

THE COMPANIES ACT 2016  
MALAYSIA

PUBLIC COMPANY LIMITED BY SHARES

**THE CONSTITUTION**

**OF**

**HSBC BANK MALAYSIA BERHAD**  
(Company No. 127776-V)

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Incorporated on 1st day of October 1984

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## COMPANIES ACT 2016

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### CONSTITUTION OF HSBC BANK MALAYSIA BERHAD PUBLIC COMPANY LIMITED BY SHARES

#### 1.0 Interpretation

##### 1.1 In this Constitution -

**“the Act”** means the Companies Act 2016 and any statutory modification, amendment or re-enactment thereof for the time being in force;

**“Alternate Director”** means any person who has been appointed and for the time being holds office as an alternate director of the Company in accordance with the provisions of this Constitution.

**“Associate”** means a company, whether a subsidiary or not, in which the Company or any of its related companies shall have an interest whether directly or indirectly;

**“the Board”** means the Directors of the Company who number not less than the required quorum acting as a board of directors, and if the Company only has two (2) Directors, then that Directors;

**“the Company”** means HSBC BANK MALAYSIA BERHAD;

**“common seal”** means the common seal of the Company, if any.

**“Constitution”** means this Constitution, as originally framed or as amended from time to time;

**“Director”** means a person who has been appointed and for the time being holds office as a director of the Company in accordance with the provisions of the Act and this Constitution and, unless the context otherwise provides or requires, includes an Alternate Director;

**“FSA”** means the Financial Services Act 2013 and any statutory modification, amendment or re-enactment thereof for the time being in force;

**“member”** means a person whose name is entered in the Register as the holder for the time being of one or more shares in the Company;

**“Office”** means the registered office in Malaysia for the time being of the Company;

“**Register**” means the register of members maintained by the Company pursuant to Section 50 of the Act, and where applicable includes a branch register maintained pursuant to Section 53 of the Act;

“**Registrar**” means the person designated as the registrar for the purposes of the Act under Section 20A(1) of the Companies Commission of Malaysia Act 2001;

“**Rule**” means a rule contained in this Constitution;

“**secretary**” means any person appointed to perform the duties of a secretary of the Company and included an assistant or deputy secretary;

1.2 In this Constitution –

1.2.1 words importing one gender include all genders;

1.2.2 words importing a singular number include the plural number and vice versa;

1.2.3 words importing a person include a company, a body corporate, an unincorporated association or partnership;

1.2.4 unless the contrary intention appears, expressions referring to writing are construed as including printing, lithography, photography, any electronic means which can be recorded in a permanent form and any other means of representing or reproducing words in a visible form;

1.2.5 words or expressions used in this Constitution shall, unless otherwise defined herein, be interpreted in accordance with the provisions of the Act and the Interpretation Acts 1948 and 1967 as in force at the date on which this Constitution become binding on the Company;

1.2.6 references to “writing” shall, unless the contrary intention appears, include printing, lithography, photography and other modes of representing or reproducing words in a visible form, including electronic means provided the same can be recorded in a permanent form.

1.3 Section and sub-section headings are included for convenience of reference and do not affect the construction of this Constitution.

1.4 The replaceable rules contained in the Act shall apply to the Company unless they are replaced by a Rule in this Constitution.

**2.0 Status, objects and capacity**

***Status***

2.1 The Company is a body corporate and shall –

2.1.1 have a legal personality separate from that of its members; and

- 2.1.2 continue in existence until it is removed from the register maintained by the Registrar.
- 2.2 The Company is a public company limited by shares. Accordingly –
  - 2.2.1 the liability of each member is limited to –
    - (a) the amount which remains unpaid on that member's shares;
    - (b) any liability expressly provided for in this Constitution; and
    - (c) any liability as provided for under the Act.

***Objects***

- 2.3 The objects for which the Company is established are:
  - 2.3.1 to establish and carry on in Malaysia and elsewhere the business of banking and other businesses ancillary thereto the other businesses and objects set forth and contained in the succeeding paragraphs and the Company shall be at liberty to continue, commence, carry on and effect all or any of its objects at its head office in Malaysia and also at its branches, sub-branches, agencies and sub-agencies whether in Malaysia or elsewhere which presently exist or may hereafter be established;
  - 2.3.2 to carry on the business of banking in all its branches, sub-branches and departments and to transact and do all matters and things incidental thereto, or which may at any time hereafter at any place where the Company shall carry on business as usual in connection with the business of banking or dealing, in money or securities for money;
  - 2.3.3 to carry on business as capitalists, financiers, concessionaires, financial agents and advisers, to advance and borrow money, negotiate loans and lend money with or without security, including the advancing or lending of money to finance the production of all property, goods, merchandise, wares and produce, hire purchase and deferred payment agreements, discount and credit facilities, in respect of any property, goods, merchandise, wares and produce;
  - 2.3.4 to borrow, raise or take up money, lend or advance money with or without security, issue, discount, buy, sell, deal in instruments of any kind whatsoever including but not limited to bills of exchange, promissory notes, coupons, drafts, bills of lading, warrants, debentures, certificates, scrip and other instruments and securities, whether transferable or negotiable or not, to grant and issue letters of credit and circular notes, to buy, sell and deal in foreign exchange, currencies, futures, options, any derivative and other financial instruments, precious metals, bullion, specie and commodities of every kind and to generally conduct treasury and money market operations; to acquire, hold, issue on commission subscribe for, take, sell, exchange or otherwise, underwrite and deal with stocks, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds, to negotiate loans and advances; to receive money and valuables on deposit, or for safe custody or otherwise; to collect and transact money and securities; to manage property and transact all kinds of agency business commonly transacted by bankers;

