

BYE-LAWS  
OF  
FLOW TRADERS LTD.

The undersigned HEREBY CERTIFIES that the attached Bye-Laws are a true copy of the Bye-Laws of **Flow Traders Ltd. (Company)** adopted upon continuance of the Company into Bermuda effective [date].

.....

Director

**BYE-LAWS OF Flow Traders Ltd.**

**INDEX**

<b>Bye-Law</b>	<b>Page</b>
1. DEFINITIONS AND INTERPRETATION .....	1
2. REGISTERED OFFICE; OFFICES .....	6
3. SHARE CAPITAL .....	6
4. MODIFICATION OF RIGHTS .....	7
5. SHARES .....	8
6. CERTIFICATES .....	9
7. REGISTER OF SHAREHOLDERS .....	10
8. REGISTER OF DIRECTORS AND OFFICERS .....	11
9. TRANSFER OF SHARES .....	11
10. TRANSMISSION OF SHARES .....	12
11. PUBLIC OFFERS .....	13
12. INCREASE OF CAPITAL .....	18
13. ALTERATION OF CAPITAL .....	18
14. REDUCTION OF CAPITAL .....	19
15. GENERAL MEETINGS AND RESOLUTIONS IN WRITING .....	19
16. NOTICE OF GENERAL MEETINGS .....	20
17. PROCEEDINGS AT GENERAL MEETINGS .....	20
18. VOTING .....	23
19. PROXIES AND CORPORATE REPRESENTATIVES .....	25
20. REFLECTION PERIOD .....	27
21. ELECTION; REMOVAL; SUSPENSION OF DIRECTORS .....	29
22. RESIGNATION AND DISQUALIFICATION OF DIRECTORS .....	32
23. ALTERNATE DIRECTORS .....	32
24. DIRECTORS' INTERESTS .....	33
25. POWERS AND DUTIES OF THE BOARD .....	34
26. REMUNERATION, FEES, GRATUITIES AND PENSIONS .....	35
27. DELEGATION OF THE BOARD'S POWERS .....	36
28. PROCEEDINGS OF THE BOARD .....	37
29. OFFICERS .....	38
30. MINUTES .....	39
31. SECRETARY AND RESIDENT REPRESENTATIVE .....	39

32. THE SEAL.....39

33. DIVIDENDS AND OTHER PAYMENTS ..... 40

34. RESERVES.....42

35. CAPITALISATION OF PROFITS.....42

36. RECORD DATES .....42

37. ACCOUNTING RECORDS .....43

38. AUDIT ..... 44

39. SERVICE OF NOTICES AND OTHER DOCUMENTS ..... 44

40. DESTRUCTION OF DOCUMENTS .....45

41. UNTRACED SHAREHOLDERS.....46

42. WINDING UP.....47

43. INDEMNITY AND INSURANCE .....47

44. AMALGAMATION AND MERGER ..... 48

45. CONTINUATION .....49

46. ALTERATION OF BYE-LAWS.....49

47. EXPERT DETERMINATION .....49

**BYE-LAWS**

**OF**

**FLOW TRADERS LTD.**

(Adopted upon continuance into Bermuda effective [date])

**1. DEFINITIONS AND INTERPRETATION**

1.1 In these Bye-Laws, unless the context otherwise requires, the following terms have the meanings given below:

<b>Act</b>	the Companies Act 1981
<b>Affiliate</b>	with respect to any person, any other person which directly or indirectly controls, or is under common control with, or is controlled by, such person, including, if such person is an individual, any relative or spouse of such person, or any relative of such spouse of such person, any one of whom has the same home as such person, and also including any trust or estate for which any such person(s) specified herein, directly or indirectly, serves as a trustee, executor or in a similar capacity (including any protector or settlor of a trust) or in which such person(s) specified herein, directly or indirectly, has a substantial (being greater than ten per cent (10%)) beneficial interest and any person who is controlled by any such trust or estate. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean, with respect to any person, the possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract, or otherwise) of such person; provided, however, that for the purposes of this definition, neither the Company nor any of its Controlled Affiliates shall be deemed Affiliates of any Shareholder
<b>Auditor</b>	the person or firm for the time being appointed as auditor of the Company
<b>Bermuda</b>	the Islands of Bermuda
<b>Board</b>	the Directors of the Company appointed or elected pursuant to these Bye-Laws and acting by resolution as provided for in the Companies Acts and in these Bye-Laws or the Directors present at a meeting of Directors at which there is a quorum
<b>Bye-Laws</b>	the bye-laws of the Company in their present form

<b>clear days</b>	means, in relation to the period of a notice, that period excluding both the day on which the notice is given or served, or deemed to be given or served, and the day for which it is given or on which it is to take effect and <b>'clear business days'</b> shall mean the same provided that, for a day to be counted, it must be a day on which banks are generally open for business in each of Hamilton, Bermuda and Amsterdam, The Netherlands
<b>Companies Acts</b>	every Bermuda statute from time to time in force concerning companies insofar as the same applies to the Company and includes the Act
<b>Company</b>	Flow Traders Ltd., an exempted company limited by shares registered in Bermuda by way of continuance on [date]
<b>Common Shares</b>	the class of shares in the capital of the Company designated as "Common Shares"
<b>Concert Parties</b>	natural persons, legal entities or partnerships with whom there is cooperation on the basis of an agreement with the aim of acquiring Predominant Control, or if the cooperation takes place with the Company, with the aim to thwart the success of an announced public offer for the Company; the following categories of natural persons, legal persons or partnerships are in any case deemed to be Concert Parties: (i) legal persons or partnerships that together form part of a Group and (ii) natural persons, legal entities or partnerships and their Controlled Affiliates
<b>Controlled Affiliate</b>	with respect to any person, any Affiliate of such person in which such person owns or controls, directly or indirectly, securities having more than fifty per cent (50%) of the voting power for the election of directors or other governing body thereof or more than fifty per cent (50%) of the partnership or other ownership interests therein (other than as a limited partner)
<b>Director</b>	any person duly elected or appointed as a director of the Company, and any person occupying the position of director of the Company by whatever name called
<b>Dutch Statutory Giro System</b>	the giro system as referred to in the Giro Act
<b>Electronic Record</b>	has the same meaning as in the Electronic Transactions Act 1999
<b>Euroclear Nederland</b>	Nederlands Centraal Instituut voor Giraal Effectenverkeer B.V., acting under the trade name Euroclear Nederland, being the central institution as referred to in the Giro Act

<b>Executive Director</b>	any Director that is also an Officer or employee of the Company
<b>Expert(s)</b>	one or more experts appointed in accordance with Bye-Law 47
<b>Giro Act</b>	the Dutch Securities Bank Giro Transaction Act ( <i>Wet giraal effectenverkeer</i> )
<b>Group</b>	has the meaning given to it in Bye-Law 11.2(b)
<b>Indemnified Person</b>	any Director, Officer, Resident Representative, member of a committee duly constituted under these Bye-Laws and any liquidator, manager or trustee for the time being acting in relation to the affairs of the Company (including anyone previously acting in such capacity), and their heirs, executors and administrators, personal representatives or successors or assigns
<b>Independent Director</b>	any Non-Executive Director who has not been determined by the Board to be a non-independent Non-Executive Director
<b>Intermediary</b>	an intermediary as referred to in the Giro Act
<b>meeting date</b>	has the meaning given to it in Bye-Law 36.2
<b>Non-Executive Director</b>	any Director that is not an Executive Director
<b>Offer Price</b>	has the meaning given to it in Bye-Law 11.12(d)
<b>Officer</b>	a person appointed by the Board to have an office in the Company pursuant to these Bye-Laws
<b>paid up</b>	paid up or credited as paid up
<b>Predominant Control</b>	the power to exercise at least thirty per cent (30%) of the voting rights in the general meeting of Shareholders
<b>Predominant Control Shares</b>	has the meaning given to it in Bye-Law 11.10
<b>record date</b>	has the meaning given to it in Bye-Law 36.2
<b>record date holder</b>	has the meaning given to it in Bye-Law 36.2(a)
<b>Reflection Period</b>	has the meaning given to it in Bye-Law 20.1
<b>Register</b>	the register of shareholders referred to in these Bye-Laws (including any branch register of shareholders maintained by the Company) in each case

	as maintained in accordance with the Act
<b>Registered Office</b>	the registered office for the time being of the Company in Bermuda
<b>Relationship Agreement</b>	means the relationship agreement entered into by the Company with Javak Investments B.V. and Avalon Holding B.V. dated [date] as amended from time to time
<b>relevant shares</b>	has the meaning given to it in Bye-Law 36.2(b)
<b>Requesting Shareholder</b>	has the meaning given to it in Bye-Law 20.5
<b>Resident Representative</b>	(if any) the individual or the company appointed to perform the duties of resident representatives set out in the Companies Acts for the time being and includes any assistant or deputy Resident Representative appointed by the Board to perform any of the duties of the Resident Representative
<b>Resolution</b>	a resolution of the Shareholders passed in a general meeting or otherwise in accordance with the provisions of these Bye-Laws. Unless otherwise specified in these Bye-Laws, a Resolution shall be passed by an affirmative vote (on a “for” and “against” basis) of a simple majority of the votes cast at the meeting, provided that, for the avoidance of doubt, blank, withheld, or otherwise invalid votes shall not be counted as votes
<b>Seal</b>	the common seal of the Company (if any), which includes every authorised duplicate seal
<b>Secretary</b>	the secretary for the time being of the Company and any person appointed to perform any of the duties of the secretary
<b>share</b>	a share in the capital of the Company, which includes a treasury share and a fraction of a share
<b>Shareholder</b>	a shareholder or member of the Company, provided that for the purposes of Bye-Law 43.4 it shall also include any holder of notes, debentures or bonds issued by the Company
<b>Specified Place</b>	the place, if any, specified in the notice of any meeting of the Shareholders, or adjourned meeting of the Shareholders, at which the chairman of the meeting shall preside
<b>Stakeholder Interests</b>	has the meaning given to it in Bye-Law 25.3(a)
<b>Unanimous Quorum Resolutions</b>	has the meaning given to it in Bye-Law 17.2(a)

- 1.2 For the purposes of these Bye-Laws, a corporation which is a Shareholder shall be deemed to be present in person at a general meeting if its authorised representative(s) is/are present.
- 1.3 Words importing the singular number include the plural number and vice versa.
- 1.4 Words importing persons include any company or association or body of persons, whether incorporated or unincorporated and natural persons.
- 1.5 Any reference to a gender includes all genders and non-binary natural persons.
- 1.6 Any reference to writing includes all modes of representing or reproducing words in a visible form, including in the form of an Electronic Record.
- 1.7 Unless the context otherwise requires, words and expressions defined in the Companies Acts bear the same meanings in these Bye-Laws.
- 1.8 Headings are used for convenience only and shall not affect the construction of these Bye-Laws.
- 1.9 A reference to anything being done by electronic means includes its being done by means of any electronic or other communications equipment or facilities and reference to any communication being delivered or received, or being delivered or received at a particular place, includes the transmission of an Electronic Record to a recipient identified in such manner or by such means as the Board may from time to time approve or prescribe, either generally or for a particular purpose.
- 1.10 A reference to a signature or to anything being signed or executed include such forms of electronic signature or other means of verifying the authenticity of an Electronic Record as the Board may from time to time approve or prescribe, either generally or for a particular purpose.
- 1.11 A reference to any statute or statutory provision (whether in Bermuda or elsewhere) includes a reference to any modification or re-enactment of it for the time being in force and to every rule, regulation or order made under it (or under any such modification or re-enactment) and for the time being in force and any reference to any rule, regulation or order made under any such statute or statutory provision includes a reference to any modification or replacement of such rule, regulation or order for the time being in force.
- 1.12 All references to “outstanding” in relation to the shares mean that such shares have been issued by the Company and have not been purchased by the Company pursuant to Bye-Law 3.3 and registered in the Register in the Company's name, held in a securities account in the Company's name, or are otherwise beneficially owned by the Company.
- 1.13 In these Bye-Laws:
- (a) powers of delegation shall not be restrictively construed but the widest interpretation shall be given thereto;
  - (b) the word Board in the context of the exercise of any power contained in these Bye-Laws includes



any committee consisting of one or more Directors, any Executive Director and any local or divisional Board, manager or agent of the Company to which or, as the case may be, to whom the power in question has been delegated by the Board;

- (c) no power of delegation shall be limited by the existence or, except where expressly provided by the terms of delegation, the exercise of any other power of delegation; and
- (d) except where expressly provided by the terms of delegation, the delegation of a power shall not exclude the concurrent exercise of that power by any other body or person who is for the time being authorised to exercise it under these Bye-Laws or under another delegation of the powers.

## 2. REGISTERED OFFICE; OFFICES

- 2.1 **Registered Office.** The Registered Office shall be at such place in Bermuda as the Board shall from time to time appoint.
- 2.2 **Offices.** The Company may have other offices, both within and without Bermuda, as the Board from time to time shall determine or the business of the Company may require.

## 3. SHARE CAPITAL

- 3.1 **Authorised Share Capital.** The authorised share capital of the Company at the date of adoption of these Bye-Laws is €[●] divided into 100,000,000 Common Shares of par value €[●] each.<sup>1</sup>
- 3.2 **Common Shares.** The rights, privileges, restrictions and conditions attaching to the Common Shares, as a class, are as follows:

- (a) **Dividends:**

The holders of outstanding Common Shares shall be entitled to receive dividends, on a pari passu and pro rata basis based on the number of Common Shares from time to time outstanding, as and when declared by the Board on the Common Shares as a class.

- (b) **Liquidation:**

The holders of outstanding Common Shares shall be entitled in the event of any liquidation, winding-up, or return of assets on a reduction of capital or otherwise, whether voluntary or involuntary, to share on a pari passu and pro rata basis based on the number of Common Shares from time to time outstanding in such assets of the Company as are available for distribution.

