

COMPANIES (JERSEY) LAW 1991

MEMORANDUM

AND

ARTICLES OF ASSOCIATION

OF

KENNEDY WILSON EUROPE REAL ESTATE PLC

a no par value limited company

adopted by special resolution of the Company on 24 February 2014

Company number: **114680**

Incorporated the 23rd day of December 2013



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COMPANIES (JERSEY) LAW 1991 (the "Law")

MEMORANDUM OF ASSOCIATION

OF

KENNEDY WILSON EUROPE REAL ESTATE PLC

(the "**Company**")

a no par value limited company

1. INTERPRETATION

Words and expressions contained in this Memorandum of Association have the same meanings as in the Law.

2. COMPANY NAME

The name of the Company is **Kennedy Wilson Europe Real Estate Plc**.

3. TYPE OF COMPANY

3.1 The Company is a public company.

3.2 The Company is a no par value company.

4. NUMBER OF SHARES

There shall be no limit on the number of shares which may be issued by the Company and if the share capital structure of the Company is at any time divided into separate classes of share there shall be no limit on the number of shares of any class which may be issued by the Company.

5. LIABILITY OF MEMBERS

The liability of a member arising from the holding of a share in the Company is limited to the amount (if any) unpaid on it.

COMPANIES (JERSEY) LAW 1991

ARTICLES OF ASSOCIATION

OF

KENNEDY WILSON EUROPE REAL ESTATE PLC

a no par value limited company

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COMPANIES (JERSEY) LAW 1991

ARTICLES OF ASSOCIATION

OF

KENNEDY WILSON EUROPE REAL ESTATE PLC

a no par value limited company

1. INTERPRETATION

1.1 In these Articles, unless the context or law otherwise requires, the following words and expressions shall have the meanings respectively assigned to them below:

1.1.1 "**Annual General Meeting**" has the meaning ascribed to it in Article 17.2;

1.1.2 "**Benefit Plan Investor**" means (a) an employee benefit plan (as defined in Section 3(3) of ERISA) subject to the provisions of Part 4 of Subtitle B of Title I of ERISA, (b) a plan to which Section 4975 of the U.S. Code applies or (c) any entity whose underlying assets include plan assets by reason of an employee benefit plan or a plan's investment in such entity;

1.1.3 "**these Articles**" means these Articles of Association in their present form or as from time to time amended;

1.1.4 "**Auditors**" means the auditors of the Company appointed pursuant to these Articles;

1.1.5 "**Bankrupt**" has the meaning ascribed to it in the Interpretation (Jersey) Law, 1954;

1.1.6 "**Board**" means the board of Directors from time to time;

1.1.7 "**Business Day**" means a day on which the banks are open for business in the UK and Jersey other than a Saturday or Sunday;

1.1.8 "**cash consideration**" means where the consideration (or cause) in respect of the relevant share issuance is:

- (a) cash received by the Company,
- (b) a cheque received by the Company in good faith that the Directors have no reason for suspecting will not be paid,
- (c) a release of a liability of the Company for a liquidated sum,

- (d) an undertaking to pay cash to the Company at a future date,
 - (e) payment by any other means giving rise to a present or future entitlement (of the Company or a person acting on the Company's behalf) to a payment, or credit equivalent to payment, in cash,
 - (f) in relation to the allotment or payment up of shares in the Company the payment of (or an undertaking to pay) cash to a person other than the Company, and
 - (g) for the purpose of determining whether a share is or is to be allotted for cash, or paid up in cash, "cash" includes foreign currency;
- 1.1.9 "**certificated share**" means a share in the capital of the Company that is not an uncertificated share and references in these Articles to a share being held in "certificated form" shall be construed accordingly;
- 1.1.10 "**Clear Days**" means in relation to the period of a Notice that period excluding the day when the Notice is served or deemed to be served and the day for which it is given or on which it is to take effect;
- 1.1.11 "**Company**" means the company incorporated under the Law in respect of which these Articles have been registered;
- 1.1.12 "**Controlling Person**" means any Person (other than a Benefit Plan Investor) that has discretionary authority or control with respect to the assets of the Company or that provides investment advice for a fee (direct or indirect) with respect to such assets or an "affiliate" (within the meaning of the Plan Asset Regulations) of such a Person;
- 1.1.13 "**CREST**" means the electronic settlement system for UK and Irish securities operated by Euroclear UK & Ireland Limited or any successor system from time to time;
- 1.1.14 "**Directors**" means the directors of the Company from time to time;
- 1.1.15 "**Eligible Transferee**" has the meaning given to it in Article 15.3;
- 1.1.16 "**ERISA**" means the U.S. Employee Retirement Income Security Act of 1974, as amended from time to time, and applicable regulations thereunder;
- 1.1.17 "**Extraordinary General Meeting**" has the meaning ascribed to it in Article 17.2;
- 1.1.18 "**FATCA**" means Section 1471-1474 of the U.S. Code, an agreement entered into pursuant to such Sections of the U.S. Code, an intergovernmental agreement entered into in furtherance of such Sections of the U.S. Code, or non-U.S. laws implementing such an intergovernmental agreement;

- 1.1.19 "**Group**" means the Company and its subsidiary undertakings from time to time;
- 1.1.20 "**Group Company**" means any company in the Group;
- 1.1.21 "**Holder**" means in relation to shares the Member whose name is entered in the Register as the holder of the shares;
- 1.1.22 "**Investment Management Agreement**" the investment management agreement between the Investment Manager and the Company under which it is appointed as the Investment Manager of the Company as amended from time to time;
- 1.1.23 "**Jersey**" means the Island of Jersey;
- 1.1.24 "**the Law**" means the Companies (Jersey) Law 1991 (as amended from time to time), every order, regulation or other subordinate legislation made under it (including without limitation the Order), including any statutory modifications or re-enactments for the time being in force concerning companies and affecting the Company as a matter of Jersey law;
- 1.1.25 "**Mandatory Disposal**" has the meaning given to it in Article 15.3;
- 1.1.26 "**Member**" means the subscribers to the Memorandum of Association of the Company and any other Person whose name is entered in the Register as the Holder of shares in the Company;
- 1.1.27 "**Month**" means calendar month;
- 1.1.28 "**Non-Qualified Holder**" means any Person, as determined by the Directors, to whom a sale or transfer of shares, or whose direct, indirect or beneficial ownership of shares, would or might (i) cause the Company to be required to register as an "investment company" under the U.S. Investment Company Act (including because the Holder of the shares is not a "qualified purchaser" as defined in the U.S. Investment Company Act) or to lose an exemption or status thereunder to which it might otherwise be entitled; (ii) cause the Company to be required to register under the U.S. Commodity Exchange Act; (iii) cause the Company to be required to register under the U.S. Exchange Act or any similar legislation; (iv) cause the Company not to be considered a "foreign private issuer" as such term is defined in rule 3b-4(c) under the U.S. Exchange Act; (v) result in any shares in the Company being owned, directly or indirectly, by Benefit Plan Investors or Controlling Persons other than Persons that acquire the shares with the written consent of the Company; (vi) cause the assets of the Company to be considered "plan assets" under the Plan Asset Regulations; (vii) cause the Company to be a "controlled foreign corporation" for the purposes of the U.S. Code; (viii) result in withholding obligations on payments to such Person in connection with FATCA or otherwise prevent

the Company from qualifying as, or complying with any obligations or requirements imposed on, a "Participating FFI" within the meaning of U.S. Treasury Regulation Section 1.1471-1(b)(85) or a "deemed-compliant FFI" within the meaning of U.S. Treasury Regulation Section 1.1471-5(f); or (ix) cause the Company to be in violation of the U.S. Investment Company Act, the U.S. Exchange Act, the U.S. Commodity Exchange Act, ERISA, the U.S. Code or any applicable federal, state, local, non-U.S. or other laws or regulations that are substantially similar to section 406 of ERISA or Section 4975 of the U.S. Code;

- 1.1.29 "**Notice**" means a notice in Writing unless otherwise specifically stated;
- 1.1.30 "**Office**" means the registered office of the Company;
- 1.1.31 "**Officer**" includes a Secretary but otherwise has the meaning ascribed to it in the Law;
- 1.1.32 "**Operator**" has the same meaning as "authorised operator" as provided for in the Order;
- 1.1.33 "**Order**" means the Companies (Uncertificated Securities) (Jersey) Order 1999, as amended from time to time;
- 1.1.34 "**Ordinary Resolution**" means a resolution of the Company in general meeting adopted by a simple majority of the votes cast at that meeting;
- 1.1.35 "**Paid Up**" includes credited as paid up;
- 1.1.36 "**Persons**" includes associations and bodies of persons, whether corporate or unincorporate;
- 1.1.37 "**Plan Asset Regulations**" means the plan asset regulations promulgated by the United States Department of Labor at 29 C.F.R. section 2510.3-101, as modified by section 3(42) of ERISA;
- 1.1.38 "**Present**" in relation to general meetings of the Company and to meetings of the Holders of any class of shares includes present by attorney or by proxy or in the case of a corporate shareholder by representative;
- 1.1.39 "**Promoter Director**" means any Director who is an employee of, or otherwise connected with, Kennedy Wilson Holdings, Inc or any of its subsidiary undertakings from time to time;
- 1.1.40 "**recognised person**" means a recognised clearing house or a nominee of a recognised clearing house or of a recognised investment exchange, each of which terms has the meaning given to it by section 285 of the UK FSMA;

- 1.1.41 "**Register**" means the register of Members required to be kept pursuant to Article 41 of the Law;
- 1.1.42 "**Regulation S**" means Regulation S under the U.S. Securities Act;
- 1.1.43 "**relevant system**" means any computer based system and its related facilities and procedures that is provided by an Operator and by means of which title to units of a security can be evidenced and transferred in accordance with the Order, without a written instrument;
- 1.1.44 "**Seal**" means the common seal of the Company;
- 1.1.45 "**Secretary**" means any Person appointed to perform any of the duties of secretary of the Company (including an assistant or deputy secretary) and in the event of two or more Persons being appointed as joint secretaries any one or more of the Persons so appointed;
- 1.1.46 "**Signed**" includes a signature or representation of a signature affixed by mechanical or other means and where a document is to be signed by a company, an association or a body of Persons the word "Signed" shall be construed as including the signature of a duly authorised representative on its behalf as well as any other means by which it would normally execute the document;
- 1.1.47 "**Similar Law**" means any federal, state, local or non-U.S. law that is similar to the prohibited transaction provisions of section 406 of ERISA and/or section 4975 of the U.S. Code;
- 1.1.48 "**Special Resolution**" means a resolution of the Company passed as a special resolution in accordance with the Law;
- 1.1.49 "**Transfer Notice**" has the meaning given to it in Article 15.3;
- 1.1.50 "**UK Companies Act**" means the United Kingdom Companies Act 2006, as amended from time to time;
- 1.1.51 "**UK FSMA**" means the United Kingdom Financial Services and Markets Act 2000 (as amended);
- 1.1.52 "**uncertificated share**" means a share of a class which is at the relevant time a participating class title to which is recorded on the register as being held in uncertificated form and references in these Articles to a share being held in "uncertificated form" shall be construed accordingly;

- 1.1.53 "**United Kingdom**" and "**UK**" means the United Kingdom of Great Britain and Northern Ireland;
 - 1.1.54 "**U.S. Code**" means the U.S. Internal Revenue Code, as amended;
 - 1.1.55 "**U.S. Commodity Exchange Act**" means the U.S. Commodity Exchange Act of 1936, as amended;
 - 1.1.56 "**U.S. Exchange Act**" means the United States Securities Exchange Act of 1934, as amended;
 - 1.1.57 "**U.S. Investment Company Act**" means the U.S. Investment Company Act of 1940, as amended;
 - 1.1.58 "**U.S. Person**" means any person who is a U.S. person within the meaning of Regulation S;
 - 1.1.59 "**U.S. Securities Act**" means the U.S. Securities Act of 1933, as amended; and
 - 1.1.60 "**in Writing**" includes written, printed, telexed, electronically transmitted or represented or reproduced by any other mode of representing or reproducing words in a visible form.
- 1.2 Save as defined herein and unless the context otherwise requires, words or expressions contained in these Articles shall bear the same meaning as in the Law but excluding any statutory modification thereof not in force when these Articles become binding on the Company.
- 1.3 In these Articles, unless the context or law otherwise requires:
- 1.3.1 words and expressions which are cognate to those defined in Article 1.1 shall be construed accordingly;
 - 1.3.2 the word "**may**" shall be construed as permissive and the word "**shall**" shall be construed as imperative;
 - 1.3.3 words importing the singular number only shall be construed as including the plural number and vice versa;
 - 1.3.4 words importing the masculine gender only shall be construed as including the feminine and neuter genders;
 - 1.3.5 the word "**dividend**" has the meaning ascribed to the word "distribution" in Article 114 of the Law;

- 1.3.6 references to enactments are to such enactments as are from time to time modified, re-enacted or consolidated and shall include any enactment made in substitution for an enactment that is repealed; and
- 1.3.7 references to a numbered Article are to the Article so numbered of these Articles.
- 1.4 The clause and paragraph headings in these Articles are for convenience only and shall not be taken into account in the construction or interpretation of these Articles.
- 2. SHARES**
- 2.1 The share capital of the Company is as specified in the Memorandum of Association and the shares of the Company shall have the rights and be subject to the conditions contained in these Articles. No share issued by the Company shall have a nominal value.
- 2.2 Without prejudice to any special rights for the time being conferred on the Holders of any shares or class of shares (which special rights shall not be varied or abrogated except with such consent or sanction as is hereinafter provided) any share or class of shares in the capital of the Company may be issued with such preferred, deferred or other special rights or such restrictions whether in regard to dividends, return of capital, voting or otherwise as the Company may from time to time by Ordinary Resolution determine.
- 2.3 The Company may issue fractions of shares in accordance with and subject to the provisions of the Law provided that:
- 2.3.1 a fraction of a share shall be taken into account in determining the entitlement of a Member as regards dividends or on a winding up; and
- 2.3.2 a fraction of a share shall not entitle a Member to a vote in respect thereof.
- 2.4 Subject to the provisions of the Law, the Company may from time to time:
- 2.4.1 issue; or
- 2.4.2 convert any existing non-redeemable shares (whether issued or not) into, shares which are to be redeemed or are liable to be redeemed at the option of the Company or at the option of the Holder thereof and on such terms and in such manner as may be determined by Special Resolution.
- 2.5 Subject to the provisions of the Law, the Company may purchase its own shares (including redeemable shares).
- 2.6 Subject to the provisions of these Articles, the unissued shares for the time being in the capital of the Company shall be at the disposal of the Directors who may allot, grant options over or

otherwise dispose of them to such Persons at such times and generally on such terms and conditions as they think fit.