- 2.3.5 to receive moneys, securities and valuables of all kinds on deposit, at interest or otherwise, or for safe custody;
- 2.3.6 to undertake and carry on the office or offices and duties of trustee, custodian trustee, executor, administrator, liquidator, receiver, attorney or nominee of, or for, any person, company, corporation, association, scheme, trust fund, government, state, municipal or other body politic or corporate;
- 2.3.7 to undertake and execute any trust or discretion, the undertaking whereof may seem desirable, and the distribution amongst the beneficiaries, pensioners or other persons entitled thereto, of any income capital or annuity, whether periodically or otherwise, and whether in money or specie, in furtherance of any trust, direction, discretion or other obligations or permission;
- 2.3.8 to acquire and hold shares in and/or undertake the whole or any part of the business, property and liabilities of any company local or foreign carrying on any business which the Company is authorised to carry on, or possessed of property suitable for the purposes of the Company;
- 2.3.9 to amalgamate with any company having objects altogether or in part similar to those of the Company and to enter into partnership or any arrangement for sharing profits, union of interests, cooperation, joint venture or reciprocal concession, with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction capable of being conducted so as directly or indirectly to benefit the Company; and to lend money to, guarantee the contracts of otherwise acquire shares and securities of any such company and to sell, hold, reissue, with or without guarantee, or otherwise deal with the same;
- 2.3.10 to promote any company or companies for the purposes of acquiring all or any of the property, rights and liabilities of the Company, or for any other purpose which may seem directly or indirectly calculated to benefit the Company;
- 2.3.11 to form, promote, subsidise, assist companies, syndicated and partnerships of all kinds;
- 2.3.12 to give any guarantee for the payment of money or the performance of any obligation or undertaking;
- 2.3.13 to obtain, or in any way assist in obtaining any ordinance, enactment or any legislative authority, for enabling the Company or any other company to carry any of its objects into effect, or for effecting any modification of the Company's or any other company's constitution, or for any other purpose, and to oppose any legislation, proposals, proceedings, schemes or applications whether indicated in this paragraph or not which may seem calculated directly or indirectly to prejudice the Company or any other company, and to procure that the Company or any other company be legalised, registered, or incorporated, if necessary, in accordance with the laws of any country or state in which it may carry or may propose to carry on business;
- 2.3.14 to act as agents for any government or other authority and for public or private bodies or persons;

- 2.3.15 to acquire, improve, manage, work, develop, exercise all rights in respect of, lease, mortgage, sell, dispose of, turn to account, and otherwise deal with, property and produce of all kinds and in particular land, building, concessions, patents, business concerns and undertakings in all fields of endeavour;
- 2.3.16 to enter into any arrangements with any governments or authorities supreme, municipal, local or otherwise, that may seem conducive to the Company's objects or any of them, and to obtain from any such government or authorities, any rights, privileges, and concessions which the Company may think it desirable to obtain, and to carry out, exercise and company with any such arrangements, rights, privileges, and concessions;
- 2.3.17 to take or concur in taking all such steps and proceedings as may seem best calculated to uphold and support the credit of the Company, and to obtain and justify public confidence, and to avert or minimise financial disturbances which might affect the Company;
- 2.3.18 to carry on or be interested in all kinds of insurance business, hire purchase business, or other undertakings or operations commonly carried on or undertaken therewith;
- 2.3.19 to invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined;
- 2.3.20 to borrow or raise or secure the payment of money in such manner as the Company may think fit, and in particular by the issue of debentures or debenture stock perpetual or otherwise, or in such manner as the Company shall think fit, and for the purposes aforesaid or for any other lawful purpose to charge all or any of the Company's property or assets present and future including the uncalled capital and collaterally or further to secure any securities of the Company by a trust deed or other assurance and to purchase, redeem, or pay off any such securities;
- 2.3.21 to sell or dispose of the undertaking of the Company or any part thereof or any property or rights of the Company for such consideration as the Company may think fit and in particular for shares, debentures, or securities of any company having objects altogether or in part similar to those of the Company;
- 2.3.22 to establish and support or aid in the establishment and support of or participate in any contributory or non-contributory pension or superannuation or retirement or benefit scheme established or arranged by the Company or any person or other company or of associations institutions funds trusts and investment in shares to benefit any person whatsoever or the dependants or connections of such persons so that they may be entitled to and receive gratuities, pensions, allowances or other emoluments or benefits of whatsoever nature and to make payments towards insurance and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public general or useful object;

- 2.3.23 to pay all, or any part, of the expenses of, and preliminary and incidental to, the promotion, formation, establishment and registration of the Company or of any other company promoted, formed, established or registered by or on behalf of the Company, and all commission, brokerage, discount, underwriting and other expenses lawfully payable which may be deemed expedient for taking, placing or underwriting all or any of the shares or debentures or other obligations of the Company, or of any company so promoted, formed, established or registered by the Company;
- 2.3.24 to do all or any of the above things in any part of the world, and as principals, agents, contractors, trustees or otherwise and either alone or by or through trustees, agents or otherwise, or in conjunction with others;
- 2.3.25 to carry on any other business of any kind whatsoever which may seem to the Company to be capable of being advantageously or conveniently carried on by way of extension or in connection with or calculated directly or indirectly to develop any business of the Company or any of its branches or calculated directly or indirectly to enhance the value of or facilitate the realisation of the development of or render profitable any of the Company's property or rights and to manage real and personal properties and investments either for the Company or for others;
- 2.3.26 to distribute any of the property of the Company among its members in specie or otherwise;
- 2.3.27 to do any other business which the Directors consider as advantageous to the Company;
- 2.3.28 to do all such other things as are incidental or conducive to the attainment of the above objects or any of them.

***Capacity***

- 2.4 The Company is capable of exercising all functions of a body corporate and has the full capacity to carry on any business or activity as stated in Rule 2.3 including –
  - 2.4.1 to sue and be sued;
  - 2.4.2 to acquire, own, hold, develop or dispose of any property;
  - 2.4.3 to do any act which it may do or, enter into any transaction.
- 2.5 The Company has the full rights, powers and privileges for the purposes specified in Rules 2.3 and 2.4.
- 2.6 Each object set out in Rule 2.3 shall be regarded as an independent object and accordingly shall in no way be limited or restricted (except where otherwise expressed in the relevant paragraph in Rule 2.3) by reference to or inference from the terms of any other paragraph, but may be carried out in as full and ample manner and construed in as wide a sense as if each of the said paragraphs in Rule 2.3 defined the objects of a separate and distinct company.

### **3.0 Share capital**

#### ***Rights in respect of shares***

3.1 Shares in the Company may –

- 3.1.1 be issued in different classes;
- 3.1.2 be redeemable in accordance with the Act;
- 3.1.3 confer preferential rights to distributions of capital or income;
- 3.1.4 confer special, limited or conditional voting rights; or
- 3.1.5 not confer voting rights.

If the Company proposes to issue any of the classes of shares referred to in Rule 3.1.1 to Rule 3.1.5, it shall state in this Constitution –

- (a) that the Company's share capital is divided into different classes of shares; and
- (b) the voting rights attached to shares in each class.

3.2 Unless otherwise specified in this Constitution or in accordance with the terms on which the share is issued, a share in the Company, other than a preference share, confers on the holder–

- 3.2.1 the right to attend, participate and speak at a general meeting;
- 3.2.2 the right to vote on a show of hands on any resolution of the Company;
- 3.2.3 the right to one (1) vote for every share on a poll on any resolution of the Company;
- 3.2.4 the right to an equal share in the distribution of surplus assets of the Company; and
- 3.2.5 the right to an equal share of in any dividends authorised by the Board.

