

Andina Acquisition Corp
Form DEFA14A
November 27, 2013

SCHEDULE 14A

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant ☒ x
Filed by a Party other than the Registrant ☐ o
Check the appropriate box:

☐ o Preliminary Proxy Statement
☐ o **Confidential, For Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
☐ o Definitive Proxy Statement
☐ o Definitive Additional Materials
☒ x Soliciting Material Under Rule 14a-12

ANDINA ACQUISITION CORPORATION

(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

☒ x No fee required.
☐ o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
(1) Title of each class of securities to which transaction applies:
(2) Aggregate number of securities to which transaction applies:

Edgar Filing: Andina Acquisition Corp - Form DEFA14A

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

o Fee paid previously with preliminary materials:

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

This filing consists of a Notice of Extraordinary General Meeting of Shareholders to be mailed on December 2, 2013 to Andina Acquisition Corporation's shareholders of record as of November 22, 2013.

ANDINA ACQUISITION CORPORATION

**Carrera 10 No. 28-49
Torre A. Oficina 20-05,
Bogota, Colombia**

NOTICE OF EXTRAORDINARY GENERAL MEETING OF SHAREHOLDERS TO BE HELD ON DECEMBER 20, 2013

TO THE SHAREHOLDERS OF ANDINA ACQUISITION CORPORATION:

NOTICE IS HEREBY GIVEN that an extraordinary general meeting of shareholders of Andina Acquisition Corporation (Andina), a Cayman Islands exempted company, will be held at 9:00 a.m. eastern time, on December 20, 2013, at the offices of Graubard Miller, Andina's U.S. counsel, at The Chrysler Building, 405 Lexington Avenue, 1st Floor, New York, New York 10174. You are cordially invited to attend the extraordinary general meeting, which will be held for the following purposes:

- (1) to consider and vote upon a proposal to adopt and approve the Agreement and Plan of Reorganization (merger agreement), dated as of August 17, 2013, as amended as of November 6, 2013, by and among Andina, Andina Merger Sub, Inc., Andina's wholly-owned subsidiary (Merger Sub), Tecnoglass S.A. (Tecnoglass), C.I. Energia Solar S.A. E.S. Windows (ES) and Tecno Corporation, the ultimate parent of Tecnoglass and ES, which, among other things, provides for Tecnoglass and ES to become subsidiaries of Andina, and to approve the business combination contemplated by the Merger Agreement (merger) we refer to this proposal as the merger proposal ;
- (2) to consider and vote upon a proposal to approve by special resolution an amendment to the second amended and restated memorandum and articles of association of Andina, effective immediately upon consummation of the merger, to change the name of Andina from Andina Acquisition Corporation to Tecnoglass Inc. we refer to this proposal as the name change proposal ;
- (3) to consider and vote upon a proposal to approve by special resolution amendments to the second amended and restated memorandum and articles of association of Andina, effective immediately upon consummation of the merger, to remove provisions that will no longer be applicable to Andina after the merger we refer to this proposal as the charter amendments proposal ;
- (4) to consider and vote upon a proposal to approve by special resolution, effective immediately upon consummation of the merger and approval of the name change proposal and charter amendments proposal, the amendment and restatement of Andina's second amended and restated articles of association by their deletion in their entirety and the substitution in their place of the third amended and restated memorandum and articles of association to (among other matters) reflect the changes effected by the name change proposal and the charter amendments proposal we refer to this proposal as the articles restatement proposal ;
- (5) to consider and vote upon a proposal to approve the 2013 Long-Term Incentive Plan, which is an incentive compensation plan for employees of Andina and its subsidiaries we refer to this proposal as the incentive compensation plan proposal ;
- (6) to elect by ordinary resolution, effective upon the consummation of the merger, seven directors to Andina's board of directors, of whom three will be Class A directors serving until the general meeting of shareholders to be held in 2014, two will be Class B directors serving until the general meeting to be held in 2015 and two will be Class C

Edgar Filing: Andina Acquisition Corp - Form DEFA14A

directors serving until the general meeting to be held in 2016 and, in each case, until their successors are elected and qualified we refer to this proposal as the director election proposal ;

to consider and vote upon a proposal to approve the convertibility into warrants of promissory notes issued (or to (7)be issued) to Andina s directors, officers, initial shareholders or their affiliates who have made (or may make prior to the meeting) working capital loans to Andina we refer to this proposal as the note convertibility proposal ;

- to consider and vote upon a proposal to adjourn the extraordinary general meeting to a later date or dates, if necessary, to permit further solicitation and vote of proxies if, based upon the tabulated vote or elections to convert at the time of the extraordinary general meeting, Andina is not authorized to consummate the merger or the closing conditions under the merger agreement are not met we refer to this proposal as the adjournment proposal ;
- (8) to consider and vote upon a proposal to approve, on an advisory basis, the executive compensation of Andina's named executive officers we refer to this proposal as the say-on-pay proposal ; and
- (9) to consider and vote upon a proposal to select, on an advisory basis, the frequency with which Andina will hold an advisory shareholder vote to approve executive compensation we refer to this proposal as the frequency of say-on-pay proposal.
- (10)

The form of the resolutions to be adopted at the extraordinary general meeting, including the form of the special resolutions to be adopted pursuant to the name change proposal, charter amendments proposal and articles restatement proposal, are attached to this notice as *Annex A*. The form of the third amended and restated memorandum and articles of association, as it will appear if the name change proposal, charter amendments proposal and articles restatement proposal are approved, is attached to this notice as *Annex B*.

These items of business will be described more fully in the definitive proxy statement that will be delivered to you prior to the extraordinary general meeting. A proxy card and instructions on how to vote will be provided with the definitive proxy statement, along with instructions on how to exercise your conversion rights. We encourage you to read the definitive proxy statement in its entirety before voting.

Only holders of record of Andina's ordinary shares at the close of business on November 22, 2013 are entitled to notice of the extraordinary general meeting and to vote and have their votes counted at the extraordinary general meeting and any adjournments or postponements of the extraordinary general meeting.

All Andina shareholders are cordially invited to attend the extraordinary general meeting in person. If your shares are held in an account at a brokerage firm or bank and you wish to attend the extraordinary general meeting and vote in person, you must obtain a proxy from your broker or bank.

By Order of the Board of Directors

/s/ A. Lorne Weil

A. Lorne Weil

Non-Executive Chairman of the Board

December 2, 2013

EARLYBIRDCAPITAL, INC. (EBC), THE MANAGING UNDERWRITER OF ANDINA S INITIAL PUBLIC OFFERING (IPO) CONSUMMATED IN MARCH 2012, AND MORGAN JOSEPH TRIARTISAN (MJTA) ARE ACTING AS ANDINA S INVESTMENT BANKERS IN CONNECTION WITH THE MERGER, FOR WHICH EBC WILL RECEIVE A FEE OF \$1,610,000 AND MJTA WILL RECEIVE A FEE OF \$500,000. ANDINA, ITS DIRECTORS AND EXECUTIVE OFFICERS, EBC AND MJTA MAY BE DEEMED TO BE PARTICIPANTS IN THE SOLICITATION OF PROXIES FOR THE EXTRAORDINARY GENERAL MEETING OF ANDINA SHAREHOLDERS TO BE HELD TO APPROVE THE MERGER.

SHAREHOLDERS OF ANDINA AND OTHER INTERESTED PERSONS ARE ADVISED TO READ ANDINA S DEFINITIVE PROXY STATEMENT IN CONNECTION WITH ANDINA S SOLICITATION OF PROXIES FOR THE EXTRAORDINARY GENERAL MEETING BECAUSE THIS PROXY STATEMENT WILL CONTAIN IMPORTANT INFORMATION. SUCH PERSONS CAN ALSO READ ANDINA S FINAL PROSPECTUS, DATED MARCH 16, 2012, AND ANDINA S ANNUAL REPORT ON FORM 10-K FOR THE FISCAL YEAR ENDED FEBRUARY 28, 2013, AS AMENDED, FOR A DESCRIPTION OF THE SECURITY HOLDINGS OF THE ANDINA OFFICERS AND DIRECTORS AND OF EBC AND MJTA AND THEIR RESPECTIVE INTERESTS IN THE SUCCESSFUL CONSUMMATION OF THE MERGER. THE DEFINITIVE PROXY STATEMENT WILL BE MAILED TO SHAREHOLDERS AS OF NOVEMBER 22, 2013. SHAREHOLDERS WILL ALSO BE ABLE TO OBTAIN A COPY OF THE DEFINITIVE PROXY STATEMENT, WITHOUT CHARGE, BY DIRECTING A REQUEST TO: THE EQUITY GROUP INC., 800 THIRD AVENUE, 36TH FLOOR, NEW YORK, NEW YORK 10022. THE DEFINITIVE PROXY STATEMENT AND THE FINAL PROSPECTUS AND ANNUAL REPORT ON

FORM 10-K WILL ALSO BE ABLE TO BE OBTAINED, WITHOUT CHARGE, AT THE SECURITIES AND EXCHANGE COMMISSION'S INTERNET SITE ([HTTP://WWW.SEC.GOV](http://www.sec.gov)).