2.7 The Company may pay commissions as permitted by the Law. Subject to the provisions of the Law any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid shares or partly in one way and partly in the other.

2.8 Except as otherwise provided by these Articles or by law, no Person shall be recognised by the Company as holding any share upon any trust and the Company shall not be bound by or be compelled in any way to recognise any equitable, contingent, future or partial interest in any share or any interest in any fraction of a share or any other right in respect of any share except an absolute right to the entirety thereof in the Holder.

3. **STATED CAPITAL ACCOUNTS**

3.1 The Company shall maintain a stated capital account in accordance with the Law for each class of issued share. A stated capital account may be expressed in any currency.

3.2 Subject to the requirements of the Law, and except as provided in Article 3.3, there shall be transferred to the stated capital account for each class of share:

3.2.1 the amount of cash received by the Company for the issue of shares of that class;

3.2.2 the value, as determined by the Directors, of the "cause" received by the Company, otherwise than in cash, for the issue of shares of that class;

3.2.3 every amount which the Company, by Special Resolution, resolves to transfer to such account from a profit and loss account or from any capital or revenue reserve; and

3.2.4 every other amount which is from time to time required by the Law to be transferred to a stated capital account.

3.3 Where the Law permits the Company to refrain from transferring any amount to a stated capital account, that amount need not be so transferred; but the Directors may if they think fit nevertheless cause all or any part of such amount to be transferred to the relevant stated capital account.

3.4 Where, for the purposes of Article 3.2.2, the Directors are to determine the value of any "cause" received by the Company they may rely on such indicator or indicators of value as appear to them to be reasonable and practicable in the circumstances.

4. PRE-EMPTION RIGHTS ON ALLOTMENT AND ISSUE OF SHARES

4.1 In this Article 4:

4.1.1 "**equity securities**" means:

- (a) ordinary shares in the Company; or
- (b) rights to subscribe for, or to convert securities into, ordinary shares in the Company;

4.1.2 "**ordinary shares**" means shares other than shares that as respects dividends and capital carry a right to participate only up to a specified amount in a distribution; and

4.1.3 references to the allotment and issue of equity securities include:

- (a) the grant of a right to subscribe for, or to convert any securities into, ordinary shares in the Company (but do not include the allotment and issue of ordinary shares pursuant to such a right); and
- (b) the sale of ordinary shares in the Company that immediately before the sale are held by the Company in treasury.

4.2 The Company shall not allot and issue equity securities to a Person on any terms unless:

4.2.1 it has made an offer to each Person who holds ordinary shares in the Company to allot and issue to him on the same or more favourable terms a proportion of those securities the aggregate value of which (at the proposed issue price) is as nearly as practicable equal to the proportion of the total Net Asset Value of the Company represented by the ordinary shares held by such Holder; and

4.2.2 the period during which any such offer may be accepted has expired or the Company has received Notice of the acceptance or refusal of every offer so made,

provided that the Directors may impose such exclusions or make such other arrangements as they deem necessary or expedient in relation to fractional entitlements or having regard to any legal or practical problems arising under the laws of any overseas territory, or the requirements of any regulatory body or stock exchange in any territory or otherwise howsoever. The Holders of ordinary shares affected as a result of such exclusions or arrangements shall not be, or be deemed to be, a separate class of Members for any purpose whatsoever.

4.3 Securities that the Company has offered to allot and issue to a Holder of ordinary shares may be allotted and issued to him, or anyone in whose favour he has renounced his right to their allotment and issue, without contravening Article 4.2.1.

- 4.4 Ordinary shares held by the Company in treasury shall be disregarded for the purposes of this Article 4, so that the Company is not treated as a Person who holds ordinary shares; and the ordinary shares held in treasury are not treated as forming part of the ordinary share capital of the Company.
- 4.5 Any offer required to be made by the Company pursuant to Article 4.2 should be made by a Notice (given in accordance with Article 41) and such offer must state a period during which such offer may be accepted and such offer shall not be withdrawn before the end of that period. Such period must be a period of at least 14 days beginning on the date on which such offer is deemed to be delivered or received (as the case may be) pursuant to Article 41. If the offer is not accepted within this period it will be deemed to have been declined. After the expiration of the period, or if earlier, on receipt of acceptances or refusals from all Holders of ordinary shares to whom the offer was made, the Board may aggregate and dispose of those equity securities that have not been taken up in such a manner as they determine is most beneficial to the Company.
- 4.6 Notwithstanding any other provision in these Articles, Article 4.2 shall not apply in relation to the allotment and issue of:
- 4.6.1 ordinary shares in connection with the payment of the performance fee and management fee under the Investment Management Agreement;
 - 4.6.2 bonus shares, shares allotted and issued in accordance with Article 38.9 or Article 38.12.3 nor to a particular allotment and issue of equity securities if these are, or are to be, wholly or partly paid otherwise than in cash consideration; or
 - 4.6.3 equity securities in connection with a rights issue, open offer or other offer of securities in favour of Holders of ordinary shares at such record date as the Directors may determine where the securities attributable to the interests of the Holders of ordinary shares are proportionate (as nearly as may be practicable) to the respective numbers of ordinary shares held by them on such record date, subject to such exclusions or other arrangements as the Directors may deem necessary or expedient in relation to fractional entitlements or legal or practical problems arising under the laws of any overseas territory or the requirements of any regulatory body or stock exchange or any other matter whatever.
- 4.7 The Company may by Special Resolution resolve that Article 4.2 shall be excluded or that such Article shall apply with such modifications as may be specified in the resolution:
- 4.7.1 generally in relation to the allotment and issue by the Company of equity securities;
 - 4.7.2 in relation to allotments and issues of a particular description; or
 - 4.7.3 in relation to a specified allotment and issue of equity securities;

4.7.4 and any such resolution must:

- (a) state the maximum number (which may be expressed as a percentage) of equity securities in respect of Article 4.2 is excluded or modified; and
- (b) specify the date on which such exclusion or modifications will expire, which must be not more than five years from the date on which the resolution is passed.

4.8 Any resolution passed pursuant to Article 4.7 may:

4.8.1 be renewed or further renewed by a further Special Resolution for a further period not exceeding five years; and

4.8.2 be revoked or varied at any time by a further Special resolution.

4.9 Notwithstanding that any such resolution referred to in Article 4.7 or Article 4.8 has expired, the Directors may allot and issue equity securities in pursuance of any offer or agreement previously made by the Company if the resolution enabled the Company to make an offer or agreement that would or might require equity securities to be allotted and issued after it expired.

4.10 In this Article 4, in relation to an offer to allot and issue equity securities a reference (however expressed) to the Holder of ordinary shares of any description is to whoever was the Holder of ordinary shares of that description at the close of business on a date to be specified in the offer and the specified date must fall within the period of 28 days immediately before the date of the offer.

4.11 If a Holder of ordinary shares has no registered address in an EEA State and has not given to the Company an address in an EEA State for the service of notices on him, the offer (made pursuant to Article 4.2) may be deemed supplied by causing it, or a notice specifying where a copy of it can be obtained or inspected, to be published in La Gazette Officielle. The Company shall only be liable for a breach of the provisions of Article 4 where proceedings are commenced before the expiration of two years from the date of issue, grant or other disposal of such equity securities.

4.12 For the purpose of any disapplication of Article 4.2 by way of a Special Resolution, equity securities which grant rights to subscribe for, or to convert into, shares shall be deemed to relate to such number of shares into which such equity securities may convert pursuant to their initial terms of issue, notwithstanding any terms providing for subsequent adjustments of that number.

5. **ALTERATION OF SHARE CAPITAL**

5.1 The Company may by Special Resolution alter its Memorandum of Association so as to increase or reduce the number of shares which it is authorised to issue or consolidate or divide all or any part of its shares (whether issued or not) into fewer shares and may generally make such other alteration to its share capital as is from time to time permitted by the Law.

- 5.2 Any new shares created on an increase or other alteration of share capital shall be issued upon such terms and conditions as the Company may by Ordinary Resolution determine.
- 5.3 Any capital raised by the creation of new shares shall, unless otherwise provided by the conditions of issue of the new shares, be considered as part of the original capital and the new shares shall be subject to the provisions of these Articles with reference to the payment of calls, transfer and transmission of shares, lien or otherwise applicable to the existing shares in the Company.
- 5.4 The Company may reduce its capital accounts in any way permitted by the Law.

6. **VARIATION OF RIGHTS**

- 6.1 Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may (unless otherwise provided by the terms of issue of the shares of that class) be varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up:
- 6.1.1 with the consent in Writing of the Holders of two-thirds in number of the issued shares of that class; or
- 6.1.2 with the sanction of a Special Resolution passed at a separate meeting of the Holders of shares of that class.
- 6.2 To every such separate meeting all the provisions of these Articles and of the Law relating to general meetings of the Company or to the proceedings thereat shall apply mutatis mutandis except that the necessary quorum shall be two Persons holding or representing at least one third in number of the issued shares of that class but so that if at any adjourned meeting of such Holders a quorum as above defined is not Present those Holders who are Present shall be a quorum.
- 6.3 The special rights conferred upon the Holders of any shares or class of shares issued with preferred, deferred or other special rights shall (unless otherwise expressly provided by the conditions of issue of such shares) be deemed not to be varied by the creation or issue of further shares ranking after or *pari passu* therewith.

7. **REGISTER OF MEMBERS**

- 7.1 The Directors shall maintain or cause to be maintained a Register in the manner required by the Law. The Register shall be kept at the Office or at such other place in the Island of Jersey as the Directors from time to time determine. In each year the Directors shall prepare or cause to be prepared and filed an annual return containing the particulars required by the Law.

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

8. **SHARE CERTIFICATES**

8.1 Every Member, on becoming the Holder of any certificated share (except a recognised person in respect of whom the Company is not required by law to complete and have ready for delivery a certificate) shall be entitled:

8.1.1 without payment upon becoming the Holder of any certificated shares to one certificate for all the certificated shares of each class held by him and upon transferring a part only of the certificated shares comprised in a certificate to a new certificate for the remainder of the certificated shares so comprised; or

8.1.2 upon payment of such reasonable sum for each certificate as the Directors shall from time to time determine to several certificates each for one or more of his certificated shares of any class.

8.2 Every certificate shall be issued within two Months after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide) and shall be executed by the Company. A certificate may be executed:

8.2.1 if the Company has a Seal, by causing a seal of the Company to be affixed to the certificate in accordance with these Articles; or

8.2.2 whether or not the Company has a Seal, by the signature on behalf of the Company of either two Directors or one Director and the Secretary.

Every certificate shall further specify the shares to which it relates and the amount Paid Up thereon and if so required by the Law the distinguishing numbers of such shares.

8.3 The Company shall not be bound to issue more than one certificate in respect of a certificated share held jointly by several Persons and delivery of a certificate for a certificated share to one of several joint Holders shall be sufficient delivery to all such Holders.

8.4 If a share certificate shall be worn out, defaced, lost or destroyed a duplicate certificate may be issued on payment of such reasonable fee and on such terms (if any) as to evidence and indemnity and the payment of out-of-pocket expenses of the Company in relation thereto as the Directors think fit.

9. **UNCERTIFICATED SHARES**

9.1 Pursuant and subject to the Order, the Board may permit title to some or all of the shares of any class to be evidenced otherwise than by a certificate and title to such shares to be transferred in

accordance with the rules of a relevant system and may make arrangements for that class of shares to become a participating class. Title to some or all of the shares of a particular class may only be evidenced otherwise than by a certificate where that class of shares is at the relevant time a participating class. The Board may also, subject to compliance with the Order and the rules of any relevant system, determine at any time that title to some or all of the shares of any class of shares may from a date specified by the Board no longer be evidenced otherwise than by a certificate or that title to such shares shall cease to be transferred by means of any particular relevant system. Shares which are uncertificated shares shall not be treated as forming a class which is separate from certificated shares with the same rights.