#### ***Issue of shares***

3.3 Subject to the provisions of the Act, the FSA and this Constitution, the Directors may issue shares in the Company on such terms and conditions and at such time and consideration and with such preferred, deferred, or other special rights, restrictions or exclusions, whether in regard to dividend, voting, return of capital, or otherwise as the Directors may determine. The exercise of the aforesaid rights shall be without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares.

3.4 Subject to Rule 3.5, the Directors shall not exercise any power to –

- 3.4.1 allot shares in the Company;
- 3.4.2 grant rights to subscribe for shares in the Company;

- 3.4.3 convert any securities into shares in the Company; or
  - 3.4.4 allot shares under an agreement or option or offer,  
unless the prior approval by way of ordinary resolution has been obtained.
- 3.5 The requirement in Rule 3.4 shall not apply to –
- 3.5.1 an allotment of shares or grant of rights pursuant to an offer made to members of the Company in proportion to the members' shareholdings;
  - 3.5.2 an allotment of shares or grant of rights pursuant to a bonus issue of shares to members of the Company in proportion to the members' shareholdings;
  - 3.5.3 an allotment of shares to a promoter of the Company that the promoter has agreed to take; or
  - 3.5.4 shares which are to be issued as consideration or part consideration for the acquisition of shares or assets by the Company and the members of the Company have been notified of the intention to issue the shares at least fourteen (14) days before the issue of the shares.
- 3.6 For the purposes of Rule 3.5.4, members of the Company are deemed to have been notified of the Company's intention to issue shares if –
- 3.6.1 a copy of the statement explaining the purpose of the intended issue of shares has been sent to every member at his last known address according to the Register; and
  - 3.6.2 the copy of the statement has been advertised in one (1) widely circulated newspaper in Malaysia in the national language and one (1) widely circulated newspaper in Malaysia in the English language.
- 3.7 Except so far as otherwise provided by the conditions of issue, any capital raised by the creation of new shares shall be considered as part of the original share capital of the Company, and shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transaction, forfeiture and otherwise as the original share capital.

***Redeemable and preference shares***

- 3.8 Subject to the Act, the Company may issue preference shares which are liable, or at the option of the Company are to be liable, to be redeemed in accordance with the Constitution.
- 3.9 The Company shall not allot any preference shares or convert any issued shares into preference shares unless the rights of the members with respect to repayment of capital, participation in surplus assets and profits, cumulative or non-cumulative dividends, voting and priority of payment of capital and dividend in relation to other shares or other classes of preference shares are set out in this Constitution.

***Right of pre-emption***

3.10 The provisions of Section 85 of the Act shall not apply to any and all issuance of new shares.

**4.0 Variation of class rights**

4.1 If the share capital is divided into different classes of shares, the rights attached to any class may be varied by a written consent representing not less than seventy five per centum (75%) of the total voting rights of the members in that class, or by a special resolution passed by members in that class sanctioning the variation.

4.2 For the purposes of Rule 4.1 –

4.2.1 any amendment of a provision contained in the Constitution for the variation of the rights attached to a class of shares or the rights of a class of members, or the insertion of any such provision into the Constitution, is itself to be treated as a variation of those rights;

4.2.2 references to the variation of rights attached to a class of shares or the rights of a class of members include an abrogation of those rights; and

4.2.3 the issue by the Company of any preference shares ranking equally with existing preference shares issued by the Company shall be deemed to be a variation of the rights attached to those existing preference shares unless the issue of preference shares was authorised by the terms of issue of the existing preference shares or by this Constitution in force at the time the existing preference shares were issued.

4.3 The provisions of the Act and this Constitution relating to general meetings shall apply to a meeting of holders of a class of shares convened to sanction a variation of class rights but the quorum shall be –

4.3.1 for a meeting other than an adjourned meeting, two (2) persons present holding at least one-third (1/3) of the number of issued shares of that class; and

4.3.2 for an adjourned meeting, one (1) person present holding shares of such class.

4.4 For the purposes of Rule 4.3, where a person is represented by a proxy or proxies, he is treated as holding only the shares held in respect of which the proxy or proxies are authorised to exercise voting rights.

4.5 At a variation of class rights meeting, any holder of shares of such class or any member present in person or by proxy, as the case may be, may demand a poll.

4.6 A variation of class rights shall take effect in accordance with the Act.

## **5.0 Payment of commission and brokerage**

5.1 The Company may apply all or any of its shares or cash, either directly or indirectly, in payment of commission to a person for the purpose of subscribing or agreeing to subscribe or procuring or agreeing to procure subscribers for shares of the Company in the manner authorised under the Act. The commission payable shall –

5.1.1 not exceed the amount or rate stipulated in the Act; and

5.1.2 be disclosed in the manner required by the Act.

5.2 The provisions of Rule 5.1 apply *mutatis mutandis* to the payment of brokerage by the Company except that the restriction set out in Rule 5.1.1 shall not apply to brokerage.

## **6.0 Payment of interest out of capital**

6.1 Where any shares of the Company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a long period, the Company may, subject to approval of a court of competent jurisdiction and to the conditions and restrictions set out in the Act, pay interest or returns on the amount of such capital as is for the time being paid up and charge the interest or returns paid to share capital as part of the cost of construction works or buildings or the provision of the plant, as the case may be.

## **7.0 Lien on shares and dividends**

7.1 The Company shall have a lien, in priority to any other claim, over –

7.1.1 a partly paid issued share; and

7.1.2 any dividend payment on the share,

for all money due by the member to the Company by way of money called or payable at a fixed date.

7.2 The Company may sell any share over which it has a lien in such manner as the Directors think appropriate.

7.3 The Company may not sell any shares under Rule 7.2 unless –

7.3.1 a sum in respect of which the lien exists is presently payable; and

7.3.2 fourteen (14) days have expired from a written notice given to the registered holder of the share, or the person entitled to the share by reason of death or bankruptcy of the registered holder, stating and demanding payment of the amount in respect of which the lien exists as is presently payable.

- 7.4 For the purpose of giving effect to any sale under Rule 7.2, the Directors may authorise a person to transfer the shares sold to the purchaser of the shares who shall be registered as the member comprised in any such transfer and the Directors shall not be bound to see to the application of the purchase money.
- 7.5 The title of the purchaser to the shares sold under Rule 7.2 shall not be affected by any irregularity or invalidity in the proceedings relating to the sale.
- 7.6 The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and any residue shall be paid to the person entitled to the shares at the date of the sale, subject to a similar lien for sums not presently payable which exists on the shares before the sale.

