



**SEMICONDUCTOR MANUFACTURING INTERNATIONAL CORPORATION**

**中芯國際集成電路製造有限公司\***

*(incorporated in the Cayman Islands with limited liability)*

**AMENDED AND RESTATED  
MEMORANDUM AND ARTICLES OF ASSOCIATION**

\* *For identification purpose only*

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**MEMORANDUM OF ASSOCIATION**

THE COMPANIES ACT (AS REVISED)  
EXEMPTED COMPANY LIMITED BY SHARES

**SEMICONDUCTOR MANUFACTURING  
INTERNATIONAL CORPORATION**

ELEVENTH AMENDED AND RESTATED  
MEMORANDUM OF ASSOCIATION

(Approved and Adopted by way of a Special Resolution passed on [••] 2023)

- 1 The name of the Company is **Semiconductor Manufacturing International Corporation**.
- 2 The registered office of the Company shall be at the offices of Conyers Trust Company (Cayman) Limited, Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands, or at such other place as the Directors may decide from time to time.
- 3 The objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by the Companies Act or as the same may be revised from time to time, or any other law of the Cayman Islands.
- 4 The liability of each Member is limited to the payment in full of the amount from time to time unpaid on such Member's shares.
- 5 The share capital of the Company is US\$42,000,000 divided into (i) 10,000,000,000 common shares of a par value of US\$0.004 each and having the rights and privileges attached thereto as provided in the Company's Articles of Associations and (ii) 500,000,000 preferred shares of a par value of US\$0.004 each and having the rights and privileges attached thereto as provided in the Company's Articles of Association.
- 6 The Company has power to register by way of continuation as a body corporate limited by shares under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.
- 7 Capitalized terms that are not defined in this Memorandum of Association bear the same meaning as those given in the Articles of Association of the Company.

**ARTICLES OF ASSOCIATION**

THE COMPANIES ACT (AS REVISED)  
EXEMPTED COMPANY LIMITED BY SHARES

**SEMICONDUCTOR MANUFACTURING  
INTERNATIONAL CORPORATION**

THIRTEENTH AMENDED AND RESTATED  
ARTICLES OF ASSOCIATION

(Approved and Adopted by way of a Special Resolution passed on [••] 2023)

# CHAPTER 1 DEFINITIONS AND GENERAL PROVISIONS

## (1) Definitions

*Table A in the Schedule to the Companies Act does not apply to these Articles. In these Articles, unless the subject or context suggests otherwise, the following terms and expressions shall bear the following meanings.*

“Company”	Semiconductor Manufacturing International Corporation.
“Companies Act”	means the Companies Act (As Revised) Cap. 22 of the Cayman Islands and any amendments thereto or re-enactments thereof for the time being in force and includes every other law incorporated therewith or substituted therefor.
“Exchange Rules”	means the relevant codes, rules and regulations, as amended from time to time, applicable as a result of the original and continued listing of any shares on any Exchange.
“Memorandum”	means the memorandum of association of the Company, as amended from time to time by Special Resolution.
“Articles”	means these articles of association of the Company, as amended from time to time by Special Resolution.
“Share(s)”	means share(s) in the Company, including a fraction of a share.
“Common Shares”	means Shares that enjoy common rights and bear common obligations, having the meaning given in the Memorandum. Common Shares include those listed on the Exchanges in Mainland China and Hong Kong, with transactions denominated in local currencies.
“RMB Common Shares”	means Common Shares listed on the Exchanges in Mainland China which are subscribed in RMB, with transactions denominated in RMB. RMB means the lawful currency of the People’s Republic of China.
“Preferred Shares”	means Shares that enjoy priority over Common Shares in the distribution of profits and other matters of the Company, having the meaning given in the Memorandum.
“dividend”	includes interim dividends and bonus dividends.
“paid-up”	means paid-up and/or credited as paid-up.

“Member”	has the same meaning given in the Companies Act.
“Register of Members”	means the register maintained in accordance with the Companies Act and includes, unless otherwise stated, any duplicate Register of Members.
“Ordinary Resolution”	means a resolution passed by a simple majority of more than one-half (1/2) of the Members as, being entitled to do so, vote in person or by proxy, or, in the case of corporations, by duly authorized representatives, at a general meeting. In computing such simple majority when a poll is demanded, regard shall be made to the number of votes to which each Member is entitled by the Articles.
“Special Resolution”	means a resolution passed by at least three-fourths (3/4) of the Members as, being entitled to do so, vote in person or by proxy, or, in the case of corporations, by duly authorized representatives, at a general meeting. In computing such three-fourths requirement when a poll is demanded, regard shall be had to the number of votes to which each Member is entitled by the Articles.
“Board”	means the board of directors of the Company.
“Directors”	means the directors for the time being of the Company.
“Secretary”	means any person appointed to perform the duties of secretary of the Company.
“Auditors”	means the persons for the time being performing the duties of auditors of the Company.
“Physical Meeting”	means general meeting held and conducted by physical attendance and participation by Members and/or proxies.
“Electronic Meeting”	means general meeting held and conducted by attendance and participation by Members and/or proxies by means of electronic facilities, whilst such electronic facilities shall enable communication among attendees.
“Electronic Communication”	means communication sent, transmitted, conveyed and received by wire, radio, optical means or other similar means in any form through any medium.
“CSRC”	means the China Securities Regulatory Commission.

“Exchange”	means any securities exchange or other systems on which the Shares may be listed or otherwise authorized for trading from time to time.
“Recognized Clearing House”	shall have the meaning ascribed thereto in Part I of Schedule I of the Securities and Futures Ordinance of Hong Kong (Cap. 571 of the Laws of Hong Kong) and any amendments thereto or re-enactments thereof for the time being in force and includes every other law incorporated therewith or substituted therefor.
“Registered Office”	means the registered office for the time being of the Company.
“Mainland China”	means the mainland of the People’s Republic of China.
“Hong Kong”	means the Hong Kong Special Administrative Region of the People’s Republic of China.
“Seal”	means the common seal of the Company and includes every duplicate seal.
“Year”	means calendar year.
“Month”	means calendar month.

## **(2) General Provisions**

- 2.1 Words importing the singular number include the plural number and vice-versa;
- 2.2 Words importing the masculine gender include the feminine gender;
- 2.3 Words importing persons include corporations;
- 2.4 “Written” and “in writing” include all modes of representing or reproducing words in visible form, including in the form of electronic record (as defined under the Electronic Transaction Act (As Revised) of Cayman Islands);
- 2.5 References to provisions of any laws, rules or regulations and Exchange Rules shall be construed as references to those provisions as amended, modified, re-enacted or replaced from time to time;
- 2.6 Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- 2.7 Headings are inserted for reference only and shall be ignored in construing these Articles;



- 2.8 References in these Articles to a document being “executed” include references to its being executed under hand or under seal or by any other method as authorized by the Company;
- 2.9 Any words or expressions defined in the Companies Act and any other applicable law in force shall, if not inconsistent with the subject or context in which they appear, have the same meaning in these Articles or that part save the word “company” includes any body corporate;
- 2.10 Reference to a meeting: (1) shall not be taken as requiring more than one person to be present if any quorum requirement can be satisfied by one person; (2) shall mean a meeting convened and held in any manner permitted by these Articles; (3) shall, where the context is appropriate, include an adjourned meeting; and (4) for all purposes of applicable laws, regulations, the Exchange Rules and these Articles, terms such as attend, participate, attending, participating, attendance and participation shall bear the same meaning.
- 2.11 Where these Articles vest any power or authority to any person, this power or authority can be exercised on any number of occasions, unless otherwise stated in these Articles;
- 2.12 The Company shall comply with all applicable laws, rules or regulations and the Exchange Rules, regardless of whether any reference to such provisions is explicitly set out in these Articles.

## **CHAPTER 2 AUTHORIZED SHARE CAPITAL AND SHARES**

### **(1) Authorized Share Capital and Issue of Shares**

- 3 The authorized share capital of the Company at the date of the adoption of these Articles is US\$42,000,000.00, divided into 10,000,000,000 Common Shares of a par value of US\$0.004 each and 500,000,000 Preferred Shares of a par value of US\$0.004 each.
- 4 The Company may in a general meeting increase or decrease the total number of Shares authorized to be issued or the total number of issued Shares.
- 5 Subject to the provisions, if any, in the Memorandum and these Articles and the authorization obtained by the Company in a general meeting and without prejudice to any rights attached to any existing Shares, the Board may allot, issue or grant options or warrants over or otherwise dispose of any Shares (including fractions of any Shares) with or without preferred, deferred, qualified or other rights or restrictions, whether with regard dividend, voting, return of capital or otherwise, and to such persons at such times and on such other conditions as the Board considers proper. The Company shall not issue Shares to bearer.
- 6 The general meeting or the Board as authorized by the general meeting may issue warrants to subscribe for any class of Shares or other securities of the Company on such terms and conditions as it may from time to time determine. No warrants shall be issued to bearer by the Company.