9.2 In relation to a class of shares which is a participating class and for so long as it remains a participating class, no provision of these Articles shall apply or have effect to the extent that it is inconsistent in any respect with:

9.2.1 the holding of shares of that class in uncertificated form;

9.2.2 the transfer of title to shares of that class by means of a relevant system;

9.2.3 the exercise of any powers or functions by the Company or the effecting by the Company of any actions by means of a relevant system; and

9.2.4 any provision of the Order.

9.3 Some or all of the shares of a class which is at the relevant time a participating class may be changed from uncertificated form to certificated form, and from certificated to uncertificated form, in accordance with and subject as provided for in the Order and the rules of any relevant system.

9.4 Unless the Board otherwise determines or the Order or the rules of the relevant system concerned otherwise require, any shares issued or created out of or in respect of any uncertificated shares shall be uncertificated shares and any shares issued or created out of or in respect of any certificated shares shall be certificated shares.

9.5 Subject to the Law, the Directors may lay down regulations not included in these Articles which (in addition to, or in substitution for, any provisions in these Articles):

9.5.1 apply to the issue, holding, exercise of rights in respect of or transfer of shares in uncertificated form;

9.5.2 set out (where appropriate) the procedures for conversion and/or redemption of shares in uncertificated form; and/or

9.5.3 the Directors consider necessary or appropriate to ensure that these Articles are consistent with the Order and/or the Operator's rules and practices.

- 9.6 Such regulations will apply instead of any relevant provisions in these Articles which relate to the issue, holding, transfer, conversion and redemption of shares in uncertificated form or which are not consistent with the Order, in all cases to the extent (if any) stated in such regulations. If the directors make any such regulation, Article 9.8 of this Article will (for the avoidance of doubt) continue to apply, when read in conjunction with those regulations.
- 9.7 Any instruction given by means of a relevant system shall be a dematerialised instruction given in accordance with the Order, the facilities and requirements of a relevant system and the Operator's rules and practices.
- 9.8 Where the Company is entitled under the Law, the Order, the Operator's rules and practices, these Articles or otherwise to dispose of, forfeit, enforce a lien over or sell or otherwise procure the sale of any shares, the Directors may, in the case of any shares in uncertificated form, take such steps (subject to the Law, the Order, the Operator's rules and practices and these Articles) as may be required or appropriate, by instruction by means of a relevant system or otherwise and, if need be, by virtue of an irrevocable power of attorney in favour of any director that is hereby by these Articles deemed to be given by the relevant member under the Powers of Attorney (Jersey) Law 1995 (as amended) (such power of attorney to come into effect once the Company becomes so entitled) or, if later when the Board elects that such power of attorney should come into effect, to effect such disposal, forfeiture, enforcement or sale, including without limitation by:
- 9.8.1 requesting or requiring the deletion of any computer based entries in the relevant system relating to the holding of such shares;
- 9.8.2 altering such computer based entries so as to divest the Holder of such shares of the power to transfer such shares other than to a Person selected or approved by the Company for the purpose of such transfer;
- 9.8.3 requiring any Holder of such shares to take such steps as may be necessary to sell or transfer such shares as directed by the Company;
- 9.8.4 (subject to any applicable law) otherwise rectify or change the register in respect of any such shares in such manner as the Directors consider appropriate (including, without limitation, by entering the name of a transferee into the register as the next holder of such shares); and/or
- 9.8.5 appointing any Person to take any steps in the name of any Holder of such shares as may be required to change such shares to certificated form and/or to effect the transfer of such shares (and such steps shall be effective as if they had been taken by such Holder).
- 9.9 In relation to any share in uncertificated form:

- 9.9.1 the Company may utilise the relevant system to the fullest extent available from time to time in the exercise of any of its powers or functions under the Law, the Order or these Articles or otherwise in effecting any actions and the Company may from time to time determine the manner in which such powers, functions and actions shall be so exercised or effected;
- 9.9.2 the Company may, by Notice to the Holder of that share, require the Holder to change the form of that share to certificated form within the period specified in the Notice and to hold that share in certificated form for so long as required by the Company; and
- 9.9.3 the Company shall not issue a share certificate.
- 9.10 The Company may by Notice to the Holder of any share in certificated form, direct that the form of such share may not be changed to uncertificated form for a period specified in such Notice.
10. **LIEN**
- 10.1 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 fixed time in respect of that share and the Company shall also have a first and paramount lien on all shares (other than fully paid shares) registered in the name of a single Member for all the debts and liabilities of such Member or his estate to the Company whether the period for the payment or discharge of the same shall have actually commenced or not and notwithstanding that the same are joint debts or liabilities of such Member or his estate and any other Person whether a Member or not. The Company's lien (if any) on a share shall extend to all dividends or other monies payable thereon or in respect thereof. The Directors may resolve that any share shall for such period as they think fit be exempt from the provisions of this Article.
- 10.2 The Company may sell in such manner as the Directors think fit any shares on which the Company has a lien but no sale shall be made unless the monies in respect of which such lien exists or some part thereof are or is presently payable nor until fourteen Clear Days have expired after a Notice stating and demanding payment of the monies presently payable and giving Notice of intention to sell in default shall have been served on the Holder for the time being of the shares or the Person entitled thereto by reason of the death, bankruptcy or incapacity of such Holder.
- 10.3 To give effect to any such sale the Directors may, if the share is a certificated share, authorise some Person to execute an instrument of transfer of the shares sold to the purchaser thereof. If the share is an uncertificated share, the Board may exercise any of the Company's powers under Articles 9.1 to 9.9 to effect the sale of the share to, or in accordance with the directions of, the buyer. The buyer shall not be bound to see to the application of the purchase money and his title to the share shall not be affected by any irregularity in or invalidity of the proceedings in relation to the sale.

10.4 The net proceeds of such sale after payment of the costs of such sale shall be applied in or towards payment or satisfaction of the debt or liability in respect of which the lien exists so far as the same is presently payable and any residue shall (if the share sold is a certificated share, on surrender to the Company for cancellation of the certificate in respect of the share sold and, whether the share sold is a certificated or uncertificated share, subject to a like lien for debts or liabilities not presently payable as existed upon the shares prior to the sale) be paid to the Person entitled to the shares at the time of the sale.

11. **CALLS ON SHARES**

11.1 The Directors may subject to the provisions of these Articles and to any conditions of allotment from time to time make calls upon the Members in respect of any monies unpaid on their shares and each Member shall (subject to being given at least fourteen Clear 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.

11.2 A call may be required to be paid by instalments.

11.3 A call may before receipt by the Company of any sum due thereunder be revoked in whole or in part and payment of a call may be postponed in whole or in part.

11.4 A Person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect whereof the call was made.

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

11.6 The joint Holders of a share shall be jointly and severally liable to pay all calls and all other payments to be made in respect of such share.

11.7 If a sum called in respect of a share is not paid before or on the day appointed for payment thereof the Person from whom the sum is due may be required to pay interest on the sum from the day appointed for payment thereof to the time of actual payment at a rate determined by the Directors but the Directors shall be at liberty to waive payment of such interest wholly or in part.

11.8 Any sum which by or pursuant to the terms of issue of a share becomes payable upon allotment or at any fixed date shall for the purposes of these Articles be deemed to be a call duly made and payable on the date on which by or pursuant to the terms of issue the same becomes payable and in case of non-payment all the relevant provisions of these Articles as to payment of interest, forfeiture, surrender or otherwise shall apply as if such sum had become due and payable by virtue of a call duly made and notified.

11.9 The Directors may on the issue of shares differentiate between the Holders as to the amount of calls to be paid and the times of payment.

11.10 The Directors may if they think fit receive from any Member an advance of monies which have not yet been called on his shares or which have not yet fallen due for payment. Such advance payments shall, to their extent, extinguish the liability in respect of which they are paid. The Company may pay interest on any such advance, at such rate as the Directors think fit, for the period covering the date of payment to the date (the "**Due Date**") when the monies would have been due had they not been paid in advance. For the purposes of entitlement to dividends, monies paid in advance of a call or instalment shall not be treated as paid until the Due Date.

12. **FORFEITURE OF SHARES**

12.1 If a Member fails to pay any call or instalment of a call on or before the day appointed for payment thereof the Directors 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 and any costs, charges and expenses which may have been incurred by the Company by reason of such non-payment.

12.2 The Notice shall name a further day (not earlier than the expiration of fourteen Clear Days from the date of service of such Notice) on or before which the payment required by the Notice is to be made and the place where payment is to be made and shall state that in the event of non-payment at or before the time appointed and at the place appointed the shares in respect of which the call was made will be liable to be forfeited.

12.3 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 and interest due in respect thereof has been made be forfeited by a resolution of the Directors to that effect and such forfeiture shall include all dividends which shall have been declared on the forfeited shares and not actually paid before the forfeiture.

12.4 When any share has been forfeited in accordance with these Articles, Notice of the forfeiture shall forthwith be given to the Holder of the share or the Person entitled to the share by transmission as the case may be. Where the forfeited share is held in certificated form, an entry of such Notice having been given and of the forfeiture with the date thereof shall forthwith be made in the Register opposite to the entry of the share but no forfeiture shall be invalidated in any manner by any omission or neglect to give such Notice or to make such entry as aforesaid.

12.5 The Directors may, at any time after serving a Notice in accordance with Article 12.1, accept from the Member concerned the surrender of such shares as are the subject of the Notice, without the need otherwise to comply with the provisions of Articles 12.1 to 12.4. Where the forfeited share is held in certificated form, any such shares shall be surrendered immediately and

irrevocably upon the Member delivering to the Company the share certificate for the shares and such surrender shall also constitute a surrender of all dividends declared on the surrendered shares but not actually paid before the surrender. The Company shall, upon such surrender forthwith make an entry in the Register of the surrender of the share with the date thereof but no surrender shall be invalidated in any manner by any omission or neglect to make such entry as aforesaid.

- 12.6 A forfeited or surrendered share shall become the property of the Company and may be sold, re-allotted or otherwise disposed of either to the Person who was before forfeiture or surrender the Holder thereof or entitled thereto or to any other Person upon such terms and in such manner as the Directors think fit and at any time before a sale, re-allotment or other disposition the forfeiture or surrender may be cancelled on such terms as the Directors think fit. Where for the purposes of its disposal a forfeited or surrendered share held in certificated form is to be transferred to any Person the Directors may authorise some Person to execute an instrument of transfer of the share to that Person. Where for the purposes of its disposal a forfeited share held in uncertificated form is to be transferred to any Person, the Directors may exercise any of the Company's powers or their powers (whether as a Board or as individual directors) under Article 9. The Company may receive the consideration given for the share on its disposal and may register the transferee as Holder of the share.
- 12.7 A Member whose shares have been forfeited or surrendered shall cease to be a Member in respect of the forfeited or surrendered shares and shall, if the share is a certificated share, (if he has not done so already) surrender to the Company for cancellation the certificate for the shares forfeited or surrendered. Notwithstanding the forfeiture or the surrender such Member shall remain liable to pay to the Company all monies which at the date of forfeiture or surrender were presently payable by him in respect of those shares with interest thereon at the rate at which interest was payable before the forfeiture or surrender or at such rate as the Directors may determine from the date of forfeiture or surrender until payment, provided that the Directors may waive payment wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or surrender or for any consideration received on their disposal.
- 12.8 A declaration under oath by a Director or the Secretary (or by an Officer of a corporate Secretary) that a share has been duly forfeited or surrendered on a specified date shall be conclusive evidence of the facts therein stated as against all Persons claiming to be entitled to the share. The declaration and the receipt of the Company for the consideration (if any) given for the share on the sale re-allotment or disposal thereof together with the certificate for the share delivered to a purchaser or allottee thereof shall (subject to the execution of an instrument of transfer if the same be so required) constitute good title to the share. The Person to whom the share is sold, re-allotted or disposed of shall be registered as the Holder of the share and shall not be bound to see to the application of the consideration (if any) nor shall his title to the

share be affected by any irregularity in or invalidity of the proceedings in respect of the forfeiture, surrender, sale, re-allotment or disposal of the share.

13. TRANSFER OF SHARES

- 13.1 Save as otherwise permitted under the provisions of the Law, all transfers of certificated shares shall be effected using an instrument of transfer.
- 13.2 The instrument of transfer of any certificated share shall be in Writing in any usual common form or any form approved by the Directors.
- 13.3 The instrument of transfer of any certificated share shall be Signed by or on behalf of the transferor and in the case of an unpaid or partly paid share by 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.
- 13.4 The Directors may in their absolute discretion and without assigning any reason therefor refuse to register the transfer of a certificated share including without limitation a transfer of shares to a Person of whom they do not approve and a transfer of a share on which the Company has a lien.
- 13.5 The Directors may also refuse to register the transfer of a certificated share unless the instrument of transfer:
- 13.5.1 is lodged at the Office or at such other place as the Directors may appoint accompanied by the certificate for the shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;
 - 13.5.2 is in respect of only one class of shares; and
 - 13.5.3 is in favour of not more than four transferees.
- 13.6 Notwithstanding anything to the contrary contained in these Articles, the Directors may refuse to register the transfer of a share in certificated form if, in the sole discretion of the Company, such transfer would be in violation of any applicable transfer restriction or in violation of any applicable securities law or regulation.
- 13.7 In the case of a transfer of a certificated share by a recognised person, the lodging of a share certificate will only be necessary if and to the extent that a certificate has been issued in respect of the share in question.