- (c) **Voting:**

The holders of outstanding Common Shares shall be entitled (i) to receive notice of and to attend

---

<sup>1</sup> The authorised share capital will consist of 100,000,000 Common Shares with the same par value as the nominal value of each share in the share capital of Flow Traders N.V. following the increase thereof, as further explained in the shareholders circular, to a value with a maximum of EUR 3.60.

any meeting of the Shareholders and (ii) to one (1) vote per Common Share held at any meeting of the Shareholders.

3.3 **Purchase of Shares.** The Board may, after prior authorisation by Resolution and within the limits of such authorisation, authorise the purchase by the Company of its own shares, of any class, at any price (whether at par or above or below par), and any shares to be so purchased may be selected in any manner whatsoever, upon such terms as the Board may in its discretion determine, provided always that such purchase is effected in accordance with the provisions of the Companies Acts. The authorisation by Resolution referred to in the preceding sentence cannot be withdrawn, unless determined otherwise at the time of the adoption of the Resolution. No authorisation by Resolution is required for the acquisition by the Company of its own shares for no consideration or for the purpose of transferring those shares to a participant under any applicable equity compensation plan of the Company or a company in the Company's Group. The whole or any part of the amount payable on any purchase may be paid or satisfied otherwise than in cash, to the extent permitted by the Companies Acts.

3.4 **Treasury Shares.** The Company shall not exercise any rights and shall not enjoy any or participate in any of the rights attaching to shares, registered in the Register in the Company's name, held in a securities account in the Company's name, or otherwise beneficially owned by the Company, unless the Companies Acts or these Bye-Laws expressly provide otherwise.

#### 4. MODIFICATION OF RIGHTS

4.1 **Modification of Rights.** Subject to the Companies Acts, all or any of the special rights for the time being attached to any class of shares for the time being issued may from time to time (whether or not the Company is being wound up) be altered or abrogated with the sanction of a Resolution passed at a general meeting of the holders of such class of shares voting in person or by proxy. To any such separate general meeting, all the provisions of these Bye-Laws as to general meetings of the Company shall mutatis mutandis apply, but so that the necessary quorum shall be two (2) or more persons holding or representing by proxy at least twenty per cent (20%) of the shares of the relevant class, that every holder of shares of the relevant class shall be entitled on a poll to one vote for every such share held by him and that any holder of shares of the relevant class present in person or by proxy may demand a poll, provided, however, that if the Company or a class of Shareholders shall have only one Shareholder, one Shareholder present in person or by proxy shall constitute the necessary quorum.

4.2 **No Deemed Alteration.** For the purposes of this Bye-Law, unless otherwise expressly provided by the rights attached to any shares or class of shares, those rights attaching to any class of shares for the time being shall not be deemed to be altered by:

- (a) the creation or issue of further shares ranking *pari passu* with them;
- (b) the creation or issue for full value (as determined by the Board) of further shares ranking as regards participation in the profits, dividends, distributions, or assets of the Company or otherwise in priority to them; or
- (c) the purchase or redemption by the Company of any of its own shares.

## 5. SHARES

5.1 **Fully Paid Shares.** The Company may only issue fully paid shares.

### 5.2 **Issue of Shares.**

- (a) Subject to the provisions of these Bye-Laws and notwithstanding Bye-Law 5.2(b), the Company may only allot or issue shares, or grant rights to subscribe for shares (other than treasury shares) as authorised by Resolution and within the limits of such authorisation, which authorisation cannot be withdrawn, unless determined otherwise at the time of the adoption of the Resolution.
- (b) Subject to the provisions of these Bye-Laws (including, for greater certainty, Bye-Law 5.2(a)), the unissued shares of the Company (whether forming part of the original capital or any increased capital) shall be at the disposal of the Board, which may issue, offer, allot, grant a right to subscribe for such shares or otherwise dispose of them to such persons, at such times and for such consideration and upon such terms and conditions as the Board may determine. Subject to the rights, privileges and conditions attached to any class of shares in issue, the Board may, from time to time, re-designate any class of shares as any other class of shares.

### 5.3 **Pre-Emptive Rights.**

- (a) Unless the Board excludes or limits pre-emptive rights in accordance with a prior authorisation granted by Resolution to be adopted with at least two thirds of the votes cast if less than half of the then outstanding shares that are entitled to vote on the matter is represented during such meeting, which authorisation cannot be withdrawn, unless determined otherwise at the time of the adoption of the Resolution, if the Company proposes to issue or allot any shares or grant a right to subscribe for shares (other than shares allotted or issued in connection with an equity compensation plan, for consideration other than cash, or to persons exercising previously granted rights to subscribe for shares), those shares or rights shall not be allotted, issued or granted to any person unless the Company has first offered them to all Shareholders on the same terms, and at the same price, as those shares or rights are being offered to other persons on a pari passu and pro rata basis to the number of shares held by those holders (as nearly as possible without involving fractions and subject to Bye-Law 5.3(b)).
- (b) The Board shall be authorised to set the terms of such offering of shares or rights to subscribe for shares to all Shareholders and may make such arrangements as the Board may deem necessary or practical in relation to, without limitation, record dates, fractional entitlements, taking away practical or legal impediments under applicable law or complying with requirements of any jurisdiction or regulatory body.
- (c) If the Company is required to offer shares or to grant rights to acquire shares to all Shareholders pursuant to Bye-Law 5.3(a), the general meeting may exclude or limit these pre-emptive rights with a prior Resolution, provided that if less than half of the then outstanding shares that are entitled to vote on the matter is represented during such meeting, the Resolution can only be adopted with at least two thirds of the votes cast.

- 5.4 **Treasury Shares.** Subject to the provisions of these Bye-Laws, any shares of the Company held by the Company as treasury shares shall be at the disposal of the Board, which may hold all or any of the shares, dispose of or transfer all or any of the shares for cash or other consideration, or cancel all or any of the shares.
- 5.5 **Commissions and Brokerage.** The Board may in connection with the issue of any shares exercise all powers of paying commission and brokerage conferred or permitted by law. Subject to the provisions of the Companies Acts, any such commission or brokerage 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.
- 5.6 **Fractional Shares.** Unless otherwise determined by the Board, shares may be issued in fractional denominations and in such event the Company shall deal with such fractions to the same extent as its whole shares, so that a share in a fractional denomination shall have, in proportion to the fraction of a whole share that it represents, all the rights of a whole share, including (but without limiting the generality of the foregoing) the right to vote, to receive dividends and distributions and to participate in a winding-up.
6. **CERTIFICATES**
- 6.1 **Share Certificates.** No share certificates shall be issued by the Company unless, in respect of a class of shares, the Board has either for all or for some holders of such shares (who may be determined in such manner as the Board thinks fit) determined that the holder of such shares may be entitled to share certificates. In the case of a share held jointly by several persons, delivery of a certificate to one of several joint holders shall be sufficient delivery to all.
- 6.2 **Share Certificates, lost or destroyed.** If a share certificate is defaced, lost or destroyed, it may be replaced without fee but on such terms (if any) as to evidence and indemnity and to payment of the costs and out of pocket expenses of the Company in investigating such evidence and preparing such indemnity as the Board may think fit and, in case of defacement, on delivery of the old certificate to the Company.
- 6.3 **Certificates, form and execution.** All certificates for share or loan capital or other securities of the Company (other than letters of allotment, scrip certificates and other like documents) shall, except to the extent that the terms and conditions for the time being relating thereto otherwise provide, be in such form as the Board may determine (including, without limitation, in the form of Electronic Records) and issued under the Seal or signed by a Director, the Secretary or any person authorised by the Board for that purpose. The Board may by resolution determine, either generally or in any particular case, that any signatures on any such certificates need not be autographic but may be affixed to such certificates by some mechanical or electronic means or may be printed thereon or that such certificates need not be signed by any persons, or may determine that a representation of the Seal may be printed on any such certificates. If any person holding an office in the Company who has signed, or whose facsimile signature has been used on, any certificate ceases for any reason to hold their office, such certificate may nevertheless be issued as though that person had not ceased to hold such office.

- 6.4 **Evidence and Transfer.** Nothing in these Bye-Laws shall prevent title to any securities of the Company from being evidenced and/or transferred without a written instrument in accordance with regulations made from time to time in this regard under the Companies Acts, and the Board shall have power to implement any arrangements which it may think fit for such evidencing and/or transfer which accord with those regulations or the Companies Acts.
- 6.5 **Electronic and Book-Based Registers.** The Board may by resolution decide that holders of the Company's securities will have their holdings of securities of the Company evidenced by an electronic, book-based, direct registration service or other non-certificated entry or position on, in the case of Shareholders, the Register or, in the case of other securities of the Company, a register of securityholders to be kept by the Company in place of a physical security certificate, in each case, pursuant to a registration system that may be adopted by the Company, in conjunction with its transfer agent (if any). This Bye-Law shall be read such that a registered holder of securities of the Company pursuant to any such electronic, book-based, direct registration service or other non-certificated entry or position shall be entitled to all of the same benefits, rights, entitlements and shall incur the same duties and obligations as a registered holder of securities evidenced by a physical security certificate. The Board and the Company's transfer agent may adopt such policies and procedures and require such documents and evidence as they may determine necessary or desirable in order to facilitate the adoption and maintenance of such a registration system by electronic, book based, direct registration system or other non-certificated means.
7. **REGISTER OF SHAREHOLDERS**
- 7.1 **Register.** The Register shall be kept at the Registered Office or at such other place in Bermuda as the Board may from time to time direct, in the manner prescribed by the Companies Acts. Subject to the provisions of the Companies Acts, the Company may keep one or more overseas or branch registers in any place, and the Board may make, amend and revoke any such regulations as it may think fit respecting the keeping of such registers. The Board may authorise any share on the Register to be included in a branch register or any share registered on a branch register to be registered on another branch register, provided that at all times the Register is maintained in accordance with the Companies Acts.
- 7.2 **Registration of Shareholders.** In the event shares have been transferred to an Intermediary for the admission into a collective deposit or to Euroclear Nederland for the admission into a giro depot as referred to in the Giro Act, such shares shall be registered in the Register in the name of the Intermediary or Euroclear Nederland respectively.
- 7.3 **Closing of Register.** The Register or any branch register may be closed at such times and for such period as the Board may from time to time decide, subject to the Companies Acts. Except during such time as it is closed, the Register and each branch register shall be open to inspection in the manner prescribed by the Companies Acts between 10:00 a.m. and 12:00 noon (or between such other times as the Board from time to time determines) on every working day. Unless the Board so determines, no Shareholder or intending Shareholder shall be entitled to have entered in the Register or any branch register any indication of any trust or any equitable, contingent, future or partial interest in any share or any fractional part of a share.

## 8. REGISTER OF DIRECTORS AND OFFICERS

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

## 9. TRANSFER OF SHARES

### 9.1 Instrument of Transfer.

- (a) Subject to the Companies Acts and to such of the exceptions and restrictions contained in these Bye-Laws as may be applicable, any Shareholder may transfer all or any of their shares by an instrument of transfer in the usual common form or in any other form, including without limitation in accordance with the common procedures for transfers within the Dutch Statutory Giro System.
- (b) The instrument of transfer of a share shall be signed by or on behalf of the transferor. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof. All instruments of transfer when registered may be retained by the Company. The Board may decline to register any transfer unless:
  - (i) the instrument of transfer is duly stamped (if required by law) and lodged with the Company, at such place as the Board shall appoint for the purpose, accompanied by the certificate for the shares (if any has been issued) to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer,
  - (ii) the instrument of transfer is in respect of only one class of share,
  - (iii) the instrument of transfer is in favour of less than five (5) persons jointly; and
  - (iv) it is satisfied that all applicable consents, authorisations, permissions or approvals of any governmental body or agency in Bermuda or any other applicable jurisdiction required to be obtained under relevant law prior to such transfer have been obtained.

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

9.3 **Declining a Transfer.** If the Board declines to register a transfer it shall, within three (3) months after the date on which the instrument of transfer was lodged, send to the transferee notice of such refusal.

9.4 **Fees for Transfer.** No fee shall be charged by the Company for registering any transfer, probate, letters of administration, certificate of death or marriage, power of attorney, order of court or other instrument relating to or affecting the title to any share, or otherwise making an entry in the Register relating to any share (except that the Company may require payment of a sum sufficient to cover any tax or other

governmental charge that may be imposed on it in connection with such transfer or entry).

9.5 **Settlement Facilities.** Notwithstanding any provisions of these Bye-Laws, the Board shall, subject always to the Companies Acts and other applicable laws and the facilities and requirements of any relevant trading or settlement system concerned, including the Dutch Statutory Giro System, have power to implement any arrangements it may, in its absolute discretion, think fit in relation to the settlement of transactions of whatever nature concerning such shares in accordance with such trading or settlement system. To the extent such arrangements are so implemented, no provision of these Bye-Laws shall apply or have effect to the extent that it is in any respect inconsistent with the requirements of such system.

## 10. TRANSMISSION OF SHARES

10.1 **Representatives on Death.** In the case of the death of a Shareholder, the survivor or survivors, where the deceased was a joint holder, and the estate representative, where they was sole holder, shall be the only person recognised by the Company as having any title to their shares; but nothing herein contained shall release the estate of a deceased holder (whether the sole or joint) from any liability in respect of any share held by him solely or jointly with other persons. For the purpose of this Bye-Law, estate representative means the person to whom probate or letters of administration has or have been granted in Bermuda or, failing any such person, such other person as the Board may in its absolute discretion determine to be the person recognised by the Company for the purpose of this Bye-Law.

