the annual general meeting in every year, one third of all the Directors shall retire by rotation but if that number is not a multiple of three, then the number shall be rounded down to the nearest whole number.
- 41.3** A Director retiring at a meeting aforesaid shall retain office until the dissolution of that meeting.
- 41.4** The Directors to retire by rotation shall be those who have been longest in office since their last appointment or reappointment, but as between persons who became or were last reappointed Directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.
- 41.5** If the Company, at the meeting at which a Director retires by rotation, does not fill the vacancy the retiring Director shall, if willing to act, be deemed to have been reappointed unless at the meeting it is resolved not to fill the vacancy or unless a resolution for the reappointment of the Director is put to a vote at the meeting and such vote is lost.

#### **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) has an order made by a court of competent jurisdiction against him by reason of his mental disorder for his detention or for the appointment of any person to exercise powers with respect to his property or affairs;
  - (d) resigns his office by notice in writing to the Company (not being a Director whose contract of employment precludes resignation);
  - (e) shall for more than six months have been absent without permission of the Directors from meetings of Directors held during that period and his Alternate Director (if any) shall not during that period have attended any such meeting in his stead and the Directors resolve that his office be vacated; or

- (f) shall be removed from office by notice in writing served upon him signed by at least three-quarters of his co-Directors and all of the other Directors are not less than three in number, but so that if he holds an appointment to an executive office which thereby automatically determines such removal shall be deemed to be an act of the Company and shall have effect without prejudice to any claim for damages for breach of any contract of service between him and the Company.

**42.2** The Members in general meeting or 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 of the Company, or in connection with the business of the Company or their duties as Directors generally.

**44. Defect in Appointment of Director**

All acts done in good faith by the Board or by a committee of the Board or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

**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 statute or by these Bye-laws, required to be exercised by the Company in general meeting subject, nevertheless, to these Bye-laws, the provisions of any statute and to such directions as may be prescribed 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 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 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. Such attorney may, if so authorised under the seal of the Company, execute any deed or instrument under such attorney's personal seal with the same effect as the affixation of the seal of the Company;
- (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 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 superceded by directions imposed by the Board;
- (h) in connection with the issue of any share, pay such commission and brokerage as may be permitted by law; and
- (i) 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 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. Officers**

The Officers shall consist of a President and a Vice President or a Chairman and a Deputy Chairman, a Secretary and such additional Officers as the Board may determine all of whom shall be deemed to be Officers for the purposes of these Bye-laws.

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**49. Appointment of Officers**

The Board shall appoint a President and Vice President or a Chairman and Deputy Chairman who shall be Directors. The Secretary (and additional Officers, if any) 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 a professional capacity for the Company and such Director or such Director's firm, partner or company shall be entitled to remuneration for professional services 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**

The Directors, 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 and the liquidator or trustees (if any) for the time being acting in relation to any of the affairs of the Company 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, 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.

## **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 and shall seek to do so at least four times a year, at equal intervals. 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 (in person or by telephone) or otherwise communicated or sent to such Director by post, cable, telex, telecopier, facsimile, electronic mail or other mode of representing words in a legible form at such Director's last known address or any other address given by such Director to the Company for this purpose .

### **56. Participation in Meetings by Telephone**

Directors may participate in any meeting of the Board by means of such telephone, electronic or other communication facilities 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 of the Company; or (ii) preserving the assets of the Company.

### **59. Chairman to Preside**

The Chairman, if there be one, and if not the President, shall act as chairman at all meetings of the Board at which such person is present. In their absence, or unwillingness to act, the Deputy Chairman or Vice President, if present, shall act as chairman and in the absence of all of them 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, a "Director" 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**

**62.1** 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 seal of the Company shall be in such form as the Board may determine. The Board may adopt one or more duplicate seals for use outside Bermuda.

**64.2** The seal of the Company shall not be affixed to any instrument except attested by the signature of a Director and the Secretary or any two Directors, or any person appointed by the Board for that purpose, provided that any Director, Officer or Resident Representative, may affix the seal of the Company attested by such Director, Officer or Resident Representative's signature to any authenticated copies of these Bye-laws, the incorporating documents of the Company, the minutes of any meetings or any other documents required to be authenticated by such Director, Officer or Resident Representative.

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## 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 sums 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 provisions of 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 Auditors

**68.1** Subject to the provisions of 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 Auditors

The remuneration of the Auditor shall be fixed by the Company in general meeting or in such manner as the Members may determine.

### 70. Duties of Auditors

**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 of the Company 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 provisions of the Act, financial statements as required by the Act shall be laid before the Members in general meeting.

**73. Distribution of Auditors report**

**73.1** The report of the Auditor shall be submitted to the Members in general meeting;

**73.2** A printed copy of the Directors' and Auditors' reports accompanied by printed copies of the balance sheet, profit and loss account and other documents required to be annexed to the balance sheet shall, not less than twenty-one days before the general meeting before which they are to be laid, be delivered or sent by post or electronic communication to the registered address of every Member and holder of debentures of the Company, and to the Auditors for the time being of the Company, and, if all or any of the shares in or debentures of the Company are for the time being listed on any stock exchange, there shall at the same time be forwarded to the secretary of such stock exchange such number of copies of each of these documents as may be required by the regulations for the time being of such stock exchange. Provided that the Company need not, subject to the provisions of the regulations of such stock exchange so permitting and if the Board so decides, send the copies of such documents to Members, but instead send them a summary financial statement derived from the Company's annual accounts and the Directors report, in such form and containing such information as may be required and provided further that copies of the Company's annual accounts (together with the Directors' report for the financial year and the Auditor's report on those accounts) shall be sent to any Member who wishes to receive them.

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

If the office of Auditor becomes vacant by the resignation or death or the Auditor, or by the Auditor becoming incapable of acting by reason of illness or other disability at a time when the Auditor's services are required, the vacancy thereby created shall be filled in accordance with the Act.

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## BUSINESS COMBINATIONS

### 75. Business Combinations

**75.1** Subject to Bye-law 75.2, the Company shall not engage in any Business Combination unless such Business Combination has been approved by the affirmative vote of 75% of the votes conferred by the issued and outstanding shares entitled to vote and present in person or represented by proxy at a general meeting of shareholders.

**75.2** Bye-law 75.1 shall not apply in respect of any Business Combination approved by the Board, and in respect of any Business Combination approved by the Board which the Act requires to be approved by the Members, the necessary general meeting quorum and Members' approval shall be as set out in Bye-laws 29 and 31 respectively.

**75.3** In this Bye-law, "Business Combination" means:

- (a) any amalgamation, merger, consolidation or similar transaction involving the Company; or
- (b) any sale or other disposition of all or substantially all of the assets of the Company or of all or substantially all of the assets of any company or other entity in the Group.

## VOLUNTARY WINDING-UP AND DISSOLUTION

### 76. 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

### 77. Changes to Bye-laws

No Bye-law shall be rescinded, altered or amended and no new Bye-law shall be made until the same has been approved by a resolution of the Board and by a resolution passed by a three quarters or 75% majority of the Members at a general meeting

### 78. Changes to the Memorandum of Association

No alteration or amendment to the Memorandum of Association shall be made save in accordance with the provisions of the Act and until same has been approved by a resolution of the Board and by a resolution passed by a three quarters or 75% majority of the Members at a general meeting.

**79. Discontinuance**

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