- 13.8 If the Directors refuse to register a transfer of a certificated share they shall within two Months after the date on which the instrument of transfer was lodged with the Company send to the proposed transferor and transferee Notice of the refusal.
- 13.9 All instruments of transfer relating to transfers of certificated shares which are registered shall be retained by the Company but any instrument of transfer relating to transfers of shares which the Directors decline to register shall (except in any case of fraud) be returned to the Person depositing the same.
- 13.10 The registration of transfers of shares or of transfers of any class of shares may be suspended at such times and for such periods as the Directors may determine, except that the Directors may not suspend the registration of transfers of any participating class without the consent of the Operator of the relevant system.
- 13.11 Unless otherwise decided by the Directors in their sole discretion no fee shall be charged in respect of the registration of any instrument of transfer or other document relating to or affecting the title to any share.
- 13.12 In respect of any allotment of any share the Directors shall have the same right to decline to approve the registration of any renounee of any allottee as if the application to allot and the renunciation were a transfer of a share under these Articles.
- 13.13 Subject to such restrictions of these Articles as may be applicable, any Member may transfer all or any of his uncertificated shares by means of a relevant system in such manner provided for and subject as provided in the Order and the rules of any relevant system provided that legal title to such shares shall not pass until such transfer is entered into the register and accordingly no provision of these Articles shall apply in respect of an uncertificated share to the extent that it requires or contemplates the effecting of a transfer by an instrument in Writing or the production of a certificate for the share to be transferred.
- 13.14 For so long as any shareholder is an "affiliate" of the Company (as defined in Rule 405 under the U.S. Securities Act), unless it has received the Company's prior consent, it may offer, resell, pledge or otherwise transfer its shares, and upon any transfer of shares will be deemed to have represented to the Company that it is transferring such shares, only (i) in an offshore transaction complying with the provisions of Regulation S to a Person outside the United States and not known by the transferor to be a U.S. Person, by prearrangement or otherwise, upon delivery to the Company of an offshore transaction letter (the form of which may be obtained from the Company); or (ii) to the Company or a subsidiary thereof.

14. **TRANSMISSION OF SHARES**

- 14.1 In the case of the death of a Member the survivor or survivors where the deceased was a joint Holder and the executors or administrators of the deceased where he was a sole or only

surviving Holder shall be the only Persons recognised by the Company as having any title to his interest in the shares but nothing in this Article shall release the estate of a deceased joint Holder from any liability in respect of any share which had been jointly held by him.

14.2 Any Person becoming entitled to a share in consequence of the death, bankruptcy or incapacity of a Member may upon such evidence as to his title being produced as may from time to time be required by the Directors and subject as hereinafter provided elect either to be registered himself as the Holder of the share or to have some Person nominated by him registered as the Holder thereof.

14.3 If the Person so becoming entitled shall elect to be registered himself he shall deliver or send to the Company a Notice Signed by him stating that he so elects. If he shall elect to have another Person registered and the share is a certificated share, he shall testify his election by an instrument of transfer of the share in favour of that Person. If he shall elect to have another Person registered and the share is an uncertificated share, he shall take any action the Board may require (including without limitation the execution of any document and the giving of any instruction by means of a relevant system) to enable himself or that Person to be registered as the holder of the share. All the limitations restrictions and provisions of these Articles relating to the right to transfer and the registration of transfers of shares shall be applicable to any such Notice or instrument of transfer as aforesaid as if it were an instrument of transfer executed by the Member and the death, bankruptcy or incapacity of the Member had not occurred.

14.4 The Board may at any time send a Notice requiring any such Person to elect either to be registered himself or to transfer the share. If the Notice is not complied with within 60 days, the Board may after the expiry of that period withhold payment of all dividends or other moneys payable in respect of the share until the requirements of the Notice have been complied with.

14.5 A Person becoming entitled to a share by reason of the death, bankruptcy or incapacity of a Member shall be entitled to the same dividends and other advantages to which he would be entitled if he were the Holder of the share except that he shall not before being registered as the Holder of the share be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company provided always that the Directors may at any time give Notice requiring any such Person to elect either to be registered himself or to transfer the share and if the Notice is not complied with within one Month such Person shall be deemed to have so elected to be registered himself and all the restrictions on the transfer and transmission of shares contained in these Articles shall apply to such election.

15. **PROCEDURES WITH RESPECT TO NON-QUALIFIED HOLDERS AND INFORMATION REQUESTS**

15.1 A Person may not acquire or hold shares, either as part of an initial distribution of shares or subsequently, if such Person is or becomes a Non-Qualified Holder. Each purchaser and transferee of shares will be required to represent, warrant and covenant, or will be deemed to

have represented, warranted and covenanted, for the benefit of the Company, its affiliates and advisers that, from the date of its acquisition of shares and throughout the period it holds such shares:

- 15.1.1 it is not a Non-Qualified Holder;
 - 15.1.2 it is not, and is not acting on behalf of, a Benefit Plan Investor or a Controlling Person unless it acquires the shares with the written consent of the Company;
 - 15.1.3 if it is, or is acting on behalf of, a Benefit Plan Investor, its acquisition, holding and disposition of such shares does not and will not constitute or result in a non-exempt prohibited transaction under ERISA or Section 4975 of the U.S. Code;
 - 15.1.4 if it is a governmental, church, non-U.S. or other plan which is subject to Similar Law, (x) it is not, and for so long as it holds such shares or interest therein will not be, subject to any federal, state, local, non-U.S. or other laws or regulations that could cause the underlying assets of the Company to be treated as assets of a shareholder by virtue of its interest in the shares and thereby subject the Company (or any Persons responsible for the investment and operation of the Company's assets) to laws or regulations that are substantially similar to the prohibited transaction provisions of Section 406 of ERISA or Section 4975 of the U.S. Code and (y) its acquisition, holding and disposition of such shares will not constitute or result in a non-exempt violation of any Similar Law; and
 - 15.1.5 it agrees to the transfer restrictions regarding its interest in such shares set out in these Articles.
- 15.2 The Board may refuse to register a transfer of shares if the transfer is in favour of any Non-Qualified Holder.
- 15.3 If it shall come to the notice of the Company that any shares are owned directly, indirectly or beneficially by a Non-Qualified Holder, the Company may give Notice to such Person (a "**Transfer Notice**") requiring him either (i) to provide the Company within 14 days of receipt of such Notice with sufficient satisfactory documentary evidence to satisfy the Company that such Person is not a Non-Qualified Holder, (ii) to sell or transfer his shares to a Person who is not a Non-Qualified Holder within 14 days and within such 14 days to provide the Company with satisfactory evidence of such sale or transfer, or (iii) to request that the Company redeem the shares pursuant to the Articles. Pending such sale or transfer the Directors may suspend the exercise of voting or consent rights and rights to receive notice of, or attend, meetings of the Company and any rights to receive dividends or other distributions with respect to such shares. If any Person upon whom such a Transfer Notice is served pursuant to this paragraph does not within 14 days after such Transfer Notice either (i) transfer his shares to a Person who is not a Non-Qualified Holder or (ii) establish to the satisfaction of the Company (whose judgment shall be final and

binding) that he is not a Non-Qualified Holder, the Directors may in their sole discretion, so far as they are able, arrange for a transfer or other disposal of such shares (a "**Mandatory Disposal**") to be made to a Non-Qualified Holder (an "**Eligible Transferee**") at the best price reasonably obtainable at the relevant time and shall give Notice within such reasonable time as the Directors shall determine of such disposal to the former registered holder. The manner, timing and terms under which any such Mandatory Disposal is made or sought to be made by the Directors (including but not limited to the price or prices at which the same is made and the extent to which assurance is obtained that no transferee is or would become a Non-Qualified Holder) shall be such as the Directors determine, based upon advice from bankers, brokers or other appropriate Persons consulted by them for the purpose, to be reasonably practicable having regard to all the circumstances (including but not limited to the number of shares to be disposed of and the requirement for the disposal to be made without delay); and the Directors shall not be liable for any of the consequences of reliance on such advice.

- 15.4 For the purpose of a Mandatory Disposal under Article 15.3, the Directors may appoint any Person to execute as transferor an instrument of transfer in favour of the Eligible Transferee and may enter the name of the Eligible Transferee in respect of the transferred shares in the register notwithstanding the absence of any share certificate and such instrument of transfer shall be as effective as if it had been executed by the registered Holder and the title of the Eligible Transferee shall not be affected by any irregularity or invalidity in the proceedings relating thereto. To give effect to a sale, the Directors may authorise in Writing the registrar or other agent to transfer the relevant shares on behalf of the Holder thereof (or any Person who is automatically entitled to the shares by transmission or by law) or to cause the transfer of the relevant shares to the Eligible Transferee and in relation to an uncertificated share may require CREST to convert the share into certificated form and an instrument of transfer executed by that Person will be as effective as if it had been executed by the Holder of, or the Person entitled by transmission to, the relevant shares. The Eligible Transferee is not bound to see the application of the purchase money and the title of the Eligible Transferee is not affected by any irregularity in or invalidity of the proceedings connected to the sale. The net proceeds of a Mandatory Disposal shall be received by the Company (whose receipt shall be a good discharge for the purchase money) and shall be converted into pounds sterling (if necessary) and shall be held on trust for and paid to the former registered holder (or, in the case of joint Holders, the first named joint Holder thereof in the register) upon surrender by him or on his behalf of any certificate in respect of the shares sold and formerly held by him. When a Mandatory Disposal is made as aforesaid the Directors shall notify the former registered holder of the shares disposed of and inform him that such net proceeds of the Mandatory Disposal will be paid to him upon surrender by him or on his behalf of any certificate in respect of the shares concerned. The Company is deemed to be a debtor and not a trustee in respect of those net proceeds for the member or other Person. No interest is payable on those net proceeds and the Company is not required to account for money earned on them. Those net proceeds may be employed in the business of the Company or as it thinks fit. The Company may register or cause the registration of the Eligible

Transferee as Holder of the relevant shares and thereupon the Eligible Transferee shall become absolutely entitled thereto.

- 15.5 The Directors will not be required to give any reasons for any decision, determination or declaration taken or made in accordance with this Article. The exercise of the powers conferred by this Article may not be questioned or invalidated in any case on the ground that there was insufficient evidence of direct or beneficial ownership or holding of shares by any Person or that the true direct or beneficial owner or Holder of any shares was otherwise than as appeared to the Directors at the relevant date provided that the said powers have been exercised in good faith.
- 15.6 A Person who becomes aware that he is a Non-Qualified Holder or is otherwise holding or owning shares in breach of any law or requirement of any country or governmental authority or by virtue of which he is not qualified to hold such shares shall forthwith, unless he has already received a Transfer Notice pursuant to Article 15.3, either (i) transfer all his shares to one or more Persons who are not Non-Qualified Holders or (ii) give a request in Writing to the Directors for the issue of a Transfer Notice in accordance with the provisions referred to in Article 15.3 above. Every such request shall, in the case of certificated shares, be accompanied by the certificate(s) for the shares to which it relates.
- 15.7 The Directors may, by Notice to a Holder, at any time request a Holder to furnish a declaration, in a form satisfactory to the Directors, as to his place of residence, citizenship or domicile and any such information as may be reasonably required by the Directors to satisfy themselves that such Person is not a Non-Qualified Holder or is otherwise qualified to hold shares in the Company, or any such information as the Directors determine is necessary or appropriate to permit the Company to satisfy applicable United States tax withholding, reporting or filing requirements arising with respect to the Holder's ownership interest in the Company under the U.S. Code or FATCA. Should a Holder fail to furnish a declaration requested pursuant to this Article 15.7 within 14 days of such request, the Directors shall have the right to treat such Holder as a Non-Qualified Holder and to deliver a Transfer Notice to such Holder in accordance with Article 15.3.

16. **DISCLOSURE OF INTERESTS AND PROVISION OF INFORMATION BY SHAREHOLDERS**

- 16.1 The Board shall have power by Notice to require any Member to disclose to the Company in Writing:
- 16.1.1 within the prescribed deadline as determined in accordance with Article 16.15.2, the identity of any Person other than the Member (an **"Interested Party"**) who has, or has had at any time during the three years immediately preceding the date on which the Notice is issued, any interest (whether direct or indirect) in the shares held by the Member and the nature of such interest. For these purposes, a Person shall be treated

as having an interest in shares if they have any interest in them whatsoever, including but not limited to any interest acquired by any Person as a result of:

- (a) entering into a contract to acquire them;
- (b) not being the registered Holder, being entitled to exercise, or control the exercise of, any right conferred by the holding of the shares;
- (c) having the right to call for delivery of the shares; or
- (d) having the right to acquire an interest in shares or having the obligation to acquire such an interest.

16.2 The Company may maintain a register of Interested Parties to which the provisions of the Laws relating to the Register of Members shall apply *mutatis mutandis* as if the register of Interested Parties was the Register of Members and whenever in pursuance of a requirement imposed on a shareholder as aforesaid the Company is informed of an Interested Party the identity of the Interested Party and the nature of the interest shall be promptly inscribed therein together with the date of the request. At no time shall the Company permit the register of Interested Parties to be kept or maintained in the United Kingdom, or to be inspected by anyone other than a Director.