### 10.2 Entitlement on Death.

(a) Any person becoming entitled to a share in consequence of the death of a Shareholder or otherwise by operation of applicable law may, subject as hereafter provided and upon such evidence being produced as may from time to time be required by the Board as to their entitlement, either be registered themselves as the holder of the share or elect to have some person nominated by him registered as the transferee thereof. If the person so becoming entitled elects to be registered himself, they shall deliver or send to the Company a notice in writing signed by him stating that they so elect. If they shall elect to have their nominee registered, they shall signify their election by signing an instrument of transfer of such share in favour of their nominee. All the limitations, restrictions and provisions of these Bye-Laws relating to the right to transfer and the registration of transfer of shares shall be applicable to any such notice or instrument of transfer as aforesaid as if the death of the Shareholder or other event giving rise to the transmission had not occurred and the notice or instrument of transfer was an instrument of transfer signed by such Shareholder.

(b) A person becoming entitled to a share in consequence of the death of a Shareholder or otherwise by operation of applicable law shall (upon such evidence being produced as may from time to time be required by the Board as to their entitlement) be entitled to receive and may give a discharge for any dividends or other monies payable in respect of the share, but they shall not be entitled in respect of the share to receive notices of or to attend or vote at general meetings of the Company or, save as aforesaid, to exercise in respect of the share any of the rights or privileges of a Shareholder until they shall have become registered as the holder thereof. The

Board may at any time give notice requiring such person to elect either to be registered themselves or to transfer the share and, if the notice is not complied with within sixty (60) clear days, the Board may thereafter withhold payment of all dividends and other monies payable in respect of the shares until the requirements of the notice have been complied with.

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

## 11. PUBLIC OFFERS

11.1 For as long as shares have been admitted to a regulated market in the European Economic Area, a person who, either on its own or together with Concert Parties, acquires, either directly or indirectly, Predominant Control, shall, without delay make a public announcement thereof and shall within thirty (30) days of obtaining such Predominant Control, make a public offer to all holders of shares to acquire all issued shares.

11.2 Bye-Law 11.1 shall not apply to a person who:

- (a) acquires Predominant Control by declaring that a public offer concerning all shares is unconditional (which for greater certainty can only occur after shares have been tendered in a public offer), if, as a result of such public offer becoming unconditional, it can exercise more than fifty per cent (50%) of the voting rights in the general meeting of Shareholders;
- (b) acquires Predominant Control in the context of a transfer of the interest conferring Predominant Control between legal entities that form an economic unit and which are organisationally linked (**Group**) or pursuant to a transfer between a legal entity or partnership and its Controlled Affiliate;
- (c) acquires Predominant Control while the Company has been granted a provisional suspension of payments or has been adjudicated bankrupt;
- (d) acquires Predominant Control by means of hereditary succession;
- (e) acquires Predominant Control simultaneously with the acquisition of Predominant Control by one or more persons, on the understanding that the obligation referred to in Bye-Law 11.1 shall be incumbent on the person that can exercise the greatest number of voting rights;
- (f) has Predominant Control at the moment the shares are admitted to trading on a regulated market in the European Economic Area for the first time;
- (g) is a custodian and holds shares in that capacity, insofar as it may not exercise the voting rights attached to the shares at its own discretion;



- (h) acquires Predominant Control by entering into a marriage, registered partnership or similar recognized union between spouses or partners with a person who already has Predominant Control; or
  - (i) is a sovereign state, or a legal entity designated for this purpose by such sovereign state, that acquires Predominant Control with the objective of safeguarding the stability of the financial system in the public interest.
- 11.3 Bye-Law 11.1 shall furthermore not apply to persons who, on their own or together with persons with whom they act in mutual consultation, acquire, directly or indirectly Predominant Control:
- (a) if, prior to the acquisition but not longer than three (3) months prior thereto, the general meeting of Shareholders has given its consent thereto by Resolution adopted with not less than ninety per cent (90%) of the votes cast (excluding the acquirer and persons with whom he acts in mutual consultation);
  - (b) to the extent that the general meeting of Shareholders in which the acquisition of Predominant Control is approved in the manner referred to under 11.3(a) consents to any subsequent acquisition of shares by the same acquirer or by one of the persons with whom he acts in mutual consultation;
  - (c) as a result of the taking over, in the conduct of a profession or business, of shares on offer pursuant to an underwriting arrangement on a firm commitment basis, if the acquirer does not exercise voting rights in respect of such shares, provided that this exemption shall apply only during one (1) year from the time Predominant Control is obtained; or
  - (d) as a result of an unconditional agreement between a person holding securities and an offeror who satisfies the following criteria:
    - (i) in the agreement the holder of the shares irrevocably undertakes, within the framework of a planned public offer or offer that is in preparation, to offer those shares to the offeror after the public offer has been made;
    - (ii) the duration of the agreement is limited to the date on which the public offer becomes unconditional; and
    - (iii) in the agreement the holder of the shares undertakes, as regards the exercise of his voting rights in the general meeting of Shareholders, to exclusively:
      - (A) vote in favour of resolutions that are specifically mentioned in the agreement, which will be adopted subject to the offer becoming unconditional and which directly relate to the public offer; or
      - (B) vote against resolutions which serve to counter the success of the announced public offer.

- 11.4 Bye-Law 11.1 shall furthermore not apply to persons who acquire Predominant Control simultaneously with the acquisition of the same number of voting rights in the Company by:
- (a) legal persons or partnerships which jointly constitute part of a Group; or
  - (b) legal persons or partnerships which are their Controlled Affiliate or of which they are a Controlled Affiliate,
- provided that this exemption shall apply only to the extent the obligation referred to in Bye-Law 11.1 is satisfied by one of the acquirers referred to under 11.4(a) or 11.4(b), who is so designated by the acquirers jointly.
- 11.5 The obligation to make a public offer pursuant to Bye-Law 11.1 shall lapse if the person to which the obligation applies loses Predominant Control within thirty (30) days of acquiring it, unless:
- (a) the loss of Predominant Control is the result of the transfer of shares to a person falling under the exemption stated in Bye-Law 11.2; or
  - (b) such person has exercised its voting rights in that period.
- 11.6 The Board shall appoint one or more Expert(s) in accordance with Bye-Law 47 at the request of the person to which the obligation to make a public offer applies pursuant to Bye-Law 11.1, which Expert(s) may extend the period referred to in Bye-Law 11.5 by up to sixty (60) days, therefore up to ninety (90) days following the day on which such person has acquired Predominant Control. The Expert(s) may, at their sole discretion, relieve the person to which the obligation to make a public offer applies, from such obligation until such time as the Expert(s) have ruled on the request described in the first sentence of the Bye-Law provided that such relief may not result in the period effectively being extended by more than sixty (60) days. The Expert(s) shall consider the interests of all those involved.
- 11.7 The Board may appoint one or more Expert(s) in accordance with Bye-Law 47, who may exempt the person to which the obligation to make a public offer applies pursuant to Bye-Law 11.1 from the obligation to make a public offer if the financial position of the Company and its business gives rise thereto. The Board shall in any event appoint one or more Expert(s) if requested by one or more Shareholders.
- 11.8 Bye-Laws 11.5 and 11.6 apply *mutandis mutatis* to a person who was exempted under Bye-Law 11.2(e) but which exemption has lapsed, provided that that the period of thirty (30) days referred to in Bye-Law 11.5 commences on the day the exemption lapses.
- 11.9 The person who loses Predominant Control in the manner referred to in 11.5 and a person holding Predominant Control who submits a request to the Board as referred to in 11.6 or 11.7 shall without delay make an public announcement in respect thereof as well as in respect of the decision of the Expert(s) referred to in 11.6 and 11.7.
- 11.10 Shareholders may request the Board to and upon such request the Board will appoint one or more Expert(s) in accordance with Bye-Law 47, if a person has acquired or holds Predominant Control to which

the obligation to make a public offer applies pursuant to Bye-Law 11.1 and such person is in breach of that obligation, and request such Expert(s) to determine that the voting rights attached to the shares held by such person, any of its Affiliates or any member of its Group (**Predominant Control Shares**) are suspended and incapable of being exercised for a definite or indefinite period (which determination shall not result in the shareholder losing Predominant Control for the purpose of this Bye-Law) and such person, any of its Affiliates or any member of its Group (and any proxy to the extent appointed by such person to act in that capacity) shall for this period of time cease to be entitled to receive notice of or attend any meeting of the Shareholders. The Board may also appoint such Expert(s) for this purpose at its own initiative.

11.11 The Expert(s) appointed pursuant to this Bye-Law and Bye-Law 47, may do all or any of the following:

- (a) require any person to provide such information as the Expert(s) consider appropriate to determine any of the matters under this Bye-Law 11;
- (b) take such other action as the Expert(s) deem fit for the purposes of this Bye-Law 11 including:
  - (i) prescribing rules or deadlines (not inconsistent with this Bye-Law 11);
  - (ii) drawing adverse inferences where information requested is not provided;
  - (iii) making determinations or interim determinations; or
  - (iv) changing any decision or determination or rule previously made.

The Expert(s) shall take into account all relevant interest involved in taking the above actions.

11.12 In accordance with applicable law, a public offer under Bye-Law 11.1 complies with this Bye-Law 11 if:

- (a) the person who acquires Predominant Control makes a public announcement in that regard without delay;
- (b) the offer is unconditional in all respects and is open for acceptance for a period of not less than eight (8) weeks;
- (c) the making or implementation of the offer is not dependent on the passing of a resolution at any meeting of shareholders of the offeror; and
- (d) the offer is in cash or is accompanied by a cash alternative, in each case, at an offer price per share not less than the greater of:
  - (i) the highest price paid by the offeror, any of its Affiliates or any member of its Group for any interest in shares during the twelve months prior to the day of the public announcement referred to in Bye-Law 11.12(a);

- (ii) the ninety (90) day volume weighted average price of the shares on the relevant regulated market in the European Economic Area following the date on which the public announcement referred to in Bye-Law 11.12(a) was made; and
- (iii) if, before the offer closes for acceptance, the offeror, any of its Affiliates or any member of its Group acquires any interest in shares at above the offer price, the highest price paid for the interest in the shares so acquired,

(the **Offer Price**).

11.13 In addition to any information the offeror must make available in accordance with applicable law, the person making a public offer pursuant to Bye-Law 11.1 shall include the following information in its offering document:

- (a) a proposal to acquire shares in accordance with a specified final price, and if applicable, an exchange ratio;
- (b) if the offer pertains to more than one category or class of shares, and if applicable, a clear explanation of the reasons for the differences between the prices or exchange ratios offered for the various categories or classes of shares;
- (c) if applicable, any plans with regard to the composition of the board of the offeror and the Company after the offer is declared unconditional;
- (d) if the offeror possesses this information, information concerning the equity and results of the Company, including the following:
  - (i) a comparative statement of the balance sheet, the profit and loss account and the cash flow statement from the annual financial statements for the last three (3) years, and the most recent set of financial statements made generally available, including explanatory notes;
  - (ii) an auditor's opinion on the information specified in item 11.13(d)(i) above;
  - (iii) financial data concerning the current financial year which have been made generally available by the Company; and
  - (iv) an auditor's review report on the information referred in item 11.13(d)(i), unless there are special circumstances, to be mentioned in the offer document, as a result of which it is impossible for the offeror to obtain such a report;
- (e) if applicable, plans to amend the Bye-Laws after the offer is declared unconditional; and

- (f) if applicable, the fact that holders of shares of a category or class to which the offer pertains have already announced their willingness to accept the offer, specifying the total par value of those shares or the percentage of the total issued capital that they represent.

## 12. INCREASE OF CAPITAL

12.1 **Increase of Authorised Capital.** The Company may from time to time increase its capital by such sum to be divided into shares of such par value as the Company by Resolution, which Resolution is adopted at the proposal of the Board, shall prescribe.

12.2 **Applicability of Bye-Laws.** The new shares shall be subject to all the provisions of these Bye-Laws with reference to lien, the payment of calls, forfeiture, transfer, transmission and otherwise.

## 13. ALTERATION OF CAPITAL

13.1 **Alteration by Board.** The Board may from time to time:

- (a) consolidate and divide all or any of the Company's share capital into shares of larger amount than the Company's existing shares; and
- (b) subdivide the Company's shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived.

13.2 **Alteration by Resolution.** The Company may from time to time by Resolution, which Resolution is adopted at the proposal of the Board:

- (a) divide the Company's shares into several classes and attach thereto respectively any preferential, deferred, qualified, or special rights, privileges, or conditions;
- (b) make provision for the issue and allotment of shares which do not carry any voting rights;
- (c) cancel shares which, at the date of the passing of the Resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled; and
- (d) change the currency denomination of its share capital.

13.3 **Difficulties on Alteration.** Where any difficulty arises in regard to any division, consolidation, or sub-division of shares under this Bye-Law, not being a difficulty regarding the power to effectuate such alterations, the Board may settle the same as it thinks expedient and, in particular, may implement such actions in a manner which does not result in fractional shares (whether by rounding or in any other manner as the Board deems fit) or arrange for the sale of the shares representing fractions and the distribution of the net proceeds of sale in due proportion amongst the Shareholders who would have been entitled to the fractions, and for this purpose the Board may authorise some person to transfer the

shares representing fractions to the purchaser thereof, who shall not be bound to see to the application of the purchase money nor shall their title to the shares be affected by any irregularity or invalidity in the proceedings relating to the sale.

#### 14. REDUCTION OF CAPITAL

14.1 **Reduction of Capital.** Subject to the Companies Acts, its memorandum and any confirmation or consent required by law or these Bye-Laws, the Company may from time to time by Resolution, which Resolution is adopted at the proposal of the Board, authorise the reduction of its issued share capital or any share premium account in any manner. If less than half of the then outstanding shares that are entitled to vote on the reduction of its issued share capital or any share premium account in any manner is represented during the meeting, the Resolution referred to in the preceding sentence can only be adopted with at least two thirds of the votes cast.

14.2 **Implementing a Reduction of Capital.** In relation to any such reduction, the Company may by Resolution, which Resolution is adopted at the proposal of the Board, determine the terms upon which such reduction is to be effected including, in the case of a reduction of part or only of a class of shares, those shares to be affected. If less than half of the then outstanding shares that are entitled to vote on the terms upon which the reduction is effected is represented during the meeting, the Resolution referred to in the preceding sentence can only be adopted with at least two thirds of the votes cast.