SUMMARY OF THE MATERIAL TERMS OF THE MERGER

The parties to the merger agreement are Andina Acquisition Corporation (Andina), Andina Merger Sub, Inc., Andina's wholly-owned subsidiary (Merger Sub), Tecnoglass S.A. (Tecnoglass), C.I. Energia Solar S.A. E.S. Windows (ES) and Tecno Corporation, the ultimate parent of Tecnoglass and ES (Tecnoglass Holding).

Pursuant to the merger agreement, Merger Sub will be merged with and into Tecnoglass Holding, with Tecnoglass Holding surviving and remaining as a wholly-owned subsidiary of Andina with Tecnoglass and ES being direct or indirect subsidiaries of Tecnoglass Holding.

Tecnoglass and ES are leading manufacturers of hi-spec, architectural glass and windows for the western hemisphere residential and commercial construction industries. Headquartered in Barranquilla, Colombia, Tecnoglass and ES operate out of a 1.2 million square foot vertically-integrated, state-of-the-art manufacturing complex that provides easy access to the Americas, the Caribbean, and the Pacific. Tecnoglass and ES export 43% of their production to foreign countries and sell to more than 300 customers in North, Central and South America. The United States accounted for approximately 30% of their combined revenues in 2012. Tecnoglass and ES's tailored, high-end products are found on some of the world's most distinctive properties, including the El Dorado Airport (Bogota), Imbanaco Medical Center (Cali), Trump Plaza (Panama), Trump Tower (Miami), and The Woodlands (Houston). Under the merger agreement, the Tecnoglass Holding shareholders will receive: (i) an aggregate of 20,567,141 ordinary shares of Andina at the closing and (ii) 3,000,000 additional ordinary shares of Andina to be released after the closing based on the achievement of specified share price and earnings targets for the 2014, 2015 and/or the 2016 fiscal years. Based upon a market price of \$10.14 per ordinary share of Andina on October 31, 2013, the Tecnoglass Holding shareholders will receive total merger consideration of approximately \$208.5 million at the closing and could receive up to approximately an additional \$30.4 million after the closing.

To provide a fund for payment to Andina with respect to its post-closing rights to indemnification under the merger agreement for any breaches of representations and warranties and covenants and for certain other matters by Tecnoglass Holding, there will be placed in escrow (with an independent escrow agent) an aggregate of 890,000 of the ordinary shares of Andina issuable to the Tecnoglass Holding shareholders at closing. The shares to be placed in escrow will be allocated among the Tecnoglass Holding shareholders pro rata in proportion to the numbers of ordinary shares of Tecnoglass Holding owned by them immediately prior to the closing of the merger.

In connection with the merger, public shareholders may seek to convert their shares, regardless of whether they vote for or against the merger. All conversions will be effectuated as repurchases under Cayman Islands law. Any public shareholder who affirmatively votes either for or against the merger proposal will have the right to demand that his shares be converted for a full pro rata portion of the amount then in the trust account (which was approximately \$42,743,000, or approximately \$10.18 per share, as of October 31, 2013), less any amounts necessary to pay Andina's taxes (which were zero, as of October 31, 2013).

The merger agreement provides that either Andina or Tecnoglass Holding may terminate the agreement if the merger is not consummated by December 22, 2013. The merger agreement also provides that Tecnoglass Holding may terminate the agreement if immediately after the merger, Andina would not have cash on hand of at least \$33,500,000, after (i) payment to the holders of shares sold in Andina's initial public offering, whom we sometimes refer to as public shareholders, who elect to convert their shares issued in the initial public offering, which we sometimes refer to as public shares, into cash and (ii) payment of transaction costs of Andina and Tecnoglass Holding incurred in connection with the merger, such costs not to exceed \$5,000,000 in the aggregate. Based on the per-share trust amount, this means that Andina would need less than 416,512 public shares to be converted to maintain at least \$33,500,000 of cash on hand assuming the maximum amount of transaction costs are incurred in the transaction. Furthermore, even if the foregoing condition were waived by Tecnoglass Holding, if the holders of more than 3,674,999

public shares properly demand conversion of their shares, Andina will not be authorized to consummate the merger pursuant to its second amended and restated memorandum and articles of association. Additionally, the merger agreement may be terminated, among other reasons, by either Andina or Tecnoglass Holding upon material breach by the other party.

In addition to voting on the merger, the shareholders of Andina will vote on proposals to amend its second amended and restated memorandum and articles of association, effective immediately upon consummation of the merger, to (i) change Andina's name to Tecnoglass Inc. and (ii) remove provisions that will no longer be applicable to Andina after the merger. If such proposals are approved, the shareholders of Andina will also vote on a proposal to approve the amendment and restatement of Andina's second amended and restated memorandum and articles of association to (among other matters) reflect the name change proposal and charter amendments proposal. The shareholders of Andina will also vote on proposals to (A) approve the incentive compensation plan, (B) elect seven directors to Andina's board of directors, (C) approve the convertibility of notes issued (or to be issued) in exchange for working capital loans made (or to be made prior to the meeting) to Andina, (D) approve, if necessary, an adjournment of the meeting, (E) approve, on an advisory basis, the executive compensation of Andina's named executive officers and (F) select, on an advisory basis, the frequency with which Andina will hold an advisory shareholder vote to approve executive compensation.

After the merger, if management's nominees are elected, the directors of Andina will be Jose M. Daes, Christian Daes, Samuel Azout and Juan Carlos Vilarino, who were designated for nomination as directors by Tecnoglass Holding and A. Lorne Weil, Julio A. Torres and Martha L. Byorum, who were designated by Andina.

Upon completion of the merger, certain officers of Tecnoglass and ES will become officers of Andina, holding positions similar to the positions such officers held with Tecnoglass and ES. These officers are Jose M. Daes, who will become Chief Executive Officer of Andina, Christian Daes, who will become Chief Operating Officer of Andina, and Joaquin Fernandez, who will become Chief Financial Officer of Andina. Each of these persons is currently an executive officer of Tecnoglass or ES and will enter into an employment agreement with Andina, while remaining in such positions with Tecnoglass or ES, as applicable.

The Tecnoglass Holding shareholders will agree not to sell any of the ordinary shares of Andina that they receive as a result of the merger during the twelve month period after the closing date of the merger pursuant to lock-up agreements they will enter as a condition to closing the transaction. At the closing of the merger, Andina will enter into an amended and restated registration rights agreement amending and restating the registration rights agreement entered into by Andina in connection with its initial public offering. Under the amended and restated registration rights agreement, the parties thereto, including all of the Tecnoglass Holding shareholders, will have certain demand and piggyback registration rights under the Securities Act of 1933, as amended, with respect to the resale of their ordinary shares of Andina. Notwithstanding such registration rights, the sale restriction described above shall remain in effect for the balance of the one-year period.

Annex A

ANDINA ACQUISITION CORPORATION
(the Company)
UNANMIOUS RESOLUTIONS OF THE
SHAREHOLDERS OF THE COMPANY

1

Merger Proposal

- 1.1 It is resolved THAT the Merger Proposal (as defined in the Company's proxy statement dated , 2013 (the **Proxy Statement**)), and the transactions (the **Transactions**) contemplated by the Agreement and Plan of Reorganization, by and among Andina Acquisition Corporation, Andina Merger Sub, Inc., Tecnoglass S.A. and C.I. Energia Solar S.A. E.S. Windows, be approved.

2

Change of Name

- 2.1 It is resolved as a special resolution THAT the name of Andina Acquisition Corporation be changed from Andina Acquisition Corporation to Tecnoglass Inc. effective immediately upon consummation of the Transactions.

3 Amendments to the Second Amended and Restated Memorandum and Articles of Association

- 3.1 It is resolved as a special resolution THAT the Second Amended and Restated Memorandum and Articles of Association of the Company are amended by:

(a) amending Article 1 by deleting the following definitions in their entirety:

Business Combination	has the meaning given to it in Article 48.1.
Founders	means all Members immediately prior to the consummation of the IPO.
IPO	means the Company's initial public offering of securities.
IPO Repurchase	has the meaning given to it in Article 48.3.
Over-allotment Option	means the option of the Underwriters to purchase up to an additional 600,000 units (as defined at Article 3.3) at a price equal to \$10.00 per unit, less underwriting discounts and commissions.
Repurchase Price	has the meaning given to it in Article 48.3.
Trust Fund	has the meaning given to it in Article 48.1.
Underwriters	means EarlyBirdCapital, Inc. on its own behalf and for other underwriters from time to time, and any successor underwriter.

