

THE COMPANIES ORDINANCE (Chapter 32)

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Company Limited by Guarantee  
and not having a Share Capital

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ARTICLES OF ASSOCIATION

OF

HONG KONG CORPORATE COUNSEL ASSOCIATION LIMITED

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PRELIMINARY

1. **Model articles do not apply**

No regulations set out in any schedule to any Ordinance concerning companies shall apply as regulations or articles of the Company.

2. **Definitions and Interpretation**

In these Articles unless the context otherwise requires:

“**Accounting Year**” means any twelve month period commencing on 1st September of any calendar year and ending on 31st August of that calendar year or such other period as the Board may determine;

“**Alliance Agreement**” means the Alliance Agreement and as from time to time amended or replaced between the Company and the Association of Corporate Counsel executed on 6<sup>th</sup> July 2017;

“**Alliance Commencement Date**” means 6<sup>th</sup> July 2017;

“**Annual General Meeting**” means an annual general meeting of the Company;

“**Associate Member**” means a professor, student, academic, paralegal or such other category of person determined by the Board, but which is not a corporate in-house counsel working for a private enterprise or a government in-house counsel;

“**Board**” means the board of directors of the Company;

**“Companies Ordinance”** means the Companies Ordinance (Chapter 622) as from time to time amended, replaced or re-enacted and every other Ordinance from time to time in force concerning companies insofar as the same applies to the Company, and references to any provision of the Companies Ordinance shall be construed as references to the relevant provision as amended, replaced or re-enacted from time to time;

**“Company”** means the company registered as "Hong Kong Corporate Counsel Association Limited";

**“Company Secretary”** means the corporate secretary for the time being of the Company;

**“Director”** means a member of the Board and, for the avoidance of doubt, includes any such member who holds the office of President, vice-president, treasurer or honorary secretary;

**“Eligible Persons”** means:

- (a) a person who is a corporate in-house counsel working for a private enterprise or a lawyer working for a government department or agency, quasi-government or administrative body who does not have regulatory, enforcement and policy functions, including a compliance officer with a law degree;
- (b) a Government REP; or
- (c) an Associate Member, and, except as specifically provided in (a) to (b) above, excludes:
  - (i) employees whose primary responsibilities do not include addressing legal issues;
  - (ii) individuals whose responsibility may include selling or providing services to individuals or organisations who are not their employer. This would include individuals who work for companies that provide legal services such as head hunters, contract attorneys, law firms and temporary agencies; and
  - (iii) individuals whose responsibilities include sales, marketing and business development in the legal market;

**“General Meeting”** means a general meeting of the Members, whether an Annual General Meeting or a Special General Meeting;

**“Government REP”** means a lawyer working for a government department or agency, quasi-government or administrative body who has regulatory, enforcement and policy functions;

“**Honorary Member**” means a person granted honorary membership by the Board;

“**Member**” means a member of the Company (for the avoidance of doubt, an Honorary Member is not a Member);

“**Membership Fee**” means any amount payable stated by the Board in accordance with Article 9;

“**Memorandum of Association**” means the Memorandum of Association of the Company in such form as in force from time to time;

“**Office**” means the registered office of the Company;

“**Officer**” means any one of the following: President, vice-president, treasurer or honorary secretary;

“**President**” means the chairperson of the Board;

“**Register**” means the register of Members of the Company;

“**Registered Address**” means, in relation to any Member, the address entered on the Register being the address to which notices of General Meetings and other notices and documents to be given to such Member are to be sent;

“**Seal**” means the common seal of the Company;

“**Special General Meeting**” means a general meeting of the Company that is not an Annual General Meeting, being an extraordinary general meeting for the purposes of the Companies Ordinance;

references to “these Articles” means these Articles of Association in their present form or as from time to time altered;

references to writing include references to any method of representing or reproducing words in a legible and non-transitory form including, to the extent permitted by and in accordance with applicable law, in an electronic form;

references to a document include, to the extent permitted by and in accordance with applicable law, references to any information recorded in a visible form whether having physical substance or not;

references to documents being sent or delivered include, to the extent permitted by and in accordance with applicable law, references to their being sent or delivered by electronic means and references to any document being signed by a particular person include references to its being signed by or at the direction of such person (i) under hand or under seal or (ii) to the extent permitted by and in accordance with any applicable law, by electronic signature or any other method;

references to an address include, in relation to electronic communications, any number or address used for the purposes of such communications;

words and expressions importing the masculine gender shall include the feminine gender and the neuter;

words and expressions importing the singular number shall include the plural and vice versa;

where for any purpose an ordinary resolution of the Company is required, a special resolution shall also be effective;

headings in these Articles shall not form or be construed as part of these Articles or in any way affect the interpretation or construction thereof; and

any words or expressions defined in the Companies Ordinance in force at the date when these Articles are adopted shall bear the same meaning in these Articles.

### **3. Purpose of the Company**

The Company is established for the purposes expressed in its Memorandum of Association.

### **4. Registered office of the Company**

The Office shall be at such place in Hong Kong Special Administrative Region, People's Republic of China as the Board shall from time to time appoint.

## **MEMBERS AND MEMBERSHIP**

### **5. Number of Members**

For the purpose of registration, the number of Members with which the Company proposes to be registered is not more than 1,500 but the Board may from time to time, when it deems fit, register increases in the number of Members, and thereafter, the Company will consist of such number of Members until the Board next deems fit to register an increase in the number of Members.

