

## **B. SUMMARY OF FOREIGN LAWS AND REGULATIONS**

The Company is incorporated in Jersey subject to the Jersey Companies Law and, therefore, operates subject to Jersey law. Set out below is a summary of certain provisions of Jersey company law, although this does not purport to contain all applicable qualifications and exceptions or to be a complete review of all matters of Jersey company law and taxation, which may differ from equivalent provisions in jurisdictions with which interested parties may be more familiar:

### **1. Operations**

- (a) The Company is restricted from trading in Jersey insofar as, if it wanted to carry out business activities in Jersey (including, in particular, employing staff in Jersey), it may need to obtain a licence pursuant to the Regulation of Undertakings and Development (Jersey) Law 1973, as amended.
- (b) The Company is required to file an annual return each year with the Jersey Registrar of Companies. The current filing fee is £210.

### **2. Share capital**

#### **(a) *Alteration of share capital***

The Articles provide substantially similar provisions in relation to alteration of share capital as those set out in the Jersey Companies Law.

#### **(b) *Share premium accounts***

- (i) The Jersey Companies Law sets out what is meant by share premium and what share premium may be used for. If the Company allots shares at a premium (whether for cash or otherwise) where the premiums arise as a result of the issue of a class of limited shares, a sum equal to the aggregate amount or value of those premiums shall be transferred, as and when the premiums are paid up, to a share premium account for that class.
- (ii) A share premium account may be applied by the Company for any of the following purposes:
  - (A) in paying up unissued shares to be allotted to members as fully paid bonus shares;
  - (B) in writing off the Company's preliminary expenses;
  - (C) in writing off the expenses of and any commission paid on any issue of shares of the Company;
  - (D) in the redemption or purchase of shares under Part 11 of the Jersey Companies Law (Redemption and Purchase of Shares); and
  - (E) in the making of a distribution in accordance with Part 17 of the Jersey Companies Law.

- (iii) Subject to the above, the provisions of the Jersey Companies Law relating to the reduction of the Company's share capital apply as if each of its share premium accounts were part of its paid up share capital.
- (iv) The Company may also make a distribution in accordance with Part 17 of the Jersey Companies Law (Distributions) from a share premium account (see 3.5 (Dividends and distributions) below).

**(c) *Reductions of capital***

The Jersey Companies Law provides that, subject to confirmation by the Royal Court of Jersey except in certain limited circumstances, the Company may by special resolution reduce its capital accounts in any way. The redemption, purchase or cancellation by a Jersey company of its shares under Part 11 of the Jersey Companies Law is not, for the purposes of Part 12 of the Jersey Companies Law, a reduction of capital. A reduction of capital is not for the purposes of Part 17 of the Jersey Companies Law a distribution.

**(d) *Variation of rights***

The Jersey Companies Law provides for variation of class rights in accordance with the Articles or, where this is not specified in the Articles, with the consent in writing of holders of not less than 2/3rds in nominal value of the issued shares of that class or by a special resolution of the members of that class. The Articles provide for a higher majority for written consent by holders of three-fourths of the issued shares of the class.

**(e) *Treasury shares***

The Jersey Companies Law provides that the Company may hold as treasury shares any of the limited shares that it has redeemed or purchased under the Jersey Companies Law, to the extent that it is not prohibited by the Memorandum or Articles and it is authorised by a resolution of the Company to hold shares as treasury shares.

**3. Financial assistance to purchase shares of a company or its holding company**

There is no specific restriction under the Jersey Companies Law on the provision of financial assistance by the Company to another person for the purchase of, or subscription for, its own or its holding company's shares. However, the Articles contain a prohibition on financial assistance (as mentioned above). Accordingly, subject to the restrictions under the Articles, the Company may provide financial assistance if the Directors of the Company consider, in discharging their fiduciary duties, that such assistance can properly be given. The Directors will need to be mindful of their statutory obligations in relation to making distributions (as set out below) if any financial assistance is made by way of a payment to a member in their capacity as a member and such payment constitutes a distribution of the Company's assets.

#### **4. Purchase of shares and warrants by a company and its subsidiaries**

##### **(a) *Redemptions***

- (i) Subject to the provisions of the Jersey Companies Law, the Company may, if authorised by the Articles (which the Articles so provide), issue or convert existing non-redeemable limited shares, whether issued or not, into, limited shares which are to be redeemed, or are liable to be redeemed, either in accordance with their terms or at the option of the Company or the shareholder. The Articles provide for the issue of redeemable shares (or conversion of non-redeemable shares) on such terms and in such manner as may be determined by special resolution.
- (ii) The redeemable limited shares of the Company shall be capable of being redeemed from any source, but only if they are fully paid up.
- (iii) The redeemable limited shares are not capable of being redeemed unless all the directors of the Company who authorise the redemption make a statement as to the solvency of the Company at the time of redemption which is forward looking for a 12-month period following the redemption.
- (iv) Any shares redeemed under the Jersey Companies Law (other than shares that are, immediately after being purchased or redeemed, held as treasury shares) are treated as cancelled on redemption.