- 7 Upon approval of the general meeting or approval of the Board as authorized by the general meeting, such number of Common Shares, or other Shares or securities of the Company, as may be required for such purposes shall be reserved for issuance in connection with an option, right, warrant or other security of the Company or any other person that is exercisable for, convertible into, exchangeable for or otherwise issuable in respect of such Common Shares or other Shares or securities of the Company.

## (2) Preferred Shares

- 8 Preferred Shares may be issued from time to time in one or more series by the Company. When issuing Preferred Shares, the resolution providing for the issue of such series of Preferred Shares passed at the general meeting or the resolution by the Board (as authorized by the general meeting) shall state and express: name and designations of such Preferred Shares (including words indicating the voting powers attached thereto, if any, and including “restricted voting” or “limited voting” where the voting rights attached thereto are not the most favorable)), voting powers (full or limited or without voting powers), preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions thereof.
- 9 Subject to the Memorandum, these Articles, applicable laws and the express authorization of the general meeting of the Company, the Board may create one or more series of Preferred Shares on such terms and conditions as it may from time to time determine, including but not limited to the following:
- 9.1 The number of Preferred Shares to constitute such series and the distinctive designations thereof;
  - 9.2 The dividend rate on the Preferred Shares of such series, the dividend payment dates, the periods in respect of which dividends are payable (“**Dividend Periods**”), whether such dividends shall be preferred over Common Shares and whether they shall be cumulative and, if cumulative, the date or dates from which dividends shall accumulate;
  - 9.3 Whether the Preferred Shares of such series shall be convertible into, or exchangeable for, shares of any other class or any other series of the Company and the conversion prices or rates, or the rates at which such exchange may be made, with such adjustments, if any, as shall be stated and expressed or provided in such resolutions;
  - 9.4 The preferences, if any, and the amounts thereof, which the Preferred Shares of such series shall be entitled to receive upon the winding up of the Company;
  - 9.5 The voting right, if any, attached to the Preferred Shares of such series;
  - 9.6 Transfer restrictions and rights of first refusal with respect to the Preferred Shares of such series; and

9.7 Such other terms, conditions, special rights and provisions as may seem advisable to the Board. Notwithstanding the fixing of the number of Preferred Shares constituting a particular series upon the issuance thereof, the Board at any time thereafter may authorize the issuance of additional Preferred Shares of the same series subject always to the Companies Act, the Memorandum and these Articles.

### **(3) Common Shares**

10 The holders of Common Shares shall be:

10.1 entitled to dividends in accordance with the relevant provisions of these Articles;

10.2 entitled to attend general meetings of the Company and shall be entitled to one vote for each Common Share registered in his name in the Register of Members, both in accordance with the relevant provisions of these Articles; and

10.3 entitled to rights under and are subject to the provisions in relation to winding up of the Company provided for in these Articles.

11 All Common Shares shall rank pari passu with each other in all respect, including the right to dividend payment and asset distribution upon the winding up of the Company.

12 RMB Common Shares issued by the Company are centrally deposited with China Securities Depository and Clearing Company Limited. The issuance, listing, registration, trading and other matters of the Company's RMB Common Shares shall be governed by the laws, regulations and normative documents of Mainland China. Insofar as RMB Common Shares of the Company continue to list on the Shanghai Stock Exchange, the Company shall comply with the laws and regulations of Mainland China and the relevant requirements of the securities regulatory authorities of Mainland China on the red-chip enterprises.

### **(4) Transfer of Shares**

13 Unless otherwise stated in the Exchange Rules or these Articles, any Member may transfer all or part of his Shares to another person free from restriction.

14 Transfer of any Share shall be reduced to writing and effected by an instrument of transfer in the usual common form or in such other form as the Board may from time to time approve. The instrument of transfer shall be executed by or on behalf of the transferor and by or on behalf of the transferee with a manual signature or facsimile signature (which may be machine imprinted or otherwise), provided that in the case of execution by facsimile signature, such facsimile signature shall be reasonably satisfactory to the Board. The Board may dispense with the execution of the instrument of transfer by the transferee as it considers appropriate to do so.

All instruments of transfer must be kept at the registered office of the Company or at such other place as the Board may appoint, and shall be duly retained by the Company.

- 15 The holders of RMB Common Shares of the Company may transfer their Shares electronically on the internet in a manner permitted by the securities regulatory authorities in Mainland China and the Shanghai Stock Exchange.
- 16 The registration of transfer of any Shares shall satisfy the following; otherwise, the Board may decline to register such transfer:
  - 16.1 The instrument of transfer has been lodged with the Company, accompanied by the certificate for the Shares to which it relates (which shall upon registration of the transfer be cancelled) and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer;
  - 16.2 The instrument of transfer is in respect of only one class of Shares;
  - 16.3 The instrument of transfer is properly stamped (in circumstances where stamping is required);
  - 16.4 In the case of a transfer to joint holders, the number of joint holders to which the Share is to be transferred does not exceed four;
  - 16.5 The Share to be transferred has been paid-up; and
  - 16.6 A fee of such maximum amount as any Exchange may from time to time determine to be payable (or such lesser sum as the Board may from time to time require) is paid to the Company in respect thereof.
- 17 If the Board shall refuse to register a transfer of any Share, it shall, within two months after the date on which the transfer was lodged with the Company, send to each of the transferor and the transferee a notice of such refusal.
- 18 The transferor shall be deemed to remain the holder of relevant Share until the name of the transferee is entered into the Register of Members in respect of the transfer of such Share.

#### **(5) Redemption and Repurchase of Shares**

- 19 Subject to the provisions of the Companies Act, the Company may issue Shares that are to be redeemed or are liable to be redeemed at the option of the Company or the Member. Unless the Board has been expressly authorized by the Members in a general meeting, the redemption of Shares shall be effected in such manner as the Company may, by Special Resolution, determine before the issuance of Shares.
- 20 Subject to the provisions of the Companies Act, the Company may redeem or repurchase Shares in issue, provided that the Members shall have approved the manner of redemption or repurchase by Special Resolution or that the manner of redemption or repurchase is in accordance with these

Articles (and this authorization has been obtained in accordance with Section 37(3) of the Companies Act as revised from time to time), and such redemption or repurchase is in accordance with applicable laws, rules or regulations and the Exchange Rules.

- 21 The Company is authorized to repurchase any Common Share listed on any Exchange, whilst the maximum number of Common Shares that may be repurchased shall be equal to the number of issued and outstanding Common Shares less one Common Share. Such repurchase transactions shall be made at such time, at such price and on such terms as determined and agreed by the Members in the general meeting or by the Board as authorized by the general meeting in their sole discretion, provided, however, that (1) such repurchase transactions shall be in accordance with applicable laws, rules or regulations and the Exchange Rules; and (2) at the time of repurchase, the Company is able to pay its debts due in the ordinary course of its business.
- 22 The Company is authorized to repurchase any Common Share not listed on any Exchange on such term and at such price being agreed upon between the Company and the relevant Member, whilst such repurchase transactions shall be in accordance with applicable laws, rules and regulations.
- 23 The redemption or repurchase of any Share shall not oblige the Company to redeem or repurchase any other Share other than as may be required pursuant to applicable laws, rules or regulations and the Exchange Rules, and any other contractual obligations of the Company.
- 24 The Company may make a payment in respect of the redemption or repurchase of Shares in any manner permitted by the Companies Act, including out of the Company's capital.
- 25 The holder of the Shares being redeemed or repurchased shall be bound to deliver up to the Company at its registered office, or such other place as the Board may specify, the share certificates (if any) thereof for cancellation.

#### **(6) Transmission of Shares**

- 26 Any person becoming entitled to a Share in consequence of the death, bankruptcy, liquidation or dissolution of a Member (or in any other way than by transfer) may, upon such relevant and legal evidence being produced as may from time to time be required by the Board, elect either to be registered himself as the holder of the Share or to make such transfer of the Share to such other person nominated by him and to have such person registered as the transferee thereof, but the Board shall, in either case, retain the same right to decline or suspend registration of such transfer as it would have had under Article 16.
- 27 If the person so becoming entitled pursuant to Article 26 shall elect to be registered himself as the holder of the Share, he shall deliver up or send to the Company a notice in writing signed by him stating that he so elects.

- 28 A person becoming entitled to a Share pursuant to Article 26 shall be entitled to the same dividends and other rights to which he would be entitled if he were the former registered holder of the Share, except that he shall not, before being registered as a Member in respect of the Share, be entitled in respect of such Share to exercise any right conferred to such holder of Share in relation to meetings of the Company.
- 29 In case of the death of a Member, the personal representatives of the deceased where he was a sole holder, or the surviving joint holders where the deceased was a joint holder, shall be the only persons recognized by the Company as having any title to his interest in the Shares.