### **6. Rights personal to Members**

The rights and privileges of each Member pursuant to these Articles are personal to that Member, shall not be capable of transfer or transmission and shall cease upon that Member's death or upon that Member ceasing for any cause to be a Member.

### **7. Membership in the Company**

- 7.1 Membership in the Company shall only be available to those persons who qualify under one of the five types of membership set out in Article 8.1 below. The Board shall full

discretion as to the admission of any person to membership and may refuse admission without assigning a reason thereof.

- 7.2 A Member shall upon admission as a Member be bound by the Memorandum of Association and these Articles.
- 7.3 The Board shall cause the Company Secretary to maintain a Register setting out the names of the Members and their Registered Addresses. Such Register shall contain such other particulars of the Members as the Board may from time to time prescribe and as may from time to time be required by law to be therein set out.
- 7.4 All Members shall give due notice in writing to the Company Secretary at the Office of his Registered Address and of any change in that Member's Registered Address and the Company Secretary shall upon receipt of such notice enter that Member's Registered Address or new Registered Address in the Register.
- 7.5 The Register shall be available for inspection by any Member upon written application being made to the Company Secretary.

## **8. Five kinds of membership**

- 8.1 There shall be the following five types of membership, with their eligibility as set out below:

(a) *Associate Members:*

The following persons shall be eligible to be Associate Members: an Associate Member who has been a member of the Company since prior to the Alliance Commencement Date; and

(b) *Full Members*

The following persons shall be eligible to be Full Members:

- (i) an Eligible Person who pays membership fees as determined by the Board from time to time in accordance with Article 9.1 to be payable by Full Members (Individuals); and
- (ii) an Eligible Person who is an employee of a legal entity which pays the membership fees as determined by the Board from time to time in accordance with Article 9.1 to be payable by Full Members (Corporates) and which has a minimum number of in-house counsels as determined by the Board from time to time.

(c) *Standard Members*

The following persons shall be eligible to be Standard Members:

- (i) a person who has been a member of the Company since prior to the Alliance Commencement Date and who pays membership fees as determined by the Board from time to time in accordance with Article 9.1 to be payable by Standard Members (Individuals);
- (ii) a person who is an employee of a legal entity which has been a member of the Company since prior to the Alliance Commencement Date and which pays membership fees as determined by the Board from time to time in accordance with Article 9.1 to be payable by Standard Members (Corporates) and which has a minimum number of in-house counsels as determined by the Board from time to time;
- (iii) an Eligible Person who pays membership fees as determined by the Board from time to time in accordance with Article 9.1 to be payable by Standard Members (Individuals); and
- (iv) an Eligible Person who is an employee of a legal entity which pays the membership fees as determined by the Board from time to time in accordance with Article 9.1 to be payable by Standard Members (Corporates) and which has a minimum number of in-house counsels as determined by the Board from time to time.

8.2 The Board shall have absolute discretion to determine, amend, alter and in any way modify the existence, requirements or eligibility for each kind of membership from time to time.

8.3 Each Member shall have one (1) vote. Honorary Members shall not have any voting rights or have any right to hold office and shall not be regarded as Members for the purposes of these Articles unless, in each case, the Board allows, in its absolute discretion, the assignment of such rights to an Honorary Member.

## **9. Fees for membership to the Company**

9.1 The Board may determine the fees for each type of membership from time to time. All fees paid on behalf of, or in respect of, a Member to the Company are non-refundable. The Board may, at its sole discretion, refund a Membership Fee. All decisions relating to membership are final. The Board shall have the sole right and discretion to reinstate membership.

9.2 Unless the Board determines otherwise in its absolute discretion, a person shall not be a Member unless and until the due and payable Membership Fees have been received by the Company.

9.3 The Board may alter or amend the date due for payable Membership Fees at its sole discretion by giving written notice to all Members. The revised due date for fees must be at least twenty-one days after the date the written notice is sent to Members.

- 9.4 If a Membership Fee is not received by the Company within two months of the date the Membership Fee was due, such Member shall be deemed to have cancelled their membership with immediate effect.

## **10. Resignation of Members by notice**

- 10.1 Any Member, having paid any moneys due from him to the Company, may resign from being a Member by giving one month's notice in writing to the Board in accordance with Article 10.2 of that Member's intention to do so and upon the expiry of the one month notice, the membership shall cease.

- 10.2 A notice in accordance with Article 10.1 shall be given to the Board by sending it as an electronic communication to [info@hkcca.net](mailto:info@hkcca.net) or to such other electronic or postal address as the Board or the Company may provide for that purpose from time to time, and marked for the attention of the "Honorary Secretary".

## **11. Duty to notify the Board if cease to satisfy the requirements of membership**

- 11.1 Where a person who is a Member ceases to satisfy the requirements of or eligibility for membership as determined by the Board from time to time under Articles 7.1 and 8.1, such Member shall notify the Board in accordance with Article 11.3 as soon as practicable (and in any event within 30 days of becoming aware of the change in eligibility).