#### 15. GENERAL MEETINGS AND RESOLUTIONS IN WRITING

15.1 **Timing and Place of Meetings; Requisitions.** Save and to the extent that the Company elects to dispense with the holding of one or more of its annual general meetings in the manner permitted by the Companies Acts, the Board shall convene and the Company shall hold general meetings as annual general meetings in accordance with the requirements of the Companies Acts and no later than six (6) months after the end of each of the Company's financial years. Subject to this Bye-Law 15 and the Companies Acts, general meetings shall be held at such times and places as the Board shall appoint. The Board may, whenever it thinks fit, and shall, when requisitioned by shareholders pursuant to the provisions of the Companies Acts, convene general meetings other than annual general meetings, which shall be called special general meetings, at such time and place as the Board may appoint.

15.2 **General Meeting Location.** General meetings shall be held at a singular location as decided, from time to time, by the Board; *provided that* such location shall, in the event that a general meeting is held physically, be in The Netherlands.

15.3 **Inadequate specified place.** If it appears to the chairman of a general meeting that the specified place is inadequate to accommodate all persons entitled and wishing to attend, the meeting is duly constituted and its proceedings are valid if the chairman is satisfied that adequate facilities are available, whether at the specified place or elsewhere, to ensure that each such person who is unable to be accommodated at the specified place is able to communicate simultaneously and instantaneously with the persons present at the specified place, whether by the use of microphones, loud-speakers, audio-visual or other communications equipment or facilities.

15.4 **No Written Resolutions.** Any action or Resolution required or permitted to be adopted, implemented, or approved by the Shareholders or any class of Shareholders must be effected at a duly called and convened general meeting and may not be adopted, implemented, or approved by resolution in writing.

## 16. NOTICE OF GENERAL MEETINGS

16.1 **Notice, Amount and Contents.** An annual general meeting and a special meeting shall be called by not less than twenty (20) clear business days' notice in writing. The notice shall specify the place, day and time of the meeting, means of remote communication, if any, and the nature of the business to be considered. Notice of every general meeting shall be given in any manner permitted by these Bye-Laws to all Shareholders other than such as, under the provisions of these Bye-Laws or the terms of issue of the shares they hold, are not entitled to receive such notice from the Company and to each Director, and to any Resident Representative who or which has delivered a written notice upon the Registered Office requiring that such notice be sent to him or it.

16.2 **Defective Notice.** If notice of a general meeting is for a shorter period than specified in Bye-Law 16.1 or if no notice is sent in accordance with Bye-Law 16.1, then a general meeting may only be deemed to have been duly called if it is so unanimously agreed by all of the Shareholders entitled to attend and vote thereat.

16.3 **Accidental Omission.** Provided that a general meeting is otherwise called in accordance with Bye-Law 16.1, the accidental omission to give notice of a meeting to, or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send such instrument of proxy to, or the non-receipt of notice of a meeting or such instrument of proxy by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting.

16.4 **Shareholder Presence.** A Shareholder present, either in person or by proxy, at any meeting of the Company or of the holders of any class of shares shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

16.5 **Postponement or Cancellation.** The Board may cancel or postpone a meeting of the Shareholders after it has been convened and notice of such cancellation or postponement shall be served in accordance with these Bye-Laws upon all Shareholders entitled to notice of the meeting so cancelled or postponed setting out, where the meeting is postponed to a specific date, notice of the new meeting in accordance with this Bye-Law.

## 17. PROCEEDINGS AT GENERAL MEETINGS

17.1 **Minimum Quorum.** In accordance with the Companies Acts, a general meeting may be held with only one individual present provided that the requirement for a quorum is satisfied. No business shall be transacted at any general meeting unless a quorum is present at the time that the meeting proceeds to business, but the absence of a quorum shall not preclude the appointment, choice or election of a chairman, which shall not be treated as part of the business of the meeting. Save as herein otherwise provided, at least two (2) Shareholders present in person or by proxy and entitled to vote on the matter representing the holders of at least twenty per cent (20%), or the highest amount required from time to

time by any stock-exchange on which any of the shares are listed, of the issued shares entitled to vote on the matter at such meeting shall be a quorum; provided, however, that if the Company or a class of Shareholders shall have only one Shareholder, one Shareholder present in person or by proxy shall constitute the necessary quorum.

17.2 **Required Quorum for Shareholder Requisitioned Resolutions.** Subject to anything to the contrary set out in the Companies Acts and Bye-Law 17.3,

- (a) the quorum required for a meeting to pass any resolution that is put to a vote at a general meeting of Shareholders pursuant to Bye-Law 17.7(a)(iii) or any resolution that is put to a vote at a general meeting or of any class of Shareholders that was requisitioned by shareholders pursuant to Sections 74 or 79 of the Act ("**Unanimous Quorum Resolutions**") shall be the Shareholders present in person or by proxy and entitled to vote on the matter representing the holders of one hundred per cent (100%) of the issued shares entitled to vote on the matter at such meeting;
- (b) If the quorum set forth in Bye-Law 17.2(a) is not present and there are resolutions to be put to a vote which are not Unanimous Quorum Resolutions, the applicable quorum shall be that set forth in Bye-law 17.1 and any proposed Unanimous Quorum Resolution shall be put to the general meeting as a non-voting discussion item that shall not be binding on the Company or the Board.

17.3 **Required Quorum for Resolutions on Elections, Suspensions and Removals.** The quorum required for a meeting to pass resolutions to elect, suspend or remove a Director as referred to in Bye-Laws 21.4(e)(ii) and 21.7 is the quorum set forth in Bye-Law 17.1, unless a Reflection Period applies in which case aforementioned resolutions shall be Unanimous Quorum Resolutions.

17.4 **Lack of Quorum.** If within five (5) minutes (or such longer time as the chairman of the meeting may determine to wait) after the time appointed for the meeting, (i) a quorum as referred to in Bye-Law 17.1 is not present, the meeting, if convened upon the requisition of Shareholders, shall be dissolved, and if (ii) a quorum as referred to in Bye-Law 17.2 is not present but the quorum referred to in 17.1 is present, the meeting, shall be quorate and Bye-Law 17.2(b) shall apply. In any other case, it shall stand adjourned to such other day and such other time and place as the chairman of the meeting may determine and at such adjourned meeting two (2) Shareholders present in person or by proxy and entitled to vote and representing the holders of at least twenty per cent (20%), or the highest amount required from time to time by any stock-exchange on which any of the shares are listed, of the issued shares entitled to vote at such meeting shall be a quorum, provided that if the Company or a class of Shareholders shall have only one Shareholder, one Shareholder present in person or by proxy shall constitute the necessary quorum. The Company shall give not less than twenty (20) clear business days' notice of any meeting adjourned through want of a quorum and such notice shall state that the sole Shareholder or, if more than one, two (2) Shareholders present in person or by proxy and entitled to vote and representing the holders of at least twenty per cent (20%), or the highest amount required from time to time by any stock-exchange on which any of the shares are listed, of the issued shares entitled to vote at such meeting shall



be a quorum. If at the adjourned meeting a quorum is not present within five (5) minutes (or such longer time as the chairman of the meeting may determine to wait) after the time appointed for holding the meeting, the meeting shall be dissolved.

- 17.5 **Physical and Virtual Meetings.** A meeting of the Shareholders or any class thereof must be held at a physical location, unless (i) in times of a pandemic or war or in similar exceptional circumstances that make it impossible or extremely inconvenient to hold a physical meeting of Shareholders or (ii) the meeting of Shareholders has authorised the Board, which authorisation can be granted for a definite or indefinite period of time, to organise a meeting of Shareholders solely by electronic means of communication.
- 17.6 **Hybrid Meetings.** The Board may decide that each Shareholder has the right to take part in, address and, to the extent he is entitled to vote, to vote at the physical meeting of Shareholders using electronic means of communication. The Board may attach conditions to the use of the electronic means of communication.
- 17.7 **Meeting Business.**
- (a) Subject to the Companies Acts, a resolution may only be moved and put to a vote at a general meeting of Shareholders or of any class of Shareholders if:
    - (i) it is proposed by or at the direction of the Board;
    - (ii) it is proposed at the direction of a competent court;
    - (iii) it is proposed on the requisition in writing by Shareholders in accordance with the Companies Act, provided that the requisitioning Shareholders hold three per cent (3%) of the Company's outstanding share capital or such lower number as is prescribed by the Companies Act;
    - (iv) the chairman of the meeting in their absolute discretion decides that the resolution may properly be regarded as within the scope of the meeting.
  - (b) Subject to the Companies Acts, any matter that is not expressly reserved for, or that does not expressly require the, Shareholders' approval by Resolution pursuant to the Companies Acts or these Bye-Laws, may only be put to a general meeting of the Company or of any class of Shareholders as a non-voting discussion item that shall be non-binding on the Company and the Board unless otherwise determined by, in the case of a resolution pursuant to Bye-Laws 17.7(a)(i) or 17.7(a)(iii), the Board; in the case of a resolution pursuant to Bye-Law 17.7(a)(ii), a competent court; or in the case of a resolution pursuant to Bye-Law 17.7(a)(iv), the chairman of that meeting, in each case, in the sole discretion of such determiner.
- 17.8 **Resolution Amendments.** No amendment may be made to a resolution, at or before the time when it is put to a vote, unless the chairman of the meeting in their absolute discretion decides that the amendment or the amended resolution may properly be put to a vote at that meeting.

- 17.9 **Resident Representative.** The Resident Representative, if any, upon giving the notice referred to in Bye-Law 16.1 above, shall be entitled to attend any general meeting of the Company and each Director shall be entitled to attend and speak at any general meeting of the Company.
- 17.10 **Chairman; Secretary; Scrutineers.** The chairman (if any) of the Board shall preside as chairman at every general meeting of the Company, unless the chairman or the board has designated any other person for that purpose. If there is no such chairman, or if at any meeting such chairman is not present within five (5) minutes after the time appointed for holding the meeting, or is unwilling to act as chairman, the Directors present shall elect the chairman. If no Director is present, the persons present and entitled to vote shall elect a chairman. If the Secretary is absent and no replacement has been designated prior to the meeting, the chairman shall appoint some person to act as secretary of the meeting. The Chairman may appoint one or more scrutineers.
- 17.11 **Chairman's Rulings.** If the chairman of the meeting rules a resolution or an amendment to a resolution admissible or out of order (as the case may be), the proceedings of the meeting or on the resolution in question shall not be invalidated by any error in their ruling. Any ruling by the chairman of the meeting in relation to a resolution or an amendment to a resolution shall be final and conclusive.
- 17.12 **Adjournment.** The chairman may, with the consent by Resolution of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time (or sine die) and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. In addition to any other power of adjournment conferred by law, the chairman of the meeting may at any time without consent of the meeting adjourn the meeting (whether or not it has commenced or a quorum is present) to another time and/or place (or sine die) if, in their opinion, it would facilitate the conduct of the business of the meeting to do so or if they is so directed (prior to or at the meeting) by the Board. When a meeting is adjourned sine die, the time and place for the adjourned meeting shall be fixed by the Board. When a meeting is adjourned for three (3) months or more or for an indefinite period, at twenty (20) clear business days' notice shall be given of the adjourned meeting. Save as expressly provided by these Bye-Laws, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
18. **VOTING**
- 18.1 **General.** Save where a greater majority is required by the Companies Acts or as otherwise required by these Bye-Laws, any question proposed for consideration at any general meeting shall be adopted by Resolution. Subject to Bye-Law 36.2 and to any rights or restrictions attached to any class of shares, at any meeting of the Company, each Shareholder present in person shall be entitled to vote on any question to be decided on a show of hands or by a count of votes received in the form of Electronic Record (including by proxy), and each Shareholder present in person or by proxy shall be entitled on a poll to vote for each share held by them.
- 18.2 **Show of Hands; Demanding a Poll.** At any general meeting, a resolution put to the vote of the meeting shall be adopted on a show of hands or by a count of votes received in the form of Electronic Records (including by proxy), unless (before or on the declaration of the result of the show of hands or count of

votes received as Electronic Records or on the withdrawal of any other demand for a poll) a poll is demanded by:

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

The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands or count of votes received as Electronic Records declared before the demand was made. If the demand for a poll is withdrawn, the chairman or any other Shareholder entitled may demand a poll.

18.3 **Chairman's Declaration.** Unless a poll is so demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has, on a show of hands or count of votes received as Electronic Records, been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost shall be final and conclusive, and an entry to that effect in the minute book of the Company shall be conclusive evidence of the fact without proof of the number or proportion of votes recorded for or against such resolution.

18.4 **Effect of a Poll.** If a poll is duly demanded, the result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.

18.5 **Implementing a Poll.**

- (a) A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken in such manner and either forthwith or at such time (being not later than three (3) months after the date of the demand) and place as the chairman shall direct and they may appoint scrutineers (who need not be Shareholders) and fix a time and place for declaring the result of the poll. It shall not be necessary (unless the chairman otherwise directs) for notice to be given of a poll. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded and it may be withdrawn at any time before the close of the meeting or the taking of the poll, whichever is the earlier.
- (c) On a poll, votes may be cast either personally or by proxy.

- (d) A poll may be conducted by way of paper ballot or electronic voting device.
- (e) A person entitled to more than one vote on a poll need not use all their votes or cast all the votes they use in the same way.

18.6 **Equality of Votes.** In the case of an equality of votes at a general meeting, whether on a show of hands or count of votes received as Electronic Records (including by proxy) or on a poll, the chairman of such meeting shall not be entitled to a second or casting vote and the resolution shall fail.

18.7 **Joint Holders.** In the case of joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the joint holding.