- (b) amending Article 1 by deleting the existing definition of Designated Stock Exchange and replacing such definition with the following wording:

Designated Stock Exchange	means the Over-the-Counter Bulletin Board or any national securities exchange including the National Market System or the Capital Market of the Nasdaq Stock Market, Inc., the NYSE MKT LLC or the New York Stock Exchange.
---------------------------	---

(c)

amending Article 3.3 by deleting the following wording:

The Shares and warrants comprising any such units which are issued pursuant to the IPO can only be traded separately from one another 90 days after the date of the prospectus relating to the IPO unless the Underwriters determine that an earlier date is acceptable. Prior to such date, the units can be traded, but the Shares and warrants comprising such units

cannot be traded separately from one another. ;

- (d) amending Article 8.1 by deleting the following wording from the second sentence:
, except Shares in the IPO, ;

A-1

(e) amending Article 8.1 by deleting the following wording:

With respect to repurchasing shares of the Company:

- (a) members who hold Shares issued in the IPO are entitled to request repurchase of such Shares in the circumstances described in Article 48.3;
shares held by the Founders shall be compulsorily repurchased on a pro rata basis to the extent that the
- (b) Over-allotment Option is not exercised in full so that the Founders will own 20% of the Company's issued and outstanding Shares after the IPO; and
- (c) shares issued in the IPO shall be repurchased by way of tender offer in the circumstances set out at Article 48.2(b). ;
- (f) amending Article 8.2 by deleting the following wording:
For the avoidance of doubt, repurchases of Shares in the circumstances described at Articles 8.1(a), 8.1(b), 8.1(c) and 8.1(d) above shall not require further approval of the Members. ;

(g) amending Article 17.3 by deleting the first comma and replacing with and and deleting the words and Article 48.13 ;

(h) amending Article 26 by re-numbering Article 26 as Article 26.1 and inserting the following new Article 26.2 immediately following the new Article 26.1:

26.2 The Directors shall be divided into three classes: Class A, Class B and Class C. The number of Directors in each class shall be as nearly equal as possible. Upon the adoption of these amended and restated Articles, the existing Directors shall by resolution classify themselves as Class A, Class B or Class C Directors. The Class A Directors shall stand elected for a term expiring at the Company's first annual general meeting, the Class B Directors shall stand elected for a term expiring at the Company's second annual general meeting and the Class C Directors shall stand elected for a term expiring at the Company's third annual general meeting. Commencing at the Company's first annual general meeting, and at each annual general meeting thereafter, Directors elected to succeed those Directors whose terms expire shall be elected for a term of office to expire at the third succeeding annual general meeting after their election. Except as the Statute or other applicable law may otherwise require, in the interim between annual general meetings or extraordinary general meetings called for the election of Directors and/or the removal of one or more Directors and the filling of any vacancy in that connection, additional Directors and any vacancies in the board of Directors, including unfilled vacancies resulting from the removal of Directors for cause, may be filled by the vote of a majority of the remaining Directors then in office, although less than a quorum (as defined in these Articles), or by the sole remaining Director. All Directors shall hold office until the expiration of their respective terms of office and until their successors shall have been elected and qualified. A Director elected to fill a vacancy resulting from the death, resignation or removal of a Director shall serve for the remainder of the full term of the Director whose death, resignation or removal shall have created such vacancy and until his successor shall have been elected and qualified. ; and

(i) deleting Article 48 in its entirety.

4 Adoption of Third Amended and Restated Memorandum and Articles of Association

It is resolved as a special resolution THAT the Second Amended and Restated Memorandum and Articles of Association of Andina Acquisition Corporation currently in effect be amended and restated by their deletion in 4.1 their entirety and the substitution in their place of the Third Amended and Restated Memorandum and Articles of Association in the form attached at Annex B to this notice, effective immediately upon consummation of the Transactions and approval of the Name Change Proposal and the Charter Amendments Proposal.

5

Incentive Compensation Plan Proposal

- 5.1 It is resolved THAT the 2013 Long-Term Equity Incentive Plan in the form attached at Annex C to the Proxy Statement be approved.

6

Director Election Proposal

- 6.1 It is resolved THAT each of José M. Daes, Christian T. Daes, Samuel R. Azout, Juan Carlos Vilarino, Martha (Stormy) L. Byorum, Julio A. Torres and A. Lorne Weil be elected to the board of directors of Andina Acquisition Corporation.

7

Note Convertibility Proposal

- 7.1 It is resolved THAT the convertibility into warrants of promissory notes issued (or to be issued) to Andina Acquisition Corporation s directors, officers, initial shareholders or their affiliates who have made (or may make prior to the meeting) working capital loans to Andina Acquisition Corporation be approved.

8

Adjournment Proposal

- 8.1 It is resolved THAT the Extraordinary General Meeting be adjourned to a later date or dates and at such date and time as shall be announced by the Chairman at the Extraordinary General Meeting if necessary to permit further solicitation and vote of proxies.

9

Say-On-Pay Proposal

- 9.1 It is resolved THAT the executive compensation of Andina Acquisition Corporation s named executive officers is [not] approved on an advisory basis.

10

Frequency of Say-On-Pay Proposal

- 10.1 It is resolved THAT the Andina Acquisition Corporation should hold an advisory shareholder vote to approve executive compensation every [one][two][three] years.

A-3

Annex B

**THE COMPANIES LAW (2012 REVISION)
OF THE CAYMAN ISLANDS
COMPANY LIMITED BY SHARES
THIRD AMENDED AND RESTATED
MEMORANDUM AND ARTICLES OF ASSOCIATION
OF
TECNOGLASS INC.
(F/K/A/ ANDINA ACQUISITION CORPORATION)
(adopted by special resolutions passed on 20
December 2013)**

B-1

**THE COMPANIES LAW (2012 REVISION)
OF THE CAYMAN ISLANDS
COMPANY LIMITED BY SHARES
THIRD AMENDED AND RESTATED
MEMORANDUM OF ASSOCIATION
OF
TECNOGLASS INC.
(F/K/A ANDINA ACQUISITION CORPORATION)
(adopted by special resolutions passed on 20
December 2013)**

- 1 The name of the Company is Tecnoglass Inc. (f/k/a Andina Acquisition Corporation).
The Registered Office of the Company shall be at the offices of Maples Corporate Services Limited, PO Box 309,
2 Uglund House, Grand Cayman, KY1-1104, Cayman Islands, or at such other place within the Cayman Islands as the
Directors may decide.
- 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 laws of the Cayman Islands.
- 4 The liability of each Member is limited to the amount unpaid on such Member's shares.
- 5 The share capital of the Company is US\$10,100 divided into 100,000,000 ordinary shares of a par value of
US\$0.0001 each and 1,000,000 preferred shares of a par value of US\$0.0001 each.
- 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 Capitalised terms that are not defined in this Memorandum of Association bear the respective meanings given to
them in the Articles of Association of the Company.

**THE COMPANIES LAW (2012 REVISION)
OF THE CAYMAN ISLANDS
COMPANY LIMITED BY SHARES
THIRD AMENDED AND RESTATED
ARTICLES OF ASSOCIATION
OF
TECNOGLASS INC.
(F/K/A ANDINA ACQUISITION CORPORATION)
(adopted by special resolutions passed on 20
December 2013)**

1

Interpretation

- 1.1 In the Articles Table A in the First Schedule to the Statute does not apply and, unless there is something in the subject or context inconsistent therewith:

Articles	means these articles of association of the Company.
Audit Committee	means the audit committee of the Company formed pursuant to Article 41.2 hereof, or any successor audit committee.
Auditor	means the person for the time being performing the duties of auditor of the Company (if any).
business day	means any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies are authorised or obligated by law to close in New York City.
clearing house	a clearing house recognised by the laws of the jurisdiction in which the Shares (or depositary receipts therefor) are listed or quoted on a stock exchange or interdealer quotation system in such jurisdiction.
Company	means the above named company.
Designated Stock Exchange	means the Over-the-Counter Bulletin Board or any national securities exchange including the National Market System or the Capital Market of the Nasdaq Stock Market, Inc., the NYSE MKT LLC or the New York Stock Exchange.
Directors	means the directors for the time being of the Company.
Dividend	means any dividend (whether interim or final) resolved to be paid on Shares pursuant to the Articles.
Electronic Record	has the same meaning as in the Electronic Transactions Law.
Electronic Transactions Law	means the Electronic Transactions Law (2003 Revision) of the Cayman Islands.
Member	has the same meaning as in the Statute.

Memorandum	means the memorandum of association of the Company.
Ordinary Resolution	means a resolution passed by a simple majority of the Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting, and includes a unanimous written resolution. In computing the majority when a poll is demanded regard shall be had to the number of votes to which each Member is entitled by the Articles.
Register of Members	means the register of Members maintained in accordance with the Statute and includes (except where otherwise stated) any branch or duplicate register of Members.
Registered Office	means the registered office for the time being of the Company.
Seal	means the common seal of the Company and includes every duplicate seal.

B-3

SEC	means the United States Securities and Exchange Commission.
Share	means a share in the Company and includes a fraction of a share in the Company.
Special Resolution	has the same meaning as in the Statute, and includes a unanimous written resolution.
Statute	means the Companies Law (2012 Revision) of the Cayman Islands.
Treasury Share	means a Share held in the name of the Company as a treasury share in accordance with the Statute.

1.2

In the Articles:

- (a) words importing the singular number include the plural number and vice versa;
- (b) words importing the masculine gender include the feminine gender;
- (c) words importing persons include corporations as well as any other legal or natural person;
- (d) written and in writing include all modes of representing or reproducing words in visible form, including in the form of an Electronic Record;
- (e) shall shall be construed as imperative and may shall be construed as permissive;
- (f) references to provisions of any law or regulation shall be construed as references to those provisions as amended, modified, re-enacted or replaced;
- (g) 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;
- (h) the term and/or is used herein to mean both and as well as or. The use of and/or in certain contexts in no respect qualifies or modifies the use of the terms and or or in others. The term or shall not be interpreted to be exclusive and the term and shall not be interpreted to require the conjunctive (in each case, unless the context otherwise requires);
- (i) headings are inserted for reference only and shall be ignored in construing the Articles;
- (j) sections 8 and 19(3) of the Electronic Transactions Law shall not apply;
- (k) the term clear days in relation to the period of a notice means that period excluding the day when the notice is received or deemed to be received and the day for which it is given or on which it is to take effect; and
- (l) the term holder in relation to a Share means a person whose name is entered in the Register of Members as the holder of such Share.