16.3 The Board shall be required to exercise its powers under Article 16.1 if requisitioned to do so in accordance with Article 16.4 by Members holding at the date of the deposit of the requisition not less than one-tenth of the total voting rights attaching to the shares at the relevant time.

16.4 A requisition under Article 16.3 must:

16.4.1 state that the requisitionists are requiring the Company to exercise its powers under this Article;

16.4.2 specify the manner in which they require those powers to be exercised;

16.4.3 give reasonable grounds for requiring the Company to exercise those powers in the manner specified; and

16.4.4 be signed by the requisitionists and deposited at the Office.

16.5 A requisition may consist of several documents in like form each signed by one or more requisitionists.

16.6 On the deposit of a requisition complying with this Article 16 it is the Board's duty to exercise their powers under Article 16.1 in the manner specified in the requisition.

- 16.7 If any Member has been duly served with a Notice given by the Board in accordance with Article 16.1.1 and is in default after the prescribed deadline under these Articles for supplying to the Company the information thereby required, then the Board may in its absolute discretion at any time thereafter serve a notice (a “**direction notice**”) upon such Member.
- 16.8 A direction notice may direct that, in respect of:
- 16.8.1 any shares in relation to which the default occurred (all or the relevant number as appropriate of such shares being the “**Default Shares**”); and
- 16.8.2 any other shares held by the Member,
- the Member shall not be entitled to vote at a general meeting or meeting of the Holders of any class of shares of the Company either in person or by Proxy or to exercise any other right conferred by Membership in relation to meetings of the Company or of the Holders of any class of shares of the Company.
- 16.9 Where the Default Shares represent at least 0.25% of the number of shares in issue of the class of shares concerned, the direction notice may additionally direct that in respect of the Default Shares:
- 16.9.1 any dividend or distribution or the proceeds of any repurchase, redemption or repayment on the Default Shares or part thereof which would otherwise be payable on such shares shall be retained by the Company without any liability to pay interest thereon when such money is finally paid to the Member and such dividend or proceeds may be reduced by an amount equal to any taxes or other costs or expenses incurred by the Company or any other Group Company resulting from such failure or default; and
- 16.9.2 no transfer other than an approved transfer (as set out in Article 16.15.3) of the Default Shares held by such Member shall be registered unless:
- (a) the Member is not himself in default as regards supplying the information requested; and
- (b) when presented for registration the transfer is accompanied by a certificate by the Member in a form satisfactory to the Board to the effect that after due and careful enquiry the Member is satisfied that no Person who is in default as regards supplying such information is interested in any of the shares the subject of the transfer.
- 16.10 The Company shall send to each other Person appearing to be interested in the shares the subject of any direction notice a copy of the notice, but failure or omission by the Company to do so shall not invalidate such notice.

- 16.11 If shares are issued to a Member as a result of that Member holding other shares in the Company and if the shares in respect of which the new shares are issued are Default Shares in respect of which the Member is for the time being subject to particular restrictions, the new shares shall on issue become subject to the same restrictions whilst held by that Member as such Default Shares. For this purpose, shares which the Company procures to be offered to Members *pro rata* (or *pro rata* ignoring fractional entitlements and shares not offered to certain Members by reason of legal or practical problems associated with offering shares outside the United Kingdom or Jersey) shall be treated as shares issued as a result of a Member holding other shares in the Company.
- 16.12 Any direction notice shall have effect in accordance with its terms for as long as the default, in respect of which the direction notice was issued, continues but shall cease to have effect:
- 16.12.1 if the information requested in the notice is delivered to the Company within the prescribed deadline; or
- 16.12.2 in relation to any shares which are transferred by such Member by means of an approved transfer as set out in Article 16.15.3.
- 16.13 As soon as practicable after the direction notice has ceased to have effect (and in any event within five Business Days thereafter) the Board shall procure that the restrictions imposed by Articles 16.8 and 16.9 shall be removed and that dividends withheld pursuant to Article 16.9.1 are paid to the relevant Member.
- 16.14 For the purpose of enforcing the restrictions referred to in Article 16.9.2 and to the extent permissible under the Regulations the Board may give Notice to the relevant Member requiring the Member to change any Default Shares held in Uncertificated form to Certificated form by the time stated in the Notice. The Notice may also state that the Member may not change any of the Default Shares held in certificated form to Uncertificated form. If the Member does not comply with the Notice, the Board may authorise any Person to instruct the operator of the Uncertificated System to change the Default Shares held in Uncertificated form to Certificated form.
- 16.15 For the purpose of this Article 16:
- 16.15.1 a Person shall be treated as appearing to be interested in any shares if the Member holding such shares has given to the Company a notification which either (a) names such Person as being so interested or (b) fails to establish the identities of those interested in the shares and (after taking into account the said notification and any other relevant notification) the Company knows or has reasonable cause to believe that the Person in question is or may be interested in the shares; and

16.15.2 the prescribed deadline in respect of any particular Member is 28 days from the date of service of the said Notice in accordance with Article 16.1.1 except where the Default Shares represent at least 0.25% of the number of shares in issue of the class of shares concerned in which case such deadline shall be 14 days;

16.15.3 subject to Article 13.4, a transfer of shares is an “**approved transfer**” if but only if:

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

16.16 For the purposes of Article 16.15.3 any Person of the following Persons shall be included amongst the Persons who are connected with the Member or any other Person appearing to be interested in such shares:

16.16.1 a spouse, child (under the age of eighteen) or step child (under the age of eighteen) of the Member or any other Person appearing to be interested in such shares;

16.16.2 an associated body corporate which is a company in which the Member or any other Person appearing to be interested in such shares alone, or with connected persons, is directly or indirectly beneficially interested in 20% or more of the nominal value of the equity share capital or is entitled (alone or with connected persons) to exercise or control the exercise of more than 20% of the voting power at general meetings; or

16.16.3 a trustee (acting in that capacity) of any trust, the beneficiaries of which include the Member or any other Person appearing to be interested in such shares or Persons falling within Articles 16.16.1 or 16.16.2 above excluding trustees of an employees’ share scheme or pension scheme; or

16.16.4 a partner (acting in that capacity) of the Member or any other Person appearing to be interested in such shares or Persons described in Articles 16.16.1 to 16.16.3 above.

16.17 Any Member who has been given Notice of an Interested Party in accordance with Article 16.1.1 who subsequently ceases to have any party interested in his shares or has any other Person

interested in his shares shall notify the Company in Writing of the cessation or change in such interest and, where such a register is maintained, the Board shall promptly amend the register of Interested Parties accordingly.

- 16.18 Notwithstanding any other provision of this Article 16, any Member who acquires an interest in the Company equal to or exceeding five per cent. of the number of shares in issue of the class of shares concerned (a “**Notifiable Interest**”) shall forthwith notify the Company of such interest and having acquired a Notifiable Interest, a Member shall forthwith notify the Company if he ceases to hold a Notifiable Interest and where a Member has a Notifiable Interest he shall notify the Company of any increase or decrease to the nearest whole percentage number in his Notifiable Interest.

17. **GENERAL MEETINGS**

- 17.1 Unless all of the Members agree in Writing to dispense with the holding of Annual General Meetings and any such agreement remains valid in accordance with the Law the Company shall in each calendar year hold a general meeting as its Annual General Meeting at such time and place as may be determined by the Directors provided that so long as the Company holds its first Annual General Meeting within eighteen Months of its incorporation it need not hold it in the year of its incorporation or in the following year.

- 17.2 The above mentioned general meeting shall be called the “**Annual General Meeting**”. All other general meetings shall be called “**Extraordinary General Meetings**”.

- 17.3 The Directors may whenever they think fit and upon a requisition of Members pursuant to the provisions of the Law the Directors shall forthwith proceed to convene an Extraordinary General Meeting for a date not later than two Months after the receipt of the requisition. If there are not sufficient Directors to convene the Extraordinary General Meeting any Director or any Member may convene such a meeting.

- 17.4 At any Extraordinary General Meeting called pursuant to a requisition unless such meeting is called by the Directors no business other than that stated in the requisition as the objects of the meeting shall be transacted.

18. **CLASS MEETINGS**

Save as otherwise provided in these Articles, all the provisions of these Articles and of the Law relating to general meetings of the Company and to the proceedings thereat shall apply mutatis mutandis to every class meeting. A Director who is entitled to receive Notice of general meetings of the Company in accordance with Article 19.4 shall also be entitled, unless he has notified the Secretary in Writing of his contrary desire, to receive Notice of all class meetings. At any class meeting the Holders of shares of the relevant class shall on a poll have one vote in respect of each share of that class held by them.

19. NOTICE OF GENERAL MEETINGS

- 19.1 At least fourteen Clear Days' Notice shall be given of every Annual General Meeting and of every Extraordinary General Meeting, including without limitation, every general meeting called for the passing of a Special Resolution.
- 19.2 A meeting of the Company shall notwithstanding that it is called by shorter Notice than that specified in Article 19.1 be deemed to have been duly called if it is so agreed:
- 19.2.1 in the case of an Annual General Meeting by all the Members entitled to attend and vote thereat; and
- 19.2.2 in the case of any other meeting by a majority in number of the Members having a right to attend and vote at the meeting being a majority together holding not less than ninety-five per cent of the total voting rights of the Members who have that right.
- 19.3 Every Notice shall specify the place the day and the time of the meeting and the general nature of the business to be transacted and in the case of an Annual General Meeting shall specify the meeting as such.
- 19.4 Subject to the provisions of these Articles and to any restrictions imposed on any shares, Notice of every general meeting shall be given to all the Members, to all Persons entitled to a share in consequence of the death, bankruptcy or incapacity of a Member, to the Auditors (if any) and to every Director who has notified the Secretary in Writing of his desire to receive Notice of general meetings.
- 19.5 In every Notice calling a meeting of the Company there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of him and that a proxy need not also be a Member.
- 19.6 The accidental omission to give Notice of a meeting to or the non-receipt of Notice of a meeting by any Person entitled to receive Notice shall not invalidate the proceedings at that meeting.

20. PROCEEDINGS AT GENERAL MEETINGS

- 20.1 The business of an Annual General Meeting shall be to receive and consider the accounts of the Company and the reports of the Directors and Auditors (if any), to elect Directors (if proposed), to elect Auditors (if proposed) and fix their remuneration, to sanction a dividend (if thought fit so to do) and to transact any other business of which Notice has been given.
- 20.2 No business shall be transacted at any general meeting except the adjournment of the meeting unless a quorum of Members is Present at the time when the meeting proceeds to business. Such quorum shall consist of not less than two Members Present but so that not less than two

individuals will constitute the quorum, provided that if at any time all of the issued shares in the Company are held by one Member such quorum shall consist of that Member Present.

- 20.3 If a Member is by any means in communication with one or more other Members so that each Member participating in the communication can hear what is said by any other of them each Member so participating in the communication is deemed to be Present at a meeting with the other Members so participating notwithstanding that all the Members so participating are not Present together in the same place. A meeting at which any or all of the Members participate as aforesaid shall be deemed to be a general meeting of the Company for the purposes of these Articles notwithstanding any other provisions of these Articles and all of the provisions of these Articles and of the Law relating to general meetings of the Company and to the proceedings thereat shall apply mutatis mutandis to every such meeting.
- 20.4 If within half-an-hour from the time appointed for the meeting a quorum is not Present or if during the meeting a quorum ceases to be Present the meeting shall stand adjourned to the same day in the next week at the same time and place or to such other time and place as the Directors shall determine and if at such adjourned meeting a quorum is not Present within half-an-hour from the time appointed for the holding of the meeting those Members Present shall constitute a quorum.
- 20.5 The chairman (if any) of the Directors shall preside as chairman at every general meeting of the Company or if there is no such chairman or if he shall not be Present within fifteen minutes after the time appointed for the holding of the meeting or is unwilling to act, the Directors shall select one of their number to be chairman of the meeting.
- 20.6 If at any meeting no Director is willing to act as chairman or if no Director is Present within fifteen minutes after the time appointed for holding the meeting, the Members Present shall choose one of their number to be chairman of the meeting.
- 20.7 The chairman may with the consent 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 other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more Notice of the adjourned meeting shall be given as in the case of the original meeting. Save as aforesaid it shall not be necessary to give any Notice of any adjourned meeting or of the business to be transacted at an adjourned meeting.
- 20.8 At any general meeting a resolution put to the vote of the meeting shall be decided in the first instance on a show of hands unless before or on the declaration of the result of the show of hands a poll is demanded.
- 20.9 Subject to the provisions of the Law, a poll may be demanded:

- 20.9.1 by the chairman;
- 20.9.2 by at least two Members having the right to vote on the resolution; or
- 20.9.3 by a Member or Members representing not less than one tenth of the total voting rights of all the Members having the right to vote on the resolution.
- 20.10 Unless a poll is duly demanded, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour or against such resolution.
- 20.11 If a poll is duly demanded it shall be taken at such time and in such manner as the chairman directs and the results of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 20.12 In the event of an equality of votes at any general meeting the chairman shall not be entitled to a second or casting vote.
- 20.13 A poll demanded on the election of the chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or on such day and at such time and place as the chairman directs not being more than twenty-one days after the poll is demanded.
- 20.14 A 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.
- 20.15 A resolution in Writing (including a Special Resolution but excluding a resolution removing an Auditor) Signed by all Members who would be entitled to receive Notice of and to attend and vote at a general meeting at which such a resolution would be proposed or by their duly appointed attorneys shall be as valid and effectual as if it had been passed at a general meeting of the Company duly convened and held. Any such resolution may consist of several documents in the like form each Signed by one or more of the Members or their attorneys.