##### **(b) *Share purchases***

- (i) In addition, the Company may purchase its own shares (including any redeemable shares). Such a purchase shall be sanctioned by a special resolution of the Company.
- (ii) If the shares are to be purchased otherwise than on a stock exchange, they may only be purchased in pursuance of a contract approved in advance by a resolution of the Company and they shall not carry the right to vote on the resolution sanctioning the purchase or approving the contract.
- (iii) If the shares are to be bought on a stock exchange, the resolution authorising the purchase shall specify the maximum number of shares to be purchased, the maximum and minimum prices which may be paid for them and a date, not being later than 18 months after the passing of the resolution, on which the authority to purchase is to expire.
- (iv) A purchase also requires the authorising Directors to make a solvency statement in the same terms as that required for a redemption.

(c) **Warrants**

The Jersey Companies Law does not contain provisions relating to the issue, redemption or purchase of share warrants although the Articles provide that the Directors may issue warrants to subscribe for any class of shares or other securities of the Company, which warrants may be issued on such terms as the Directors may from time to time determine.

**5. Dividends and distributions**

Pursuant to the Jersey Companies Law, the Company may make a distribution (which includes dividends) at any time which shall be debited to the share premium account or any other account other than the capital redemption reserve or nominal capital account provided that the Directors authorising the distribution make a statement as to the solvency of the Company immediately following payment of the distribution which is forward looking for a 12-month period following the payment in the form set out in the Jersey Companies Law.

**6. Protection of minorities**

- (a) The principle under English case law (which is not binding but, in respect of the Jersey Companies Law, can be of persuasive authority) that, if any wrong is done to a company (e.g. if the directors have acted in breach of duty in some way), the proper claimant in any legal action for breach of such duty is the company itself has been held to form a part of Jersey law. However, in exceptional situations a minority shareholder is permitted to bring a derivative action in a company's name, and on a company's behalf, in particular where:
- (i) the majority cannot ratify what has been done (e.g. where the company acts illegally or where a resolution has been improperly passed); or
  - (ii) where it would be unfair not to allow a derivative action (e.g. where there exists fraud on the minority or unfairly prejudicial conduct of the directors or the majority shareholder(s)).
- (b) Under the Jersey Companies Law, a member of the Company may apply to the Royal Court of Jersey for an order that the Company's affairs are being or have been conducted in a manner which is unfairly prejudicial to the interests of its members generally or of some part of its members (including at least the member) or that an actual or proposed act or omission of the Company (including an act or omission on its behalf) is or would be so prejudicial. If the Royal Court of Jersey is satisfied that such an application is well founded, it may make such order as it thinks fit for giving relief in respect of the matters complained of.

- (c) Under the Jersey Companies Law, inspectors may be appointed to investigate the affairs of the Company, whether or not the Company is being wound up, on the following basis:
  - (i) The Minister for Economic Development (the “**Minister**”) or the Jersey Financial Services Commission (the “**Commission**”) may appoint one or more competent inspectors to investigate the affairs of the Company and to report on them as the Minister or the Commission may direct.
  - (ii) The appointment may be made on the application of the registrar, the Company or a member, officer or creditor of the Company.
  - (iii) The Minister or the Commission may, before appointing inspectors, require the applicant other than the registrar, to give security, to an amount not exceeding £10,000 or such other sum as may be prescribed for payment of the costs of the investigation.
- (d) Any member of the Company may apply to the Royal Court of Jersey to wind the Company up on just and equitable grounds

## **7. Management**

Except in relation to distributions, reductions of capital, share buybacks and share redemptions, as mentioned above and in respect of a solvent winding up or in situations of insolvency, the Jersey Companies Law contains no specific restrictions on the power of the Directors in respect of the assets of the Company. However, under the Jersey Companies Law, the Directors, in exercising their powers and discharging their duties, must (a) act honestly and in good faith with a view to the best interests of the Company; and (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Under the Jersey Companies Law, a Director will not be held to have breached his duties if all of the members of the Company authorise or ratify his act or omission and after the act or omission the Company will be able to discharge its liabilities as they fall due.