2

Commencement of Business

- 2.1 The business of the Company may be commenced as soon after incorporation of the Company as the Directors shall see fit.
- 2.2 The Directors may pay, out of the capital or any other monies of the Company, all expenses incurred in or about the formation and establishment of the Company, including the expenses of registration.

3

Issue of Shares

- 3.1 Subject to the provisions, if any, in the Memorandum (and to any direction that may be given by the Company in general meeting) and, where applicable, the rules of the Designated Stock Exchange and/or any competent regulatory authority, and without prejudice to any rights attached to any existing Shares, the Directors may allot, issue, grant options over or otherwise dispose of Shares (including fractions of a Share) with or without preferred, deferred or other rights or restrictions, whether in

regard to Dividend or other distribution, voting, return of capital or otherwise and to such persons, at such times and on such other terms as they think proper, and may also (subject to the Statute and the Articles) vary such rights.

The Company may issue options, warrants or convertible securities or securities of similar nature conferring the right upon the holders thereof to subscribe for, purchase or receive any class of Shares or other securities in the Company on such terms as the Directors may from time to time determine.

The Company may issue units of securities in the Company, which may be comprised of Shares and warrants to purchase additional Shares, upon such terms as the Directors may from time to time determine.

3.4

The Company shall not issue Shares to bearer.

4

Register of Members

The Company shall maintain or cause to be maintained the Register of Members in accordance with the Statute.

The Directors may determine that the Company shall maintain one or more branch registers of Members in accordance with the Statute. The Directors may also determine which register of Members shall constitute the principal register and which shall constitute the branch register or registers, and to vary such determination from time to time.

5

Closing Register of Members or Fixing Record Date

For the purpose of determining Members entitled to notice of, or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any Dividend or other distribution, or in order to make a determination of Members for any other purpose, the Directors may, after notice has been given by advertisement in an appointed newspaper or any other newspaper or by any other means in accordance with the requirements of the Designated Stock Exchange, provide that the Register of Members shall be closed for transfers for a stated period which shall not in any case exceed forty days.

In lieu of, or apart from, closing the Register of Members, the Directors may fix in advance or arrears a date as the record date for any such determination of Members entitled to notice of, or to vote at any meeting of the Members or any adjournment thereof, or for the purpose of determining the Members entitled to receive payment of any Dividend or other distribution, or in order to make a determination of Members for any other purpose.

If the Register of Members is not so closed and no record date is fixed for the determination of Members entitled to notice of, or to vote at, a meeting of Members or Members entitled to receive payment of a Dividend or other distribution, the date on which notice of the meeting is sent or the date on which the resolution of the Directors resolving to pay such Dividend or other distribution is passed, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Article, such determination shall apply to any adjournment thereof.

6

Certificates for Shares

A Member shall only be entitled to a share certificate if the Directors resolve that share certificates shall be issued. Share certificates representing Shares, if any, shall be in such form as the Directors may determine. Share certificates shall be signed by one or more Directors or other person authorised by the Directors. The Directors may authorise certificates to be issued with the authorised signature(s) affixed by mechanical process. All certificates for Shares shall be consecutively numbered or otherwise identified and shall specify the Shares to which they relate. All certificates surrendered to the Company for transfer shall be cancelled and subject to the Articles and no new certificate shall be issued until the former certificate representing a like number of relevant Shares shall have been surrendered and cancelled.

B-5

6.2 The Company shall not be bound to issue more than one certificate for Shares held jointly by more than one person and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.

6.3 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 evidence, as the Directors may prescribe, and (in the case of defacement or wearing out) upon delivery of the old certificate.

6.4 Every share certificate sent in accordance with the Articles will be sent at the risk of the Member or other person entitled to the certificate. The Company will not be responsible for any share certificate lost or delayed in the course of delivery.

6.5 Share certificates shall be issued within the relevant time limit as prescribed by the Statute, if applicable, or as the Designated Stock Exchange may from time to time determine, whichever is shorter, after the allotment or, except in the case of a Share transfer which the Company is for the time being entitled to refuse to register and does not register, after lodgement of a Share transfer with the Company.

7

Transfer of Shares

7.1 Subject to the terms of these Articles, any Member may transfer all or any of his Shares by an instrument of transfer provided that such transfer complies with applicable rules of the SEC and federal securities laws of the United States. If the Shares in question were issued in conjunction with options or warrants issued pursuant to Article 3 on terms that one cannot be transferred without the other, the Directors shall refuse to register the transfer of any such Share without evidence satisfactory to them of the like transfer of such option or warrant.

7.2 The instrument of transfer of any Share shall be in writing in the usual or common form or in a form prescribed by the Designated Stock Exchange or in any other form approved by the Directors and shall be executed by or on behalf of the transferor (and if the Directors so require, signed by or on behalf of the transferee) and may be under hand or, if the transferor or transferee is a clearing house or its nominee(s), by hand or by machine imprinted signature or by such other manner of execution as the Directors may approve from time to time. The transferor shall be deemed to remain the holder of a Share until the name of the transferee is entered in the Register of Members.

8

Redemption, Repurchase and Surrender of Shares

8.1 Subject to the provisions of the Statute, and, where applicable, the rules of the Designated Stock Exchange and/or any competent regulatory authority, the Company may issue Shares that are to be redeemed or are liable to be redeemed at the option of the Member or the Company. The redemption of such Shares shall be effected in such manner and upon such other terms as the Company may, by Special Resolution, determine before the issue of such Shares.

8.2 Subject to the provisions of the Statute, and, where applicable, the rules of the Designated Stock Exchange and/or any competent regulatory authority, the Company may purchase its own Shares (including any redeemable Shares) in such manner and on such other terms as the Directors may agree with the relevant Member.

8.3 The Company may make a payment in respect of the redemption or purchase of its own Shares in any manner permitted by the Statute, including out of capital.

8.4 The Directors may accept the surrender for no consideration of any fully paid Share.

9

Treasury Shares

9.1 The Directors may, prior to the purchase, redemption or surrender of any Share, determine that such Share shall be held as a Treasury Share.

9.2 The Directors may determine to cancel a Treasury Share or transfer a Treasury Share on such terms as they think proper (including, without limitation, for nil consideration).

B-6

10

Variation of Rights of Shares

If at any time the share capital of the Company is divided into different classes of Shares, all or any of the rights attached to any class (unless otherwise provided by the terms of issue of the Shares of that class) may, whether or not the Company is being wound up, be varied without the consent of the holders of the issued Shares of that class where such variation is considered by the Directors not to have a material adverse effect upon such rights; otherwise, any such variation shall be made only with the consent in writing of the holders of not less than two thirds of the issued Shares of that class, or with the sanction of a resolution passed by a majority of not less than two thirds of the votes cast at a separate meeting of the holders of the Shares of that class. For the avoidance of doubt, the Directors reserve the right, notwithstanding that any such variation may not have a material adverse effect, to obtain consent from the holders of Shares of the relevant class. To any such meeting all the provisions of the Articles relating to general meetings shall apply *mutatis mutandis*, except that the necessary quorum shall be one person holding or representing by proxy at least one third of the issued Shares of the class and that any holder of Shares of the class present in person or by proxy may demand a poll.

For the purposes of a separate class meeting, the Directors may treat two or more or all the classes of Shares as forming one class of Shares if the Directors consider that such class of Shares would be affected in the same way by the proposals under consideration, but in any other case shall treat them as separate classes of Shares.

The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.

11

Commission on Sale of Shares

The Company may, in so far as the Statute permits, pay a commission to any person in consideration of his subscribing or agreeing to subscribe (whether absolutely or conditionally) or procuring or agreeing to procure subscriptions (whether absolutely or conditionally) for any Shares. Such commissions may be satisfied by the payment of cash and/or the issue of fully or partly paid-up Shares. The Company may also on any issue of Shares pay such brokerage as may be lawful.

12

Non Recognition of Trusts

The Company shall not be bound by or compelled to recognise in any way (even when notified) any equitable, contingent, future or partial interest in any Share, or (except only as is otherwise provided by the Articles or the Statute) any other rights in respect of any Share other than an absolute right to the entirety thereof in the holder.

13

Lien on Shares

The Company shall have a first and paramount lien on all Shares (whether fully paid-up or not) registered in the name of a Member (whether solely or jointly with others) for all debts, liabilities or engagements to or with the Company (whether presently payable or not) by such Member or his estate, either alone or jointly with any other person, whether a Member or not, but the Directors may at any time declare any Share to be wholly or in part exempt from the provisions of this Article. The registration of a transfer of any such Share shall operate as a waiver of the Company's lien thereon. The Company's lien on a Share shall also extend to any amount payable in respect of that Share.

The Company may sell, in such manner as the Directors think fit, any Shares on which the Company has a lien, if a sum in respect of which the lien exists is presently payable, and is not paid within fourteen clear days after notice has been received or deemed to have been received by the holder of the Shares, or to the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the Shares may be sold.