21. **VOTES OF MEMBERS**

- 21.1 Subject to any special rights restrictions or prohibitions as regards voting for the time being attached to any shares as may be specified in the terms of issue thereof or these Articles:
- 21.1.1 on a show of hands, every Member Present otherwise than by proxy shall have one vote; and

- 21.1.2 on a poll, every Member Present (including by proxy) shall have one vote for each share of which he is the Holder.
- 21.2 In the case of joint Holders of any share such Persons shall not have the right of voting individually in respect of such share but shall elect one of their number to represent them and to vote whether personally or by proxy in their name. In default of such election the Person whose name appears first in order in the Register in respect of such share shall be the only Person entitled to vote in respect thereof.
- 21.3 A Member in respect of whom an order has been made by any court having jurisdiction (whether in the Island of Jersey or elsewhere) in matters concerning legal incapacity or interdiction may vote, whether on a show of hands or a poll, by his attorney, curator, receiver or other Person authorised in that behalf appointed by that court and any such attorney, curator, receiver or other Person may vote by proxy. Evidence to the satisfaction of the Directors of the authority of such attorney, curator, receiver or other Person may be required by the Directors prior to any vote being exercised by such attorney, curator, receiver or other Person.
- 21.4 No Member shall 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 of which he is Holder or one of the joint Holders have been paid.
- 21.5 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- 21.6 On a poll votes may be given either personally or by proxy.
- 21.7 The Directors may at the expense of the Company send by post or otherwise to the Members instruments of proxy (with or without provision for their return prepaid) for use at any general meeting or at any separate meeting of the Holders of any class of shares of the Company either in blank or nominating in the alternative any one or more of the Directors or any other Persons. If for the purpose of any meeting invitations to appoint as proxy a Person or one or more of a number of Persons specified in the invitations are issued at the Company's expense they shall be issued to all (and not to some only) of the Members entitled to be sent a Notice of the meeting and to vote thereat by proxy.
- 21.8 The instrument appointing a proxy shall be in Writing in any common form or as approved by the Directors and shall be under the hand of the appointor or of his attorney duly authorised in Writing or if the appointor is a corporation either under seal or under the hand of a duly authorised officer, attorney or other representative. A proxy need not be a Member.

21.9 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is Signed or a notarially certified copy of that power or authority shall:

21.9.1 be deposited at the Office or at such other place as is specified for that purpose by the Notice convening the meeting not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the Person named in the instrument proposes to vote;

21.9.2 in the case of a poll taken more than forty-eight hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than twenty-four hours before the time appointed for taking the poll; or

21.9.3 where the poll is not taken forthwith but is taken not more than forty-eight hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or the Secretary or to any Director.

An instrument of proxy which is not deposited in the manner so required shall be valid only if it is approved by all the other Members who are Present at the meeting.

21.10 Unless the contrary is stated thereon the instrument appointing a proxy shall be as valid as well for any adjournment of the meeting as for the meeting to which it relates.

21.11 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no Notice in Writing of such death, insanity or revocation shall have been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which such vote is cast.

21A. **SCHEME OF ARRANGEMENT**

(a) In this Article 21A, references to the scheme circular (the "**Scheme Document**") relating to the scheme of arrangement (the "**Scheme**") under Article 125 of the Law between the Company and the holders of the Scheme Shares (as defined in the Scheme Document) as it may be modified or amended in accordance with its terms, and expressions defined in the Scheme Document shall have the same meanings in this Article 21A.

(b) Notwithstanding either any other provision of these Articles or the terms of any resolution, whether ordinary or special, passed by the Company in any general meeting, if the Company issues any ordinary shares or any other securities (other than to Kennedy-Wilson Holdings, Inc. or its nominee(s) and/or designated subsidiary) at any time on or after the Scheme Voting Record Time and on or prior to the Scheme Record Time (each as defined in the Scheme), such securities shall be issued subject to the terms of the Scheme (and shall be Scheme Shares for the

purposes thereof) and the original or any subsequent holder or holders of such securities shall be bound by the Scheme accordingly.

- (c) Notwithstanding any other provision of these Articles, if any ordinary shares or any other securities are issued to any person (other than Kennedy-Wilson Holdings, Inc. or its nominee(s) and/or designated subsidiary) (the "**New Member**") at any time after the Scheme Record Time, such New Member (or any subsequent holder or any nominee and/or designated subsidiary of such New Member or any such subsequent holder) (the New Member or any such subsequent holder or any such nominee and/or designated subsidiary being the "**New Transferor**") will, provided the Scheme shall have become effective, be obliged to transfer forthwith all the securities held by the New Transferor (the "**Disposal Securities**", and, individually, a "**Disposal Security**"), free from all encumbrances, to Kennedy-Wilson Holdings, Inc. (or as Kennedy-Wilson Holdings, Inc. may otherwise direct) who shall be obliged to acquire all of the Disposal Securities in consideration of and conditional on the payment by or on behalf of Kennedy-Wilson Holdings, Inc. to the New Transferor of an amount in cash for each Disposal Security equal to the cash and share consideration that the New Transferor would have been entitled to had each Disposal Security been a Scheme Share (the "**Relevant Consideration**"). The Relevant Consideration means a cash payment equal to the value of (a) 550 pence plus (b) 0.3854 multiplied by the closing price of a New KW Share on the Effective Date (using the exchange rate prevailing on the relevant date and expressed in pounds sterling) for each Disposal Security.
- (d) On any reorganisation of, or material alteration to, the share capital of the Company (including, without limitation, any subdivision and/or consolidation), the value of the Relevant Consideration per Disposal Security to be paid under Article 21A(c) shall be adjusted by the Directors in such manner as the auditors of the Company or an independent investment bank selected by the Directors may determine to be fair and reasonable to the New Transferor to reflect such reorganisation or alteration. References in this Article 21A to ordinary shares shall, following such adjustment, be construed accordingly.
- (e) To give effect to any transfer required by this Article 21A, the Company may appoint (and separately, to the extent necessary, each New Transferor shall therefore also appoint) any person as the Company may determine as attorney (under the Powers of Attorney (Jersey) Law 1995 any such appointment shall be irrevocable for a period of one year from the date upon which such New Transferor is issued the relevant Disposal Securities for that New Transferor), agent or otherwise for the New Transferor to execute and deliver as transferor a form of transfer or instructions of transfer on behalf of the New Transferor in favour of Kennedy-Wilson Holdings, Inc. and/or its nominee and/or designated subsidiary and do all such other things and execute and deliver all such documents as may in the opinion of the attorney, agent or otherwise be necessary or desirable to vest the Disposal Securities in Kennedy-Wilson Holdings, Inc. and/or its nominee and/or designated subsidiary and, pending such vesting, to exercise all such rights in and attaching to the Disposal Securities as Kennedy-Wilson Holdings, Inc. may direct. If an attorney is so appointed, the New Transferor shall not thereafter (except to the extent that the

attorney fails to act in accordance with the directions of Kennedy-Wilson Holdings, Inc.) be entitled to exercise any rights attaching to the Disposal Securities unless so agreed by Kennedy-Wilson Holdings, Inc. The Company may give good receipt for the purchase price of the Disposal Securities and may register Kennedy-Wilson Holdings, Inc. and/or its nominee and/or designated subsidiary as holder thereof and issue to it certificates for the same. The Company shall not be obliged to issue a certificate to the New Transferor for any Disposal Securities. Kennedy-Wilson Holdings, Inc. shall send a cheque to the New Transferor drawn on a UK clearing bank (or shall procure that such a cheque is sent) in favour of the New Transferor for the purchase price of such Disposal Securities within 14 days of the date on which the Disposal Securities are transferred to Kennedy-Wilson Holdings, Inc. and/or its nominee and/or designated subsidiary.

- (f) This Article 21A shall cease to be effective if the Scheme shall not have become effective on or before 30 November 2017 (or such later date, if any, as Kennedy-Wilson Holdings, Inc. and the Company may agree and the Court and the Panel may allow).
- (g) Notwithstanding any other provision of these Articles, both the Company and the Directors may refuse to register the transfer of any ordinary shares between the Scheme Record Time and the Effective Date.
- (h) Notwithstanding any other provision of these Articles, both the Company and the Directors may refuse to register the transfer of any ordinary shares other than pursuant to the Scheme or as provided by this Article 21A, but neither the Company nor the Directors may refuse to register the transfer of any ordinary shares pursuant to the Scheme or as provided by this Article 21A.

22. CORPORATE MEMBERS

- 22.1 Any body corporate which is a Member may by resolution of its directors or other governing body authorise such Person as it thinks fit to act as its representative at any meeting of Members (or of any class of Members) and the Person so authorised shall be entitled to exercise on behalf of the body corporate which he represents the same powers as that body corporate could exercise if it were an individual.
- 22.2 Where a Person is authorised to represent a body corporate at a general meeting of the Company the Directors or the chairman of the meeting may require him to produce a certified copy of the resolution from which he derives his authority.

23. DIRECTORS

- 23.1 The Company may by Ordinary Resolution determine the maximum and minimum number of Directors and unless and until otherwise so determined, and subject to the provisions of the Law, the minimum number of Directors shall be two. A majority of the Directors must at all times be tax resident in Jersey and at no time shall a majority of the Directors be resident in, or citizens of, the United States. Each Director shall immediately inform the Board and the Company of any

change, potential or intended, to his residential or US citizenship status for tax purposes or otherwise.

23.2 A Director need not be a Member but provided he has notified the Secretary in Writing of his desire to receive Notice of general meetings in accordance with Article 19.4 he shall be entitled to receive Notice of any general meeting and, subject to Article 18, all separate meetings of the Holders of any class of shares in the Company. Whether or not a Director is entitled to receive such Notice, he may nevertheless attend and speak at any such meeting.

23.3 If:

(a) any resolution or resolutions for the election or re-election of the persons eligible for election or re-election as Directors are put to the annual general meeting and lost; and

(b) at the end of the meeting the number of Directors is fewer than any minimum number of Directors required under Article 23.1,

all retiring Directors who stood for re-election at that meeting (the "**Retiring Directors**") shall be deemed to have been re-elected as Directors and shall remain in office, but the Retiring Directors may only:

(a) act for the purpose of filing vacancies and convening general meetings of the Company; and

(b) perform such duties as are appropriate to maintain the Company as a going concern and to comply with the Company's legal and regulatory obligations,

but not for any other purpose.

24. **ALTERNATE DIRECTORS**

24.1 Any Director (other than an alternate Director) may at his sole discretion and at any time and from time to time appoint any other Director or any other natural person (other than one disqualified or ineligible by law to act as a director of a company) as an alternate Director to attend and vote in his place at any meetings of Directors at which he is not personally present provided that (a) no person who is tax resident outside Jersey may be appointed or continue to act as an alternate Director unless his appointer is also tax resident outside Jersey and (b) no alternate Director shall be a citizen of, or resident in, the United States unless his appointer is also a citizen or, or resident in, the United States, in each case for the duration of the appointment of that alternate Director. Each Director shall be at liberty to appoint under this Article more than one alternate Director provided that only one such alternate Director may at any one time act on behalf of the Director by whom he has been appointed.

24.2 An alternate Director while he holds office as such shall be entitled to receive Notice (which need not be in Writing) of all meetings of Directors and of all meetings of committees of Directors of

which his appointor is a member and to attend and to exercise all the rights and privileges of his appointor at all such meetings at which his appointor is not personally present and generally to perform all the functions of his appointor as a Director in his absence.

- 24.3 An alternate Director shall *ipso facto* vacate office if and when his appointment expires or the Director who appointed him ceases to be a Director of the Company or removes the alternate Director from office by Notice under his hand served upon the Company.
- 24.4 An alternate Director shall be entitled to be paid all travelling and other expenses reasonably incurred by him in attending meetings. The remuneration (if any) of an alternate Director shall be payable out of the remuneration payable to the Director appointing him as may be agreed between them.
- 24.5 Where a Director acts as an alternate Director for another Director he shall be entitled to vote for such other Director as well as on his own account, but no Director shall at any meeting be entitled to act as alternate Director for more than one Director.
- 24.6 A Director who is also appointed an alternate Director shall be considered as two Directors for the purpose of making a quorum of Directors when such quorum shall exceed two.

25. **POWERS OF DIRECTORS**

- 25.1 The business of the Company shall be managed by the Directors who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not by the Law or these Articles required to be exercised by the Company in general meeting.
- 25.2 The Directors' powers shall be subject to the provisions of these Articles, to the provisions of the Law and to such regulations (being not inconsistent with the aforesaid regulations or provisions) as may be prescribed by the Company in general meeting but no regulations made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if such regulations had not been made.
- 25.3 The Directors may by power of attorney, mandate or otherwise appoint any Person to be the agent of the Company for such purposes and on such conditions as they determine including authority for the agent to delegate on occasion the agent's powers provided that the terms on which any such agent is appointed shall include terms that the appointee shall exercise any powers conferred upon him by these Articles outside the United Kingdom and in particular meetings at which such powers are exercised shall be held outside the United Kingdom and any decisions taken and directions given by him shall be taken and given outside the United Kingdom.