- 11.2 Upon receipt of a notification under Article 11.1, the Board shall have sole discretion to:

- (a) terminate the membership in accordance with Article 12; or
- (b) by giving at least 30 days' notice, to amend, alter, change, terminate or do any other act in relation to the rights of the Member as it sees fit.

- 11.3 A notice in accordance with Article 11.1 shall be given to the Board by sending it as an electronic communication to [info@hkcca.net](mailto:info@hkcca.net) or to such other electronic or postal address as the Board or the Company may provide for that purpose from time to time, and marked for the attention of the "Honorary Secretary".

## **12. Termination of membership**

Where a person who is a Member has:

- (a) been convicted of a serious offence punishable by imprisonment;
- (b) acted in a manner that, in the opinion of the Board after due enquiry, is injurious, prejudicial or detrimental to the character, interests, objectives or good name of the Company;
- (c) been declared bankrupt;

- (d) becomes of unsound mind;
- (e) violated any of these Articles of Association; or
- (f) in the opinion of the Board or the Company, ceased to satisfy the membership requirements as stipulated by the Board from time to time in accordance with Articles 7.1 and 8.1 or has ceased to represent the goals of the Company or by behaviour has become detrimental to interests of the Company;

the Board may resolve by a majority of all acting members of the Board to expel such member from the Company. Such person shall be treated as surrendering all rights and claims against the Company or Board.

### **13. Cessation of membership**

- 13.1 Any person who shall for any cause cease to be a Member of the Company shall remain liable for and shall pay to the Company all moneys owed by such person to the Company at the time he ceases to be a Member.
- 13.2 Any person who resigns as or ceases to be a Member for any reason shall forfeit all rights or claims against the Company or Board.

## **GENERAL MEETINGS**

### **14. Annual General Meetings to be held**

- 14.1 The Board shall convene and the Company shall hold General Meetings as Annual General Meetings in accordance with the requirements of the Companies Ordinance at such times and places as the Board shall appoint.
- 14.2 Not more than fifteen (15) months shall elapse between the date of one Annual General Meeting and that of the next Annual General Meeting.
- 14.3 Any General Meeting of the Company other than an Annual General Meeting shall be called a Special General Meeting.

### **15. Board to convene Special General Meetings**

- 15.1 The Board may, whenever it thinks fit, convene a Special General Meeting. Every Special General Meeting shall be held at such times and place as the Board shall appoint.
- 15.2 A Special General Meeting shall be convened by the Board on the requisition in writing of any Members, holding not less than one-twentieth of the total voting rights of all the Members having at the said date a right to vote at general meetings of the Company, specifying the objects of the meeting and specifying a date no later than 21 days from the date of the request. If the Directors do not:



- (a) give notice of the Special General Meeting within 21 days of receiving the requisitionists' request; or
- (b) hold that Special General Meeting within 28 days of such notice of the Special General Meeting,

the requisitionists themselves may convene the Special General Meeting in the same manner as that in which a General Meeting may be convened by the Directors, and all reasonable expenses incurred by the requisitionists as a result of the failure of the Directors to convene the General Meeting shall be reimbursed to them by the Company.

15.3 Each Member of the Company may require the Company to give, to each Member of the company entitled to receive notice of the next Annual General Meeting, notice of a resolution which may properly be moved and is intended to be moved at that meeting in the same manner as the notice of the meeting and at the same time, or as soon as reasonably practical after, it gives notice of the meeting.

15.4 A request by a Member under Article 15.3 must:

- (i) be submitted to the Company Secretary at the Office in writing;
- (ii) identify the resolution of which notice is to be given and provide a draft of the proposed resolution;
- (iii) summarise the reason for the request and the substance of the proposed resolution;
- (iv) be authenticated by the person (or persons) making it; and
- (v) be received by the Company Secretary at the Office at least fourteen days before the Annual General Meeting to which the request relates or, if later, the time at which notice is given of that meeting.

### **NOTICE OF GENERAL MEETINGS**

#### **16. Periods of notice for General Meetings**

An Annual General Meeting shall be called by not less than twenty-one days' notice in writing, and a Special General Meeting shall be called by not less than fourteen days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given and shall specify the place, day and time of the meeting and, in the case of special business, the general nature of that business. The notice convening an Annual General Meeting shall specify the meeting as such. Notice of every General Meeting shall be given in accordance with these Articles to all Members other than any who, under the provisions of these Articles, are not entitled to receive such notices from the Company, and also to the auditors for the time being of the Company.

**17. General Meeting may be called by shorter notice**

A General Meeting that is called by shorter notice than that specified in this Article shall be deemed to have been duly called if the giving of such shorter notice is agreed to:

- (a) in the case of a meeting called as an Annual General Meeting, by all the Members entitled to attend and vote at the meeting; and
- (b) in the case of any other meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together representing not less than 95 per cent. of the total voting rights of all of the Members entitled to attend and vote at that meeting,

provided that, notwithstanding the foregoing, a meeting called for the passing of a special resolution for the voluntary winding up of the Company (other than a Members' voluntary winding up) should not be called by less than seven days' notice.

**18. Contents of notice**

In every notice calling a General Meeting, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of that Member and that a proxy need not be a Member.

**19. Omission to give notice shall not invalidate proceedings**

The accidental omission to give notice of a meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send such instrument of proxy to, or the non-receipt of notice of a meeting or such instrument of proxy by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting or any resolutions passed at that meeting.