18.8 **Shareholder Capacity.** A Shareholder who is a patient for any purpose of any statute or applicable law relating to mental health or in respect of whom an order has been made by any competent court having jurisdiction for the protection or management of the affairs of persons incapable of managing their own affairs may vote, whether on a show of hands or on a poll, by their receiver, committee, *curator bonis* or other person in the nature of a receiver, committee or *curator bonis* appointed by such competent court and such receiver, committee, *curator bonis* or other person may vote on a poll by proxy, and may otherwise act and be treated as such Shareholder for the purpose of general meetings.

18.9 **Amounts Owning on Shares.** No Shareholder shall, unless the Board otherwise determines, be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.

18.10 **Objections and Errors.** If:

- (a) any objection shall be raised to the qualification of any voter;
- (b) any votes have been counted which ought not to have been counted or which might have been rejected; or
- (c) any votes are not counted which ought to have been counted,

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

## 19. PROXIES AND CORPORATE REPRESENTATIVES

19.1 **Proxies.** A Shareholder may appoint one or more persons as their proxy, with or without the power of

substitution, to represent him and vote on their behalf in respect of all or some only of their shares at any general meeting (including an adjourned meeting). A proxy need not be a Shareholder. The instrument appointing a proxy shall be in writing executed by the appointor or their attorney authorised by him in writing or, if the appointor is a corporation, either under its Seal or executed by an officer, attorney or other person authorised to sign the same, or in the form of an Electronic Record.

- 19.2 **Corporate Proxies.** A Shareholder which is a corporation may, by written authorisation, appoint any person (or two (2) or more persons in the alternative) as its representative to represent it and vote on its behalf at any general meeting (including an adjourned meeting) and such a corporate representative may exercise the same powers on behalf of the corporation which they represents as that corporation could exercise if it were an individual Shareholder and the Shareholder shall for the purposes of these Bye-Laws be deemed to be present in person at any such meeting if a person so authorised is present at it.
- 19.3 **Standing Proxies.** Any Shareholder may appoint a proxy or (if a corporation) representative for a specific general meeting, and adjournments thereof, or may appoint a standing proxy or (if a corporation) representative, by serving on the Company at the Registered Office, or at such place or places as the Board may otherwise specify for the purpose, a proxy or (if a corporation) an authorisation. Any standing proxy or authorisation shall be valid for all general meetings and adjournments thereof or resolutions in writing, as the case may be, until notice of revocation is received at the Registered Office or at such place or places as the Board may otherwise specify for the purpose. Where a standing proxy or authorisation exists, its operation shall be deemed to have been suspended at any general meeting or adjournment thereof at which the Shareholder is present or in respect to which the Shareholder has specially appointed a proxy or representative. The Board may from time to time require such evidence as it shall deem necessary as to the due execution and continuing validity of any standing proxy or authorisation and the operation of any such standing proxy or authorisation shall be deemed to be suspended until such time as the Board determines that it has received the requested evidence or other evidence satisfactory to it.
- 19.4 **Irrevocable Proxies.** Notwithstanding Bye-Law 18.1, a Shareholder may appoint a proxy which may be irrevocable in accordance with its terms and the holder thereof shall be the only person entitled to vote the relevant shares at any meeting of the shareholders at which such holder is present. Notice of the appointment of any such proxy shall be given to the Company at its Registered Office, and shall include the name, address, telephone number and electronic mail address of the proxy holder. The Company shall give to the proxy holder notice of all meetings of Shareholders of the Company and shall be obliged to recognise the holder of such proxy until such time as the holder notifies the Company in writing that the proxy is no longer in force.
- 19.5 **Receipt of Proxies.** Subject to Bye-Laws 19.3 and 19.4, the instrument appointing a proxy or corporate representative together with such other evidence as to its due execution as the Board may from time to time require, shall be delivered at the Registered Office (or at such place or places as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case, in any document sent therewith) not less than forty-eight (48) hours or such other period as the Board may determine, prior to the holding of the relevant meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of a meeting or adjourned meeting, before the time appointed for the taking of the poll and in default of any of the

provisions of these Bye-Laws to deliver any instrument of proxy or authorisation at the Registered Office of the Company or at such other place as is specified for that purpose in the notice convening the meeting the instrument of proxy or authorisation shall not be treated as valid.

- 19.6 **Chairman's Decisions.** The decision of the chairman of any general meeting as to the validity of any appointments of a proxy shall be final.
- 19.7 **Form of Proxies.** Instruments of proxy or authorisation shall be in any common form or in such other form as the Board may approve and the Board may, if it thinks fit, make available with the notice of any meeting or any resolution in writing forms of instruments of proxy or authorisation for use at that meeting or in connection with that resolution in writing. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll, to speak at the meeting and to vote on any amendment of a resolution in writing or amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy or authorisation shall, unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates. If the terms of the appointment of a proxy include a power of substitution, any proxy appointed by substitution under such power shall be deemed to be the proxy of the Shareholder who conferred such power. All the provisions of these Bye-Laws relating to the execution and delivery of an instrument or other form of communication appointing or evidencing the appointment of a proxy shall apply, mutates mutandis, to the instrument or other form of communication effecting or evidencing such an appointment by substitution.
- 19.8 **Voting by Proxy.** A vote given in accordance with the terms of an instrument of proxy or authorisation shall be valid notwithstanding the previous death or unsoundness of mind of the principal, or revocation of the instrument of proxy or of the corporate authority, provided that no intimation in writing of such death, unsoundness of mind or revocation shall have been received by the Company at the Registered Office (or such other place as may be specified for the delivery of instruments of proxy or authorisation in the notice convening the meeting or other documents sent therewith) at least one hour before the commencement of the meeting or adjourned meeting, or the taking of the poll, at which the instrument of proxy or authorisation is used.
- 19.9 **Board Authority.** Subject to the Companies Acts, the Board may at its discretion waive any of the provisions of these Bye-Laws related to proxies or authorisations and, in particular, may accept such verbal or other assurances as it thinks fit as to the right of any person to attend, speak and vote on behalf of any Shareholder at general meetings.
20. **REFLECTION PERIOD**
- 20.1 **Reflection Period.** The Board may invoke a reflection period (the "**Reflection Period**") in the following circumstances:
- (a) if one or more Shareholders request that a proposal to elect, suspend or remove a Director be voted upon at a general meeting or such proposal is included on the agenda by a competent court; or

- (b) if a public offer is announced or made for shares without agreement having been reached with the Company about that public offer,

and the Board considers the proposal as referred to under (a) or the public offer as referred to under (b) materially conflicting with the Stakeholder Interests.

- 20.2 **Consequences of Invoking the Reflection Period.** Subject to the Companies Acts, during the Reflection Period resolutions referred to in Bye-Law 20.1(a) shall be dealt with as Unanimous Quorum Resolutions as referred to in Bye-Law 17.2.
- 20.3 **Information Gathering by the Board.** During the Reflection Period the Board shall obtain all necessary information for a careful determination of the policy it wishes to pursue in connection with the shareholder request referred to in Bye-Law 20.1(a) or the public offer referred to in Bye-Law 20.1(b). During the Reflection Period, the Board shall consult with the Shareholders who on the invocation of the Reflection Period represented at least three (3) percent of the outstanding share capital as well as, if applicable, the employees representative body within the Company's organisation. If the consulted Shareholders or the employees representative body inform the Board of their view, the Board shall, but only with their approval, publish this view on the website of the Company.
- 20.4 **Term of the Reflection Period.**<sup>2</sup> The Reflection Period shall apply for a period of not more than two hundred and fifty days, calculated from (i) the day following the last day on which a request as referred to in Bye-Law 17.7(a)(iii) should have been received for the next following general meeting or calculated from not later than the day following the day on which the public takeover offer as referred to in Bye-Law 20.1(b) was made, or (ii) calculated from the day the Shareholders requisitioned the Board to convene a special meeting in accordance with Section 74 of the Companies Act. The Reflection Period shall end in any event on the day after the day on which a public offer becomes unconditional. A ground for invoking the Reflection Period on the basis of one of the grounds mentioned in Bye-Law 20.1 shall not exclude the invocation of a Reflection Period on the other ground. The Board may terminate the Reflection Period at any time before its expiry.
- 20.5 **Termination of the Reflection Period.** One or more Shareholders who were entitled to make the request referred to in Bye-Law 20.1 (jointly or severally) (such Shareholder or Shareholders, the **Requesting Shareholder**), may request the Board to terminate the Reflection Period. The Board shall only rule in favour of the request if the Requesting Shareholders can demonstrate that:
- (a) the Board, in light of the circumstances at hand when the Reflection Period was invoked, could not reasonably have concluded that the relevant proposal or public offer materially conflicted with the Stakeholder Interests;

---

<sup>2</sup> The Board will propose an amendment to this Bye-Law at the first general meeting of Shareholders held after the update of the holding structure, pursuant to which the term of the reflection period will be reduced to a period not exceeding 90 days starting on the day of the convocation of the relevant general meeting of Shareholders. Reference is made to the additional Q&A on our website which can be found [here](#).



- (b) the Reflection Period can no longer reasonably be considered to contribute to carefully considered policy making by the Board; or
- (c) other defensive measures, having the same purpose, nature and scope as the Reflection Period, have been activated during the Reflection Period and have not been terminated or suspended within a reasonable period by the Company upon a written request of the Requesting Shareholder.

The Board shall appoint one or more Expert(s) in accordance with Bye-Law 47 if the Requesting Shareholders request termination pursuant to Bye-Law 20.5(a). The Requesting Shareholder may request the Board to appoint one or more Expert(s) in accordance with Bye-Law 47, and the Board shall adhere to such request if termination is requested pursuant to Bye-Law 20.5(b) or (c) and the Board has turned the initial request down. The Board may also appoint Expert(s) at its own initiative if it has received a request pursuant to Bye-law 20.5. The Board shall in any event terminate the Reflection Period if such Expert(s) establish that one or more of the situations referred to in Bye-Law 20.5(a), (b) or (c) apply.

20.6 **Reporting.** The Board shall prepare a report on the conduct of the Board and the relevant developments since the invocation of the Reflection Period. Not later than one week after the last day of the Reflection Period the Company shall deposit the report at the Registered Office for inspection by the Shareholders and it shall publish the report on the website of the Company. The report shall be put on the agenda as a non-voting discussion item at the first general meeting after the end of the Reflection Period.

20.7 **Decision-making of the Board.**

- (a) A resolution of the Board under Bye-Law 20.1 to invoke a Reflection Period or a resolution of the Board under Bye-Law 20.4 to terminate a Reflection Period, shall require the consenting vote of the Independent Directors participating in the decision-making.
- (b) A resolution of the Board under Bye-Law 20.5(b) or (c) to terminate a Reflection Period, shall be taken with only the Independent Directors participating in the deliberations and the decision-making of the Board.

20.8 **Applicability of Bye-Law.** This Bye-Law 20 shall be applicable as long as the Company is listed and admitted to trading on a regulated market or multilateral trading facility.

21. **ELECTION; REMOVAL; SUSPENSION OF DIRECTORS**

21.1 **Number; Composition; Term of Office.** The number of Directors shall be such number as the Board by resolution from time to time may determine. The composition of the Board shall be such that a majority of the Directors shall at all times be Independent Directors, unless the Board determines otherwise by resolution adopted with only the Independent Directors participating in the deliberations and the decision-making of the Board. Each Director shall be elected at a general meeting of the Company and hold office for a term ending at the conclusion of the first annual general meeting held after four (4)



years have passed since their election unless set out otherwise in his nomination pursuant to Bye-Law 21.5(e). A Director is eligible for re-election immediately after the expiration of his term, provided that the consecutive term of a Non-Executive Director shall expire at the closing of the first annual general meeting held after twelve (12) years have passed since their election. The consecutive term referred to in the preceding sentence shall not apply to Non-Executive Directors elected in accordance with the nomination right provided for in the Relationship Agreement.

21.2 **Vacancies.** Any vacancy in the Board not filled at any general meeting shall be deemed a casual vacancy for the purposes of these Bye-Laws. The Board shall not have the power to appoint any person to be a Director so as to fill a casual vacancy. For the avoidance of doubt, the Board not being composed in accordance with Bye-Law 21.1 does not create a vacancy in the Board. Any casual vacancy may only be filled at a general meeting of the Company as set out in this Bye-Law 21.

21.3 **Predecessor Company.** The twelve (12) year term referred to in Bye-Law 21.1 shall be reduced by the period the Non-Executive Director served as member of the supervisory board of Flow Traders N.V (not taking into account, for the avoidance of doubt, the position of such member on the supervisory board of Flow Traders Coöperatief U.A).

21.4 **Nomination and Election of Directors**

- (a) No person shall be nominated as a Director at any meeting of the Shareholders unless (i) they are nominated by the Board in accordance with Bye-Law 17.7(a)(i) and any board rules applicable to the Board from time to time or by Shareholders in accordance with Bye-Law 17.7(a)(iii) and (ii) the nomination complies with Bye-Law 21.5.
- (b) No person shall be elected or appointed a Director unless they are nominated in accordance with Bye-Law 21.4(a).
- (c) The election of Directors shall be by poll.
- (d) Except as otherwise authorised by the Companies Acts, the election of any person nominated as a Director shall be effected by a separate Resolution rather than on a slate basis.
- (e) Unless otherwise required by the Companies Acts and notwithstanding Bye-Law 20, the election of Directors shall be decided by the applicable threshold of the majority of the votes cast specified below, in each case at a meeting of the Shareholders, at which a quorum as referred to in Bye-Law 17.1 is present, by the holders of shares entitled to vote on the matter. For purposes of this Bye-Law 21.4, a majority of the votes cast means that the number of shares voted "for" a nominee must exceed the votes cast "against" such nominee's election. The election of a Director shall be decided on in accordance with the following:
  - (i) The election of a Director nominated by the Board pursuant to Bye-Law 21.4(a)21.5(a) shall be by a simple majority of votes cast representing more than one-third (1/3) of the then outstanding shares that are entitled to vote on the matter.