To give effect to any such sale the Directors may authorise any person to execute an instrument of transfer of the Shares sold to, or in accordance with the directions of, the purchaser. The purchaser or his nominee shall be registered as the holder of the Shares comprised in any such transfer, and he shall

not be bound to see to the application of the purchase money, nor shall his title to the Shares be affected by any irregularity or invalidity in the sale or the exercise of the Company's power of sale under the Articles.

13.4 The net proceeds of such sale after payment of costs, shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable and any balance shall (subject to a like lien for sums not presently payable as existed upon the Shares before the sale) be paid to the person entitled to the Shares at the date of the sale.

14

Call on Shares

Subject to the terms of the allotment and issue of any Shares, the Directors may make calls upon the Members in respect of any monies unpaid on their Shares (whether in respect of par value or premium), and each Member shall (subject to receiving at least fourteen clear days' notice specifying the time or times of payment) pay to the Company at the time or times so specified the amount called on the Shares. A call may be revoked or postponed, in whole or in part, as the Directors may determine. A call may be required to be paid by instalments. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the Shares in respect of which the call was made.

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

14.3 The joint holders of a Share shall be jointly and severally liable to pay all calls in respect thereof. If a call remains unpaid after it has become due and payable, the person from whom it is due shall pay interest on the amount unpaid from the day it became due and payable until it is paid at such rate as the Directors may determine (and in addition all expenses that have been incurred by the Company by reason of such non-payment), but the Directors may waive payment of the interest or expenses wholly or in part.

14.5 An amount payable in respect of a Share on issue or allotment or at any fixed date, whether on account of the par value of the Share or premium or otherwise, shall be deemed to be a call and if it is not paid all the provisions of the Articles shall apply as if that amount had become due and payable by virtue of a call.

14.6 The Directors may issue Shares with different terms as to the amount and times of payment of calls, or the interest to be paid.

14.7 The Directors may, if they think fit, receive an amount from any Member willing to advance all or any part of the monies uncalled and unpaid upon any Shares held by him, and may (until the amount would otherwise become payable) pay interest at such rate as may be agreed upon between the Directors and the Member paying such amount in advance.

14.8 No such amount paid in advance of calls shall entitle the Member paying such amount to any portion of a Dividend or other distribution payable in respect of any period prior to the date upon which such amount would, but for such payment, become payable.

15

Forfeiture of Shares

15.1 If a call or instalment of a call remains unpaid after it has become due and payable the Directors may give to the person from whom it is due not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued and any expenses incurred by the Company by reason of such non-payment. The notice shall specify where payment is to be made and shall state that if the notice is not complied with the Shares in respect of which the call was made will be liable to be forfeited.

15.2 If the notice is not complied with, any Share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the Directors. Such forfeiture shall include all Dividends, other distributions or other monies payable in respect of the forfeited Share and not paid before the forfeiture.

B-8

A forfeited Share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the Directors think fit and at any time before a sale, re-allotment or disposition the forfeiture may be cancelled on such terms as the Directors think fit. Where for the purposes of its disposal a forfeited Share is to be transferred to any person the Directors may authorise some person to execute an instrument of transfer of the Share in favour of that person.

A person any of whose Shares have been forfeited shall cease to be a Member in respect of them and shall surrender to the Company for cancellation the certificate for the Shares forfeited and shall remain liable to pay to the Company all monies which at the date of forfeiture were payable by him to the Company in respect of those Shares together with interest at such rate as the Directors may determine, but his liability shall cease if and when the Company shall have received payment in full of all monies due and payable by him in respect of those Shares. A certificate in writing under the hand of one Director or officer of the Company that a Share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share. The certificate shall (subject to the execution of an instrument of transfer) constitute a good title to the Share and the person to whom the Share is sold or otherwise disposed of shall not be bound to see to the application of the purchase money, if any, nor shall his title to the Share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the Share.

The provisions of the Articles as to forfeiture shall apply in the case of non payment of any sum which, by the terms of issue of a Share, becomes payable at a fixed time, whether on account of the par value of the Share or by way of premium as if it had been payable by virtue of a call duly made and notified.

16

Transmission of Shares

If a Member dies the survivor or survivors (where he was a joint holder) or his legal personal representatives (where he was a sole holder), shall be the only persons recognised by the Company as having any title to his Shares. The estate of a deceased Member is not thereby released from any liability in respect of any Share, for which he was a joint or sole holder.

Any person becoming entitled to a Share in consequence of the death or bankruptcy or liquidation or dissolution of a Member (or in any other way than by transfer) may, upon such evidence being produced as may be required by the Directors, elect, by a notice in writing sent by him to the Company, either to become the holder of such Share or to have some person nominated by him registered as the holder of such Share. If he elects to have another person registered as the holder of such Share he shall sign an instrument of transfer of that Share to that person. The Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by the relevant Member before his death or bankruptcy or liquidation or dissolution, as the case may be.

A person becoming entitled to a Share by reason of the death or bankruptcy or liquidation or dissolution of a Member (or in any other case than by transfer) shall be entitled to the same Dividends, other distributions and other advantages to which he would be entitled if he were the holder of such Share. However, he shall not, before becoming a Member in respect of a Share, be entitled in respect of it to exercise any right conferred by membership in relation to general meetings of the Company and the Directors may at any time give notice requiring any such person to elect either to be registered himself or to have some person nominated by him be registered as the holder of the Share (but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by the relevant Member before his death or bankruptcy or liquidation or dissolution or any other case than by transfer, as the case may be). If the notice is not complied with within ninety days of being received or deemed to be received (as determined pursuant to the Articles) the Directors may thereafter withhold payment of all Dividends, other distributions, bonuses or other monies payable in respect of the Share until the requirements of the notice have been complied with.

17 Amendments of Memorandum and Articles of Association and Alteration of Capital

17.1 The Company may by Ordinary Resolution:

- (a) increase its share capital by such sum as the Ordinary Resolution shall prescribe and with such rights, priorities and privileges annexed thereto, as the Company in general meeting may determine;
- (b) consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares;
- (c) convert all or any of its paid-up Shares into stock, and reconvert that stock into paid-up Shares of any denomination;
- (d) by subdivision of its existing Shares or any of them divide the whole or any part of its share capital into Shares of smaller amount than is fixed by the Memorandum or into Shares without par value; and
- (e) cancel any Shares that at the date of the passing of the Ordinary Resolution have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the Shares so cancelled.

All new Shares created in accordance with the provisions of the preceding Article shall be subject to the same provisions of the Articles with reference to the payment of calls, liens, transfer, transmission, forfeiture and otherwise as the Shares in the original share capital.

17.2 Subject to the provisions of the Statute and the provisions of the Articles as regards the matters to be dealt with by Ordinary Resolution, the Company may by Special Resolution:

- (a) change its name;
- (b) alter or add to the Articles;
- (c) alter or add to the Memorandum with respect to any objects, powers or other matters specified therein; and
- (d) reduce its share capital or any capital redemption reserve fund.

18 Offices and Places of Business

Subject to the provisions of the Statute, the Company may by resolution of the Directors change the location of its Registered Office. The Company may, in addition to its Registered Office, maintain such other offices or places of business as the Directors determine.

19 General Meetings

19.1 All general meetings other than annual general meetings shall be called extraordinary general meetings.

The Company may, but shall not (unless required by the Statute) be obliged to, in each year hold a general meeting as its annual general meeting, and shall specify the meeting as such in the notices calling it. Any annual general meeting shall be held at such time and place as the Directors shall appoint and if no other time and place is prescribed by them, it shall be held at the Registered Office on the second Wednesday in December of each year at ten o'clock in the morning. At these meetings the report of the Directors (if any) shall be presented.

19.2 The Directors may call general meetings, and they shall on a Members' requisition forthwith proceed to convene an extraordinary general meeting of the Company.

19.3 A Members' requisition is a requisition of Members holding at the date of deposit of the requisition not less than ten per cent. in par value of the issued Shares which as at that date carry the right to vote at general meetings of the Company.

19.4 The Members' requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the Registered Office, and may consist of several documents in like form each signed by one or more requisitionists.

B-10

19.6 If there are no Directors as at the date of the deposit of the Members' requisition or if the Directors do not within twenty-one days from the date of the deposit of the Members' requisition duly proceed to convene a general meeting to be held within a further twenty-one days, the requisitionists, or any of them representing more than one-half of the total voting rights of all of the requisitionists, may themselves convene a general meeting, but any meeting so convened shall be held no later than the day which falls three months after the expiration of the said twenty-one day period.

19.7 A general meeting convened as aforesaid by requisitionists shall be convened in the same manner as nearly as possible as that in which general meetings are to be convened by Directors.

20

Notice of General Meetings

20.1 At least ten clear days' notice shall be given of any general meeting. Every notice shall specify the place, the day and the hour of the meeting and the general nature of the business to be conducted at the general meeting and shall be given in the manner hereinafter mentioned or in such other manner if any as may be prescribed by the Company, provided that a general meeting of the Company shall, whether or not the notice specified in this Article has been given and whether or not the provisions of the Articles regarding general meetings have been complied with, be deemed to have been duly convened if it is so agreed:

- (a) in the case of an annual general meeting, by all of the Members entitled to attend and vote thereat; and
- (b) in the case of an extraordinary general meeting, by a majority in number of the Members having a right to attend and vote at the meeting, together holding not less than ninety five per cent. in par value of the Shares giving that right.