**PROCEEDINGS AT GENERAL MEETINGS****20. Special business transacted at General Meetings**

20.1 All business shall be deemed special that is transacted at a Special General Meeting and also all business that is transacted at an Annual General Meeting with the exception of:

- (a) the consideration of the income and expenditure accounts, balance sheets and the reports of the Directors and the auditors and other documents required to be annexed to the accounts;
- (b) the appointment and the fixing of the remuneration of the auditors; and

**21. Quorum for General Meetings**

- 21.1 No business shall be transacted at any General Meeting unless a quorum is present when the meeting proceeds to business but the absence of a quorum shall not preclude the appointment, choice or election of a President which shall not be treated as part of the business of the meeting.
- 21.2 Save as otherwise provided by these Articles, at least ten Members entitled to attend and vote at General Meetings present in person or by proxy shall be a quorum for all purposes.
- 21.3 In the event that the quorum requirement in Article 21.2 is not met and ten Members entitled to attend and vote at General Meetings are not present in person or by proxy, twenty-five per cent. of the total voting rights of the Company, present in person or by proxy, shall be a quorum for all purposes.

**22. General Meetings where no quorum present**

If within thirty minutes (or such longer time not exceeding one hour as the President of the meeting may determine to wait) after the time appointed for the commencement of the meeting a quorum is not present, the meeting, if convened on the requisition of Members pursuant to Article 15.2, shall be dissolved. In any other case it shall stand adjourned to the same day in the following week, at the same time and place, or to such other day (not being less than fourteen nor more than twenty-eight days later) and at such other time or place as the President of the meeting may determine, and if at such adjourned meeting a quorum is not present within thirty minutes from the time appointed for the Meeting, the Members present in person or by proxy shall be considered a quorum, save that such single Member shall not have power to alter, amend or make additions to the Memorandum of Association or these Articles.

**23. Directors may attend and speak at General Meetings**

Every Director shall be entitled to attend and speak at any General Meeting of the Company.

**24. Presidency of General Meetings**

The President of the Board or, in his absence, the vice president shall preside as President at every General Meeting. If there is no such President or vice president, or if at any meeting neither the President nor a vice president is present within thirty minutes after the time appointed for the commencement of the meeting, or if neither of them is willing to act as President, the Directors present shall choose one of their number to act as President, or if one Director only is present he shall preside as President if he is willing to act as such.

**25. Adjournment of General Meetings**

The President may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting to such time and place as the President shall determine, but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for three months or more, notice of the adjourned meeting shall be given as in the case of the meeting from which the adjournment took place. Save as expressly provided by these Articles, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

**26. Board may allow Members to participate by other means**

The Board may allow any of the Members or their proxies to participate in a General Meeting by means of a conference telephone or any communication equipment, which allows all persons participating in the meeting to speak to and hear each other or by such other lawful electronic means or in such other manner as may be agreed by the Company in general meeting. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the President of the meeting is.

**27. Resolution of Members in writing**

A resolution in writing signed by or on behalf of all the Members for the time being entitled to receive notice of and attend and vote at a General Meeting of the Company at which such resolution was to be proposed shall be treated as a resolution duly passed at such a General Meeting duly convened and held and, where relevant, as a special resolution so passed. Any such resolution may consist of several documents in the like form each signed by or on behalf of one or more of the Members.

**VOTES OF MEMBERS****28. Ordinary and Overseas Members entitled to attend and vote**

Each Member entitled to attend and vote at General Meetings who is present in person or by proxy shall have one vote in respect of each resolution proposed at a General Meeting.

**29. Votes on a show of hands unless poll demanded**

At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless (before or on the declaration of the result of the show of hands or on the withdrawal of any other demand for a poll) a poll is demanded by the President of the meeting or any Member present in person or by proxy and entitled to vote. Unless a poll be so demanded and the demand is not withdrawn, a declaration by the President

that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost shall be final and conclusive and an entry to that effect in the minute book of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

### **30. Voting by poll**

- 30.1 If a poll is duly demanded, the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 30.2 A poll demanded on the election of a President, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken in such manner and either forthwith or at such date (being not later than three months after the date of the demand) and at such time and place as the President shall determine. It shall not be necessary (unless the President otherwise directs) for notice to be given of a poll.
- 30.3 Except in the case of a poll demanded on the election of the President, the demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded and it may be withdrawn at any time before the close of the meeting or the taking of the poll, whichever is the earlier.

### **31. President has second or casting vote**

- 31.1 In the case of an equality of votes at a General Meeting, whether on a show of hands or on a poll, the President of such meeting shall be entitled to a second or casting vote.

### **32. Objections as to votes**

In the event that:

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

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

### **33. Amendments to resolutions proposed at a General Meeting**

- 33.1 Any resolution to be proposed at a General Meeting may be amended by a resolution if:
- (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the General Meeting at which it is to be proposed not less than seven days before the meeting is to take place (or such later time as the President of the meeting may determine), and
  - (b) the proposed amendment does not, in the reasonable opinion of the President of the meeting, materially alter the scope of the resolution.
- 33.2 If the President of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the President's error does not invalidate the vote on that resolution.

## **PROXIES**

### **34. Instrument appointing proxy to be in writing**

The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney authorised in writing or, if the appointor is a corporation, either under its seal or under the hand of an officer, attorney or other person authorised to sign it.