#### **(7) Sale of Shares**

- 30 The Company shall be entitled to sell any Shares of a Member or the Shares to which a person is entitled pursuant to Article 26 or by operation of law in such manner as it deems appropriate if and provided that:
- 30.1 All cheques or warrants, not being less than three (3) in number, for any sums payable in cash to the holder of such Shares have remained uncashed for a period of twelve (12) years;
- 30.2 During such 12-year period, at least three (3) dividends in respect of the Shares in question have become payable and no dividend during that period has been claimed by the Member;
- 30.3 Upon expiry of the 12-year period under Article 30.1, the Company has caused notice to be given in accordance with applicable laws, rules or regulations and the Exchange Rules of its intention to sell such Shares, and a period of three (3) months has elapsed since such notice and the relevant Exchange has been notified of such intention; and
- 30.4 The Company has not during the 12-year period under Article 30.1 or before the expiry of the 3-month period under Article 30.3 received any indication of the whereabouts or existence of the Member or the person entitled to such Shares by transmission.
- 31 To give effect to any sale contemplated pursuant to Article 30, the Company may appoint any person to execute as transferor an instrument of transfer of the said Shares and such other documents as are necessary to effect the transfer, and such documents shall be as effective as if they had been executed by the registered holder of or person entitled by transmission to such shares, and the title of the transferee shall not be affected by any irregularity or invalidity in the proceedings relating thereto.
- 32 The net proceeds of any sale pursuant to Article 30 shall belong to the Company and may be employed in the business of the Company or invested in such investments (other than shares or other securities in or of the Company or its holding company, if any) or otherwise utilized as the Board may from time to time determine. The Company shall account to the former Member or other person becoming entitled by transmission for an amount equal to such net proceeds and shall enter the name of such former Member or such other person in the books of the Company as a creditor for such amount, whereas no trust shall be created nor interest be payable in respect of such net proceeds and the Company shall not be required to account for any money earned on the same.

## **(8) Share Certificates**

33 Every person whose name is entered as a Member in the Register of Members shall be entitled without payment to receive, within twenty (20) days, after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide), one certificate for all his Shares of each class or, upon payment of such reasonable fee as the Board shall prescribe, such number of certificates for Shares held as that person may request. In respect of Shares held jointly by several persons the Company shall not be bound to issue a certificate or certificates to each such person, and the issue and delivery of a certificate or certificates to one of several joint holders shall be sufficient delivery to all such joint holders.

All transfers and other documents relating to or affecting the title to any Share or other registered securities of the Company shall be registered.

34 Every share certificate shall specify the number of shares in respect of which it is issued and the amount paid thereon or the fact that they are fully paid, as the case may be, and may otherwise be in such written form as shall be determined by the Board. Each certificate shall be issued under the Seal of the Company, which shall only be affixed with the authority of the Board (provided that the Board may authorize certificates to be issued with the seal and authorized signature(s) affixed by some methods or systems of mechanical process). All certificates for Shares shall be consecutively numbered.

35 If a share certificate is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and on the payment of such expenses reasonably incurred by the Company in investigating and collecting evidence, as the Board may prescribe, and (in the case of defacement or wearing out) upon delivery of the old certificate.

36 If share certificates are not required to be issued to Members according to the Exchange Rules, aforesaid provisions may be exempted.

## **(9) Register of Members**

37 The Company shall maintain a register of its Members in accordance with the Companies Act and Exchange Rules, with information of Members specified therein, including without limitation their names and addresses, the number of Shares respectively held by Members and the date of issuance. The Company shall not be bound to register more than four persons as joint holders of any Share.

38 The Company, or any agent appointed by the Company shall as soon as practicable and on a regular basis record in the Register of Members all transfers of Shares effected on any duplicate Register of Members and shall at all times maintain the Register of Members in such manner as to show at all times the Members for the time being and the Shares respectively held by them, in all respects in accordance with the Companies Act.

- 39 The Company shall not be obliged to recognize any person as holding any Share upon any trust and shall not be bound to recognize (even when having notice thereof) any equitable, contingent, future, or partial interest in any Share, or any interest in any fractional part of a Share, or any other rights in respect of any Share except an absolute right to the entirety thereof in the registered holder, unless otherwise provided under the Companies Act or these Articles.
- 40 The registration of any transfers of Shares or any specific class thereof may, on fourteen (14) days' notice being given in accordance with applicable laws, rules or regulations and the Exchange Rules, be suspended and the Register of Members closed at such times and for such periods as the Board may from time to time determine, provided always that such registration shall not be suspended or the Register closed for more than thirty (30) days in any year (or such longer period as the Members may by Ordinary Resolution determine provided that such period shall not be extended beyond sixty (60) days in any year).
- 41 Except when the Register of Members is closed, the Register of Members maintained in Hong Kong shall during business hours be kept open to any Member for inspection without charge.
- 42 The Company maintains a Register of Members of RMB Common Shares and deposits it in Shanghai the management of which is entrusted by the Company with China Securities Depository and Clearing Company Limited. Holders registered in such Register of Members of RMB Common Shares are legal owners of relevant Shares.

## **CHAPTER 3 MEMBERS AND GENERAL MEETINGS**

### **(1) Rights of Members**

- 43 All Members shall have the right to speak at a general meeting and shall be entitled to make enquiries or statements to the chairman of the meeting, verbally or in written form, in respect of which the chairman of the meeting, relevant Directors or senior management of the Company shall respond. Such a right shall be deemed to have been duly exercised if the enquiries or statements may be heard or seen by all or only some of the persons present at the meeting.
- 44 Any person registered as a Member on the record date for a general meeting shall have the right to vote at the meeting, whether by show of hands or by poll, except where such Member is required by applicable laws, rules or regulations and the Exchange Rules to abstain from voting or restricted to voting only for/against any particular resolution of the Company. Where the Company has knowledge that any Member is voting in contravention of such requirements, any votes cast by or on behalf of such Member shall not be counted.
- 45 Any corporation or other non-natural person which is a Member may authorize such person as it thinks fit as its representative to attend any general meeting of the Company or of any class of Members, and in such cases, it shall be treated as being present in person. The person so authorized shall be entitled to exercise the same powers on behalf of the corporation or other non-natural person which he represents as the corporation or other non-natural person could exercise if it were an individual Member.



- 46 If a Recognized Clearing House is a Member, it may authorize such persons as it thinks fit to act as its proxies or representatives at any general meeting of the Company or of any class of Members. Such proxies and representatives shall be entitled to exercise rights equivalent to the rights of other Members, including the rights to speak and vote.

## **(2) Variation of Rights of Shares**

- 47 The share capital of the Company is divided into Common Shares and Preferred Shares, whilst Members are entitled to the rights attached thereto in accordance with applicable laws, rules or regulations, the Exchange Rules, these Articles and the terms and conditions of issuance of Shares.

- 48 Unless otherwise provided by the terms of issuance of the Shares, the rights attached to any class of Shares may be varied with the sanction of a Special Resolution passed at a separate general meeting of the holders of the Shares of that class. The provisions of these Articles relating to general meetings shall mutatis mutandis apply to every such separate general meeting, except that the following quorum shall be satisfied:

48.1 the necessary quorum shall be two or more Members who hold at least one third (1/3) of the issued Shares of that class are present in person or by proxy at such separate general meeting; or

48.2 At an adjourned meeting of such separate general meeting, one holder of the Shares of that class present in person, or his proxy, shall be a quorum.

The provisions of this Article shall apply to any change or abrogation of rights of Shares forming part of a separate class. Each sub-class of the class which is being treated differently is treated as a separate class in operating this Article.

- 49 The rights conferred upon the holders of the Shares of any class shall not, unless otherwise expressly provided by applicable laws, rules or regulations, the Exchange Rules, these Articles or the terms of issuance of the Shares of that class, be deemed to be affected or varied materially by the creation, issue or distribution of further Shares ranking pari passu or preferable therewith, or by redemption or repurchase by the Company of any Share of any other class.

## **(3) Authorities of General Meetings**

- 50 Pursuant to applicable laws, rules or regulations, the Exchange Rules and these Articles, the general meeting of the Company shall exercise, including but not limited to, the following authorities by way of Ordinary Resolutions or Special Resolutions. All matters that can be resolved by Ordinary Resolutions may also be resolved by Special Resolutions.