20.2 The accidental omission to give notice of a general meeting to, or the non receipt of notice of a general meeting by, any person entitled to receive such notice shall not invalidate the proceedings of that general meeting.

21

Proceedings at General Meetings

21.1 No business shall be transacted at any general meeting unless a quorum is present. The holders of a majority of the Shares being individuals present in person or by proxy or if a corporation or other non-natural person by its duly authorised representative or proxy shall be a quorum.

21.2 A person may participate at a general meeting by conference telephone or other communications equipment by means of which all the persons participating in the meeting can communicate with each other. Participation by a person in a general meeting in this manner is treated as presence in person at that meeting.

21.3 A resolution (including a Special Resolution) in writing (in one or more counterparts) signed by or on behalf of all of the Members for the time being entitled to receive notice of and to attend and vote at general meetings (or, being corporations or other non-natural persons, signed by their duly authorised representatives) shall be as valid and effective as if the resolution had been passed at a general meeting of the Company duly convened and held.

21.4 If a quorum is not present within half an hour from the time appointed for the meeting to commence or if during such a meeting a quorum ceases to be present, the meeting, if convened upon a Members' requisition, shall be dissolved and in any other case it shall stand adjourned to the same day in the next week at the same time and/or place or to such other day, time and/or place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting to commence, the Members present shall be a quorum.

21.5 The Directors may, at any time prior to the time appointed for the meeting to commence, appoint any person to act as chairman of a general meeting of the Company or, if the Directors do not make any such appointment, the chairman, if any, of the board of Directors shall preside as chairman at such general meeting. If there is no such chairman, or if he shall not be present within fifteen minutes after the time appointed for the meeting to commence, or is unwilling to act, the Directors present shall elect one of their number to be chairman of the meeting.

If no Director is willing to act as chairman or if no Director is present within fifteen minutes after the time appointed for the meeting to commence, the Members present shall choose one of their number to be chairman of the meeting.

The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

When a general meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Otherwise it shall not be necessary to give any such notice of an adjourned meeting.

21.9 A resolution put to the vote of the meeting shall be decided on a poll.

21.10 A poll shall be taken as the chairman directs, and the result of the poll shall be deemed to be the resolution of the general meeting at which the poll was demanded.

21.11 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such date, time and place as the chairman of the general meeting directs, and any business other than that upon which a poll has been demanded or is contingent thereon may proceed pending the taking of the poll.

21.12 In the case of an equality of votes the chairman shall be entitled to a second or casting vote.

22

Votes of Members

22.1 Subject to any rights or restrictions attached to any Shares, every Member present in any such manner shall have one vote for every Share of which he is the holder.

22.2 In the case of joint holders the vote of the senior holder who tenders a vote, whether in person or by proxy (or, in the case of a corporation or other non-natural person, by its duly authorised representative or proxy), shall be accepted to the exclusion of the votes of the other joint holders, and seniority shall be determined by the order in which the names of the holders stand in the Register of Members.

22.3 A Member of unsound mind, or in respect of whom an order has been made by any court, having jurisdiction in lunacy, may vote by his committee, receiver, curator bonis, or other person on such Member's behalf appointed by that court, and any such committee, receiver, curator bonis or other person may vote by proxy.

22.4 No person shall be entitled to vote at any general meeting unless he is registered as a Member on the record date for such meeting nor unless all calls or other monies then payable by him in respect of Shares have been paid.

22.5 No objection shall be raised as to the qualification of any voter except at the general meeting or adjourned general meeting at which the vote objected to is given or tendered and every vote not disallowed at the meeting shall be valid. Any objection made in due time in accordance with this Article shall be referred to the chairman whose decision shall be final and conclusive.

22.6 Votes may be cast either personally or by proxy (or in the case of a corporation or other non-natural person by its duly authorised representative or proxy). A Member may appoint more than one proxy or the same proxy under one or more instruments to attend and vote at a meeting. Where a Member appoints more than one proxy the instrument of proxy shall specify the number of Shares in respect of which each proxy is entitled to exercise the related votes.

22.7 A Member holding more than one Share need not cast the votes in respect of his Shares in the same way on any resolution and therefore may vote a Share or some or all such Shares either for or against a resolution and/or abstain from voting a Share or some or all of the Shares and, subject to the terms of the instrument appointing him, a proxy appointed under one or more instruments may vote a Share or some or all of the Shares in respect of which he is appointed either for or against a resolution and/or abstain from voting a Share or some or all of the Shares in respect of which he is appointed.

B-12

23

Proxies

23.1 The instrument appointing a proxy shall be in writing and shall be executed under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation or other non natural person, under the hand of its duly authorised representative. A proxy need not be a Member.

23.2 The Directors may, in the notice convening any meeting or adjourned meeting, or in an instrument of proxy sent out by the Company, specify the manner by which the instrument appointing a proxy shall be deposited and the place and the time (being not later than the time appointed for the commencement of the meeting or adjourned meeting to which the proxy relates) at which the instrument appointing a proxy shall be deposited. In the absence of any such direction from the Directors in the notice convening any meeting or adjourned meeting or in an instrument of proxy sent out by the Company, the instrument appointing a proxy shall be deposited physically at the Registered Office not less than 48 hours before the time appointed for the meeting or adjourned meeting to commence at which the person named in the instrument proposes to vote.

The chairman may in any event at his discretion declare that an instrument of proxy shall be deemed to have been duly deposited. An instrument of proxy that is not deposited in the manner permitted, or which has not been declared to have been duly deposited by the chairman, shall be invalid.

23.3 The instrument appointing a proxy may be in any usual or common form (or such other form as the Directors may approve) and may be expressed to be for a particular meeting or any adjournment thereof or generally until revoked. An instrument appointing a proxy shall be deemed to include the power to demand or join or concur in demanding a poll.

23.4 Votes given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Share in respect of which the proxy is given unless notice in writing of such death, insanity, revocation or transfer was received by the Company at the Registered Office before the commencement of the general meeting, or adjourned meeting at which it is sought to use the proxy.

24

Corporate Members

24.1 Any corporation or other non-natural person which is a Member may in accordance with its constitutional documents, or in the absence of such provision 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 or of any class of Members, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as the corporation could exercise if it were an individual Member.

24.2 If a clearing house (or its nominee(s)), being a corporation, is a Member, it may authorise such persons as it sees fit to act as its representative at any meeting of the Company or at any meeting of any class of Members provided that the authorisation shall specify the number and class of Shares in respect of which each such representative is so authorised. Each person so authorised under the provisions of this Article shall be deemed to have been duly authorised without further evidence of the facts and be entitled to exercise the same rights and powers on behalf of the clearing house (or its nominee(s)) as if such person was the registered holder of such Shares held by the clearing house (or its nominee(s)).

25

Shares that May Not be Voted

Shares in the Company that are beneficially owned by the Company shall not be voted, directly or indirectly, at any meeting and shall not be counted in determining the total number of outstanding Shares at any given time.

26

Directors

26.1 There shall be a board of Directors consisting of not less than one person provided however that the Company may by Ordinary Resolution increase or reduce the limits in the number of Directors.

B-13

The Directors shall be divided into three classes: Class A, Class B and Class C. The number of Directors in each class shall be as nearly equal as possible. Upon the adoption of these amended and restated Articles, the existing Directors shall by resolution classify themselves as Class A, Class B or Class C Directors. The Class A Directors shall stand elected for a term expiring at the Company's first annual general meeting, the Class B Directors shall stand elected for a term expiring at the Company's second annual general meeting and the Class C Directors shall stand elected for a term expiring at the Company's third annual general meeting. Commencing at the Company's first annual general meeting, and at each annual general meeting thereafter, Directors elected to succeed those Directors whose terms expire shall be elected for a term of office to expire at the third succeeding annual general meeting after their election. Except as the Statute or other applicable law may otherwise require, in the interim between annual general meetings or extraordinary general meetings called for the election of Directors and/or the removal of one or more Directors and the filling of any vacancy in that connection, additional Directors and any vacancies in the board of Directors, including unfilled vacancies resulting from the removal of Directors for cause, may be filled by the vote of a majority of the remaining Directors then in office, although less than a quorum (as defined in these Articles), or by the sole remaining Director. All Directors shall hold office until the expiration of their respective terms of office and until their successors shall have been elected and qualified. A Director elected to fill a vacancy resulting from the death, resignation or removal of a Director shall serve for the remainder of the full term of the Director whose death, resignation or removal shall have created such vacancy and until his successor shall have been elected and qualified.

27

Powers of Directors

Subject to the provisions of the Statute, the Memorandum and the Articles and to any directions given by Special Resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. A duly convened meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.

All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable 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 Directors shall determine by resolution.

The Directors on behalf of the Company may 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 dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.

The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and assets (present and future) and uncalled capital or any part thereof and to issue debentures, debenture stock, mortgages, bonds and other such securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

28

Appointment and Removal of Directors

The Company may by Ordinary Resolution appoint any person to be a Director or may by Ordinary Resolution remove any Director.