### **35. Right to attend and vote by proxy**

A Member may attend by proxy any General Meeting which he is entitled to attend and vote at and, on a poll, vote by proxy on any resolution at any such meeting on which he would otherwise be entitled to vote. Any proxy appointed by a Member (who is entitled to so appoint a proxy) to attend and vote at a General Meeting of the Company instead of such Member shall have the same right as the Member to speak at the meeting.

### **36. Proxy need not be a member**

A proxy need not be a Member.

### **37. Requirements as to form of appointment of proxy**

- 37.1 The instrument appointing a proxy and (if required by the Board) the power of attorney or other authority (if any) under which it is signed, or a notarially certified copy of such power or authority, shall be delivered at the Office (or at such other place in Hong Kong as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case, in any document sent therewith) not less than forty-eight hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of a meeting or adjourned meeting, not less than twenty-four hours before the time appointed for the taking of the poll and an instrument of proxy which is not so delivered shall be invalid. No instrument appointing a proxy shall be

valid after the expiration of twelve months from the date specified in it as the date of its execution.

- 37.2 Instruments of proxy shall be in such form as the Board may approve and the Board may, if it thinks fit but subject to the Companies Ordinance, send out with the notice of any General Meeting forms of instrument of proxy for use at the meeting. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll and to vote on any amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy for a General Meeting shall, unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates.

**38. Proxy vote shall be valid notwithstanding previous death or insanity**

A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the instrument of proxy or of the authority under which it was executed, provided that no intimation in writing of such death, insanity or revocation shall have been received by the Company at the Office (or such other place in Hong Kong as may be specified in the notice convening the meeting or in any notice of any adjournment, or in either case, in any document sent therewith) at least one hour before the commencement of the meeting or adjourned meeting at which the instrument of proxy is to be used.

**CORPORATIONS ACTING BY REPRESENTATIVES**

**39. Corporation may appoint a representative**

Any corporation which is a Member of the Company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member of the Company.

**DIRECTORS**

**40. Number of Directors**

Unless and until otherwise determined by ordinary resolution of the Company, the Directors shall be not less than four and there shall be no more than fifteen Directors. The first Directors shall be named by the subscribers to the Memorandum of Association.

**41. Appointment and removal of Directors**

- 41.1 Subject to the provisions of these Articles, any Member willing to so act and nominated by at least three other Members may stand for election to be a Director (including as an Officer) of the Company to fill a vacancy. Such election shall be held at the Annual General Meeting of the Company and each Member present in person or by proxy shall

have such number of votes equal to the number of vacancies to be filled. Any such nominations shall be received by the Company Secretary at least 25 days prior to the date of the Annual General Meeting or such other date determined by the Board.

- 41.2 Without prejudice to Article 41.1, the Board shall have power at any time and from time to time to appoint (a) any person to be a Director (including as an Officer) either to fill a casual vacancy or as an addition to the existing Board; or (b) a Director to be an Officer. If such Director was appointed to fill a casual vacancy, he shall retire at the next Annual General Meeting in accordance with Article 42(a) and be eligible for re-appointment in accordance with Article 42(a).
- 41.3 The Company may by ordinary resolution remove any Director before the expiration of his period of office and may (subject to these Articles) by ordinary resolution appoint another person in his place and, if any such Director also holds the office of an Officer, such resolution shall also have the effect of removing him from that office.
- 41.4 Without prejudice to Article 41.3, the Company may by ordinary resolution remove any Director from the office of Officer before the expiration of his period of office and may (subject to these Articles) by ordinary resolution appoint another Director in his place but that person so removed from the office of Officer shall remain a Director.
- 41.5 The Board shall notify each Member in writing at least fourteen days prior to a proposed General Meeting of all persons nominated for election to the Board in accordance with Article 41.1.

#### **42. Retirement of Directors**

At every Annual General Meeting, each Director:

- (a) who has been appointed by the Board since the last Annual General Meeting to fill a vacancy, or
- (b) whose term in office, as determined by the ordinary resolution which appointed him, has expired, or
- (c) who held office at the time of the three preceding Annual General Meetings and who did not retire at either of them, or
- (d) who has held office with the Company, other than employment or executive office, for a continuous period of six years or more at the date of the Annual General Meeting,

shall retire from his position and may offer himself for re-appointment by the Members. In the case of a Director retiring and offering himself for re-appointment by the Members in accordance with Article 41.1, the term of his appointment, if re-appointed by the Members, shall be limited to the remaining term of office of the retired Director whose casual vacancy he was appointed by the Board to replace.



### **43. Disqualification of Directors**

43.1 The office of a Director shall be vacated in any of the following circumstances, if:

- (a) the Director resigns his office by notice in writing delivered to the Office or tendered at a meeting of the Board;
- (b) the Director becomes of unsound mind or a patient for any purpose of any Ordinance relating to mental health and the Board resolves that his office be vacated;
- (c) without reasonable grounds as determined by the Board in its sole and absolute discretion, the Director is absent from half or more of all Board meetings convened in any period of 12 continuous months since that Director's most recent appointment, and the Board resolves that his office be vacated;
- (d) the Director becomes bankrupt or compounds with his creditors;
- (e) the Director is prohibited by law from being a Director;
- (f) by notice in writing delivered to the Office or tendered at a meeting of the Board, the Director's resignation is requested by each of the other Directors; or
- (g) the Director ceases to be a Director by virtue of the Companies Ordinance or is removed from office pursuant to these Articles,

and, if any such Director also holds the office of Officer, his holding of that office shall be vacated at the same time as his office of Director is vacated.