26. **DELEGATION OF DIRECTORS' POWERS**

26.1 The Directors may delegate any of their powers to committees consisting of such Director or Directors or such other natural persons as they think fit (provided that the majority of the members of the committee are (a) tax resident in Jersey, and (b) not citizens of, or residents in, the United States). Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.

26.2 The meetings and proceedings of any such committee consisting of two or more natural persons shall be governed by the provisions of these Articles regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations made by the Directors under this Article. No meeting of the committee shall be quorate for the purpose of exercising its powers unless a majority of the directors present are (a) tax resident in Jersey and (b) not resident in, or citizens of, the United States.

27. **APPOINTMENT OF DIRECTORS**

27.1 Where these Articles are adopted by the Company either upon incorporation or for any other reason prior to the appointment of the first Directors, the first Directors of the Company shall be appointed in Writing by the subscribers to the Memorandum of Association or by a majority of them. Any Director so appointed, and any Director duly holding office prior to the adoption of these Articles, shall continue to hold office until he resigns or is disqualified or removed in accordance with the provisions hereof. No person shall be appointed to be a Director if it would cause or permit a majority of Directors to not be tax resident in Jersey.

27.2 The Directors shall have power at any time and from time to time to appoint any natural person (other than one disqualified or ineligible by law or under the Articles to act as a director of a company) to be a Director either to fill a casual vacancy or as an addition to the existing Directors provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with these Articles as the maximum number of Directors. Any Director so appointed shall hold office until he resigns or is disqualified or removed in accordance with the provisions of these Articles.

27.3 The Company may by Ordinary Resolution:

27.3.1 appoint any natural person (other than one disqualified or ineligible by law or under the Articles to act as a director of a company) as a Director; and

27.3.2 remove any Director from office.

27.4 The Company shall keep or cause to be kept a register of particulars with regard to its Directors in the manner required by the Law.

28. NON-EXECUTIVE DIRECTORS

- 28.1 Subject to the provisions of the Law, the Board may enter into, vary and terminate an agreement or arrangement with any Director who does not hold executive office for the provision of his services to the Company. Subject to Articles 28.2 and 28.3, any such agreement or arrangement may be made on such terms as the Board determines.
- 28.2 The ordinary remuneration of the Directors who do not hold executive office for their services (excluding amounts payable under any other provision of these Articles) shall be such amount as the Directors may determine, subject to any limitation the Company may from time to time by Ordinary Resolution determine. Subject thereto, each such Director shall be paid a fee for their services (which shall be deemed to accrue from day to day) at such rate as may from time to time be determined by the Board.
- 28.3 Any director who does not hold executive office and who performs special services which in the opinion of the Board are outside the scope of the ordinary duties of a Director, may (without prejudice to the provisions of Article 28.2) be paid such extra remuneration by way of additional fee, salary, commission or otherwise as the Board may determine.

29. RESIGNATION, DISQUALIFICATION AND REMOVAL OF DIRECTORS

- 29.1 The office of a Director shall be vacated if the Director:
- 29.1.1 resigns his office by Notice to the Company;
 - 29.1.2 ceases to be a Director by virtue of any provision of the Law or he becomes prohibited or disqualified by law from being a Director;
 - 29.1.3 becomes Bankrupt or makes any arrangement or composition with his creditors generally;
 - 29.1.4 becomes of unsound mind;
 - 29.1.5 subsequent to his appointment becomes resident outside Jersey and but for the provisions of this Article 29.1.5 a majority of Directors would not be tax resident in Jersey;
 - 29.1.6 subsequent to his appointment becomes resident in, or a citizen of, the United States and but for the provisions of this Article 29.1.6 such appointment would cause a majority of Directors to be resident in, or citizens of, the United States; or
 - 29.1.7 is removed from office by Ordinary Resolution passed pursuant to Article 27.3.2.

30. **REMUNERATION AND EXPENSES OF DIRECTORS**

30.1 The Directors shall be entitled to such remuneration as the Directors may determine subject to any limitation as the Company may by Ordinary Resolution determine.

30.2 The Directors shall be paid out of the funds of the Company their travelling hotel and other expenses properly and necessarily incurred by them in connection with their attendance at meetings of the Directors or Members or otherwise in connection with the discharge of their duties.

31. **EXECUTIVE DIRECTORS**

31.1 The Directors may from time to time appoint one or more of their number to the office of managing director or to any other executive office under the Company on such terms and for such periods as they may determine.

31.2 The appointment of any Director to any executive office shall be subject to termination if he ceases to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the Company.

31.3 The Directors may entrust to and confer upon a Director holding any executive office any of the powers exercisable by the Directors upon such terms and conditions and with such restrictions as they think fit and either collaterally with or to the exclusion of their own powers and may from time to time revoke withdraw alter or vary all or any of such powers and all powers of a Director holding executive office shall be exercised outside the United Kingdom and in particular any decisions taken and directions given by him shall be taken and given outside the United Kingdom.

32. **DIRECTORS' INTERESTS**

32.1 A Director who has, directly or indirectly, an interest in a transaction entered into or proposed to be entered into by the Company or by a subsidiary of the Company which to a material extent conflicts or may conflict with the interests of the Company and of which he is aware, shall disclose to the Company the nature and extent of his interest.

32.2 For the purposes of Article 32.1:

32.2.1 the disclosure shall be made at the first meeting of the Directors at which the transaction is considered after the Director concerned becomes aware of the circumstances giving rise to his duty to make it or, if for any reason he fails to do so at such meeting, as soon as practical after the meeting, by Notice in Writing delivered to the Secretary;

- 32.2.2 the Secretary, where the disclosure is made to him shall inform the Directors that it has been made and shall in any event table the Notice of the disclosure at the next meeting after it is made;
- 32.2.3 a disclosure to the Company by a Director in accordance with Article 32.1 that he is to be regarded as interested in a transaction with a specified Person is sufficient disclosure of his interest in any such transaction entered into after the disclosure is made; and
- 32.2.4 any disclosure made at a meeting of the Directors shall be recorded in the minutes of the meeting.
- 32.3 Subject to the provisions of the Law, a Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms as to tenure of office, remuneration and otherwise as the Directors may determine.
- 32.4 Subject to the provisions of the Law, and provided that he has disclosed to the Company the nature and extent of any of his material interests in accordance with Article 32.1, a Director notwithstanding his office:
- 32.4.1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is otherwise interested;
- 32.4.2 may 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 otherwise interested;
- 32.4.3 shall not by reason of his office be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and
- 32.4.4 may act by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.

33. PROCEEDINGS OF DIRECTORS

- 33.1 Subject to the provisions of these Articles, the Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. No meetings shall be held in the United Kingdom and any decision reached or resolution passed by the Directors at any meeting which is held in the United Kingdom shall be invalid and of no effect.

- 33.2 A Director may at any time and the Secretary at the request of a Director shall summon a meeting of the Directors by giving to each Director and alternate Director not less than twenty-four hours' Notice of the meeting provided that any meeting may be convened at shorter Notice and in such manner as each Director or his alternate Director shall approve and provided further that unless otherwise resolved by the Directors Notices of Directors' meetings need not be in Writing.
- 33.3 Questions arising at any meeting shall be determined by a majority of votes.
- 33.4 In the case of an equality of votes the chairman shall not have a second or casting vote.
- 33.5 A Director who is also an alternate Director shall be entitled to a separate vote for each Director for whom he acts as alternate in addition to his own vote.
- 33.6 A meeting of the Directors at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors. Wherever two or more Directors hold office the quorum necessary for the transaction of the business of the Directors shall be two provided that:
- 33.6.1 no meeting of the Directors, including a meeting held by telephone or other means of communication in accordance with Article 33.7, shall be held unless a majority of the Directors participating therein is tax resident in Jersey, and any decision reached or resolution passed by the Directors at any meeting at which a majority of the Directors participating therein is not tax resident in Jersey shall be invalid and of no effect;
- 33.6.2 subject to Article 33.6.1, an alternate Director shall be counted in a quorum but so that not less than two individuals will constitute the quorum provided that if a majority of the Directors present are (a) not tax resident in Jersey, or (b) resident in, or citizens of, the United States, the Directors present irrespective of their number shall not constitute a quorum for any purpose except that specified in Article 33.9; and
- 33.6.3 where only one Director is in office he may, subject to Article 33.9, exercise alone all the powers and discretions for the time being exercisable by the Directors.
- 33.7 Notwithstanding that he has made the disclosure required by Article 32.1, a Director may be present but shall not vote on, or be counted in the quorum in relation to, any resolution of the Board or of a committee of the Board concerning any contract, transaction, arrangement, or any other proposal whatsoever to which the Company is or is to be a party and in which he has an interest, nor shall a Director vote on any resolution concerning his own terms of appointment.
- 33.8 If a Director is by any means in communication with one or more other Directors so that each Director participating in the communication can hear what is said by any other of them each Director so participating in the communication is deemed to be present at a meeting with the

other Directors so participating notwithstanding that all the Directors so participating are not present together in the same place. No resolution passed at any such meeting shall be valid if a majority of Directors participating in the communication are in the United Kingdom at the same time.

- 33.9 The present Directors or Director may act notwithstanding any vacancies in their number but if the number of Directors is less than the number fixed as the quorum or becomes less than the number required by the Law or if a majority of the Directors are (a) not tax resident in Jersey or (b) resident in, or citizens of, the United States, the present Directors or Director may act only for the purpose of filling vacancies or of calling a general meeting of the Company. If there are no Directors or no Director is able or willing to act then any Member or the Secretary may summon a general meeting for the purpose of appointing Directors.
- 33.10 The Directors may from time to time elect from their number, and remove, a chairman and/or deputy chairman and/or vice-chairman of the Board and determine the period for which they are to hold office, save that a Promoter Director shall not be elected as a chairman and/or deputy chairman and/or vice-chairman of the Board.
- 33.11 The chairman, or in his absence the deputy chairman, or in his absence the vice-chairman, shall preside at all meetings of the Directors but if no such chairman, deputy chairman or vice-chairman be elected or if at any meeting the chairman, deputy chairman or vice-chairman be not present within five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be the chairman of the meeting.
- 33.12 A resolution in Writing Signed by all the Directors entitled to receive Notice of a meeting of Directors or of a committee of Directors shall be valid and effectual as if it had been passed at a meeting of the Directors or of a committee of Directors duly convened and held outside the United Kingdom and may consist of several documents in like form each Signed by one or more Directors but a resolution Signed by an alternate Director need not also be Signed by his appointor and if it is Signed by a Director who has appointed an alternate Director it need not be Signed by the alternate Director in that capacity. No resolution in writing shall be valid if a majority of those signing it have signed such resolution within the United Kingdom.
- 33.13 All acts done bona fide by any meeting of Directors or of a committee appointed by the Directors or by any Person acting as a Director shall notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or committee or Person acting as aforesaid or that they or any of them were disqualified or had vacated office or were not entitled to vote be as valid as if every such Person had been duly appointed and was qualified and had continued to be a Director or a member of a committee appointed by the Directors and had been entitled to vote.

34. **MINUTE BOOK**

34.1 The Directors shall cause to be entered in books kept for the purpose:

34.1.1 the minutes of all proceedings at general meetings, class meetings, Directors' meetings and meetings of committees appointed by the Directors;

34.1.2 all resolutions in Writing passed in accordance with these Articles;

34.1.3 every memorandum in Writing of a Sole Member-Director Contract (as defined in Article 34.3) which is drawn up pursuant to Article 34.3;

34.1.4 every record in Writing of a Sole Member's Decision (as defined in Article 34.4); and

34.1.5 all such other records as are from time to time required by the Law or, in the opinion of the Directors, by good practice to be minuted or retained in the books of the Company.

34.2 Any minutes of a meeting if purporting to be Signed by the chairman of the meeting at which the proceedings were had or by the chairman of the next succeeding meeting shall be conclusive evidence of the proceedings.

34.3 This Article 34.3 applies where the Company has only one Member and that Member is also a Director. If the Company, acting otherwise than in the ordinary course of its business, enters into a contract with such Member (a "**Sole Member-Director Contract**") and that Sole Member-Director Contract is not in Writing, the terms thereof shall be:

34.3.1 set out in a memorandum in Writing;

34.3.2 recorded in the minutes of the first meeting of the Directors following the making of the contract; or

34.3.3 recorded in such other manner or on such other occasion as may for the time being be permitted or required by the Law.

34.4 This Article 34.4 applies where the Company has only one Member and that Member has taken a decision which may be taken by the Company in general meeting and which has effect in law as if agreed by the Company in general meeting (a "**Sole Member's Decision**"). A Sole Member's Decision may (without limitation) be taken by way of resolution in Writing but if not so taken, the sole Member shall provide the Company with a record in Writing of his decision as soon as practicable thereafter.

35. **SECRETARY**

- 35.1 Subject to the provisions of the Law, the Secretary shall be appointed by the Directors for such term at such remuneration and upon such conditions as they may think fit and any Secretary so appointed may be removed by the Directors.
- 35.2 Anything required or authorised to be done by or to the Secretary may if the office is vacant or there is for any other reason no secretary capable of acting be done by or to any assistant or deputy secretary or if there is no assistant or deputy secretary capable of acting by or to any Person authorised generally or specifically in that behalf by the Directors.
- 35.3 The Secretary and any assistant or deputy secretary shall not be resident in the UK for UK tax purposes or resident in, or citizens of, the United States.
- 35.4 The Company shall keep or cause to be kept at the Office a register of particulars with regard to its Secretary in the manner required by the Law.