- 51 The general meeting of the Company shall by Ordinary Resolution approve the following:

(1) to determine any fundamental change of the Company's business;

- (2) to approve increase of the Company's share capital (including to issue Common Shares, Preferred Shares, securities convertible into Shares, warrants and other securities affecting the Company's share capital);
- (3) to approve cancellation of any Shares that at the date of passing the relevant resolution have not been taken or agreed to be taken by any person;
- (4) to approve consolidation of all or any of the Company's Shares into Shares of larger par value than the existing Shares;
- (5) to approve division of all or any of the Company's Shares into Shares of smaller par value than is fixed by the Memorandum or into Shares without par value;
- (6) to approve the Company's profit distribution plan and loss recovery plan;
- (7) to review and approve the annual report of the Company;
- (8) to approve the Company's equity incentive plan (including stock options, restricted stocks and stock appreciation rights, etc.);
- (9) to approve provision of guarantee by the Company to entities outside the scope of the Company's consolidated financial statements in amounts not exceeding 30% of the Company's audited total assets in the latest financial period within one year, or to enterprises within the scope of the Company's consolidated financial statements that are "connected persons" under the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited (excluding those that meet the exemption conditions thereunder);
- (10) to decide on appointment or removal of any Director (including a managing or other executive Director), and to appoint a new Director upon removal of any Director to proceed with the latter's duties (except where the Board is authorized to make such appointment or removal under these Articles);
- (11) to approve payment of any compensation to any Director/former Director for removal/retirement beyond the scope as agreed contractually;
- (12) to appoint or remove Auditors of the Company, and to determine the Auditors' remuneration;
- (13) to approve material transactions that shall be approved by the general meeting in accordance with applicable laws, rules or regulations and the Exchange Rules (other than transactions provided for under Article 52(6));
- (14) to approve related or connected transactions of the Company that shall be approved by the general meeting in accordance with applicable laws, rules or regulations, the Exchange Rules and the Connected (Related) Transaction Management Policy of the Company; and

- (15) other matters that may be resolved by Ordinary Resolutions under applicable laws, rules or regulations, the Exchange Rules and these Articles.
- 52 The general meeting of the Company shall by Special Resolution approve the following:
- (1) to approve merger, voluntary winding up and the change of form of the Company;
  - (2) to approve any amendment to the Memorandum or these Articles, or to adopt a new Memorandum and Articles of Association of the Company;
  - (3) to approve reduction of the total number of issued Shares of the Company (including any redemption or repurchase of Shares not covered by general mandate granted by Members at a general meeting) provided that other requirements of the Companies Act are complied with;
  - (4) to approve voluntary withdrawal of Shares from trading on the current Exchanges and to determine not to trade on the current Exchanges, or to decide on applying to trade on other Exchanges;
  - (5) to approve provision of guarantee by the Company to entities outside the scope of the Company's consolidated financial statements in cases of the guarantee amounts within one year exceeding 30% of the Company's audited total assets in its latest audited accounts;
  - (6) to approve the purchase or sale of material assets of the Company within one year which exceeds 30% of the Company's audited total assets in the latest financial period; and
  - (7) other matters required to be resolved by Special Resolutions under applicable laws, rules or regulations, the Exchange Rules and these Articles.
- 53 Subject to applicable laws, rules or regulations and the Exchange Rules, a written resolution signed by or on behalf of each Member entitled to vote on it at a general meeting shall be as effective as a resolution passed at a general meeting. The resolution may be passed using several copies of a document if each document is signed by one or more Members. These copies can be fax copies.
- 54 To the extent permitted by applicable laws, rules or regulations, the Exchange Rules and these Articles, the general meeting may authorize the Board to exercise its authorities by appropriate procedures.

#### **(4) Convening of General Meetings**

- 55 The annual general meeting shall be held within six (6) months after the end of each of the Company's financial year (unless a longer period would not infringe applicable laws, rules or regulations or the Exchange Rules). The annual general meeting shall be held at such time and at such place as the Board shall from time to time determine.

- 56 The Board or the chairman of the Board may, at any time and at any place (either within or outside the Cayman Islands) it/he deems appropriate, proceed to convene a general meeting of the Company. In addition, the Board may, in its sole discretion, determine that the meeting be held at one or more locations and in such manner as a Physical Meeting, an Electronic Meeting or the combination of both.
- 57 Members who individually or collectively hold not less than 10% of the voting rights, on a one vote per Share basis, of the Company's Shares shall have the right to propose in writing the holding of an extraordinary general meeting to the Board. The Board shall, in accordance with applicable laws, rules or regulations, the Exchange Rules and these Articles, issue a written affirmative or negative opinion to hold such meeting within ten (10) days upon receiving such proposal. If the Board agrees to hold the meeting, it shall issue a notice of holding a general meeting within a reasonable period of time after the relevant Board resolution is made, while such notice shall set forth any modification to the original proposal that is subject to the consent of the Members.
- 58 If the Board disagrees to hold the meeting or no feedback is provided within ten (10) days after the proposal is received, the Members being so entitled to make such proposal may, in accordance with applicable laws, rules or regulations and the Exchange Rules, convene and preside over an extraordinary general meeting on their initiative.
- 59 The Board and the secretary of the Board/Secretary shall cooperate with any general meeting convened by the Members. The Company shall bear all necessary and reasonable expenses incurred due to such general meeting convened by Members on their initiative pursuant to Article 58.

#### **(5) Notice of General Meetings**

- 60 Notice of every general meeting shall be given by the Company to all Members other than such persons, under these Articles or the terms of issue of Shares, not entitled to receive such notice from the Company.
- 61 The notice shall specify (1) the time and date of the meeting; (2) save for an Electronic Meeting, the place of the meeting and if there is more than one meeting location the principal place of the meeting; (3) if the general meeting is to be held as an Electronic Meeting or a hybrid of Physical Meeting and Electronic Meeting, a statement to that effect and relevant details of the electronic facilities for attendance and participation by electronic means at the meeting (or the Company may make available such details prior to the meeting); (4) particulars of resolutions to be considered at the meeting; (5) intention to propose any resolution as a Special Resolution to be considered at the general meeting; (6) entitlement of a Member to appoint a proxy to attend the vote at the general meeting on his behalf and that a proxy may not be a Member; and (7) and other information that shall be specified therein.
- 62 At least twenty-one (21) days' written notice must be given to the Members of any annual general meeting and for any other general meetings, Members must be given at least fourteen (14) days' written notice. The notice convening an annual general meeting shall include a statement to that effect. Such notice period shall be exclusive of the day on which it is given or deemed to be given and of the day of the relevant meeting.

- 63 When a general meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting; save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned general meeting.
- 64 If any Share is registered in the names of two or more persons, the person first named in the Register of Members shall be deemed the sole holder thereof as regards service of notices and, subject to the provisions of these Articles, all or any other matters connected with the Company.
- 65 The accidental omission to give notice of a general meeting or (in cases where instruments of proxy are sent out with notice) to send instruments of proxy to, or the non-receipt of such notice or such instrument of proxy by, any person entitled to receive notice shall not invalidate any proceeding of or any resolution passed at that general meeting.
- 66 A general meeting of the Company shall, whether or not the notice has been given by the Company pursuant to Article 62 or whether or not the provisions of these Articles in respect of general meetings have been complied with, be deemed to have been duly convened if applicable laws, rules or regulations and the Exchange Rules so permit and it is so agreed:
- 66.1 In the case of a general meeting called as an annual general meeting, by all the Members entitled to attend and vote thereat or their proxies; and
- 66.2 In the case of any other general meetings, by Members or their proxies entitled to attend and vote at the meeting who together represent at least 95% of the total voting rights at the meeting of all the Members.
- 67 For the purpose of determining Members entitled to receive notice of or to vote at any general meeting, or Members entitled to any dividend, or in order to make a determination of Members for any other proper purpose, the Board may (1) provide that the Register of Members be closed for transfers for a stated period in accordance with Article 40 above (if the Register of Members shall be so closed for the purpose of determining Members entitled to receive notice of or to vote at a general meeting, the record date for such determination shall be the date of the last day of the relevant closure period of the Register of Members); or (2) fix in its sole discretion a date as the record date (such record date shall not be earlier than sixty (60) days before the date of such meeting or of any other action). If the Register of Members is not so closed and no record date is so fixed, the date on which notice of the meeting is given or the date on which the resolution of the Board declaring such dividend is adopted, as the case may be, shall be the record date for such determination of Members.

A determination of the Members entitled to receive notice of or to vote at a general meeting as aforementioned shall apply to any adjournment of such meeting; provided, however, that the Board may fix a new record date for the adjourned meeting.

## **(6) Proxy**

- 68 The instrument appointing a proxy shall be in writing and may be in any usual or common form or any other form as the Board may from time to time determine. The instrument of proxy shall be executed under the hand of a Member (or any other person duly authorized by such Member in writing). If a Member is a corporation, the instrument of proxy shall be executed under the hand of its senior management or any person duly authorized in writing by such Member.
- 69 The instrument appointing a proxy may be expressed to be for a particular meeting or any adjournment thereof or generally until revoked.
- 70 A Member may in its sole discretion appoint proxy or proxies to vote as specified in the proxy instrument on (or in default of instructions or in the event of conflicting instructions, to exercise his discretion in respect of) all or part of the resolutions to be proposed to the general meeting. An instrument appointing a proxy shall be deemed to include the power to join or vote by poll, and the power to vote on an adjournment or any other procedural matter put to a resolution at the meeting. Where a Member appoint two or more proxies, the instrument of proxy shall state the number and class of Shares represented by each proxy and which proxy is entitled to vote on a show of hands.