43.2 Without prejudice to Article 43.1, the office of an Officer shall be vacated in any of the following circumstances, if:

- (a) the Officer resigns his office by notice in writing delivered to the Office or tendered at a meeting of the Board; or
- (b) by notice in writing delivered to the Office or tendered at a meeting of the Board, the Officer's resignation is requested by each of the other Directors,

but such person may remain a Director.

## **MANAGEMENT OF COMPANY**

### **44. Management entrusted and vested in the Board**

44.1 The management of the Company shall be entrusted to and vested in the Board, which may:

- (a) pay all the costs and expenses incurred in the formation and registration of the Company;
  - (b) make regulations for its own proceedings and/or the proceedings of any committees established pursuant to Article 44.1(c), but so that no such regulation may conflict with or be inconsistent with any provision of these Articles. No such regulation shall invalidate any prior act of the Board or any committee established pursuant to Article 44.1(c) which would have been valid if such regulation had not been made;
  - (c) establish any number of committees, consisting of such person or persons (whether a member or members of the Board or not) as it thinks fit and delegate any of its powers, authorities and discretions (including, without limitation, those specifically conferred on the Board by this Article) to any committee or committees. Any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, conform to any regulations which may be imposed on it by the Board; and
  - (d) generally exercise all such powers of the Company (whether relating to the management of the operations of the Company or not) as are not by these Articles or by law required to be exercised by the Company in General Meeting, subject nevertheless to the provisions of these Articles, the Companies Ordinance and to any regulations made pursuant to Article 44.1(b).
- 44.2 All cheques, promissory notes, drafts, bills of exchange and other instruments, whether negotiable or transferable or not, and all receipts for moneys 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 from time to time.
- 44.3 The Board may elect a President and Vice-President(s) of the Company by a simple majority at any time to fill a vacancy, or otherwise at the first meeting of the Board in person or by telephone conference after the Annual General Meeting. The Board may decide that such elected President or Vice-President(s) may begin to serve immediately, or at some stipulated date in the future. The term of the President and Vice-President shall be the shorter of (i) three years or (ii) what would have been the remainder of the term for a casual vacancy.

**45. Board may borrow and raise moneys**

The Board may exercise all the powers of the Company to borrow or raise moneys or give security for any moneys borrowed or raised by the Company or any other obligation or liability of the Company and give guarantees and undertakings in respect of or in connection with moneys borrowed or raised by the Company or any other obligation or liability of the Company.

**46. Board may appoint person to be the attorneys of the Company**

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

**47. Board may exercise all powers conferred regarding official seals**

The Company may exercise all the powers conferred by the Companies Ordinance with regard to having official seals and such powers shall be vested in the Board.

**48. Board may keep an overseas or local register**

Subject to the provisions of the Companies Ordinance, the Company may keep an overseas or local or other register in any place and the Board may make and vary such regulations as it may think fit respecting the keeping of any such register.

**49. Board shall cause minutes to be made in books**

The Board shall cause minutes or records to be made in books provided for the purposes of:

- (a) all appointments of Officers made by the Board;
- (b) the names of the Directors present at each meeting of the Board and at each meeting of each committee of the Board;
- (c) all committees established pursuant to Article 44.1(c) and the composition thereof; and
- (d) all resolutions and proceedings at all meetings of the Company and of the Board and of any committee of the Board.

### **PROCEEDINGS OF DIRECTORS**

**50. Board may meet as it thinks fit**

The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Subject to Article 54.1, questions arising at any meeting shall be decided by a majority of votes cast on the relevant resolution, with each Director having one vote. In the case of any equality of votes, the President of the meeting shall

have a second or casting vote. A Director may at any time, and the Company Secretary on the requisition of a Director shall forthwith, summon a meeting of the Board.

**51. Period of notice of a Board meeting**

Notice of a meeting of the Board shall be given to Directors at least three clear working days prior to the date of the meeting unless shorter notice is agreed upon by the Directors in accordance with Article 53.

**52. Notice of a Board meeting to a Director**

Notice of a meeting of the Board shall be deemed to be duly given to a Director if it is given to that Director personally or by word of mouth or sent in writing to that Director at that Director's last known address or any other address given by that Director to the Company for this purpose or provided by other electronic means. A Director absent or intending to be absent from Hong Kong may request the Board to send notices of meetings of the Board during that Director's absence to that Director at that Director's last known address or any other address given by that Director to the Company for this purpose, but in the absence of any such request it shall not be necessary to give notice of a meeting of the Board to any Director who is for the time being absent from Hong Kong. A Director may waive notice of any meeting either prospectively or retrospectively.

**53. Board meeting may be called by shorter notice**

A meeting of the Board may be by shorter notice where a majority of the Directors eligible to attend agree. If a meeting is to be held at shorter notice, a further communication may be sent on the request of a minority Director who did not agree to the holding of the meeting at short notice informing that Director of the date, time and place of the meeting and describing the business to be discussed at such meeting.