36. **THE SEAL**

- 36.1 The Directors may determine that the Company shall have a Seal. Subject to the Law, if the Company has a Seal the Directors may determine that it shall also have an official seal for use outside of the Island (but not in the UK or the United States) and an official seal for sealing securities issued by the Company or for sealing documents creating or evidencing securities so issued.
- 36.2 The Directors shall provide for the safe custody of all seals and no seal shall be used except by the authority of a resolution of the Directors or of a committee of the Directors authorised in that behalf by the Directors.
- 36.3 The Directors may from time to time make such regulations as they think fit determining the Persons and the number of such Persons who shall sign every instrument to which a seal is affixed (provided always that such Persons must be outside the UK and the United States and until otherwise so determined every such instrument shall be signed outside the UK and the United States by one Director and by the Secretary or by a second Director.
- 36.4 The Company may authorise an agent acting outside the UK and the United States appointed for the purpose to affix any seal of the Company to a document to which the Company is a party.

37. **AUTHENTICATION OF DOCUMENTS**

- 37.1 Any Director or the Secretary or any Person appointed by the Directors for the purpose shall have power to authenticate any documents affecting the constitution of the Company (including the Memorandum of Association and these Articles), any resolutions passed by the Company or

the Directors and any books, records, documents and accounts relating to the business of the Company and to certify copies thereof or extracts therefrom as true copies or extracts.

37.2 Where any books, records, documents or accounts of the Company are situated elsewhere than at the Office the local manager or other Officer or the company having the custody thereof shall be deemed to be a Person appointed by the Directors for the purposes set out in Article 37.1.

38. **DIVIDENDS**

38.1 Subject to the provisions of the Law, the Company may by Ordinary Resolution declare dividends in accordance with the respective rights of the Members but no dividend shall exceed the amount recommended by the Directors.

38.2 Subject to the provisions of the Law, the Directors may if they think fit from time to time pay to the Members such interim dividends as they may determine.

38.3 If at any time the share capital of the Company is divided into different classes the Directors may pay such interim dividends in respect of those shares which confer on the Holders thereof deferred or non-preferred rights as well as in respect of those shares which confer on the Holders thereof preferential rights with regard to dividend.

38.4 Subject to the provisions of the Law, the Directors may also pay half-yearly or at other suitable intervals to be settled by them any dividend which may be payable at a fixed rate.

38.5 Provided the Directors act bona fide they shall not incur any personal liability to the Holders of shares conferring a preference for any damage that they may suffer by reason of the payment of an interim dividend on any shares having deferred or non-preferred rights.

38.6 Subject to any particular rights or limitations as to dividend for the time being attached to any shares as may be specified in these Articles or upon which such shares may be issued, all dividends shall be declared apportioned and paid pro rata according to the amounts Paid Up on the shares on which the dividend is paid (otherwise than in advance of calls) provided that if any share is issued on terms providing that it shall rank for dividend as if Paid Up (in whole or in part) or as from a particular date (either past or future) such share shall rank for dividend accordingly.

38.7 The Directors may before recommending any dividend set aside such sums as they think proper as a reserve or reserves which shall at the discretion of the Directors be applicable for any purpose to which such sums may be properly applied and pending such application may at the like discretion be employed in the business of the Company or be invested in such investments as the Directors may from time to time think fit.

38.8 The Directors may carry forward to the account of the succeeding year or years any balance which they do not think fit either to dividend or to place to reserve.

- 38.9 A general meeting declaring a dividend may upon the recommendation of the Directors direct that payment of such dividend shall 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 and the Directors shall give effect to such resolution. Where any difficulty arises in regard to the distribution the Directors may settle the same as they think expedient and in particular may:
- 38.9.1 issue certificates representing part of a shareholding or fractions of shares and may fix the value for distribution of such specific assets or any part thereof;
 - 38.9.2 determine that cash payment shall be made to any Members on the basis of the value so fixed in order to adjust the rights of Members;
 - 38.9.3 vest any specific assets in trustees upon trust for the Persons entitled to the dividend as may seem expedient to the Directors; and
 - 38.9.4 generally make such arrangements for the allotment, acceptance and sale of such specific assets or certificates representing part of a shareholding or fractions of shares or any part thereof or otherwise as they think fit.
- 38.10 Any resolution declaring a dividend on the shares of any class whether a resolution of the Company in general meeting or a resolution of the Directors or any resolution of the Directors for the payment of a fixed dividend on a date prescribed for the payment thereof may specify that the same shall be payable to the Persons registered as the Holders of shares of the class concerned at the close of business on a particular date notwithstanding that it may be a date prior to that on which the resolution is passed (or as the case may be that prescribed for payment of a fixed dividend) and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered but without prejudice to the rights inter se in respect of such dividend of transferors and transferees of any shares of the relevant class.
- 38.11 The Directors may deduct from any dividend or other monies payable to any Member on or in respect of a share all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in relation to the shares of the Company.
- 38.12 Any dividend or other monies payable in respect of a share may be paid:
- 38.12.1 by cheque or warrant made payable to the order of the Person to whom it is sent or to such other Person as the Holder or joint Holders may in Writing direct and sent through the post to the registered address of the Member or Person entitled thereto and in the case of joint Holders to any one of such joint Holders or to such Person and to such address as the Holder or joint Holders may in Writing direct;

- 38.12.2 by any direct debit, bank or other funds transfer system to the Holder or Person entitled to payment or, if practicable, to a Person designated by Notice to the Company by the Holder or Person entitled to payment; or
- 38.12.3 by any other method approved by the Board and agreed (in such form as the Company thinks appropriate) by the Holder or Person entitled to payment including without limitation in respect of an uncertificated share by means of the relevant system (subject to the facilities and requirements of the relevant system).
- 38.13 Payment of a cheque or warrant by the bank on which it was drawn or the transfer of funds by the bank instructed to make the transfer or, in respect of an uncertificated share, the making of payment in accordance with the facilities and requirements of the relevant system (which, if the relevant system is CREST, may include the sending by the Company or by any person on its behalf of an instruction to the Operator of the relevant system to credit the cash memorandum account of the Holder or joint Holders or if permitted by the Company, of such Person as the Holder or joint Holders may in Writing direct) shall be a good discharge to the Company. Every transfer of funds made by the relevant bank or system in accordance with these Articles shall be at the risk of the Holder or Person entitled. The Company shall have no responsibility for any sums lost or delayed in the course of payment by any other method used by the Company in accordance with Article 38.12.
- 38.14 All unclaimed dividends may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed. No dividend shall bear interest as against the Company.
- 38.15 Any dividend which has remained unclaimed for a period of ten years from the date of declaration thereof shall if the Directors so resolve be forfeited and cease to remain owing by the Company and shall thenceforth belong to the Company absolutely.

39. **CAPITALISATION OF PROFITS**

The Directors may with the authority of an Ordinary Resolution of the Company:

- 39.1 subject as hereinafter provided, resolve that it is desirable to capitalise any undistributed profits of the Company (including profits carried and standing to any reserve or reserves) not required for paying any fixed dividends on any shares entitled to fixed preferential dividends with or without further participation in profits or to capitalise any sum carried to reserve as a result of the sale or revaluation of the assets of the Company (other than goodwill) or any part thereof or to capitalise any other sum standing to the credit of any capital or revenue reserve fund of the Company;
- 39.2 appropriate the profits or sum resolved to be capitalised to the Members in the proportion in which such profits or sum would have been divisible amongst them had the same been applicable and had been applied in paying dividends and to apply such profits or sum on their

behalf either in or towards paying up any amount for the time being unpaid on any shares held by such Members respectively or in paying up in full any unissued shares or debentures of the Company such shares or debentures to be allotted and distributed credited as fully Paid Up to and amongst such Members in the proportions aforesaid or partly in one way and partly in the other provided that any unrealised profits may for the purposes of this Article only be applied in the paying up of unissued shares to be allotted to Members credited as fully Paid Up;

39.3 make all appropriations and applications of the profits or sum resolved to be capitalised thereby and all allotments and issues of fully paid shares or debentures if any and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provision by the issue of certificates representing part of a shareholding or fractions of shares or by payments in cash or otherwise as they think fit in the case of shares or debentures becoming distributable in fractions;

39.4 authorise any Person to enter on behalf of all the Members entitled to the benefit of such appropriations and applications into an agreement with the Company providing for the allotment to them respectively credited as fully Paid Up of any further shares or debentures to which they may be entitled upon such capitalisation and any agreement made under such authority shall be effective and binding on all such Members; and

39.5 where, pursuant to this Article 39, the Company capitalises any undistributed profits or reserves by applying them in or towards paying up issued shares in the Company which were not yet fully Paid Up or in paying up any previously unissued shares in the Company, the amount so applied shall, to the extent required by the Law, be credited to the stated capital account in respect of the class of share concerned.

40. **ACCOUNTS AND AUDIT**

40.1 The Company shall keep accounting records which are sufficient to show and explain the Company's transactions and are such as to:

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

40.1.2 enable the Directors to ensure that any accounts prepared by the Company comply with requirements of the Law.

40.2 The Directors shall prepare accounts of the Company made up to such date in each year as the Directors shall from time to time determine in accordance with and subject to the provisions of the Law.

- 40.3 No Member shall (as such) have any right to inspect any accounting records or other book or document of the Company except as conferred by the Law or authorised by the Directors or by Ordinary Resolution of the Company.
- 40.4 The Directors shall deliver to the Registrar of Companies a copy of the accounts of the Company signed on behalf of the Directors by one of them together with a copy of the report thereon by the Auditors in accordance with the Law.
- 40.5 The Directors or the Company by Ordinary Resolution shall appoint Auditors for any period or periods to examine the accounts of the Company and to report thereon in accordance with the Law.

41. **NOTICES**

- 41.1 In the case of joint Holders of a share all Notices shall be given to that one of the joint Holders whose name stands first in the Register in respect of the joint holding and Notice so given shall be sufficient Notice to all the joint Holders.
- 41.2 A Notice may be given to any Person either personally or by sending it by post to him at his registered address. Where a Notice is sent by post service of the Notice shall be deemed to be effected by properly addressing prepaying and posting a letter containing the Notice and to have been effected one Clear Day after the day it was posted.
- 41.3 Any Member Present at any meeting of the Company shall for all purposes be deemed to have received due Notice of such meeting and where requisite of the purposes for which such meeting was convened.
- 41.4 A Notice may be given by the Company to the Persons entitled to a share in consequence of the death, bankruptcy or incapacity of a Member by sending or delivering it in any manner authorised by these Articles for the giving of Notice to a Member addressed to them by name or by the title of representatives of the deceased or trustee of the Bankrupt or curator of the Member or by any like description at the address if any supplied for that purpose by the Persons claiming to be so entitled. Until such an address has been supplied a Notice may be given in any manner in which it might have been given if the death, bankruptcy or incapacity had not occurred. If more than one Person would be entitled to receive a Notice in consequence of the death, bankruptcy or incapacity of a Member Notice given to any one of such Persons shall be sufficient Notice to all such Persons.
- 41.5 Notwithstanding any of the provisions of these Articles any Notice to be given by the Company to a Director or to a Member may be given in any manner agreed in advance by any such Director or Member.

42. **WINDING UP**

- 42.1 Subject to any particular rights or limitations for the time being attached to any shares as may be specified in these Articles or upon which such shares may be issued if the Company is wound up, the assets available for distribution among the Members shall be applied first in repaying to the Members the amount Paid Up on their shares respectively and if such assets shall be more than sufficient to repay to the Members the whole amount Paid Up on their shares the balance shall be distributed among the Members in proportion to the amount which at the time of the commencement of the winding up had been actually Paid Up on their said shares respectively.
- 42.2 If the Company is wound up, the Company may with the sanction of a Special Resolution and any other sanction required by the Law divide the whole or any part of the assets of the Company among the Members in specie and the liquidator or where there is no liquidator the Directors may for that purpose value any assets and determine how the division shall be carried out as between the Members or different classes of Members and with the like sanction vest the whole or any part of the assets in trustees upon such trusts for the benefit of the Members as the liquidator or the Directors (as the case may be) with the like sanction determine but no Member shall be compelled to accept any assets upon which there is a liability.

43. **INDEMNITY**

- 43.1 In so far as the Law allows, every present or former Officer of the Company shall be indemnified out of the assets of the Company against any loss or liability incurred by him by reason of being or having been such an Officer.
- 43.2 Subject to the Law and such terms as may be agreed between the Company and the Officer, the Company shall advance such funds as is necessary to enable such Officer to defend any civil or criminal claim brought against such Officer of the Company arising out of or in connection with the performance of his duties as an Officer of the Company.
- 43.3 The Directors may without sanction of the Company in general meeting authorise the purchase or maintenance by the Company for any Officer or former Officer of the Company of any such insurance as is permitted by the Law in respect of any liability which would otherwise attach to such Officer or former Officer.

44. **NON-APPLICATION OF STANDARD TABLE**

The regulations constituting the Standard Table prescribed pursuant to the Law shall not apply to the Company and are hereby expressly excluded in their entirety.