## **8.0 Calls on shares**

- 8.1 The Directors may make calls upon the members in respect of any money unpaid on the shares of the members and not by the conditions of allotment of those shares made payable at fixed dates.
- 8.2 A sum which, by the terms of issue of a share, becomes payable on allotment or any fixed date shall be deemed to be a call duly made and payable on the date on which by the terms of issue of the shares becomes payable and in case of non-payment, all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture or otherwise shall apply as if the sum had become payable by virtue of a call duly made and notified.
- 8.3 No call shall exceed one fourth (1/4) of the issued price of the share or be payable at less than thirty (30) days from the date fixed for the payment of the preceding call.
- 8.4 Subject to receiving at least fourteen (14) days' written notice specifying the date, time and place of payment, each member shall pay to the Company the amount called on his shares.
- 8.5 A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed and such resolution may authorise the call to be paid by instalments.
- 8.6 The joint holders of shares shall be jointly and severally liable to pay all calls in respect of their shares.
- 8.7 If a sum called in respect of a share is not paid before or on the day appointed for payment of that sum, the person from whom the sum is due shall pay interest or compensation on that sum at such rate not exceeding eight per centum (8%) per annum as the Directors may determine from the day appointed for payment of the sum to the time of actual payment. The Directors may waive payment of the interest or compensation due wholly or in part from any person from whom the sum is due.
- 8.8 A call may be revoked or postponed as the Directors may determine.

8.9 The Company may –

- 8.9.1 make arrangements on the issue of shares for varying the amounts and times of calls as between members;
- 8.9.2 receive from any member willing to advance payment of all or any part of the money uncalled and unpaid on any shares held by the member and pay interest or return on the money advanced at a rate not exceeding eight per centum (8%) per annum as may be agreed upon between the Directors and the member concerned as from the date such money is received by the Directors until the same would, but for the advance, become payable, unless the Company in general meeting otherwise direct; and
- 8.9.3 pay dividends in proportion to the amount paid up on each share when a larger amount is paid on some shares than on others.

**9.0 Forfeiture of shares**

- 9.1 If a member fails to pay any call or instalment of a call within the stipulated time, the Directors may serve a written notice on the member requiring payment of the amount together with any interest or compensation which may have accrued. The notice shall –
  - 9.1.1 specify a day on or before which the payment is required to be made; and
  - 9.1.2 state that in the event of non-payment on or before the specified date, the shares in respect of which the call or instalment of a call was made is liable to be forfeited.
- 9.2 Upon failure to comply with the notice served under Rule 9.1, the shares in respect of which the notice has been given shall be forfeited by a resolution of the Directors unless the payment as required by the notice has been made before such resolution is passed.
- 9.3 For the purposes of Rule 9.2, the forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
- 9.4 A person whose shares have been forfeited under Rule 9.2 shall cease to be a member in respect of the forfeited shares. Notwithstanding such forfeiture, the person shall remain liable to pay to the Company all money which at the date of forfeiture was payable by him to the Company in respect of the shares together with interest or compensation at the rate of eight per centum (8%) per annum from the date of forfeiture on the money for the time being unpaid if the Directors think fit to enforce payment of such interest or compensation. The liability shall cease if and when the Company receives payment in full of all such money in respect of the shares.
- 9.5 A statutory declaration in writing by a Director or secretary that a share in the Company has been forfeited on a date stated in the declaration shall be conclusive evidence of the facts stated in the declaration as against all persons claiming to be entitled to the share.
- 9.6 A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit.

- 9.7 The Company may receive the consideration, if any, given for a forfeited share on any sale or disposition of the share and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and such person shall –
- 9.7.1 be registered as the member; and
  - 9.7.2 not have 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.
- 9.8 A forfeiture may be cancelled on such terms as the Directors think fit at any time before a sale or disposition of the forfeited share.
- 9.9 The provisions of Rule 9.1 to Rule 9.8 shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable to the Company at a fixed date, as if the sum had been payable by virtue of a call duly made and notified.
- 10.0 Evidence of title**
- 10.1 In the absence of evidence to the contrary, the entry of the name of a person in the Register as member is *prima facie* evidence that legal title to the share is vested in that person. The Company may treat the registered member as the only person entitled to –
- 10.1.1 exercise the right to vote attaching to the share, if any;
  - 10.1.2 receive notices;
  - 10.1.3 receive a distribution in respect of the shares, if any; and
  - 10.1.4 exercise the other right and powers attaching to the share.
- 10.2 Except as provided in the Act -
- 10.2.1 no person shall be recognised by the Company as holding any share upon any trust; and
  - 10.2.2 no notice of any trust expressed, implied or constructive shall be entered onto the Register or any branch register.
- 10.3 Any person registered as the holder of a share as trustee, executor or administrator of the estate of a deceased person in accordance with the Act shall be subject to such liability as may be specified by the Act.
- 10.4 The Company shall not be bound to register more than four (4) persons as the holders of any share, except in the case of executors or trustees of a deceased member.

## **11.0 Share certificates**

- 11.1 Every member shall, upon the Company receiving an application in writing and subject always to the provisions of Section 98 and Section 104 of the Act, be entitled to receive a certificate in respect of the share or shares for which that member's name has been entered in the Register.
- 11.2 The certificate shall specify the number of shares allotted or transferred (as the case may be) and the amount paid up thereon, and shall be in such form as the Act may require (including without limitation the provisions of Section 100 of the Act) or otherwise in such form as the Directors shall from time to time determine.
- 11.3 Subject to Rule 29, every certificate issued shall be made under the common seal.
- 11.4 Subject always and without prejudice to Rule 11.1, if any share certificate issued is or becomes defaced, worn out, destroyed lost or stolen, the provisions of Section 104 of the Act shall apply in respect of such certificate.