**54. Quorum for a Board meeting**

- 54.1 The quorum necessary for the transaction of the business of the Board may be fixed by the Board and save and except where such business of the Board pertains to the matters set out in (a) to (h) below, shall be 40% of all Directors entitled to attend such Board meeting and to vote on the relevant resolution. Any Director who ceases to be a Director at a meeting of the Board may continue to be present and to act as a Director and be counted in the quorum until the termination of that meeting of the Board if no other Director objects and if otherwise a quorum of Directors would not be present.

The quorum necessary for the transaction of the business of the Board pertaining to the matters set out below in (a) to (h) below, shall be 60% of all Directors entitled to attend such Board meeting and to vote on the relevant resolution. Furthermore, such business will only be approved if 75% or more of all votes cast at the Board meeting vote in favour of such business:

- (a) issuance of any shares of the Company;

- (b) dissolution, liquidation or winding-up of the Company;
- (c) amendment or otherwise modification in any respect of the Memorandum of Association of the Company;
- (d) acquisition of, by merging or consolidating with, or by purchasing an equity interest in, or by any other manner, any third party or division thereof or any securities of any third party by the Company;
- (e) removal of Directors;
- (f) incurrence of any indebtedness by the Company;
- (g) making of any loan to, or entering into any other similar loan transaction with any third party by the Company; or
- (h) any agreement, amendment or termination relating to the Alliance Agreement, or entering into any other similar alliance with any third party.

54.2 The continuing Directors or a sole continuing Director may act notwithstanding any vacancy in the Board but, if and so long as the number of Directors is reduced below any minimum number fixed by or in accordance with these Articles, the continuing Director(s), notwithstanding that the number of Directors is below the number fixed by or in accordance with these Articles as the quorum or that there is only one continuing Director, may act for the purpose of filling vacancies in the Board or of summoning General Meetings but not for any other purpose.

**55. Chairperson of Board meetings**

The President of the Board or, in his or her absence, a Vice President shall preside as chairperson at every meeting of the Board. If no President or Vice President is elected as chairperson at the time of the meeting of the Board, or if at any meeting neither the President nor any Vice President is present within five minutes after the time appointed for the commencement of such meeting, the Directors present may choose one of their number to be chairperson of the meeting.

**56. Board shall be competent to exercise all powers**

A meeting of the Board at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the Board.

**57. Directors may participate by other means**

All or any of the members of the Board or any committee of the Board may participate in a meeting of the Board or that committee by means of a telephone conference or any communication equipment which allows all persons participating in the meeting to speak

to and hear each other or by such other lawful electronic means or in such other manner as may be agreed by the Company in general meetings. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the chairperson of the meeting is.

**58. Board resolution in writing is valid**

58.1 A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Board (provided that number is sufficient to constitute a quorum) shall be as valid and effectual as a resolution passed at a meeting of the Board properly called and constituted. The resolution may be contained in one document or in several documents in like form each signed by one or more of the Directors. A telex, cable, facsimile or electronic message sent by a Director shall be deemed to be a document signed by that person for the purposes of this Article.

**59. Acts by the Board valid if defect discovered afterwards**

59.1 All acts done by the Board or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board so acting or that they or any of them were disqualified or had vacated office, be as valid as if each such person had been duly appointed and was qualified and had continued to be a Director.

**60. Interested Director must declare interest**

60.1 A Director who is in any way, whether directly or indirectly, materially interested in a contract, arrangement or transaction or proposed contract, arrangement or transaction with the Company and which is of significance in relation to the Company's business shall declare the nature of his interest at the earliest meeting of the Directors (as the case may be) at which it is practicable for him to do so, in accordance with the Companies Ordinance and notwithstanding such declaration of interest, such Director shall not vote in respect of any such contract, arrangement or transaction in which he is so interested or any matter arising therefrom, and if he shall do so his vote shall not be counted, but he shall be counted in the quorum present at the meeting. A general notice to the Directors by a Director stating that, by reason of facts specified in the notice, he is to be regarded as interested in contracts, arrangements or transactions or proposed contracts, arrangements or transactions of any description which may subsequently be made or contemplated by the Company shall be deemed for the purposes of this Article to be a sufficient declaration of his interest, so far as attributable to those facts, in relation to any contract, arrangement or transaction of that description which may subsequently be made or contemplated by the Company but no such general notice shall have effect in relation to any contract, arrangement or transaction or proposed contract, arrangement or transaction unless it is given before the date on which the question of entering into the same is first taken into consideration on behalf of the Company.

## CORPORATE ACTIONS

### 61. Company Secretary may be appointed

- 61.1 Subject to Paragraph 5 of the Memorandum of Association, one or more Company Secretaries may be appointed by the Board for such term, at such remuneration and upon such conditions as it may think fit. Any Company Secretary so appointed may be removed by the Board.
- 61.2 Any provision of the Companies Ordinance or these Articles requiring or authorising a thing to be done by or to a Director and the Company Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Company Secretary.

### 62. The Seal

- 62.1 The Board shall provide for the custody of the Seal. The Seal shall only be used by the authority of the Board or of a committee of the Board authorised by the Board in that behalf. Subject as otherwise provided in these Articles any instrument to which the Seal is affixed shall be signed by one Director or by such other person or persons as the Board may determine.
- 62.2 The Company shall be entitled to exercise the powers conferred by Section 125 of the Companies Ordinance to use an official seal in any country or place where it carries on business.