## **(7) Proposed Business to be Transacted at General Meetings**

- 71 No business may be transacted at any general meeting, other than business that is either:
- 71.1 specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board (or any duly authorized committee thereof);
  - 71.2 otherwise properly brought before an annual general meeting by or at the direction of the Board (or any duly authorized committee thereof); or
  - 71.3 otherwise properly brought before an annual general meeting by any Member who (i) is a Member on record on both the date of giving the notice by such Member as specified in Article 73 and the record date for determination of Members entitled to vote at such annual general meeting, and (ii) complies with the notice procedures set forth in Article 73.
- 72 No business shall be transacted at any adjourned meeting other than the business to be transacted at the meeting from which the adjournment took place.
- 73 A Member giving notice pursuant to Article 71.3 shall comply with the following procedures:
- 73.1 In addition to compliance of any other applicable requirements, such Member must have given timely notice thereof in proper written form to the secretary of the Board/Secretary.
  - 73.2 For all matters other than the nomination for election of a Director, such Member's notice shall be given in the following manners:

- 73.2.1 Such Member(s) shall individually or collectively hold 3% or more of the total number of Shares issued by the Company with voting rights.
- 73.2.2 To be given timely, the notice shall be delivered to the secretariat at the principal executive offices of the Company not less than sixty (60) days nor more than ninety (90) days prior to the first anniversary of the preceding year's annual general meeting; provided, however, that in the event that the date of the annual general meeting is advanced by more than thirty (30) days or delayed by more than sixty (60) days from such anniversary date, the notice must be delivered not earlier than the ninetieth (90) day prior to such annual general meeting and not later than the close of business on the later of the sixtieth (60) day prior to such annual general meeting or the tenth (10) day following the day on which public announcement of the date of such meeting is first made.
- 73.2.3 To be in proper written form, the notice must set forth as to each matter such Member proposes to bring before the annual general meeting, including (i) a brief description of the business desired to be brought before the annual general meeting and the reasons for transacting such business at the annual general meeting; (ii) the name and address of such Member as recorded in the Register of Members; (iii) the class or series and number of Shares of the Company which are owned beneficially or registered in the name of such Member; (iv) a description of all arrangements or understandings between such Member and any other person or persons (including their names) in connection with the proposal of such business by such Member and any material interest of such Member in such business; and (v) a representation that such Member intends to appear in person or by proxy at the annual general meeting to bring such business before the meeting.
- 73.2.4 Once the relevant business has been properly brought before the annual general meeting in accordance with the procedures above, nothing in Articles 71 to 72 shall be deemed to preclude transaction at the annual general meeting of any such business. If the chairman of the annual general meeting determines that such business was not properly brought before the annual general meeting in accordance with the foregoing procedures, the chairman shall declare to the meeting that the business was not properly brought before the meeting and thus shall not be transacted.
- 73.3 For nomination for election of a Director, in addition to the requirement under Article 73.1, such Member's notice shall be given in compliance with the following requirements:
- 73.3.1 For a nomination of non-independent director candidate, such Member(s) shall individually or collectively hold 3% or more of the total number of Shares issued by the Company with voting rights; in the case of nomination of independent director candidates, such Member(s) shall individually or collectively hold 1% or more of the total number of Shares issued by the Company with voting rights.

73.3.2 If such Member is entitled to vote only for a specific class or category of directors at the general meeting, his right to nominate persons for election as a Director at the relevant meeting shall be limited to such class or category of Directors.

73.3.3 To be given timely, in the event the Company calls an extraordinary general meeting for the purpose of electing one or more Directors to the Board, any Member entitled to vote for the election of such Director(s) at such meeting and satisfying the requirements specified above may nominate a person or persons (as the case may be) for election to such position(s) as are specified in the Company's notice of such meeting, but only if the notice required thereof shall be lodged at least fourteen (14) days prior to the date of the general meeting of election but no earlier than the day after despatch of the notice of the general meeting appointed for such election.

73.3.4 To be in proper written form, the notice must set forth the following information:

- (a) As to each person so nominated by such Member: (i) the name, age, business address and residential address of the person; (ii) the principal occupation or employment of the person; (iii) the class or series and number of Shares of the Company which are owned beneficially or registered in the name of the person (if any); and (iv) any other information relating to the person that would be required to be disclosed pursuant to any Exchange Rules;
- (b) As to the Member giving notice: (i) the name and record address of such Member as recorded in the Register of Members; (ii) the class or series and number of Shares of the Company which are owned beneficially or registered in the name of such Member; (iii) a description of all arrangements or consensus between such Member and each proposed nominee and any other person or persons (including their names) pursuant to which the nomination(s) are to be made by such Member; (iv) a representation that such Member intends to appear in person or by proxy at the general meeting to nominate the person(s) named in its notice; and (v) any other information relating to such Member that would be required to be disclosed pursuant to any Exchange Rules.

73.3.5 The notice must be accompanied by a written consent of each proposed nominee to be named as a nominee and to serve as a Director if elected.

73.3.6 No person shall be eligible for election as a Director unless nominated in accordance with the procedures set forth above. If the chairman of the general meeting determines that a nomination was not made in accordance with the foregoing procedures, the chairman shall declare to the meeting as such and that such defective nomination shall be disregarded.



73.3.7 Article 73.3 shall not apply to any nomination of a Director in an election in which only the holders of one or more series of Preferred Shares of the Company are entitled to vote (unless otherwise provided under the terms of issuance such series of Preferred Shares).

### **(8) Proceedings at General Meetings**

- 74 Two (2) or more Members shall be present at a general meeting in person or by proxy in order to meet the quorum. No business shall be transacted at any general meeting unless a quorum is present.
- 75 If within one hour from the time appointed for the general meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case the meeting shall stand adjourned to the same day in the next week at the same time and place or to such other time and place as the Board may determine.
- 76 The Board may, at its absolute discretion, arrange for persons entitled to attend a general meeting to do so by simultaneous attendance and participation by means of electronic facilities at such one or more locations. Any Member or proxy attending and participating by means of electronic facilities is deemed to be present at the meeting and shall be counted in the quorum for such meeting.
- 77 The Board and the chairman of the relevant general meeting may from time to time make arrangements for managing the attendance and/or participation by relevant persons, including without limitation issue of tickets, and adoption of entry passcode, seat reservation, electronic voting or other means as it/he shall in its/his absolute discretion consider appropriate, with which the persons attending the relevant meeting shall comply in full. The Board and the chairman of the relevant general meeting may in its/his sole discretion change any such arrangements if necessary, provided that any such changes do not involve any circumstances that would be required for timely advance disclosure or announcement by the Company to persons attending the meeting in accordance with the applicable laws, rules or regulations and any Exchange rules.
- 78 The chairman of the Board shall preside as the chairman at every general meeting of the Company. If the chairman of the Board is unable to preside over the meeting due to whatever reason or has not shown up within fifteen (15) minutes after the time appointed for the meeting, the other Directors present shall elect one of their number to be chairman of the meeting. If all of the Directors present is unable to preside over the meeting or no Director has shown up within fifteen (15) minutes after the time appointed for the meeting, the Members present shall choose one of their number to be the chairman of the meeting.

If the chairman of a general meeting is participating in the general meeting using an electronic facility and his communication becomes interrupted, another person as determined in accordance with the procedures above shall preside as the chairman until the original chairman is able to participate in and preside over the meeting.

- 79 Persons attending and participating in an Electronic Meeting or a hybrid of Physical Meeting and Electronic Meeting shall ensure adequate electronic facilities are available throughout the meeting. The inability of one or more person to access the meeting, or continue to access the meeting, with the electronic facilities shall not affect the validity of the proceedings at the meeting or any resolutions passed thereon.
- 80 The chairman of the general meeting may/shall, with the consent/direction of any general meeting duly convened hereunder, and shall if so directed by the meeting, adjourn the meeting from time to time (or indefinitely) and/or from place to place and/or from one form to another (a Physical Meeting, an Electronic Meeting or a combination of both).

### **(9) Voting by Members and Passing of Resolutions at General Meetings**

- 81 No Member shall be entitled to vote at any general meeting unless he is registered as a Member on the record date for such meeting.
- 82 Subject to any rights or restrictions for the time being attached to any class of Shares, every Member of record present in person or by proxy shall have one vote for each Share registered in his name in the Register of Members.
- 83 Members and proxies present at the general meeting are expected to vote for or against each resolution decided on a poll.

In the case of joint holders of record, 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 other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register of Members.

- 84 Shares that are beneficially owned by the Company shall not be voted, either directly or indirectly, at any general meeting and shall not be counted in determining the total number of outstanding shares at any given time.
- 85 The chairman of a general meeting may allow a resolution that relates purely to a procedural or administrative matter to be voted on by a show of hands, and each Member or proxy may cast only one vote. For the purpose of this Article, procedural and administrative matters are those that (a) are not on the agenda or specified in the circular of the general meeting; and (b) relate to maintain the orderly conduct of the meeting or allow the business of the meeting to be properly and effectively dealt with, whilst allowing all Members a reasonable opportunity to express their views.
- 86 Objection to the qualification of any Member to vote at the relevant general meeting shall be raised at the general meeting or at any adjourned meeting thereof. Any such objection shall be referred to the chairman of the meeting for determination whose decision shall be final and conclusive. Objection not raised at the general meeting or any adjourned meeting thereof or declined by the chairman shall not affect the validity of any vote by the relevant Member at such general meeting.