## **8. Accounting and auditing requirements**

Under the Jersey Companies Law, the Company must keep accounting records which are sufficient to show and explain its transactions and are such as to disclose with reasonable accuracy, at any time, the financial position of the Company. Accounts must be prepared in accordance with generally accepted accounting principles and audited accounts must show a true and fair view of, or be presented fairly in all material respects, so as to show the company’s profit or loss for the period covered by the accounts and the state of its affairs at the end of the period.

## **9. Exchange control**

There are no exchange control regulations or currency restrictions under Jersey law.

## **10. Taxation**

Under current Jersey law, there are no capital gains, capital transfer, gift, wealth or inheritance taxes or any death or estate duties. No capital or stamp duty is levied in Jersey on the issue, conversion, redemption or transfer of Shares. On the death of an individual holder of Shares (whether or not such individual was domiciled in Jersey), duty at rates of up to 0.75 per cent., of the value of the relevant Shares may be payable on the registration of any Jersey probate or letters of administration which may be required in order to transfer, convert, redeem or make payments in respect of, Shares held by a deceased individual sole Shareholder.

Under the Income Tax (Jersey) Law 1961 (as amended) (“**Tax Law**”), the standard rate of income tax on the profits of companies regarded as resident in Jersey or having a permanent establishment in Jersey is zero per cent. The Company is currently subject to a zero tax rating.

Shareholders who are not resident for taxation purposes in Jersey will be exempt from Jersey income tax on dividends from the Company. Shareholders who are resident for income tax purposes in Jersey will be subject to income tax in Jersey at the standard rate of 20 per cent., on any dividends paid on the Shares held by them or on their behalf and income tax may be withheld by the Company on payment of any such dividends.

In Jersey, no stamp duty is levied on the issue or transfer of securities (unless there is any element of Jersey residential property being transferred, in which case a land transaction tax may apply pursuant to the Taxation (Land Transactions) (Jersey) Law 2009) except that stamp duty is payable on Jersey grants of probate and letters of administration, which will generally be required to transfer shares on the death of a holder of such shares.

## **11. Loans to directors**

There is no express provision in the Jersey Companies Law prohibiting the making of loans by the Company to any of the Directors. However, the Articles include certain prohibitions on such loans.

## **12. Inspection of corporate records**

Under the Jersey Companies Law, the Company’s register of members shall during business hours be open to the inspection of a member of the Company without charge and may, on the payment of such sum (if any), not exceeding the published maximum, as the Company may require. On submission to the Company of a declaration under the Jersey Companies Law (as to the use of the copy) a person may require a copy of the register and the Company shall, within 10 days after receipt of the payment and the declaration, cause the copy so required to be available at the place where the register is kept for collection by that person during business hours.

### 13. Winding up

- (a) The Company may be placed into liquidation under Jersey law by a summary or creditors' winding up, by order of the Royal Court of Jersey on just and equitable grounds or following a declaration "en désastre" by the Royal Court of Jersey pursuant to Jersey bankruptcy law.
- (b) The Company may be wound up summarily if the company is solvent and the Directors make a statement to that effect. The winding up would commence upon the members passing a special resolution to wind the Company up summarily.
- (c) A creditors' winding up would commence if the members passed a special resolution to wind the Company up by way of creditors' winding up or if the Company is being summarily wound up and becomes insolvent. The Jersey Companies Law set out comprehensive provisions with regard to, amongst other things, meetings of creditors and procedures thereat, appointment, powers and duties of liquidators, the involvement of the Royal Court of Jersey and the disposal and clawback of the Company's property. Pursuant to the Jersey Companies Law, a liquidator must report possible criminal offences relating to the Company, those involved with it or the Directors. As soon as the affairs of the Company in a creditors' winding up were fully wound up, the liquidator would make up an account of the winding up, showing how it had been conducted and the Company's property had been disposed of, and thereupon call a general meeting of the Company and a meeting of the creditors for the purpose of laying the account before the meetings and giving an explanation of it.
- (d) Jersey bankruptcy law allows for the Company to be declared "en désastre" by the Royal Court of Jersey upon an application by the Company or by a creditor with a claim of not less than £3,000 against the Company and if the Royal Court of Jersey considers it just and equitable to do so. The Company would have the ability to recall the declaration if it was not insolvent (i.e. not unable to pay its debts as they fell due). The Royal Court of Jersey would, on such a declaration, appoint the Viscount of Jersey to administer the liquidation of the Company and all the property and assets of the Company would vest in the Viscount. The Viscount has similar powers to a liquidator under a creditor's winding up. In a désastre, the first duty of the Viscount is to liquidate the estate for the benefit of the creditors who prove their claims. Co-extensive with the Viscount's duty to protect and realise the Company's property would be a duty requiring him to investigate the circumstances giving rise to the désastre. The Viscount also has a duty to report possible misconduct. The Viscount would have an obligation to supply all the creditors with a report and accounts relating to the désastre when he had realised all the Company's property.