The Directors may appoint any person to be a Director, either to fill a vacancy or as an additional Director provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with the Articles as the maximum number of Directors.

29

Vacation of Office of Director

Without prejudice to Article 26.1, the office of a Director shall be vacated if:

- (a) the Director gives notice in writing to the Company that he resigns the office of Director; or

- the Director absents himself (for the avoidance of doubt, without being represented by proxy) from three consecutive meetings of the board of Directors without special leave of absence from the Directors, and the Directors pass a resolution that he has by reason of such absence vacated office; or
- (c) the Director dies, becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (d) the Director is found to be or becomes of unsound mind; or
- all of the other Directors (being not less than two in number) determine that he should be removed as a Director, either by a resolution passed by all of the other Directors at a meeting of the Directors duly convened and held in accordance with the Articles or by a resolution in writing signed by all of the other Directors.

30

Proceedings of Directors

- 30.1 The quorum for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall be two if there are two or more Directors, and shall be one if there is only one Director.

- Subject to the provisions of the Articles, the Directors may regulate their proceedings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote.

- A person may participate in a meeting of the Directors or committee of Directors by conference telephone or other communications equipment by means of which all the persons participating in the meeting can communicate with each other at the same time. Participation by a person in a meeting in this manner is treated as presence in person at that meeting. Unless otherwise determined by the Directors the meeting shall be deemed to be held at the place where the chairman is located at the start of the meeting.

- A resolution in writing (in one or more counterparts) signed by all the Directors or all the members of a committee of the Directors or, in the case of a resolution in writing relating to the removal of any Director or the vacation of office by any Director, all of the Directors other than the Director who is the subject of such resolution shall be as valid and effectual as if it had been passed at a meeting of the Directors, or committee of Directors as the case may be, duly convened and held.

- A Director may, or other officer of the Company on the direction of a Director shall, call a meeting of the Directors by at least two days' notice in writing to every Director which notice shall set forth the general nature of the business to be considered unless notice is waived by all the Directors either at, before or after the meeting is held. To any such notice of a meeting of the Directors all the provisions of the Articles relating to the giving of notices by the Company to the Members shall apply *mutatis mutandis*.

- The continuing Directors (or a sole continuing Director, as the case may be) may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to the Articles as the necessary quorum of Directors the continuing Directors or Director may act for the purpose of increasing the number of Directors to be equal to such fixed number, or of summoning a general meeting of the Company, but for no other purpose.

- The Directors may elect a chairman of their board and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for the meeting to commence, the Directors present may choose one of their number to be chairman of the meeting.

- All acts done by any meeting of the Directors or of a committee of the Directors shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Director, and/or that they or any of them were disqualified, and/or had vacated their office and/or were not entitled to

B-15

vote, be as valid as if every such person had been duly appointed and/or not disqualified to be a Director and/or had not vacated their office and/or had been entitled to vote, as the case may be.

A Director may be represented at any meetings of the board of Directors by a proxy appointed in writing by him.
30.9 The proxy shall count towards the quorum and the vote of the proxy shall for all purposes be deemed to be that of the appointing Director.

31

Presumption of Assent

A Director who is present at a meeting of the board of Directors 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 person acting as the chairman or secretary of the meeting before the adjournment thereof or shall forward such dissent by registered post to such person immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favour of such action.

32

Directors' Interests

A Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms as to remuneration and otherwise as the Directors may determine.
32.1

A Director may act by himself or by, through or on behalf of his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.
32.2

A Director may be or become a director or other officer of or otherwise interested in any company promoted by the Company or in which the Company may be interested as a shareholder, a contracting party or otherwise, and no such Director shall be accountable to the Company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company.
32.3

No person shall be disqualified from the office of Director or prevented by such office from contracting with the Company, either as vendor, purchaser or otherwise, nor shall any such contract or any contract or transaction entered into by or on behalf of the Company in which any Director shall be in any way interested be or be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by or arising in connection with any such contract or transaction by reason of such Director or alternate Director holding office or of the fiduciary relationship thereby established. A Director shall be at liberty to vote in respect of any contract or transaction in which he is interested provided that the nature of the interest of any Director in any such contract or transaction shall be disclosed by him at or prior to its consideration and any vote thereon.
32.4

A general notice that a Director is a shareholder, director, officer or employee of any specified firm or company and is to be regarded as interested in any transaction with such firm or company shall be sufficient disclosure for the purposes of voting on a resolution in respect of a contract or transaction in which he has an interest, and after such general notice it shall not be necessary to give special notice relating to any particular transaction.
32.5

33

Minutes

The Directors shall cause minutes to be made in books kept for the purpose of all appointments of officers made by the Directors, all proceedings at meetings of the Company or the holders of any class of Shares and of the Directors, and of committees of the Directors, including the names of the Directors present at each meeting.

34

Delegation of Directors' Powers

The Directors may delegate any of their powers, authorities and discretions, including the power to sub-delegate, to any committee consisting of one or more Directors. Any such delegation may be made subject to any conditions the Directors may impose and either collaterally with or to the exclusion of
34.1

B-16

their own powers and any such delegation may be revoked or altered by the Directors. Subject to any such conditions, the proceedings of a committee of Directors shall be governed by the Articles regulating the proceedings of Directors, so far as they are capable of applying.

The Directors may establish any committees, local boards or agencies or appoint any person to be a manager or agent for managing the affairs of the Company and may appoint any person to be a member of such committees, local boards or agencies. Any such appointment may be made subject to any conditions the Directors may impose, and either collaterally with or to the exclusion of their own powers and any such appointment may be revoked or altered by the Directors. Subject to any such conditions, the proceedings of any such committee, local board or agency shall be governed by the Articles regulating the proceedings of Directors, so far as they are capable of applying.

The Directors may by power of attorney or otherwise appoint any person to be the agent of the Company on such conditions as the Directors may determine, provided that the delegation is not to the exclusion of their own powers and may be revoked by the Directors at any time.

The Directors may by power of attorney or otherwise appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or authorised signatory of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under the Articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney or other appointment may contain such provisions for the protection and convenience of persons dealing with any such attorneys or authorised signatories as the Directors may think fit and may also authorise any such attorney or authorised signatory to delegate all or any of the powers, authorities and discretions vested in him.

The Directors may appoint such officers of the Company (including, for the avoidance of doubt and without limitation, any secretary) as they consider necessary on such terms, at such remuneration and to perform such duties, and subject to such provisions as to disqualification and removal as the Directors may think fit. Unless otherwise specified in the terms of his appointment an officer of the Company may be removed by resolution of the Directors or Members. An officer of the Company may vacate his office at any time if he gives notice in writing to the Company that he resigns his office.

35

No Minimum Shareholding

The Company in general meeting may fix a minimum shareholding required to be held by a Director, but unless and until such a shareholding qualification is fixed a Director is not required to hold Shares.

36

Remuneration of Directors

The remuneration to be paid to the Directors, if any, shall be such remuneration as the Directors shall determine. The Directors shall also be entitled to be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of Directors or committees of Directors, or general meetings of the Company, or separate meetings of the holders of any class of Shares or debentures of the Company, or otherwise in connection with the business of the Company or the discharge of their duties as a Director, or to receive a fixed allowance in respect thereof as may be determined by the Directors, or a combination partly of one such method and partly the other.

The Directors may by resolution approve additional remuneration to any Director for any services which in the opinion of the Directors go beyond his ordinary routine work as a Director. Any fees paid to a Director who is also counsel, attorney or solicitor to the Company, or otherwise serves it in a professional capacity shall be in addition to his remuneration as a Director.

37

Seal

The Company may, if the Directors so determine, have a Seal. The Seal shall only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors. Every instrument to which the Seal has been affixed shall be signed by at least one person who shall be either a Director or some officer of the Company or other person appointed by the Directors for the purpose.

The Company may have for use in any place or places outside the Cayman Islands a duplicate Seal or Seals each of which shall be a facsimile of the common Seal of the Company and, if the Directors so determine, with the addition on its face of the name of every place where it is to be used.

A Director or officer, representative or attorney of the Company may without further authority of the Directors affix the Seal 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.

38

Dividends, Distributions and Reserve

Subject to the Statute and this Article and except as otherwise provided by the rights attached to any Shares, the Directors may resolve to pay Dividends and other distributions on Shares in issue and authorise payment of the Dividends or other distributions out of the funds of the Company lawfully available therefor. A Dividend shall be deemed to be an interim Dividend unless the terms of the resolution pursuant to which the Directors resolve to pay such Dividend specifically state that such Dividend shall be a final Dividend. No Dividend or other distribution shall be paid except out of the realised or unrealised profits of the Company, out of the share premium account or as otherwise permitted by the Statute.

Except as otherwise provided by the rights attached to any Shares, all Dividends and other distributions shall be paid according to the par value of the Shares that a Member holds. If any Share is issued on terms providing that it shall rank for Dividend as from a particular date, that Share shall rank for Dividend accordingly.

The Directors may deduct from any Dividend or other distribution payable to any Member all sums of money (if any) then payable by him to the Company on account of calls or otherwise.

The Directors may resolve that any Dividend or other distribution be paid wholly or partly by the distribution of specific assets and in particular (but without limitation) by the distribution of shares, debentures, or securities of any other company or in any one or more of such ways and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and in particular may issue fractional Shares and may 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 basis of the value so fixed in order to adjust the rights of all Members and may vest any such specific assets in trustees in such manner as may seem expedient to the Directors.