## ACCOUNTS

### 63. Proper books of account to be kept

The Board shall cause proper books of account to be kept with respect to:

- (a) all sums of money received and expended by the Company and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases of goods and provision and receipt of services by the Company; and
- (c) the assets and liabilities of the Company.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.

### 64. Accounting records to be kept at the Office

The accounting records shall be kept at the Office or, subject to the Companies Ordinance, at such other place as the Board may determine and shall be open to

inspection by the Officers of the Company. No Member (other than an Officer of the Company) shall have any right of inspecting any accounting record or book or document of the Company except as conferred by law or as authorised by the Board.

**65. Copy of balance sheet and income and expenditure account to be sent to each person**

A copy of every balance sheet and income and expenditure account, including every document required by law to be annexed thereto, which is to be laid before the Company in General Meeting, together with a copy of the report of the auditors of the Company, shall be sent to each person so entitled in accordance with the requirements of the Companies Ordinance.

**66. Accounts to be made up for each year**

The accounts of the Company shall be made up for each Accounting Year.

**AUDIT**

**67. Auditors to be appointed**

67.1 Auditors of the Company shall be appointed and their duties regulated in accordance with the Companies Ordinance.

**NOTICES**

**68. Service of Notices on a Member**

Any notice or other document may be served on or delivered to any Member by the Company either personally or by sending it through the post in a prepaid letter addressed to such Member at his Registered Address as appearing in the Register, or by delivering it to or leaving it at such Registered Address addressed as aforesaid, or by sending it as an electronic communication to such Member at such address as he may provide to the Company for that purpose, or, in the case of any notice, by publishing it by way of advertisement in one or more newspapers, by publishing it on a computer network (including a website) or by any other means authorised in writing by such Member.

**69. Member not having an address within Hong Kong**

Any Member described in the Register as having an address not within Hong Kong who shall, from time to time, give to the Company an address within Hong Kong at which notices may be served upon him shall be entitled to have notices served upon him at that Hong Kong address, but, unless he does so, shall not be entitled to receive any notice from the Company.



**70. Deemed date of service**

Any notice or other document given or issued by or on behalf of the Company:

- (a) if sent by post, shall be deemed to have been served or delivered on the day after the day when it was put in the post (in the case of a Member with a Registered Address in Hong Kong) and on the seventh day after the day when it was put in the post (in the case of a Member with a Registered Address outside Hong Kong) and in proving such service or delivery it shall be sufficient to prove that the notice or document was properly addressed, stamped and put in the post;
- (b) if not sent by post but left by the Company at the Registered Address of a Member, shall be deemed to have been served or delivered on the day it was so left;
- (c) if sent as an electronic communication, shall be deemed to have been served on the day following that on which it was sent and proof that the address provided by the Member concerned to the Company in writing for the purposes of electronic communications was used for sending the electronic communication containing the notice or document shall be conclusive evidence that the notice or document was served or delivered;
- (d) if published on a computer network, shall be deemed to have been served on the day on which the notice of such publication is served on or delivered to the Member concerned or where no notice of such publication is required by law to be served on or delivered to the Member concerned, the day on which the notice or document first appears on the computer network concerned; and
- (e) if served, sent or delivered by any other means authorised in writing by the Member concerned, shall be deemed to have been served, received, or delivered when the Company has carried out the action it has been authorised to take for that purpose.

**WINDING UP****71. Provisions in Memorandum of Association apply**

- 71.1 The provisions of Clause 9 of the Memorandum of Association of the Company relating to the winding up or dissolution of the Company shall have effect and be observed as if the same were repeated in their entirety in these Articles.

**72. Members may wind up Company**

- 72.1 The Company may be wound up by Members if:

- (a) a special resolution is passed for the winding up of the Company at a General Meeting; and

- (b) a further special resolution for the winding up of the Company is passed within one month of the special resolution referred to in Article 72.1(a) where;
  - (i) the second special resolution was passed at a Special General Meeting called for the sole purpose of voting on such resolution; and
  - (ii) there was a quorum of two-thirds of Members entitled to attend and vote at the Special General Meeting.

72.2 Where the Members resolve to wind up the Company in accordance with Article 72, the Board shall thereafter notify all Members of a date not later than six months after the special resolution whereby the Company will be wound up in accordance with Clause 9 of the Memorandum of Association of the Company.

### **INDEMNITY**

#### **73. Each Director to be indemnified out of funds**

Each Director, manager, committee member and Officer of the Company shall be indemnified out of the funds of the Company against all liabilities incurred by such person in such capacity in defending any proceedings, whether civil or criminal, in which judgment is given in such person's favour, or in which such person is acquitted, or in connection with any application under Sections 902 to 904 of the Companies Ordinance in which relief from liability is granted to such person by the Court. For the purposes of this Article no person appointed or employed by the Company as an auditor of the Company is an Officer of the Company. For the avoidance of doubt, no Director, manager, committee member and Officer of the Company shall be indemnified out of the funds of the Company in the manner described in this Article in relation to such liabilities in connection with which such person has acted in bad faith or with wilful neglect.