## **12.0 Transfer of shares**

- 12.1 Subject to other written laws, any member may transfer all or any of his shares in the Company by a duly executed and stamped instrument of transfer and shall lodge the transfer with the Company. The transferor shall remain the holder of the shares until the transfer is registered and the name of the transferee is entered in the Register.
- 12.2 For the purpose of effecting the transfer of shares, the Company shall enter the name of the transferee in the Register in accordance with this Constitution.
- 12.3 The Company shall enter or cause to be entered the name of the transferee in the Register within thirty (30) days from receipt of the instrument of transfer under Rule 12.1 unless –
- 12.3.1 the Act or this Constitution expressly permits the Directors to refuse or delay registration for the reasons stated;
- 12.3.2 the Directors have passed a resolution within thirty (30) days from receipt of the instrument of transfer to refuse or delay the registration of the transfer and such resolution sets out in full the reasons for refusing or delaying the registration; and
- 12.3.3 the notice of the resolution and the reasons stated in the resolution for refusing or delaying the registration are sent to the transferor and transferee within seven (7) days of the resolution being passed.
- 12.4 The Directors may refuse or delay the registration of a transfer of shares under Rule 12.1 if–
- 12.4.1 the Directors do not approve the transferee;
- 12.4.2 the shares are not fully paid;
- 12.4.3 the Company has a lien on the shares; or

- 12.4.4 the member has failed to pay the Company an amount due in respect of those shares, whether by way of consideration for the issue of the shares or in respect of any sum payable in accordance with this Constitution.
- 12.5 Without prejudice to Rule 12.4, the Directors shall not register a transfer of any share in respect of which a share certificate has been issued unless the instrument of transfer is accompanied by the share certificate relating to the share or by evidence as to its loss or destruction and, if required, a sum not exceeding the amount stipulated in the Act as the fee payable for issuance of a duplicate certificate or document to the owner.
- 12.6 Rule 12.1 shall not affect the power of the Company to register a person as a member to whom the right to shares or debentures has been transmitted by operation of law.
- 12.7 For the purposes of Rule 12.1, an “instrument of transfer” includes a written application for transmission of a share or other interest to a personal representative.

### **13.0 Transmission of shares or debentures**

- 13.1 A person to whom the right to shares or debentures are transmitted by operation of law may elect –
- 13.1.1 to be registered as a member or debenture holder in respect of the shares or debentures by written notice to the Company; or
- 13.1.2 to have another person registered as a member or debenture holder in respect of the shares or debentures and testify such election by executing to that person a transfer of those shares or debentures, as the case may be.
- 13.2 All limitations, restrictions and provisions of this Constitution in relation to the right to transfer and the registration of transfers of shares and debentures shall apply to any notice or transfer of shares or debentures pursuant to Rule 13.1.2 as if the death or bankruptcy of the member or debenture holder had not occurred and the notice or transfer were signed by that member or debenture holder.
- 13.3 Any document which is by law sufficient evidence of probate of the will or letters of administration of the estate of a deceased person having been granted to a person shall be accepted by the Company as sufficient evidence of the grant.
- 13.4 Subject to the provisions of this Constitution, the Company shall register the person as a member or debenture holder of the Company within sixty (60) days from receiving the notification.
- 13.5 The registration of a transmission of shares or debenture under this Constitution shall entitle the registered holder to the same dividends and other advantages and to the same rights in relation to meetings of the Company or to voting or otherwise.
- 13.6 For the purposes of Rule 13.1, in case of the death of a member or debenture holder, the persons recognised as having any title to his interest in the shares or debentures shall be –

13.6.1 where the deceased was a sole holder, the legal personal representatives; and

13.6.2 where the deceased was a joint holder, the survivor(s),

but nothing in Rules 13.1 to 13.5 shall release the estate of the deceased joint holder from any liability in respect of any share or debenture which had been jointly held by him with other persons.

#### **14.0 Conversion of shares to stocks**

14.1 The Company may by ordinary resolution convert any paid-up shares into stock and reconvert any stock into paid-up shares of any number.

14.2 The stockholders may transfer the stocks or any part of the stocks in the same manner as the transfer of shares from which the stock arose may, before the conversion, have been transferred or in the closest manner as the circumstances allow.

14.3 The Directors may fix the minimum amount of stock transferable and may restrict or forbid the transfer of fractions of that minimum.

14.4 The stockholders shall, according to the amount of the stock held by the stockholders, have the same rights, privileges and advantages with regards dividends, voting at meetings of the Company and other matters as if the stockholders held the shares from which the stock arose.

14.5 Notwithstanding Rule 14.4, no privilege or advantage except participation in the dividends and profits of the Company and in the assets on winding up shall be conferred by any such part of stock which would not, if existing in shares, have conferred that privilege or advantage.

14.6 For the purposes of Rules 14.1 to 14.5, any reference in the Act and this Constitution applicable to paid-up shares shall apply to stock, and the words "share" and "member" or "shareholder" shall include "stock" and "stockholder" respectively.

#### **15.0 Alteration of share capital**

15.1 The Company may alter its share capital in any one or more of the following ways by passing a special resolution to –

15.1.1 consolidate and divide all or any of its share capital, the proportion between the amount paid and the amount, if any, unpaid on each subdivided share shall be the same as it was in the case of the share from which the subdivided share is derived;

15.1.2 convert all or any of its paid-up shares into stock and reconvert that stock into fully-paid shares; or

15.1.3 subdivide its shares or any of its shares, whatever is in the subdivision, the proportion between the amount paid and the amount, if any, unpaid on each subdivided share

shall be the same as it was in the case of the share from which the subdivided share is derived.

## **16.0 Reduction of share capital**

16.1 The Company may, subject to FSA, by special resolution reduce its share capital in any manner subject to the requirements and consents required, and with any incident authorised, under the Act.

## **17.0 Provision of financial assistance**

17.1 Unless otherwise provided in the Act, the Company shall not –

17.1.1 give any financial assistance, whether directly or indirectly and whether by means of a loan, guarantee or provision of security or otherwise, for the purpose of or in connection with a purchase or subscription made or to be made by any person for any shares in the Company or any shares in the holding company, if any, of the Company;

17.1.2 in any way purchase, deal in or lend money on its own shares; or

17.1.3 give financial assistance, directly or indirectly for the purpose of reducing or discharging the liability, if a person has acquired shares in the Company or its holding company, if any, and the liability has been incurred by any person for the purpose of the acquisition of the shares.

17.2 The Company must comply with the relevant requirements of the Act if it proposes to give financial assistance or purchase or deal in or lend money on its own shares in any manner which is permitted under the Act.

## **18.0 General meetings**

### ***Annual general meeting***

18.1 The Company shall hold an annual general meeting in every calendar year, which shall be held within six (6) months of the Company's financial year end and not more than fifteen (15) months after the last preceding annual general meeting, at such time and place as may be determined by the Directors, in addition to any other meetings held during that period, to transact the following business:

18.1.1 the laying of audited financial statements and the reports of the Directors and auditors;

18.1.2 the election of Directors in place of those retiring;

18.1.3 the appointment and the fixing of the fee of Directors; and

18.1.4 any resolution or other business of which notice is given in accordance with the Act or this Constitution.