- (ii) The election of a Director nominated by Shareholders pursuant to Bye-Law 21.4(a) shall be by a simple majority of the votes cast, representing at least half (1/2) of the then outstanding shares that are entitled to vote on the matter.
- (iii) If the number of nominees at a meeting for the election of Directors exceeds the number of Directors to be elected as determined by the Board pursuant to Bye-Law 21.1, each such nominee shall be voted upon individually and only the nominee receiving the most votes in favour, which votes in favour must represent a simple majority of the votes cast, representing at least one third (1/3) or half (1/2) of the then outstanding shares that are entitled to vote on the matter respectively, shall be elected as Director. If two or more nominees receive the same number of votes in favour, the nominee who received the highest percentage of votes in favour shall be elected as Director. If two or more nominees received both the same number of votes in favour and the same percentage of votes in favour, no nominee shall be elected.

21.5 **Nominations specifications.** The nomination of any person for election as a Director shall include:

- (a) the nominee's name and, age;
- (b) the principal occupation or employment of each such nominee;
- (c) the class and number of shares which are owned of record and beneficially by each such nominee (if any);
- (d) such other information concerning each such nominee as would be required to be disclosed pursuant to the rules of any stock-exchange or regulatory authority to which the Company is subject; *provided that*, the Company may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as an Independent Director or that could be material to a reasonable Shareholder's understanding of the independence, or lack thereof, of such nominee; and
- (e) the term of the proposed election which shall not exceed four (4) years as of the date of election, provided that such proposal may provide that the term expires at the close of first annual meeting of Shareholders held after the expiration of the four (4) year term.

21.6 **Director Acceptance.** All Directors, upon election, except upon re-election, must provide written acceptance of their election, in such form as the Board may think fit, by notice in writing to the Registered Office within thirty (30) clear days of their election.

21.7 **Removal and Suspension of Directors.**

- (a) A Director may at any time be removed or suspended from their office by Resolution on a proposal of the Board. A Director who is suspended may not act as a Director of the Company including, without limitation, by exercising any powers that would otherwise vest in a Director, by

attending or voting at meetings of the Board or by directly or indirectly taking part in the management of the Company. A Director who is suspended does not owe duties to the Company during the period of their suspension. Notwithstanding Bye-Law 20, a Resolution to remove or suspend a Director from their office as Director in accordance with 17.7(a)(iii) may only be adopted with a simple majority of the votes cast, representing at least half (1/2) of the then outstanding shares that are entitled to vote on the motion at a meeting where a quorum as referred to in Bye-Law 17.1 is present. A suspension of a Director can be ended by the general meeting at any time by Resolution, provided that a Resolution to end the suspension of a Director in accordance with 17.7(a)(iii) may only be adopted with a simple majority of the votes cast, representing at least half (1/2) of the then outstanding shares that are entitled to vote on the motion at a meeting where a quorum as referred to in Bye-Law 17.1 is present.

- (b) An Executive Director may also be suspended by the Board (without a Resolution). A suspension of an Executive Director may be extended by the Board one or more times, but may not last longer than three (3) months in aggregate. If, at the end of that period, no decision has been taken on termination of the suspension or on removal, the suspension shall end. The Executive Directors shall not participate in any deliberations and decision-making in the Board that concerns the suspension of an Executive Director.

21.8 The provisions of section 93(2) of the Act shall not apply to the Company.

## 22. RESIGNATION AND DISQUALIFICATION OF DIRECTORS

22.1 **Resignation and Disqualification.** The office of a Director shall ipso facto be vacated if the Director:

- (a) resigns their office by notice in writing delivered to the Registered Office or tendered at a meeting of the Board;
- (b) becomes of unsound mind or a patient for any purpose of any statute or applicable law relating to mental health and the Board resolves that their office is vacated;
- (c) becomes bankrupt under the laws of any country or makes any arrangement or composition with their creditors generally;
- (d) is prohibited by the Companies Acts from being a Director or, is otherwise unable to carry on or transact business; or
- (e) ceases to be a Director by virtue of the Companies Acts or these Bye-Laws or is removed from office pursuant to these Bye-Laws.

The Board shall not have the power to appoint any person to be a Director so as to fill any vacancy in the Board resulting from this Bye-Law. Any vacancy may only be filled at a general meeting of the Company as set out in Bye-Law 20.1.

## 23. ALTERNATE DIRECTORS

- 23.1 **Restriction.** No Director may appoint any other person to be an alternate Director.
24. **DIRECTORS' INTERESTS**
- 24.1 **Other Offices.** An Executive Director may hold any other office or place of profit with the Company (except that of Auditor) in conjunction with their office of Director for such period and upon such terms as the Board may determine, and may be paid such extra remuneration therefor (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine with due observance of the remuneration policy, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Bye-Law.
- 24.2 **Related Transactions and Parties.** Subject to the provisions of the Companies Acts and notwithstanding Bye-Law 24.6, a Director may, notwithstanding their office, be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested; and be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is interested. The Board may also cause the voting power conferred by the shares in any other company held or owned by the Company to be exercised in such manner in all respects as it thinks fit, including the exercise thereof in favour of any resolution electing the Directors or any of them to be directors or officers of such other company, or voting or providing for the payment of remuneration to the directors or officers of such other company.
- 24.3 **Disclosure.** So long as, where it is necessary, they declare the nature of their interest at the first opportunity at a meeting of the Board or by writing to the Directors as required by the Companies Acts, a Director shall not by reason of their office be accountable to the Company for any benefit which they derives from any office or employment to which these Bye-Laws allow him to be elected or appointed or from any transaction or arrangement in which these Bye-Laws allow him to be interested, and no such transaction or arrangement shall be liable to be avoided on the ground of any interest or benefit.
- 24.4 **General Notice.** Subject to the Companies Acts and any further disclosure required thereby, a general notice to the Directors by a Director or Officer declaring that they are a director or officer or has an interest in a person and is to be regarded as interested in any transaction or arrangement made with that person, shall be a sufficient declaration of interest in relation to any transaction or arrangement so made.
- 24.5 **Deemed Interest.** For the purposes of these Bye-Laws, without limiting the generality of the foregoing, a Director is deemed to have an interest in a transaction or arrangement with the Company if they is the holder of or beneficially interested in ten per cent (10%) or more of any class of the equity share capital of any body corporate (or any other body corporate through which their interest is derived) or of the voting rights available to members of the relevant body corporate with which the Company is proposing to enter into a transaction or arrangement, provided that there shall be disregarded any shares held by such Director as bare or custodian trustee and in which they has no beneficial interest, any shares comprised in a trust in which the Director's interest is in reversion or remainder if and so long as some other person is entitled to receive the income thereof, and any shares comprised in an authorised unit trust in which the Director is only interested as a unit holder. For the purposes of this Bye-Law, an interest of a person who is connected with a Director shall be treated as an interest of the Director.

#### 24.6 Conflict of Interest.

Any Director who has a direct or indirect personal interest that conflicts with the interests of the Company or its business and who can therefore not be reasonably expected to safeguard the interests of the Company or its business in a way that an ethical and unprejudiced Director would, taking in all relevant circumstances, may not participate in the deliberations and decision-making on the relevant subject in the Board. Any Director must inform the Board of any potential conflict of interest as referred to in the preceding sentence. Upon disclosure of such potential conflicted interest to the Board, the Board will determine, on a simple majority vote, if such Director's interest does indeed conflict with the interests of the Company or its business in such way as described in the first sentence. The respective Director and the Executive Directors shall not participate in any deliberations and decision-making in the Board.

- (a) If, as a consequence of this Bye-Law, all Directors may not participate in the deliberations and decision-making on a relevant subject in the Board, then, notwithstanding anything to the contrary in these Bye-Laws, including this Bye-Law, all Directors shall be permitted to participate in the deliberations and decision-making on the relevant subject in the Board.
- (b) The Board shall report to the Shareholders at each annual general meeting each resolution that was adopted pursuant to Bye-Law 24.6.

24.7 **Policies and Guidelines.** The Board may, from time to time, implement rules, policies, or guidelines applicable to the Company, Board, Officers, and/or the Company's employees, agents, and contractors regarding any transaction or arrangement contemplated in this Bye-Law 24 provided that such rules, policies, or guidelines may not abrogate from, or otherwise reduce, any requirements or obligations under this Bye-Law 24.

#### 25. POWERS AND DUTIES OF THE BOARD

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

25.2 **Powers.** The Board may exercise all the powers of the Company except those powers that are required by the Companies Acts or these Bye-Laws to be exercised by the Shareholders, the Shareholders meeting or a meeting of holders of any class of shares.

#### 25.3 Stakeholder Interests.

- (a) When exercising the powers of the Company, the Board and each Director shall have regard to (among other matters): (a) the likely consequences of any decision in the long term, (b) the

interests of the Company's employees, (c) the need to foster the Company's business relationships with suppliers, customers and others, (d) the impact of the Company's operations on the community and the environment, (e) the desirability of the Company maintaining a reputation for high standards of business conduct, (f) the need to act fairly as between Shareholders, and (g) the interests of other groups, natural persons, legal entities or partnerships who, directly or indirectly, influence, or are influenced by, the business of the Company (together, the matters referred to above shall be defined for the purposes of this Bye-Law as the **Stakeholder Interests**).

- (b) For the purposes of a Director's duty to act in the way he or she considers, in good faith, is in the best interests of the Company, the Director shall not be required to regard the benefit of any particular Stakeholder Interest or group of Stakeholder Interests as more important than any other.
- (c) Nothing in this Bye-Law 25.3, express or implied, is intended to or shall create or grant any right or cause of action to, by or for any person (other than the Company).

25.4 **Major Decisions requiring Resolution.** Notwithstanding any other provisions of these Bye-Laws, the approval by Resolution is required in addition to the approval by the Board regarding any important change in the identity or character of the Company or its associated business enterprise, including in any event:

- (a) the transfer of the business enterprise, or practically the entire business enterprise, to a third party;
- (b) concluding or cancelling a long-lasting cooperation of the Company or a Controlled Affiliate of the Company with another legal entity or as a fully liable general partner in a partnership, provided that the cooperation or cancellation is of material significance to the Company; and
- (c) acquiring or disposing of a participating interest in the share capital of a company with a value of at least one-third of the Company's assets, as shown in the consolidated balance sheet with explanatory notes according to the last adopted annual accounts by the Company or a Controlled Affiliate of the Company.

## 26. REMUNERATION, FEES, GRATUITIES AND PENSIONS

26.1 **Remuneration Policy.** The Company shall have a policy in respect of the remuneration of Directors. This remuneration policy must be adopted by Resolution at the proposal of the Board and with a majority of at least seventy-five per cent (75%) of the votes cast. The Board shall submit a remuneration policy to the Shareholders ultimately at the fourth annual general meeting held after the general meeting in which the remuneration policy was most recently adopted. If such remuneration policy is not adopted, then the Board will continue to abide by the remuneration policy most recently adopted by the Shareholders and shall submit a remuneration policy for adoption by the Shareholders at the next annual general meeting.

26.2 **Director Remuneration.** The Board shall determine the remuneration of the Executive Directors with due

observance of the remuneration policy. The general meeting shall determine, on a proposal by the Board, the remuneration of the Non-Executive Directors by Resolution and with due observance of the remuneration policy. At every annual general meeting, the Board shall present Shareholders with a remuneration report regarding the implementation of the remuneration policy for the prior fiscal year and such report shall be subject to an advisory, non-binding vote of the Shareholders.

26.3 **Decision-making.** If the Board exercises any of its powers under this Bye-Law 26, the resolutions of the Board shall be adopted with only the Non-Executive Directors participating in the deliberations and the decision-making in the Board.

26.4 **Accountability.** No Director or former Director shall be accountable to the Company or the Shareholders for any benefit provided pursuant to this Bye-Law and the receipt of any such benefit shall not disqualify any person from being or becoming a Director of the Company.

## 27. DELEGATION OF THE BOARD'S POWERS

### 27.1 Delegation and Attorneys.

(a) Subject to the Companies Act, these Bye-laws and any restrictions implemented by the Board, the Board or any two Executive Directors may act for, on behalf of, and in the name of the Company.

(b) The Board may by power of attorney appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under these Bye-Laws) and for such period and subject to such conditions as it may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney and of such attorney as the Board may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Such attorney may, if so authorised by the power of attorney, execute any deed, instrument or other document on behalf of the Company.

(c) The Board may entrust to and confer upon any Director, Officer or, without prejudice to the provisions of Bye-Law 27.2, other person any of the powers, authorities and discretions exercisable by it upon such terms and conditions with such restrictions as it thinks fit, and may from time to time revoke or vary all or any of such powers, authorities and discretions but no person dealing in good faith and without notice of such revocation or variation shall be affected thereby.

(d) The Board may, in writing, authorise any person, either generally or in respect of any specified matter, as its agent, to sign or execute deeds, instruments or other documents on its behalf in any place inside or outside Bermuda.

27.2 **Committees.** The Board may, from time to time, establish such committees consisting of such Directors



as, in each case, it deems fit and may delegate any of its powers, authorities and discretions to such committees, as it deems fit. The Board may draw up a set of rules and regulations for each such committee and any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, and in conducting its proceedings, conform to any such rules and regulations which may be imposed upon it by the Board. Each such committee shall be authorised to retain the services of legal, accounting, or other consultants at the Company's expense.

27.3 **Executive Committee.** The Board may, from time to time, establish an executive committee consisting of such Directors and/or Officers of the Company as it deems fit. The Board may delegate any of its powers, authorities and discretions to such executive committee, as it deems fit. The Board may draw up a set of rules and regulations for such executive committee and the executive committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, and in conducting its proceedings, conform to any such rules and regulations which may be imposed upon it by the Board. Such executive committee shall be authorised to retain the services of legal, accounting, or other consultants at the Company's expense.