## CHAPTER 4 DIRECTORS AND THE BOARD

### (1) Directors Appointment and Vacation of Office

- 87 The number of Directors shall be nine (9) or such other number as may be fixed from time to time by the Board; provided, however, that so long as the Shares are listed on any Exchange, the Board shall include such number of Directors (excluding alternate Directors) as applicable laws, rules or regulations or the Exchange Rules require.
- 88 The Board may by resolution elect a chairman of the Board.
- 89 A person shall be qualified as Director as provided under applicable laws, rules or regulations and the Exchange Rules to be appointed as a Director, but no shareholding qualification is required to be held by a Director.
- 90 The Board shall have the power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors. Any Director so appointed by the Board in accordance with the preceding sentence shall hold office only until the first annual general meeting of the Company after his appointment and shall then be eligible for re-election at that meeting.
- 91 Any Director appointed upon the removal of another Director at the general meeting of the Company shall hold office for the remainder of the full term of the removed Director.
- 92 Subject to the rights of the holders of any series of Preferred Shares to elect Directors under specified circumstances, the Directors shall be divided into three classes designated as Class I, Class II and Class III, respectively. Directors shall be assigned to each class in accordance with a resolution or resolutions passed by the Board. At the first annual general meeting of the Company after the adoption of these Articles, the term of office of the Class II Directors shall expire and Class II Directors shall be elected for a full term of three years. At the second annual general meeting of the Company after the adoption of these Articles, the term of office of the Class III Directors shall expire and Class III Directors shall be elected for a full term of three years. At the third annual general meeting of the Company after the adoption of these Articles, the term of office of the Class I Directors shall expire and Class I Directors shall be elected for a full term of three years. At each succeeding annual general meeting of the Company, Directors shall be elected for a full term of three years to succeed the Directors of the relevant class whose terms expire at such annual general meeting.
- 93 The office of a Director shall be vacated:
- 93.1 If he gives notice in writing to the chairman of the Board or the secretary of the Board/ Secretary that he resigns the office of Director;

- 93.2 If all of the Directors (excluding the Director to be removed) pass a resolution or sign a notice effecting the removal of such Director from his office, provided that the Board shall, immediately prior to such notice being delivered, comprise at least four (4) persons (the Director to be removed);
- 93.3 If he is prohibited from being a Director under any applicable law, rules or regulations and the Exchange Rules;
- 93.4 If he absents himself (without being represented by a proxy or an alternate Director appointed by him) from three consecutive meetings of the Board without special leave of absence from the Board, and the Board passes a resolution that he has by reason of such consecutive absence vacated the office;
- 93.5 If he dies, becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- 93.6 If he is found suffering from mental disorder or becomes of unsound mind.
- 94 For removal of Directors under these Articles, the right to claim compensation or damages payable to such removed Director as provided for in any service contract in respect of the termination of his appointment as a Director or of any other appointment or office shall not be affected as a result of the termination of his appointment as a Director.
- 95 The Directors in service may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the number fixed by or pursuant to applicable laws, rules or regulations, the Exchange Rules or these Articles as the necessary quorum of meeting of Directors, the Directors in service may act only for the purposes of increasing the number of Directors to that quorum, or of summoning a general meeting of the Company.

## **(2) Remuneration and Interests of Directors**

- 96 The remuneration to be paid to the Directors shall be determined by the Board from time to time and be deemed to accrue from day to day.
- 97 The Board may by resolution approve additional remuneration to any Director undertaking any special work or services for, or undertaking any special mission on behalf of, the Company other than his ordinary routine work as a Director.
- 98 A Director (excluding an independent non-executive Director) may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms as to remuneration and otherwise as the Board may determine.

- 99 A Director (excluding an independent non-executive Director) may act, in relation to matters outside the scope of duties of directors, by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for the professional services provided. Such remuneration shall be in addition to his remuneration as a Director.
- 100 The Board may on behalf of the Company pay a gratuity or pension or allowance on retirement to any Director who has held any other salaried office or place of profit with the Company or to his widow or dependents and may make contributions to any funds and pay premiums for the purchase or provision of any such gratuity, pension or allowance.
- 101 Subject to applicable laws, rules or regulations and the Exchange Rules, a Director or an alternate Director may be or become a director, senior manager or other member of any other company or otherwise interested in any company, and no such Director or alternate Director shall be accountable to the Company for any remuneration or other benefits received by him therefor unless otherwise stated under the Exchange Rules.
- 102 The Directors shall be entitled to be reimbursed for their travelling, accommodation and other expenses properly incurred in going to, attending and returning from the meetings of the Board or of any committee of the Board, or the general meetings of the Company, or otherwise in connection with the business of the Company, or to receive a fixed allowance in respect thereof as may be determined by the Board from time to time, or to a combination of both.
- 103 Where any contract, transaction or loan requires approval from the Board, the quorum necessary for the relevant Board meeting shall be a majority of the disinterested Directors (such **“disinterested Directors”** shall not include a Director who himself or whose close associate(s) (as defined under the Exchange Rules) has a material interest in any such contract, transaction or loan). Unless otherwise permitted under applicable laws, rules or regulations, the Exchange Rules and these Articles, a Director shall not vote on any Board resolution approving any contract, transaction, loan or any other arrangements in which he or any of his close associates has a material interest.
- 104 Directors or alternate Directors shall declare their material interests in any contracts or transactions with the Company at the earliest meeting of the Board at which it is practicable for them to do so by way of a written notice stating that, by reason specified in the notice (such as being shareholders, directors, senior management or employees of other entities involved in such contract or transaction), they are to be regarded as interested in any contracts which may subsequently be entered into by the Company.

### **(3) Alternate Directors**

- 105 Any Director (other than an alternate Director) may appoint any other Director, or any other person willing to act, to be an alternate Director and may remove from office an alternate Director so appointed by him. Any appointment or removal of an alternate Director shall be notified to the Company in writing, unless the Board determines otherwise.

- 106 An alternate Director shall be deemed for all purposes to be a Director. The alternate Director, as well as the Director appointing such alternate Director, shall be responsible for the alternate Director's acts and defaults.
- 107 An alternate Director shall be entitled to receive notice of all meetings of the Board and of all meetings of committees of the Board of which his appointor is a member, and to attend and vote at every such meeting at which the Director appointing him is not personally present, and generally to perform all the functions of his appointor as a Director in his absence.
- 108 An alternate Director shall cease to be an alternate Director if his appointor ceases to be a Director.

#### **(4) Authorities and Duties of the Board**

- 109 Subject to applicable laws, rules or regulations, the Exchange Rules and these Articles, and to any authorization granted at general meetings of the Company, the Board shall manage the business of the Company and exercise all the powers of the Company.
- 110 Subject to the provisions of the Companies Act and these Articles, the Board may exercise the following authorities and duties:
- 110.1 To formulate proposals of the Company to increase or reduce the number of Shares authorized to be issued and the number of issued Shares;
- 110.2 To decide on the issuance of general bonds by the Company (except for the issuance of convertible bonds which are subject to approval at the general meeting);
- 110.3 To decide to borrow money and to mortgage or charge the Company's undertaking, property and uncalled share capital in whole or in part to raise funds (other than the guarantees provided under Article 51(9));
- 110.4 Subject to provisions of applicable laws, to decide on change in use of the raised funds of the Company;
- 110.5 To formulate proposals for the amendments of the Memorandum or these Articles;
- 110.6 To formulate the governance practices and policies of the Company;
- 110.7 To formulate the Company's profit distribution plan and loss recovery plan;
- 110.8 To approve the annual financial budget plan of the Company;
- 110.9 To approve material transactions and related or connected transactions that shall be approved by the Board in accordance with applicable laws, rules or regulations, the Exchange Rules and other requirements;

- 110.10 To approve the provision of guarantees by the Company to enterprises within the scope of the Company's consolidated financial statements which are not "connected persons" under the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited;
- 110.11 To appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided that the total number of Directors (excluding alternate Directors) shall not exceed that fixed under these Articles;
- 110.12 To decide on the remuneration of Directors;
- 110.13 To decide on the appointment and dismissal of the Company's chief executive officer, the secretary of the Board, the person-in-charge of finance and other senior management, and decide on matters of their remuneration, rewards and punishments;
- 110.14 To propose to the general meeting to appoint or change the Auditors of the Company;
- 110.15 To convene a general meeting and carry out a resolution passed at the general meeting;  
and
- 110.16 Other authorities and duties stipulated by applicable laws, rules or regulations, the Exchange Rules, these Articles and other requirements.
- 111 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for monies paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Board shall determine by resolution or in accordance with the internal rules and regulations of the Company.