***Convening of general meetings***

18.2 A meeting of members may be convened by –

18.2.1 the Board; or

18.2.2 any member holding at least ten per centum (10%) of the issued share capital of the Company.

18.3 The Directors shall call a meeting of members once they receive a requisition to do so from members representing at least ten per centum (10%) of the paid up capital of the Company carrying the right of voting at meetings of members of the Company.

18.4 The requisition referred to in Rule 18.3 –

18.4.1 shall be in hard copy or electronic form;

18.4.2 shall state the general nature of the business to be dealt with at the meeting;

18.4.3 may include the text of a resolution that may properly be moved and is intended to be moved at the meeting; and

18.4.4 shall be signed or authenticated by the person making the requisition.

18.5 For the purposes of Rule 18.3, the right of voting shall be determined as at 5.00 p.m. on the date the requisition is deposited with the Company.

18.6 The Directors shall –

18.6.1 call for the meeting within fourteen (14) days from the date of the requisition under Rule 18.3; and

18.6.2 hold the meeting on a date which is not more than twenty eight (28) days after the date of the notice to convene the meeting.

18.7 If the requests received by the Company identify a resolution intended to be moved at the meeting, the notice shall include the text of the resolution.

18.8 If the resolution is to be proposed as a special resolution, the Directors shall be considered as not having duly called for the meeting if the notice of the resolution is not given in accordance with Section 292 of the Act.

***Convening of meeting by requisitionists***

18.9 If the Directors are required to call a meeting of members under Rule 18.3 and do not do so in accordance with Rule 18.5, the members who requisitioned the meeting or any number of members representing more than one half (1/2) of the total voting rights of all of the members

who requisitioned, may call for a meeting of members. The meeting shall be convened by the members on a date not more than three (3) months after the date on which the Directors received a requisition under Rule 18.3 to call for a meeting of members.

- 18.10 Any reasonable expenses incurred by the members requisitioning the meeting by reason of the failure of the Directors to call a meeting shall be reimbursed by the Company.

***Meeting may be held at multiple venues***

- 18.11 The Company may convene a meeting of members at more than one venue using any technology or method that enables the members of the Company to participate and to exercise the members' right to speak and vote at the meeting. The main venue of the meeting shall be in Malaysia and the chairman shall be present at the main venue.

***Minimum period of notice***

- 18.12 A meeting of the members, other than a meeting for passing of a special resolution shall be called by notice—

18.12.1 in the case of an annual general meeting, at least twenty-one (21) days or any longer period specified in this Constitution; and

18.12.2 in any other case, at least fourteen (14) days or any longer period specified in this Constitution.

- 18.13 A meeting of members to be called under Rule 18.12.1 may be called by a notice shorter than the period specified in that Rule if agreed by all the members entitled to attend and vote at the meeting.

- 18.13A A meeting of members to be called under Rule 18.12.2 may be called by a notice shorter than the period specified in that Rule if—

18.13A.1 agreed to by the majority in number of members entitled to attend and vote at the meeting; and

18.13A.2 the majority of members specified in Rule 18.13A.1 hold not less than ninety-five per centum (95%) of the number of shares giving a right to attend and vote at the meeting.

- 18.14 A meeting for passing of a special resolution shall be called by notice of at least twenty-one (21) days.

***Meetings requiring special notice***

- 18.15 Where special notice is required of a resolution under the Act, the resolution shall not be effective unless notice of intention to move such resolution is given to the Company at least twenty eight (28) days before the meeting at which it is to be moved. Where practicable, the Company shall give its members notice of any such resolution in the same manner and at the same time as it gives notice of the meeting. Where it is not practicable to do so, the Company

shall give notice of the resolution to the members at least fourteen (14) days before the meeting by sending it –

18.15.1 personally or by post to the address provided by the member to the Company for such purpose; or

18.15.2 in electronic form to the electronic address provided by the member to the Company for such purpose.

***Notice of meeting***

18.16 Notice of a meeting of members must be given to every member, Director and auditor of the Company. For the purposes of this Rule, the reference to a ‘member’ includes any person who is entitled to a share in consequence of the death or bankruptcy of a member who, but for his death or bankruptcy, would be entitled to receive notice of the meeting and the Company has been notified of the person’s entitlement in writing.

18.17 Notice of a meeting of members of the Company shall state –

18.17.1 the place, date and time of the meeting;

18.17.2 the general nature of the business of the meeting; and

18.17.3 if applicable, the resolution to be passed is a special resolution.

The notice of meeting of members may include the text of any proposed resolution and other information as the Directors deem fit. No business shall be transacted at a meeting of members except business of which notice has been given in the notice convening the meeting.

18.18 Notice of a meeting of members shall –

18.18.1 be in writing and shall be given to the members either in hard copy, or in electronic form, or partly in hard copy and partly in electronic form.

18.18.2 state prominently that –

(a) a member shall be entitled to appoint not more than two (2) persons as his proxy to exercise all or any of the member’s rights to attend, participate, speak and vote at a meeting of members of the Company and that the proxy need not be a member; and

(b) a member who appoints more than one proxy in relation to a meeting must specify the proportion of the member’s shareholding to be represented by each proxy.

18.19 Notice of a meeting of members –

18.19.1 given in hard copy shall be sent to any member either personally or by post to the address supplied by the member to the Company for such purpose; or

18.19.2 given in electronic form shall be transmitted to the electronic address provided by the member to the Company for such purpose or by publishing on a website.

18.20 Where notice of a meeting of members is given by the Company by publishing on a website, the Company must notify a member of the publication of the notice on the website and such notification shall be in writing and be given in hard copy or electronic form stating –

18.20.1 that it concerns a meeting of members;

18.20.2 the place, date and time of the meeting; and

18.20.3 whether the meeting is an annual general meeting.

The notice shall be made available on the website from the date that notice is given under this Rule until the conclusion of the meeting.

18.21 In the case of joint-holders of a share, the notice, whether in hard copy or by electronic form, must be given to the joint-holder whose name appears first in the Register.

18.22 When a meeting of members is adjourned for thirty (30) days or more, notice of adjourned meeting shall be given in the same manner as in the case of the original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjourned meeting or the business to be transacted at such meeting.

18.23 Any accidental omission to give notice of a meeting to, or non-receipt of the notice of meeting by, any member shall not invalidate the proceedings at a meeting.