## 28. PROCEEDINGS OF THE BOARD

### 28.1 Meetings and Conduct.

(a) The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Unless otherwise specified in these Bye-Laws, questions arising at any meeting shall be determined by an absolute majority of votes of the Directors. In the case of an equality of votes, the motion shall be deemed to have been lost. The chairman of the Board or any two other Directors may, and the Secretary on the requisition of such person(s) shall, at any time summon a meeting of the Board.

(b) The Board may draw up a set of rules and regulations governing the exercise of its powers, authorities and discretions. In conducting its proceedings, to Boards shall conform to any such rules and regulations.

28.2 **Notice.** Notice of a meeting of the Board may be given to a Director by word of mouth or in any manner permitted by these Bye-Laws. A Director may retrospectively waive the requirement for notice of any meeting by consenting in writing to the business conducted at the meeting.

28.3 **Quorum.** The quorum necessary for the transaction of the business of the Board may be fixed by the Board and, unless so fixed at any other number, shall be two Directors of the Board. Any Director who ceases to be a Director at a meeting of the Board may continue to be present and to act as a Director and be counted in the quorum until the termination of the meeting if no other Director objects and if otherwise a quorum of Directors would not be present.

28.4 **Resident Representative.** The Resident Representative shall, upon delivering written notice of an address for the purposes of receipt of notice to the Registered Office, be entitled to receive notice of, attend and be heard at and to receive minutes of all meetings of the Board.



- 28.5 **Vacancies.** So long as a quorum of Directors remains in office, the continuing Directors may act notwithstanding any vacancy in the Board but, if no such quorum remains, the continuing Directors or a sole continuing Director may act only for the purpose of calling a general meeting and setting the agenda for such general meeting.
- 28.6 **Chairman.** The Board shall appoint a chairman and a vice-chairman from among the Independent Directors. In the absence of the chairman and the vice-chairman at any meeting of the Board, the Directors present may choose one of their number to be chairman of the meeting.
- 28.7 **Committees.** The meetings and proceedings of any committee consisting of two (2) or more members shall be governed by the provisions contained in these Bye-Laws for regulating the meetings and proceedings of the Board so far as the same are applicable and are not superseded by any rules or regulations imposed by the Board.
- 28.8 **Written Resolutions.** A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Board, as provided for in these Bye-Laws or by all the members of a committee for the time being shall be as valid and effectual as a resolution passed at a meeting of the Board or, as the case may be, of such committee duly called and constituted. Such resolution may be contained in one document or in several documents in the like form each signed by one or more of the Directors or members of the committee concerned.
- 28.9 **Electronic Meetings.** A meeting of the Board or a committee may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting. Such a meeting shall be deemed to take place where the largest group of those Directors participating in the meeting are physically assembled, or, if there is no such group, where the chairman of the meeting then is.
- 28.10 **Defects.** All acts done by the Board or by any committee or by any person acting as a Director or member of a committee or any person duly authorised by the Board or any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the election of any member of the Board or such committee or person acting as aforesaid or that they or any of them were disqualified or had vacated their office, be as valid as if every such person had been duly elected and was qualified and had continued to be a Director, member of such committee or person so authorised.
29. **OFFICERS**
- 29.1 **Officers.** The Officers of the Company, who may or may not be Directors, may be appointed by the Board at any time. Any person appointed pursuant to this Bye-Law shall hold office for such period and upon such terms as the Board may determine and the Board may revoke or terminate any such appointment. Any such revocation or termination shall be without prejudice to any claim for damages that such Officer may have against the Company or the Company may have against such Officer for any breach of any contract of service between him and the Company which may be involved in such revocation or

termination. Save as provided in the Companies Acts or these Bye-Laws, the powers and duties of the Officers of the Company shall be such (if any) as are determined from time to time by the Board.

29.2 **Executive Directors.** Any appointment of a Director to an executive office shall terminate if they cease to be a Director but without prejudice to any rights or claims which they may have against the Company by reason of such cesser.

29.3 **Resignation and Disqualification.** Save as otherwise provided, the provisions of these Bye-Laws as to resignation and disqualification of Directors shall mutatis mutandis apply to the resignation and disqualification of Officers.

## 30. MINUTES

30.1 **Minutes.** The Board shall cause minutes to be made and books kept for the purpose of recording:

- (a) all appointments of Officers made by the Board;
- (b) the names of the Directors and other persons (if any) present at each meeting of the Board and of any committee; and
- (c) all proceedings at meetings of the Company, of the holders of any class of shares in the Company, of the Board and of committees appointed by the Board or the Shareholders.

30.2 **Information Rights.** The Shareholders shall receive all information requested from the Board during a general meeting, unless an overriding interest of the Company precludes the Board from sharing such information. Subject to the Companies Acts, each Shareholder shall have the right to request information from the Board outside of a general meeting.

## 31. SECRETARY AND RESIDENT REPRESENTATIVE

31.1 **Secretary and Resident Representative.** The Secretary (including one or more deputy or assistant secretaries) and, if required, the Resident Representative, shall be appointed by the Board at such remuneration (if any) and upon such terms as it may think fit and any Secretary and Resident Representative so appointed may be removed by the Board. The duties of the Secretary and the duties of the Resident Representative shall be those prescribed by the Companies Acts together with such other duties as shall from time to time be prescribed by the Board.

31.2 **Actions.** A provision of the Companies Acts or these Bye-Laws requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

## 32. THE SEAL

32.1 **Seal.** The Board may authorise the production of a common seal of the Company and one or more duplicate common seals of the Company, which shall consist of a circular device with the name of the Company around the outer margin thereof and the country and year of registration in Bermuda across

the centre thereof.

32.2 **Execution.** Any document required to be under seal or executed as a deed on behalf of the Company may be

- (a) executed under the Seal in accordance with these Bye-Laws; or
- (b) signed or executed by any person authorised by the Board for that purpose, without the use of the Seal.

32.3 **Custody.** The Board shall provide for the custody of every Seal. A Seal shall only be used by authority of the Board or of a committee constituted by the Board. Subject to these Bye-Laws, any instrument to which a Seal is affixed shall be attested by the signature of:

- (a) a Director; or
- (b) the Secretary; or
- (c) any one person authorised by the Board for that purpose.

### 33. DIVIDENDS AND OTHER PAYMENTS

33.1 **Dividends and Distributions.** Subject to these Bye-laws, the Board may from time to time declare dividends or distributions out of contributed surplus to be paid to the Shareholders according to their rights and interests, including such interim dividends as appear to the Board to be justified by the position of the Company.<sup>3</sup> The Board, in its discretion, may determine that any dividend shall be paid in cash or shall be satisfied, subject to Bye-Laws 5.2, 35.1 and 35.2, in paying up in full shares in the Company to be issued to the Shareholders credited as fully paid or partly paid or partly in one way and partly the other. The Board may also pay any fixed cash dividend which is payable on any shares of the Company half yearly or on such other dates, whenever the position of the Company, in the opinion of the Board, justifies such payment. In making any determination regarding the declaration of a dividend or distribution out of contributed surplus, the Board must, in addition to any other obligations or duties under the Companies Acts or these Bye-Laws, consider the Stakeholder Interests.

33.2 **Implementation.** Except insofar as the rights attaching to, or the terms of issue of, any share otherwise provide:

- (a) all dividends or distributions out of contributed surplus may be declared and paid according to the amounts paid up on the shares in respect of which the dividend or distribution is paid, and an amount paid up on a share in advance of calls may be treated for the purpose of this Bye-Law as paid-up on the share;

---

<sup>3</sup> The Board will propose an amendment to this Bye-Law at the first general meeting of Shareholders held after the update of the holding structure, pursuant to which the general meeting of Shareholders will be authorised to resolve on the allocation of profits in a financial year that remain after the Board has resolved which part thereof will be added to the reserves. Reference is made to the additional Q&A on our website which can be found [here](#).

- (b) dividends or distributions out of contributed surplus may be apportioned and paid pro rata according to the amounts paid-up on the shares during any portion or portions of the period in respect of which the dividend or distribution is paid.
- 33.3 **Deductions.** The Board may deduct from any dividend, distribution or other monies payable to a Shareholder by the Company on or in respect of any shares all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in respect of shares of the Company.
- 33.4 **No Interest.** No dividend, distribution or other monies payable by the Company on or in respect of any share shall bear interest against the Company.
- 33.5 **Method of Payment.**
- (a) Subject to Bye-Law 33.5(b), any dividend, distribution or interest, or part thereof payable in cash, or any other sum payable in cash to the holder of shares may be paid by cheque or warrant sent through the post or by courier addressed to the holder at their address in the Register or, in the case of joint holders, addressed to the holder whose name stands first in the Register in respect of the shares at their registered address as appearing in the Register or addressed to such person at such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall, unless the holder or joint holders otherwise direct, be made payable to the order of the holder or, in the case of joint holders, to the order of the holder whose name stands first in the Register in respect of such shares, and shall be sent at their or their risk and payment of the cheque or warrant by the bank on which it is drawn shall constitute a good discharge to the Company. Any one of two (2) or more joint holders may give effectual receipts for any dividends, distributions or other monies payable or property distributable in respect of the shares held by such joint holders.
- (b) All dividends, distributions or interests in respect of shares held by a securities depository, including Euroclear Nederland, shall be paid by placing those dividends, distributions or interest at the disposal of such securities depository, subject to and in accordance with the regulations of such securities depository.
- 33.6 **Unclaimed Amounts.** Any dividend or distribution out of contributed surplus unclaimed for a period of five (5) years from the date of declaration of such dividend or distribution shall be forfeited and shall revert to the Company and the payment by the Board of any unclaimed dividend, distribution, interest or other sum payable on or in respect of the share into a separate account shall not constitute the Company a trustee in respect thereof.
- 33.7 **In-Kind Satisfaction.** The Board may also, in addition to its other powers, direct payment or satisfaction of any dividend or distribution out of contributed surplus wholly or in part by the distribution of specific assets, and in particular of paid-up shares or debentures of any other company, and where any difficulty arises in regard to such distribution or dividend, the Board may settle it as it thinks expedient, and in particular, may authorise any person to sell and transfer any fractions or may ignore fractions altogether, and may fix the value for distribution or dividend purposes of any such specific assets and may determine

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

#### 34. RESERVES

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

#### 35. CAPITALISATION OF PROFITS

35.1 **Capitalisation.** The Board may from time to time resolve to capitalise all or any part of any amount for the time being standing to the credit of any reserve or fund which is available for distribution or to the credit of any share premium account and accordingly that such amount be set free for distribution amongst the Shareholders or any class of Shareholders who would be entitled thereto if distributed by way of dividend and in the same proportions, on the footing that the same be not paid in cash but be applied either in or towards paying up amounts for the time being unpaid on any shares in the Company held by such Shareholders respectively or in payment up in full of unissued shares, debentures or other obligations of the Company, to be allotted and distributed credited as fully paid amongst such Shareholders, or partly in one way and partly in the other, provided that for the purpose of this Bye-Law, a share premium account may be applied only in paying up of unissued shares to be issued to such Shareholders credited as fully paid.

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

#### 36. RECORD DATES

36.1 **Dividends, Distributions, Allotments, Grant or Issue.** Notwithstanding any other provisions of these Bye-Laws, the Board may fix any date as the record date for any dividend, distribution, allotment, grant or issue. Any such record date may be on or at any time not more than fifteen (15) clear business days before any date on which such dividend, distribution, allotment or issue is declared, paid.

36.2 **General Meetings.** In relation to any general meeting of the Company or of any class of Shareholder or

to any adjourned meeting or any poll taken at a meeting or adjourned meeting of which notice is given, the Board may specify in the notice of meeting or adjourned meeting or in any document sent to Shareholders by or on behalf of the Board in relation to the meeting, a time and date (**record date**) which is not more than sixty (60) clear business days before the date fixed for the meeting (**meeting date**) and, notwithstanding any provision in these Bye-Laws to the contrary, in such case:

- (a) each person entered in the Register or another register designated by the Board, including the records of the intermediary as defined in the Giro Act at the record date as a Shareholder (**record date holder**) shall be entitled to attend and to vote at the relevant meeting and to exercise all of the rights or privileges of a Shareholder, or a Shareholder of the relevant class, in relation to that meeting in respect of the shares, or the shares of the relevant class, registered in their name at the record date;
- (b) as regards any shares, or shares of the relevant class, which are registered in the name of a record date holder at the record date but are not so registered at the meeting date (**relevant shares**), each holder of any relevant shares at the meeting date shall be deemed to have irrevocably appointed that record date holder as their proxy for the purpose of attending and voting in respect of those relevant shares at the relevant meeting (with power to appoint, or to authorise the appointment of, some other person as proxy), in such manner as the record date holder in their absolute discretion may determine; and
- (c) accordingly, except through their proxy pursuant to Bye-Law 36.2(b) above, a holder of relevant shares at the meeting date shall not be entitled to attend or to vote at the relevant meeting, or to exercise any of the rights or privileges of a Shareholder, or a Shareholder of the relevant class, in respect of the relevant shares at that meeting.

36.3 **Evidence.** The Board may resolve that the entry of the name of a person in the Register or another register designated by the Board, including the records of the intermediary as defined in the Giro Act at the record date as a record date holder shall be sufficient evidence of their appointment as proxy in respect of any relevant shares for the purposes of these Bye-Laws, but all the provisions of these Bye-Laws relating to the execution and deposit of an instrument appointing a proxy or any ancillary matter (including the Board's powers and discretions relevant to such matter) shall apply to any instrument appointing any person other than the record date holder as proxy in respect of any relevant shares.

## 37. ACCOUNTING RECORDS

37.1 **Financial year.** The financial year shall be the calendar year.

37.2 **Keeping of Records.** The Board shall cause to be kept accounting records sufficient to give a true and fair view of the state of the Company's affairs and to show and explain its transactions, in accordance with the Companies Acts.