#### **(5) Delegation of the Power of the Board**

- 112 The Board may set up any committees consisting of one or more Directors, or appoint any person as its agent for managing the affairs of the Company, and may appoint any person to be a member of the aforementioned committees.
- 113 The Board may delegate any of its powers to any committee of the Board as set up in accordance with Article 112. To the extent applicable, the proceedings of a committee of the Board shall be governed by the Articles regulating the proceedings of the Board.
- 114 To the extent permitted by applicable laws, rules or regulations, and the Exchange Rules, the Board may authorize the senior management of the Company to exercise relevant authorities and duties thereof through appropriate procedures, or delegate to any Director holding any senior management position such of their powers as they consider desirable to be exercised by him.
- 115 Any such delegation in accordance with Articles 112 to 114 may be made by the Board subject to any conditions the Board may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered.

- 116 The Board may appoint any company, firm, person or body of persons to be the agent of the Company and delegate such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under these Articles) and for such period and subject to such conditions as the Board may think fit; provided, however, that such delegation is not to the exclusion of the Board's own powers and may be revoked by the Board at any time.

#### **(6) Notice of Board Meetings**

- 117 Unless otherwise provided by these Articles, the Board shall meet together for the transaction of business, convening, adjourning and otherwise regulating Board meetings in its absolute discretion.
- 118 Notice of at least fourteen (14) days shall be given to each Director and alternate Director for any regular Board meeting, and for other meetings of the Board, notice shall be given to each Director and alternate Director at least two (2) days before the date of the meeting. Any accidental omission to give notice of a meeting of the Board to, or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings of that meeting.
- 119 The chairman of the Board or any two Directors may, and the secretary of the Board/Secretary on the direction of such persons, shall issue a notice of meeting to each Director and alternate Director by telephone or electronic email during normal business hours, whilst such notice shall set forth the business to be considered. Notice given as aforesaid shall be deemed to have been given on the day it is delivered to the Directors. No notice of Board meeting shall be required if such notice is waived by all the Directors (or the alternate Directors) either at the meeting, or before or after the meeting is held.

#### **(7) Proceedings at Board Meetings**

- 120 A duly convened meeting of the Board at which a quorum is present may exercise all powers of the Board.
- 121 The quorum necessary for transaction of business at the Board meeting shall be present if more than half of all Directors, of whom at least one shall be an executive Director, are present in person or by proxy.
- 122 A Director may participate in a Board meeting by means of Electronic Communication, and the Director so participating shall be deemed as being present in person and shall be counted in the quorum and be entitled to vote.
- 123 A Director (other than an alternate Director) may by notice in writing appoint another Director as his proxy to attend the Board meeting, and the proxy so appointed shall be counted in the quorum present at such Board meeting at which the Director appointing him is not present.
- 124 A Board meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors during the course of meeting.



125 The chairman of the Board shall preside over every Board meeting, provided that, however, if at any meeting the chairman of the Board is not present within five (5) minutes after the time appointed for holding such meeting, the Directors present may jointly elect one of their number to preside over the meeting.

### **(8) Voting and Resolutions at Board Meetings**

126 Except as otherwise provided by these Articles, resolutions put before any Board meeting shall be decided by a majority of votes of all Directors (including alternate Directors) present and vote at such Board meeting. One Director shall have one vote when voting on the Board resolutions.

127 Where a Director is related to or connected with enterprises involved in the resolution of the Board at the Board meeting, the related or connected Director shall neither vote on the resolution nor exercise voting rights on behalf of other Directors. The majority of unrelated or non-connected Directors shall be present at such Board meeting and the resolutions proposed at such Board meeting shall be adopted by majority of unrelated or non-connected Directors. If there are less than three unrelated or non-connected Directors attending the Board meeting, the Company shall submit the matter to the general meeting for deliberation.

128 Guarantees within the scope of authority of the Board shall, in addition to being approved by the majority of all Directors, be approved by more than two-thirds of the Directors attending the Board meeting.

129 Where the Board approve matters relating to share repurchase in accordance with requirements of the relevant laws and regulations of Mainland China or the authorization of the general meeting, the resolution shall be passed at a meeting of the Board at which at least two thirds (2/3) of Directors shall be present.

130 A Director of the Company who is present at a meeting of the Board at which action on any Company matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the Minutes of the meeting or unless he shall file his written dissent from such action with the secretary of the Board/Secretary before the adjournment of such meeting or shall forward such dissent by registered mail to such secretary immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favour of such action.

131 All acts done by any meeting of the Board or of a committee of the Board shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director or alternate Director, or that any Director or alternate Director was disqualified, be as valid as if every such person had been duly appointed and qualified to be a Director or alternate Director as the case may be.

132 A resolution in writing (in one or more counterparts), signed by all the Directors or all members of a committee of the Board who at the time are entitled to receive notice of such Board meeting and vote on the resolution thereon, shall be as valid and effectual as if it had been passed at a meeting of the Board or committee (as the case may be) duly convened and held.

- 133 No amendment of the Memorandum or the Articles and no such resolution passed at the general meeting shall invalidate any prior resolution of the Board which would have been valid if that amendment had not been made or such resolution had not been passed.

## **CHAPTER 5 SENIOR MANAGEMENT AND SECRETARY**

- 134 The Board may from time to time appoint one or more chairman of the Board, president, chief executive officer, chief financial officer and such other senior managers as it considers necessary in the management of the business of the Company and it may decide for such period and upon such terms as it thinks fit and upon such terms as to remuneration as it may decide in accordance with these Articles.
- 135 Every Director appointed to an office of senior management under the above Article shall, without prejudice to any right to claim for damages that such Director may have against the Company or the Company may have against such Director for any breach of any contract of service between such Director and the Company, be liable to be dismissed or removed from such senior management office by the Board.
- 136 A Director appointed to an office of senior management under the above Article shall ipso facto and immediately cease to hold such senior management office if he shall cease to hold the office of Director for any cause.
- 137 Subject to the Companies Act and any applicable laws, rules or regulations and the Exchange Rules, the Board may appoint the Secretary/secretary of the Board for such term and on such conditions as it may consider appropriate.

## **CHAPTER 6 FINANCIAL INFORMATION, PROFIT DISTRIBUTION AND AUDIT**

### **(1) Financial Information**

- 138 The Board shall cause proper books of account to be kept with respect to all sums of money received and expended by the Company and the matters in respect of which the receipt or expenditure takes place, all sales and purchases of goods by the Company and the assets and liabilities of the Company. Proper books shall not be deemed to be kept if they are not kept as to give a true and fair view of the state of the Company's affairs and to explain its transactions.
- 139 The Board shall cause to be prepared and to be laid before the Members of the Company at every annual general meeting (1) a profit and loss account together with a balance sheet of the Company for the last financial year; (2) a management's report with respect to the Company's financial position; (3) the Auditors' report on such accounts prepared pursuant to these Articles; and (4) such other reports and accounts as may be required by applicable laws, rules or regulations and the Exchange Rules.

- 140 Copies of such documents to be laid before the Members of the Company at an annual general meeting (together with the notice of meeting) shall be served by the Company to each Member at least twenty-one (21) days prior to the date appointed for such meeting and in such manner as prescribed in the Articles in connection with giving notice of meeting. The Company shall not be required to send such copies to any Member of whose address the Company is not aware.
- 141 The requirement to send to a person such copies of documents as referred to in Article 140 under the heading of “**FINANCIAL INFORMATION**” shall be deemed satisfied where, in accordance with applicable laws, rules or regulations and the Exchange Rules, the Company has published such copies as referred to in Article 140 on the Company’s computer network or in any other permitted manner (including by form of Electronic Communication), and that person has agreed to treat the publication of the documents in the foregoing manners to be deemed to discharge the Company’s obligations to send to him copies of such documents under the aforesaid Article.
- 142 Unless otherwise determined by the Board, the financial year of the Company shall end on the 31st day of December in each year.

## **(2) Profit Distribution**

- 143 After a profit distribution plan is approved by an Ordinary Resolution at a general meeting, the Board may declare dividends to be paid to Members out of the profits (whether realized or unrealized) or the share premium account of the Company or other assets as permitted under the Companies Act.
- 144 The Company may, before declaring and paying any dividends, set aside such sums as the Company may deem proper as reserves provided that the profit distribution plan as approved by an Ordinary Resolution at the general meeting is complied with. The Board may, at its sole discretion, determine to employ such reserve in the operation of the business of the Company.
- 145 The Company may declare that any dividend be paid wholly or partly by distribution of specific assets, including without limitation paid up shares, debentures, or debenture stock of any other company held by the Company, and issue of fractional Shares, provided that the profit distribution plan as approved by an Ordinary Resolution at the general meeting is complied with. In addition, the Board may settle dividend payment in manners as they think expedient and in particular, may issue fractional share certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Members upon the footing of the value so fixed in order to adjust the rights of all Members and may create trusts in respect of such specific assets from dividend payment vest any such specific assets in trust for management by the trustees as may seem expedient to the Board.
- 146 Upon the recommendation of the Board, the Company may by Ordinary Resolution authorize the Board to capitalize any sum standing to the credit of any of the Company’s reserve accounts (including share premium account and capital redemption reserve fund) or any sum standing to the credit of profit and loss account or otherwise available for distribution and to appropriate such sum for distribution to Members in the proportions in which such sum would have been divisible amongst them had the same been a distribution of profits by way of dividend and to apply such sum on their

behalf in paying up in full unissued Shares for allotment and distribution credited as fully paid up to and amongst the Members in the proportion aforesaid. In such event the Board shall take all necessary action to give effect to such capitalisation. The Board may in its absolute discretion make such provisions as it thinks fit for the case of shares becoming distributable in fractions (including provisions whereby the benefit of fractional entitlements accrue to the Company rather than to the Members concerned). The Board may authorize any person to enter on behalf of all of the Members interested into an agreement with the Company providing for such capitalisation and matters incidental thereto and any agreement made under such authority shall be effective and binding on all persons concerned.