## **19.0 Proceedings at general meetings**

### ***Quorum***

19.1 No business shall be transacted at any meeting of members unless a quorum is present at the time the meeting proceeds to business. The quorum shall be –

19.1.1 in the case where the Company has only one (1) member, one (1) member personally present;

19.1.2 in any other case, two (2) members personally present or by proxy.

19.2 For the purposes of constituting a quorum –

19.2.1 one (1) or more representatives appointed by a corporation shall be counted as one (1) member; or

19.2.2 one (1) or more proxies appointed by a person shall be counted as one (1) member.

19.3 If within half an hour from the time appointed for the meeting, a quorum is not present, the meeting –

- 19.3.1 if convened upon the requisition of members, shall be dissolved; and
  - 19.3.2 in any other case, shall stand adjourned to the same day in the next week (or if that day be a public holiday, then to the next business day following that public holiday) at the same time and place, or to such other day and at such other time and place as the Directors may determine.
- 19.4 If no quorum is present within half an hour from the time appointed for an adjourned meeting, the adjourned meeting shall be dissolved.

***Chairman of meetings of members***

- 19.5 The chairman of the Board, if any, shall preside as the chairman at every general meeting of the Company. If there is no such chairman, or if the chairman is not present within fifteen (15) minutes after the time appointed for the holding of the meeting or is unwilling to act, any one of the Directors (as determined amongst the Directors who are present at the meeting) shall preside as the chairman of the meeting and if no such Director is able or willing to act as such or is able to attend the meeting, the members present may elect one of the members or proxies present to be the chairman of the meeting. A proxy shall be eligible to be elected as chairman of the meeting.

***Adjournment of meeting***

- 19.6 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. No business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. Where required, the Company shall comply with Rule 18.22 in relation to an adjourned meeting.

***Voting***

- 19.7 A resolution of the members or of a class of members of the Company shall be passed at a meeting of the members. At any meeting of members, a resolution put to the vote of the meeting shall be decided on a show of hands unless before or on the declaration of the result of the show of hands, a poll is demanded by –
- 19.7.1 the chairman of the meeting;
  - 19.7.2 at least three (3) members present in person or by proxy;
  - 19.7.3 any member present in person or by proxy and representing not less than ten per centum (10%) of the total voting rights of all the members having the right to vote at the meeting; or
  - 19.7.4 a member holding shares in the Company conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than ten per centum (10%) of the total paid up shares conferring that right.
- 19.8 Unless a poll is demanded, on a vote on a resolution at a meeting on a show of hands, a declaration by the chairman that the resolution has been passed unanimously or with a

particular majority or is lost, and an entry to that effect in the minutes of the proceedings shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

- 19.9 The demand for a poll may be withdrawn and a demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.
- 19.10 If a poll is duly demanded, it shall be taken either forthwith or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded, but a poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. The chairman may, and if so directed by the meeting shall, appoint scrutineers for the poll.
- 19.11 A demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded.
- 19.12 When a resolution is passed at an adjourned meeting, the resolution shall for all purposes be treated as having been passed on the day on which it was in fact passed.
- 19.13 In the case of an equality of votes whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands take place or at which the poll is demanded shall not be entitled to a casting vote.

## **20.0 Votes of members and provisions on proxies**

### ***General rules on voting***

- 20.1 A member who is entitled to attend and vote at a general meeting shall have –
- 20.1.1 on a vote on a resolution on a show of hands, one (1) vote; and
- 20.1.2 on a vote on a resolution on a poll, one (1) vote in respect of each share held by him.
- 20.2 On a poll taken at a meeting of members, a member entitled to more than one vote need not use all his votes or cast all the votes he uses on a poll in the same way.
- 20.3 Notwithstanding Rule 20.1, no member shall be entitled to vote at a general meeting unless all calls or other sums presently payable by the member in respect of his shares has been paid.

### ***Proxies***

- 20.4 Subject to Rules 20.5 and 20.6, a member shall be entitled to appoint not more than two (2) persons as his proxy to exercise all or any of his rights to attend, participate, speak and vote at a general meeting. A proxy need not be a member. A member who appoints more than one (1) proxy in relation to a general meeting must specify the proportion of his shareholding represented by each proxy.
- 20.5 Where a member entitled to vote on a resolution has appointed a proxy, the proxy shall only be entitled to vote on a show of hands if he is the only proxy appointed by the member.

- 20.6 Where a member entitled to vote on a resolution has appointed more than one (1) proxy –
- 20.6.1 the proxies shall only be entitled to vote on a poll; and
  - 20.6.2 the appointment shall not be valid unless he specifies the proportions of his shareholding to be represented by each proxy.
- 20.7 The appointment of a proxy to vote on a matter at a general meeting authorises the proxy to demand, or join in demanding, a poll on that matter.
- 20.8 The instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney duly authorised in writing or, if the appointor is a corporation, either under seal or under the hand of an officer or attorney duly authorised. The Directors may require evidence of the authority of any such attorney or officer.
- 20.9 The instrument appointing a proxy shall be in such form as the Directors may prescribe or approve.
- 20.10 The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the Office or at such other place as is specified for that purpose in the notice convening the meeting, not less than forty-eight (48) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four (24) hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.
- 20.11 Unless the Company received notice of termination of the authority of the proxy at the Office not less than twenty-four (24) hours before the time for holding the meeting of members or adjourned meeting of members, the termination of the authority of the person to act as proxy shall not affect –
- 20.11.1 the constitution of the quorum at the meeting;
  - 20.11.2 the validity of anything he did as chairman of a meeting;
  - 20.11.3 the validity of a poll demanded by him at the meeting; or
  - 20.11.4 the validity of the vote exercised by him at a meeting.

***Joint holders***

- 20.12 The joint holders of shares of the Company shall be considered as one (1) member. Accordingly –
- 20.12.1 if the joint holders purport to exercise the power in the same way, the power is treated as exercised in that way; or
  - 20.12.2 if the joint holders do not purport to exercise the power in the same way, the power is treated as not exercised.

***Representation of corporations***

- 20.13 A member which is a corporation may by resolution of its board or other governing body authorise a person or persons to act as its representative or representatives at any meeting of members of the Company.
- 20.14 If the corporation authorises only one person, the person shall be entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if he was an individual member of the Company.
- 20.15 If the corporation authorises more than one person as its representative, every one of the representatives is entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if every one of the representatives was an individual member of the Company.
- 20.16 If the corporation authorises more than one person and more than one of the representatives purport to exercise the power under Rule 20.15 –
- 20.16.1 if the representatives purport to exercise the power in the same way, the power is treated as exercised in that way; or
- 20.16.2 if the representatives do not purport to exercise the power in the same way, the power is treated as not exercised.
- 20.17 The authority given by a corporation to a representative may be for a particular general meeting or for all meetings of the Company. In the case of the latter, the person authorised shall be entitled to exercise his powers on behalf of the corporation until his authority is revoked by the corporation.
- 20.18 A certificate of authorisation by the corporation shall be prima facie evidence of the appointment or revocation of the appointment, as the case may be, under Rule 20.13.