Except as otherwise provided by the rights attached to any Shares, Dividends and other distributions may be paid in any currency. The Directors may determine the basis of conversion for any currency conversions that may be required and how any costs involved are to be met.

The Directors may, before resolving to pay any Dividend or other distribution, set aside such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors, be applicable for any purpose of the Company and pending such application may, at the discretion of the Directors, be employed in the business of the Company.

Any Dividend, other distribution, interest or other monies payable in cash in respect of Shares may be paid by wire transfer to the holder or by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of 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. Any one of two or more joint holders may give effectual receipts for any Dividends, other distributions, bonuses, or other monies payable in respect of the Share held by them as joint holders.

38.8 No Dividend or other distribution shall bear interest against the Company.

Any Dividend or other distribution which cannot be paid to a Member and/or which remains unclaimed after six months from the date on which such Dividend or other distribution becomes payable may, in the discretion of the Directors, be paid into a separate account in the Company's

name, provided that the Company shall not be constituted as a trustee in respect of that account and the Dividend or other distribution shall remain as a debt due to the Member. Any Dividend or other distribution which remains unclaimed after a period of six years from the date on which such Dividend or other distribution becomes payable shall be forfeited and shall revert to the Company.

39

Capitalisation

The Directors may at any time capitalise any sum standing to the credit of any of the Company's reserve accounts or funds (including the share premium account and capital redemption reserve fund) or any sum standing to the credit of the profit and loss account or otherwise available for distribution; appropriate such sum to Members in the proportions in which such sum would have been divisible amongst such Members had the same been a distribution of profits by way of Dividend or other distribution; and 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 them in the proportion aforesaid. In such event the Directors shall do all acts and things required to give effect to such capitalisation, with full power given to the Directors to make such provisions as they think fit in 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 Directors may authorise 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 or relating thereto and any agreement made under such authority shall be effective and binding on all such Members and the Company.

40

Books of Account

The Directors 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 of account 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.

The Directors shall determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by Statute or authorised by the Directors or by the Company in general meeting.

The Directors may cause to be prepared and to be laid before the Company in general meeting profit and loss accounts, balance sheets, group accounts (if any) and such other reports and accounts as may be required by law.

41

Audit

The Directors may appoint an Auditor of the Company who shall hold office on such terms as the Directors determine.

Without prejudice to the freedom of the Directors to establish any other committee, if the Shares (or depositary receipts therefor) are listed or quoted on the Designated Stock Exchange, and if required by the Designated Stock Exchange, the Directors shall establish and maintain an Audit Committee as a committee of the board of

Directors and shall adopt a formal written Audit Committee charter and review and assess the adequacy of the formal written charter on an annual basis. The composition and responsibilities of the Audit Committee shall comply with the rules and regulations of the SEC and the Designated Stock Exchange. The Audit Committee shall meet at least once every financial quarter, or more frequently as circumstances dictate.

If the Shares (or depositary receipts therefor) are listed or quoted on the Designated Stock Exchange, the Company shall conduct an appropriate review of all related party transactions on an ongoing basis and shall utilise the Audit Committee for the review and approval of potential conflicts of interest.

The remuneration of the Auditor shall be fixed by the Board or the Audit Committee (if one exists).

B-19

If the office of Auditor becomes vacant by resignation or death of the Auditor, or by his becoming incapable of acting by reason of illness or other disability at a time when his services are required, the Directors shall fill the vacancy and determine the remuneration of such Auditor.

Every Auditor of the Company shall have a right of access at all times to the books and accounts and vouchers of the Company and shall be entitled to require from the Directors and officers of the Company such information and explanation as may be necessary for the performance of the duties of the Auditor.

Auditors shall, if so required by the Directors, make a report on the accounts of the Company during their tenure of office at the next annual general meeting following their appointment in the case of a company which is registered with the Registrar of Companies as an ordinary company, and at the next extraordinary general meeting following their appointment in the case of a company which is registered with the Registrar of Companies as an exempted company, and at any other time during their term of office, upon request of the Directors or any general meeting of the Members.

42

Notices

Notices shall be in writing and may be given by the Company to any Member either personally or by sending it by courier, post, cable, telex, fax or e-mail to him or to his address as shown in the Register of Members (or where the notice is given by e-mail by sending it to the e-mail address provided by such Member). Notice may also be served in accordance with the requirements of the Designated Stock Exchange.

Where a notice is sent by courier, service of the notice shall be deemed to be effected by delivery of the notice to a courier company, and shall be deemed to have been received on the third day (not including Saturdays or Sundays or public holidays) following the day on which the notice was delivered to the courier. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, pre paying and posting a letter containing the notice, and shall be deemed to have been received on the fifth day (not including Saturdays or Sundays or public holidays in the Cayman Islands) following the day on which the notice was posted. Where a notice is sent by cable, telex or fax, service of the notice shall be deemed to be effected by properly addressing and sending such notice and shall be deemed to have been received on the same day that it was transmitted.

Where a notice is given by e-mail service shall be deemed to be effected by transmitting the e-mail to the e-mail address provided by the intended recipient and shall be deemed to have been received on the same day that it was sent, and it shall not be necessary for the receipt of the e-mail to be acknowledged by the recipient.

A notice may be given by the Company to the person or persons which the Company has been advised are entitled to a Share or Shares in consequence of the death or bankruptcy of a Member in the same manner as other notices which are required to be given under the Articles and shall be addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description at the address supplied for that purpose by the persons claiming to be so entitled, or at the option of the Company by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

Notice of every general meeting shall be given in any manner authorised by the Articles to every holder of Shares carrying an entitlement to receive such notice on the record date for such meeting except that in the case of joint holders the notice shall be sufficient if given to the joint holder first named in the Register of Members and every person upon whom the ownership of a Share devolves by reason of his being a legal personal representative or a trustee in bankruptcy of a Member where the Member but for his death or bankruptcy would be entitled to receive notice of the meeting, and no other person shall be entitled to receive notices of general meetings.

B-20

If the Company shall be wound up the liquidator shall apply the assets of the Company in satisfaction of creditors' claims in such manner and order as such liquidator thinks fit. Subject to the rights attaching to any Shares, in a winding up:

- (a) if the assets available for distribution amongst the Members shall be insufficient to repay the whole of the Company's issued share 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; or
- (b) if the assets available for distribution amongst the Members shall be more than sufficient to repay the whole of the Company's issued share 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.

If the Company shall be wound up the liquidator may, subject to the rights attaching to any Shares and with the sanction of a Special Resolution of the Company and any other sanction required by the Statute, divide amongst the Members in kind the whole or any part of the assets of the Company (whether such assets shall consist of property of the same kind or not) and may for that purpose value any assets and determine how the division shall be carried out as between the Members or different classes of Members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the Members as the liquidator, with the like sanction, shall think fit, but so that no Member shall be compelled to accept any asset upon which there is a liability.

Every Director and officer of the Company (which for the avoidance of doubt, shall not include auditors of the Company), together with every former Director and former officer of the Company (each an **Indemnified Person**) shall be indemnified out of the assets of the Company against any liability, action, proceeding, claim, demand, costs, damages or expenses, including legal expenses, whatsoever which they or any of them may incur as a result of any act or failure to act in carrying out their functions other than such liability (if any) that they may incur by reason of their own actual fraud or wilful default. No Indemnified Person shall be liable to the Company for any loss or damage incurred by the Company as a result (whether direct or indirect) of the carrying out of their functions unless that liability arises through the actual fraud or wilful default of such Indemnified Person. No person shall be found to have committed actual fraud or wilful default under this Article unless or until a court of competent jurisdiction shall have made a finding to that effect.

The Company shall advance to each Indemnified Person reasonable attorneys' fees and other costs and expenses incurred in connection with the defence of any action, suit, proceeding or investigation involving such Indemnified Person for which indemnity will or could be sought. In connection with any advance of any expenses hereunder, the Indemnified Person shall execute an undertaking to repay the advanced amount to the Company if it shall be determined by final judgment or other final adjudication that such Indemnified Person was not entitled to indemnification pursuant to this Article. If it shall be determined by a final judgment or other final adjudication that such Indemnified Person was not entitled to indemnification with respect to such judgment, costs or expenses, then such party shall not be indemnified with respect to such judgment, costs or expenses and any advancement shall be returned to the Company (without interest) by the Indemnified Person.

The Directors, on behalf of the Company, may purchase and maintain insurance for the benefit of any Director or other officer of the Company against any liability which, by virtue of any rule of law, would otherwise attach to such person in respect of any negligence, default, breach of duty or breach of trust of which such person may be guilty in relation to the Company.

45

Financial Year

Unless the Directors otherwise prescribe, the financial year of the Company shall end on 31st December in each year and, following the year of incorporation, shall begin on 1st January in each year.

46

Transfer by Way of Continuation

If the Company is exempted as defined in the Statute, it shall, subject to the provisions of the Statute and with the approval 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.

47

Mergers and Consolidations

The Company shall, with the approval of a Special Resolution, have the power to merge or consolidate with one or more constituent companies (as defined in the Statute), upon such terms as the Directors may determine.

B-22