- 147 Subject to the special rights, if any, of certain holders of Shares as to dividend payment, dividends shall be distributed in accordance with the amounts paid or credited as paid on the Shares at the relevant record date. For the purpose of this Article, no amount paid or credited as paid on a share in advance of calls shall be treated as paid on the Share, whilst interest may accrue therefor.
- 148 With respect to distribution of dividends to holders of Preferred Shares, no dividend shall be declared and set aside for payment on any series of Preferred Shares in respect of any Dividend Period unless there shall likewise be or have been paid, or declared and set aside for payment, on all Preferred Shares of each other series entitled to cumulative dividends at the time outstanding which rank senior or equally as to dividends with the series in question, dividends ratably in accordance with the sums which would be payable on the said Preferred Shares through the end of the last preceding Dividend Period if all dividends were declared and paid in full.
- 149 The Board may deduct from any dividend payable to any Member all sums of money (if any) presently payable by him to the Company on account of calls or otherwise.
- 150 Any dividend, interest or other monies payable in cash in respect of Shares may be paid by cheque or warrant post directly to the registered address of the holder or, in the case of joint holders, to the holder who is first named on the Register of Members or to such person and to such address as such holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent.

The Company may cease sending such cheques for dividend entitlements or dividend warrants if such cheques or warrants have been left uncashed on two (2) consecutive occasions. However, the Company may exercise its power to cease sending cheques for dividend entitlements or dividend warrants after the first occasion on which such a cheque or warrant is returned undelivered.

- 151 No dividend shall bear interest against the Company.
- 152 The Company shall comply with requirements on foreign exchange management in Mainland China for the payment of dividends to holders of RMB Common Shares, and shall withhold and remit tax payable on income of individual Members from such dividends in accordance with requirements of the tax law in Mainland China.

### **(3) Appointment and Duties of Auditors**

- 153 Appointment of Auditors and matters in relation thereto shall be conducted in compliance with applicable laws, rules or regulations and the Exchange Rules.
- 154 The Auditors shall audit the annual financial statements of the Company and shall prepare a report thereon to be annexed thereto. Such report shall be laid before the Company at its annual general meeting in each year and shall be open to inspection by any Member.
- 155 Auditors shall make a report on the accounts of the Company at the first annual general meeting following their appointment and at any other general meeting and at any time during their tenure of office if so required by the Board or by the Members.

### **CHAPTER 7 WINDING UP**

- 156 If the Company shall be wound up the liquidator may, with the sanction of a Special Resolution of the Company and subject to the Companies Act, divide amongst the Members in kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may for that purpose value any assets and determine how the distribution shall be carried out as between the Members or different classes of Members. The liquidator may, with the like sanction, establish trusts for the whole or any part of such assets for management by the trustees upon such trusts for the benefit of Members as the liquidator shall think fit, but so that no Member shall be compelled to accept any asset upon which there is a liability.
- 157 If the Company shall be wound up, and the assets available for distribution amongst the Members shall be insufficient to repay the whole of the paid up capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the Members in proportion to the par value of the Shares held by them. If in a winding up the assets available for distribution amongst the Members shall be more than sufficient to repay the whole of the paid up capital at the commencement of the winding up, the surplus shall be distributed amongst the Members in proportion to the par value of the Shares held by them at the commencement of the winding up subject to a deduction from those Shares in respect of which there are monies due, of all monies payable to the Company for unpaid calls or otherwise. This Article shall be without prejudice to the rights conferred on the holders of Shares issued upon special terms and conditions.
- 158 If, upon the winding up of the Company, the assets of the Company distributable among the holders of any one or more series of Preferred Shares which (1) are entitled to a preference over the holders of Common Shares upon such winding up, and (2) rank equally in connection with any such distribution, shall be insufficient to pay in full the preferential amount to which the holders of such Preferred Shares shall be entitled, then such assets, or the proceeds from the sale thereof, shall be distributed among the holders of each such series of the Preferred Shares ratably in accordance with the sums which would be payable on such distribution if all sums payable were discharged in full.

## CHAPTER 8 INDEMNITY

159 Every Director, secretary or other senior management for the time being and from time to time of the Company (but not including the Company's auditors) and the personal representatives of the same (each an "**Indemnified Person**") shall be indemnified and secured harmless by the Company against all actions, proceedings, costs, charges, expenses, losses, damages or liabilities incurred or suffered by such Indemnified Person, other than by reason of such Indemnified Person's own dishonesty, willful default or fraud, in or about the conduct of the Company's business or affairs or in the execution or discharge of his duties, powers, authorities or discretions, including without prejudice to the generality of the foregoing, any costs, expenses, losses or liabilities incurred by such Indemnified Person in defending (whether successfully or otherwise) any civil proceedings concerning the Company or its affairs in any court whether in the Cayman Islands or elsewhere.

## CHAPTER 9 NOTICES

160 Notices shall be in writing and shall be given by the Company in accordance with applicable law, rules or regulations and the Exchange Rules.

161 In the event that no such code, rules and regulations referred to in the above Article applies, notices shall be given in accordance with the following provisions:

161.1 Notices to any Member shall be given either personally or by post, email or other form of Electronic Communication to him or to his address as shown in the Register of Members (or where the notice is given by email by sending it to the email address provided by such Member);

161.2 Notices may also be given or issued by the Company by publishing it on the Company's website to which the relevant person may have access, subject to the Company complying with any applicable laws, rules or regulations and the Exchange Rules from then in force with regard to any requirements for the obtaining of consent (or deemed consent) from such person and/or for giving notification to any such person stating that the notice, document or publication is available on the Company's computer network website (a "**notice of availability**"). The notice of availability may be given by any of the means set out above other than by posting it on the Company's website;

161.3 Where a notice is sent by post, service of the notice shall be deemed to be effected upon which the envelope containing the same is properly addressed, pre-paid and put into the post, and shall be deemed to have been served on the day following that day on which the notice was posted. Where a notice is given by email, the service shall be deemed to be effected by transmitting the email to the email address provided by the intended recipient and shall be deemed to have been received on the same day on which it was sent, and it shall not be necessary for the receipt of the email to be acknowledged by the recipient. Subject to Article 161.2, a notice published on the Company's website or the website of an Exchange is deemed given by the Company to a Member on the day following that on which a notice of availability is deemed served on the Member;

- 161.4 Where one or more persons become entitled to Shares in consequence of the death or bankruptcy of a Member, the Company may give the notice in any manner in which the same might have been given if the death or bankruptcy of such Member had not occurred.
- 162 A Member shall be entitled to have notice served on him at any address which he has notified the Company, whether within or outside the Cayman Islands.
- 163 After listing on Shanghai Stock Exchange, the Company shall make announcement according to requirements of CSRC and Shanghai Stock Exchange. Notices issued by the Company to holders of RMB Common Shares shall, in addition to service of Notices to all Members in accordance with Articles 160 to 161, be at the same time announced on media designated by CSRC. Once the announcement is released, it will be deemed that all holders of RMB Common Shares have received such notice.

## **CHAPTER 10 MISCELLANEOUS**

### **(1) Seal**

- 164 The Company may, if the Board so determines, have a Seal as authorized by the Board in that behalf. Every instrument to which the Seal has been affixed shall be signed by one person who shall be either a Director or the secretary of the Board or some other person authorized by the Board for such purpose. The Seal shall not be used without authority of the Board.
- 165 The Company may have for use in any place or places outside the Cayman Islands one or more duplicate Seals each of which shall be a facsimile of the Common Seal of the Company. If the Board so determines, the Company may add on the face of the duplicate Seal the name of the place where it is to be used.
- 166 A Director, Secretary or other senior manager may without further authority of the Board affix the Seal of the Company over his signature alone to any document of the Company required to be authenticated by him under Seal or to be filed with the Registrar of Companies in the Cayman Islands or elsewhere wheresoever.

### **(2) Transfer by way of Continuation**

- 167 If the Company is an exempted company as defined in the Companies Act, it shall, subject to the provisions of the Companies Act and with the sanction of a Special Resolution, have the power to register by way of continuation as a body corporate under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.