## **14. Reconstructions**

Under the Jersey Companies Law, the Company has the power to compromise with creditors and members. Where a compromise or arrangement is proposed between the Company and its creditors, or a class of them, or between the Company and its members, or a class of them, the Royal Court of Jersey may on the application of the Company or a creditor or member of it or, in the case of the Company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the Company or class of members (as the case may be), to be called in a manner as the Royal Court of Jersey directs. If a majority in number representing:

- (a) 3/4ths in value of the creditors or class of creditors; or
- (b) 3/4ths of the voting rights of the members or class of members,

as the case may be, present and voting either in person or by proxy at the meeting, agree to a compromise or arrangement, the compromise or arrangement, if sanctioned by the Royal Court of Jersey, is binding on:

- (a) all creditors or the class of creditors; or
- (b) all the members or class of members,

as the case may be and also on the Company or, in the case of the Company in the course of being wound up, on the liquidator and contributories of the Company.

## **15. Compulsory acquisition**

- (a) Under the Jersey Companies Law, if, following a takeover offer (which is defined as “an offer to acquire all the shares, or all the shares of any class or classes, in a company (other than shares which at the date of the offer are already held by the offeror), being an offer on terms which are the same in relation to all the shares to which the offer relates or, where those shares include shares of different classes, in relation to all the shares of each class”), an offeror has acquired or contracted to acquire not less than nine-tenths in nominal value of the shares to which the offer relates, the offeror may give notice, in accordance with the Jersey Companies Law, to the holders of those shares to which the offer relates which the offeror has not acquired or contracted to acquire, that it desires to acquire those shares. Subject to the provisions of the Jersey Companies Law, upon service of the notice by the offeror, it shall become entitled and be bound to acquire the shares. A minority shareholder also has a right, pursuant to the Jersey Companies Law, to be bought out by an offeror where such threshold (i.e. acquisition of 9/10ths in nominal value of all the shares to which the offer relates) has been met.
- (b) Where a notice is given under the Jersey Companies Law to the holder of any shares the Royal Court of Jersey may, on an application made by the shareholder within 6 weeks from the date on which the notice was given, order that the offeror shall not be entitled and bound to acquire the shares or specify terms of acquisition different from those of the offer.



## **16. Indemnification**

- (a) Subject to the exceptions in (b) below, the Jersey Companies Law prohibits any provision whether contained in the Articles or in a contract with the Company or otherwise whereby the Company or any of its subsidiaries or any other person, for some benefit conferred or detriment suffered directly or indirectly by the Company, agrees to exempt any person from, or indemnify him against, any liability which by law would otherwise attach to him by reason of the fact that he is or was an officer of the Company.
- (b) The above prohibitions do not apply to a provision for exempting a person from or indemnifying him against:
  - (i) any liabilities incurred in defending any proceedings (whether civil or criminal):
    - (A) in which judgment is given in his favour or he is acquitted; or
    - (B) which are discontinued otherwise than for some benefit conferred by him or on his behalf or some detriment suffered by him; or
    - (C) which are settled on terms which include such benefit or detriment and, in the opinion of a majority of the Directors (excluding any Director who conferred such benefit or on whose behalf such benefit was conferred or who suffered such detriment), he was substantially successful on the merits in his resistance to the proceedings;
  - (ii) any liability incurred otherwise than to the Company if he acted in good faith with a view to the best interests of the Company; or
  - (iii) any liability incurred in connection with an application made under the Jersey Companies Law in which relief is granted to him by the Royal Court of Jersey; or
  - (iv) any liability against which the Company normally maintains insurance for persons other than the Directors of the Company.

## **C. SUMMARY OF MEMORANDUM OF ASSOCIATION AND ARTICLES OF ASSOCIATION**

The Company was incorporated in Jersey as a public company limited by shares on 2 May 2006 under the Jersey Companies Law. The registered office is situated at 13 Castle Street, St Helier, Jersey, Channel Islands, JE1 1ES. The Company has established its principal place of business in Hong Kong at Unit 2406, 24/F., Strand 50, 50 Bonham Strand, Sheung Wan, Hong Kong and has been registered as a non-Hong Kong Company under Part 16 of the Companies Ordinance since 28 May 2019. Set out below is a summary of certain provisions of the Memorandum and Articles of the Company and of certain aspects of the Jersey Companies Law. The Memorandum and the Articles comprise its constitution.