37.3 **Location and Access.** The records of account shall be kept at the Registered Office or at such other place or places as the Board thinks fit, and shall at all times be open to inspection by the Directors, provided that if the records of account are kept at some place outside Bermuda, there shall be kept at an office

of the Company in Bermuda such records as will enable the Directors to ascertain with reasonable accuracy the financial position of the Company at the end of each three (3) month period. No Shareholder (other than an Officer of the Company) shall have any right to inspect any accounting record or book or document of the Company except as conferred by law or authorised by the Board or by Resolution.

37.4 **Provision to Persons.** A copy of every balance sheet and statement of income and expenditure, including every document required by law to be annexed thereto, which is to be laid before the Company in a general meeting, together with a copy of the Auditors' report, shall be sent to each person entitled thereto in accordance with the requirements of the Companies Acts.

## 38. AUDIT

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

## 39. SERVICE OF NOTICES AND OTHER DOCUMENTS

39.1 **Methods of Notice.** Any notice or other document (including but not limited to a share certificate, any notice of a general meeting of the Company, any instrument of proxy and any document to be sent in accordance with Bye-Law 37.4) may be sent to, served on or delivered to any Shareholder by the Company:

- (a) personally;
- (b) sending it through the post (by airmail where applicable) in a pre-paid letter addressed to such Shareholder at their address as appearing in the Register;
- (c) by sending it by courier to or leaving it at the Shareholder's address appearing in the Register;
- (d) where applicable, by sending it by email or facsimile or other mode of representing or reproducing words in a legible and non-transitory form or by sending an Electronic Record of it by electronic means, in each case to an address or number supplied by such Shareholder for the purposes of communication in such manner; or
- (e) by publication of an Electronic Record of it on a website and notification of such publication (which shall include the address of the website, the place on the website where the document may be found, and how the document may be accessed on the website) by at least one of the other methods set out in this Bye-Law 39.1, in accordance with the Companies Acts.

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

39.2 **Deemed Service.** Any notice or other document shall be deemed to have been served on or delivered to

any Shareholder by the Company:

- (a) if sent by personal delivery, at the time of delivery;
- (b) if sent by post, forty-eight (48) hours after it was put in the post;
- (c) if sent by courier or facsimile, twenty-four (24) hours after sending;
- (d) if sent by email or other mode of representing or reproducing words in a legible and non-transitory form or as an Electronic Record by electronic means, twelve (12) hours after sending; or
- (e) if published as an Electronic Record on a website, at the time that the notification of such publication shall be deemed to have been delivered to such Shareholder,

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

39.3 **Deemed Consent.** Each Shareholder and each person becoming a Shareholder subsequent to the adoption of these Bye-Laws, by virtue of its holding or its acquisition and continued holding of a share, as applicable, shall be deemed to have acknowledged and agreed that any notice or other document (excluding a share certificate) may be provided by the Company by Electronic Record or by way of accessing them on a website instead of being provided by other means.

39.4 **Application.** Save as otherwise provided, the provisions of these Bye-Laws as to service of notices and other documents on Shareholders shall mutatis mutandis apply to service or delivery of notices and other documents to the Company or any Director or Resident Representative pursuant to these Bye-Laws.

#### 40. DESTRUCTION OF DOCUMENTS

40.1 **Destruction and Retention.** The Company shall be entitled to destroy all instruments of transfer of shares which have been registered and all other documents on the basis of which any entry is made in the register at any time after the expiration of five (5) years from the date of registration thereof and all dividends mandates or variations or cancellations thereof and notifications of change of address at any time after the expiration of two (2) years from the date of recording thereof and all share certificates which have been cancelled at any time after the expiration of one (1) year from the date of cancellation thereof and all paid dividend warrants and cheques at any time after the expiration of one (1) year from the date of actual payment thereof and all instruments of proxy which have been used for the purpose of a poll at any time after the expiration of one (1) year from the date of such use and all instruments of proxy which have not been used for the purpose of a poll at any time after one (1) month from the end of the meeting to which the instrument of proxy relates and at which no poll was demanded. It shall conclusively be presumed in favour of the Company that every entry in the register purporting to have been made on the basis of an instrument of transfer or other document so destroyed was duly and



properly made, that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered, that every share certificate so destroyed was a valid and effective certificate duly and properly cancelled and that every other document hereinbefore mentioned so destroyed was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the Company, provided always that:

- (a) the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
- (b) nothing herein contained shall be construed as imposing upon the Company any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances which would not attach to the Company in the absence of this Bye-Law; and
- (c) references herein to the destruction of any document include references to the disposal thereof in any manner.

#### 41. UNTRACED SHAREHOLDERS

41.1 **Sale.** The Company shall be entitled to sell, at the best price reasonably obtainable, the shares of a Shareholder or the shares to which a person is entitled by virtue of transmission on death, bankruptcy, or otherwise by operation of law if and provided that:

- (a) during a period of five (5) years, no dividend in respect of those shares has been claimed and at least three (3) cash dividends have become payable on the share in question;
- (b) on or after expiry of that period of five (5) years, the Company has inserted an advertisement in a newspaper circulating in the area of the last registered address at which service of notices upon the Shareholder or person entitled by transmission may be effected in accordance with these Bye-Laws and in a national newspaper published in the relevant country, giving notice of its intention to sell such shares:
- (c) during that period of five (5) years and the period of three (3) months following the publication of such advertisement, the Company has not received any communication from such Shareholder or person entitled by transmission; and
- (d) if so required by the rules of any stock-exchange upon which the shares in question are listed for the time being, notice has been given to that stock-exchange of the Company's intention to make such sale.

41.2 **Additional Issuances.** If during any five (5) year period referred to in Bye-Law 41.1 above, further shares have been issued in right of those held at the beginning of such period or of any previously issued during such period and all the other requirements of this Bye-Law (other than the requirement that they be in issue for five (5) years) have been satisfied in regard to the further shares, the Company may also sell the further shares.

- 41.3 **Implementing Sale.** To give effect to any such sale, the Board may authorise some person to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser and an instrument of transfer executed by that person shall be as effective as if it had been executed by the holder of, or person entitled by transmission to, the shares. The transferee shall not be bound to see to the application of the purchase money, nor shall their title to the shares be affected by any irregularity in, or invalidity of, the proceedings in reference to the sale.
- 41.4 **Proceeds.** The net proceeds of sale shall belong to the Company which shall be obliged to account to the former Shareholder or other person previously entitled as aforesaid for an amount equal to such proceeds and shall enter the name of such former Shareholder or other person in the books of the Company as a creditor for such amount. No trust shall be created in respect of the debt, no interest shall be payable in respect of the same and the Company shall not be required to account for any money earned on the net proceeds, which may be employed in the business of the Company or invested in such investments as the Board from time to time thinks fit.
42. **WINDING UP**
- 42.1 **Winding Up.** The general meeting of the Company may only resolve to dissolve the Company by Resolution upon a proposal by the Board. If the Company shall be wound up, the liquidator may, with the sanction of a Resolution of the Company and any other sanction required by the Companies Acts, divide amongst the Shareholders in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may for such purposes set such values as they deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Shareholders or different classes of Shareholders. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trust for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no Shareholder shall be compelled to accept any shares or other assets upon which there is any liability.
43. **INDEMNITY AND INSURANCE**
- 43.1 **Indemnity.** Subject to the proviso below, every Indemnified Person shall be indemnified and held harmless out of the assets of the Company against all liabilities, loss, damage or expense (including but not limited to liabilities under contract, tort and statute or any applicable foreign law or regulation and all reasonable legal and other costs including defence costs incurred in defending any legal proceedings whether civil or criminal and expenses properly payable) incurred or suffered by him by or by reason of any act done, conceived in or omitted in the conduct of the Company's business or in the discharge of their duties and the indemnity contained in this Bye-Law shall extend to any Indemnified Person acting in any office or trust in the reasonable belief that they has been appointed or elected to such office or trust notwithstanding any defect in such appointment or election provided always that the indemnity contained in this Bye-Law shall not extend to any matter which would render it void pursuant to the Companies Acts.
- 43.2 **Limitation of Liability.** No Indemnified Person shall be liable to the Company for the acts, defaults or omissions of any other Indemnified Person.

- 43.3 **Amounts Paid or Discharged.** To the extent that any Indemnified Person is entitled to claim an indemnity pursuant to these Bye-Laws in respect of amounts paid or discharged by him, the relevant indemnity shall take effect as an obligation of the Company to reimburse the person making such payment or effecting such discharge.
- 43.4 **Shareholder Waiver.** Each Shareholder and the Company agree to waive any claim or right of action they or it may at any time have, whether individually or by or in the right of the Company, against any Indemnified Person on account of any action taken by such Indemnified Person or the failure of such Indemnified Person to take any action in the performance of their duties with or for the Company provided however that such waiver shall not apply to any claims or rights of action arising out of the fraud of such Indemnified Person or to recover any gain, personal profit or advantage to which such Indemnified Person is not legally entitled.
- 43.5 **Advances.** The Company shall advance moneys to any Indemnified Person for the costs, charges, and expenses incurred by the Indemnified Person in defending any civil or criminal proceedings against them, on condition and receipt of an undertaking in a form satisfactory to the Company that of the Indemnified Person shall repay such portion of the advance attributable to any claim of fraud or dishonesty if such a claim is proved against the Indemnified Person provided that no monies shall be paid hereunder unless payment of the same shall be authorised in the specific case upon a determination that indemnification of the Director or Officer would be proper in the circumstances because they have met the standard of conduct which would entitle them to the indemnification thereby provided and such determination shall be made:
- (a) by the Board, by a majority vote at a meeting duly constituted by a quorum of Directors not party to the proceedings or matter with regard to which the indemnification is, or would be, claimed;
  - (b) in the case such a meeting cannot be constituted by lack of a disinterested quorum, by independent legal counsel in a written opinion; or
  - (c) by a majority vote of the Shareholders.
- 43.6 **Insurance.** Without prejudice to the provisions of this Bye-Law, the Board shall have the power to purchase and maintain insurance for or for the benefit of any Indemnified Person or any persons who are or were at any time Directors, Officers, employees of the Company, or of any other company which is its Controlled Affiliate or in which the Company or such Controlled Affiliate has any interest whether direct or indirect or which is in any way allied to or associated with the Company, or of any Controlled Affiliate of the Company or any such other company, or who are or were at any time trustees of any pension fund in which employees of the Company or any such other company or Controlled Affiliates are interested, including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution or discharge of their duties or in the exercise or purported exercise of their powers or otherwise in relation to their duties, powers or offices in relation to the Company or any such other company, Controlled Affiliate or pension fund.
44. **AMALGAMATION AND MERGER**

44.1 **Approval.** Any Resolution proposed for consideration at any general meeting to approve the amalgamation or merger of the Company with any other company, wherever incorporated, shall require the approval of:

- (a) the Board, and
- (b) the Shareholders, by Resolution to be adopted at a meeting with at least two-thirds (2/3) if less than half (1/2) of the then outstanding shares that are entitled to vote on the motion is represented during such meeting.

#### 45. CONTINUATION

45.1 **Approval.** Subject to the Companies Acts, any Resolution proposed for consideration at any general meeting to discontinue the Company in Bermuda and the continuation of the Company in a jurisdiction outside Bermuda, shall require the approval of:

- (a) the Board, and
- (b) the Shareholders, by Resolution to be adopted at a meeting with at least two-thirds (2/3) if less than half (1/2) of the then outstanding shares that are entitled to vote on the motion is represented during such meeting.

#### 46. ALTERATION OF BYE-LAWS

46.1 **General.** Subject to these Bye-laws, these Bye-Laws may be revoked or amended only by the Board, which may from time to time revoke or amend them in any way by a resolution of the Board passed by a majority of the Directors then in office and eligible to vote on that resolution, but no such revocation or amendment shall be operative unless and until it is approved at a subsequent general meeting of the Company by the Shareholders by Resolution passed by a majority of votes cast.

#### 47. EXPERT DETERMINATION

47.1 **Scope.** As further set out in such Bye-Laws, certain requests made pursuant to Bye-Laws 11 and 20 shall be decided on by one or more Expert(s) in accordance with this Bye-Law 47.

47.2 **Appointment and Number of Expert(s).** The Expert(s) shall be appointed by the Board. The Board shall, at its sole discretion decide the number of Expert(s) to be appointed. Where the Board has the discretion to appoint an Expert(s), the Board shall at its sole discretion appoint one or more Expert(s). The resolutions of the Board shall be taken with only the Independent Directors participating in the deliberations and the decision-making in the Board.

47.3 **Expert(s) Qualifications.** The Expert(s) shall be independent from, and operate independently from, the Company and other party with a relevant interest involved and have relevant expertise in corporate law, mergers & acquisitions, and the regulatory environment in which the Company and its business operates. If the Board appoints multiple Experts, such Experts shall, as a group, have the relevant expertise.

- 47.4 **Language.** Any communications with the Expert(s) shall be conducted in the English language.
- 47.5 **Funding.** The Company shall provide funding reasonably required by the Expert(s) to discharge their responsibilities, including the payment of fees and expenses of advisors, consultants and counsel.
- 47.6 **Applicable Law and Procedure.** The applicable, substantive law on the basis of which the Expert(s) shall determine any matters as provided for in these Bye-Laws is Bermuda law, provided that the Expert(s) in applying Bye-Law 11, where relevant and at the discretion of the Expert(s), may take into account that Bye-Law 11 serves to provide for a mandatory offer requirement as applicable to companies incorporated under Dutch law and listed and admitted to trading on a regulated market in the European Economic Area, and Bye-Law 20 serves to provide the Board with such powers as vest in the board of a Dutch company listed on a regulated market or multilateral trading facility pursuant to section 2:114b of the Dutch Civil Code. Notwithstanding any provisions of these Bye-Laws, the Expert(s) shall at their full discretion determine the operational, procedural and timing aspects of their assignment.