***Member of unsound mind***

- 20.19 A member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental disorder may vote, whether on a show of hands or on a poll, by his committee or by such other person as properly has the management of his estate, and any such committee or other person may vote by proxy or attorney; provided that such evidence as the Directors may require of the authority of the person claiming the right to vote shall be deposited at the office not less than forty-eight (48) hours before the time appointed for holding the meeting or adjourned meeting.

***Objections to qualification of voter***

- 20.20 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at the meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.

## **21.0 Directors**

### ***Number, requirements and appointment of Directors***

- 21.1 The Company shall have at least five (5) and not more than ten (10) Directors. Each Director must be a natural person who is at least eighteen (18) years of age and satisfies the criteria for directors as set out under the FSA. A Director need not be a member of the Company.
- 21.2 The minimum number of Directors prescribed in Rule 21.1 shall –
- 21.2.1 ordinarily reside in Malaysia by having a principal place of residence in Malaysia; and
- 21.2.2 not include an Alternate Director.
- 21.3 The Company may from time to time by ordinary resolution increase or reduce the number of Directors.
- 21.4 All subsequent Directors of the Company may be appointed by ordinary resolution.
- 21.4A At a general meeting of the Company, a motion for the appointment of two (2) or more persons as Directors by a single resolution shall not be made unless a resolution that the motion shall be so made has first been agreed to by the meeting without any vote being given against it. A resolution passed with a motion made in contravention of this Rule 21.4A shall be void, whether or not the resolution being moved was objected to at the time.
- 21.5 Notwithstanding Rule 21.4, the Board may, at any time, appoint a Director in addition to the existing Directors or to fill a casual vacancy, and a Director appointed under this Rule shall hold office until the next annual general meeting.

### ***Retirement of Directors***

- 21.6 Unless otherwise provided by the terms of his appointment, a Director shall retire as follows:
- 21.6.1 at the first annual general meeting of the Company, all Directors shall retire from office at the conclusion of the meeting; and
- 21.6.2 at the annual general meeting in every subsequent year, all Directors shall retire from office at the conclusion of the meeting.
- 21.7 A retiring Director shall be eligible for re-election as if he is not disqualified under the Act and FSA.
- 21.7A The Company may appoint any person who is not disqualified under the Act to fill in the vacancy at the annual general meeting at which a Director so retires, and if no appointment was made to fill the vacancy, the retiring Director shall, if he offers himself for re-election, be deemed to have been re-elected, unless-
- 21.7A.1 at that meeting the Company expressly resolved not to fill the vacated office; or

21.7A.2 a resolution for the re-election of the Director is put to the meeting and lost.

***Removal of Directors***

21.8 Subject to Section 61 of the FSA, the Company may by ordinary resolution at a meeting of which special notice has been given –

21.8.1 notwithstanding anything in this Constitution or any agreement between the Company and a Director, remove a Director before the expiration of the Director's tenure of office; and

21.8.2 if the Company deems fit, appoint another person in his stead.

21.8A Notwithstanding anything in Rule 21.8 but subject to Section 61 of the FSA, if a Director of the Company was appointed to represent the interests of any particular class of members or debenture holders, the resolution to remove the Director shall not take effect until the Director's successor has been appointed.

21.8B Subject to Rule 21.8A, a person appointed as Director in place of a person removed under Rule 21.8 shall be treated, for the purpose of determining the time at which he or any other Director is to retire, as if he had become a Director on the day on which the person in whose place he is appointed was last appointed a Director.

21.9 The provisions of Section 207 of the Act shall apply to a proposed resolution to remove a Director.

***Vacation of office***

21.10 The office of Director shall be vacated if the person holding that office –

21.10.1 subject to Sections 196(3) and 209 of the Act, resigns by giving a written notice to the Company at the Office;

21.10.2 has retired in accordance with this Constitution but is not re-elected;

21.10.3 is removed from office in accordance with the provisions of this Constitution;

21.10.4 becomes disqualified from being a director under Sections 198 or 199 of the Act or under the FSA;

21.10.5 becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the Mental Health Act 2001;

21.10.6 dies; or

21.10.7 is absent for more than twenty five percent (25%) of the meetings of the Directors held in each financial year of the Company.

- 21.11 A Director of the Company shall not resign or vacate his office if by his resignation or vacation from office, the number of Directors of the Company is reduced below two (2). Any purported resignation or vacation of office by a Director in contravention of this Rule 21.11 shall be deemed to be ineffective unless a person is appointed in his place.

***Notice by Directors***

- 21.12 Every Director shall give notice to the Company of such events and matters relating to himself or persons connected to him as may be necessary or expedient to enable the Company and its officers to comply with the requirements of the Act and FSA.

***Limitation to Directors' powers***

- 21.13 A Director may be appointed by the Board to any other office or place of profit under the Company except that of Auditor, for such period, on such terms and at such remuneration (by way of salary, and other agreed emoluments and prerequisites pension, superannuation) as the Board may determine, and such remuneration shall be charged as part of the Company's ordinary working expenses.
- 21.14 Any Director may act himself or by his firm in a professional capacity for the Company, except as Auditor, and he and his firm shall be entitled to remuneration for his or his firm's professional services as if he was not a Director.
- 21.15 A Director shall act in accordance with the provisions of Section 57 of the FSA and shall at all times act honestly and use reasonable diligence in the discharge of the duties of his office and shall not make use of any information acquired by virtue of his position to gain directly or indirectly an improper advantage for himself or for any other person or to cause detriment to the Company.
- 21.16 No Director or intending Director shall be disqualified by his office from contracting with the Company either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into on behalf of the Company in which any Director is any way directly or indirectly interested 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 any such contract or arrangement by reason of such Director holding that office, or of the fiduciary relationship thereby established but the nature of the interest must be declared by him at the meeting of the Board at which the question of entering into the contract or arrangement is first taken into consideration, or if the Director was not at the date of that meeting interested in the proposed contract or arrangement then at the next meeting of the Board held after he became so interested, and in a case where the Director becomes interested in a contract or arrangement after it is made, then at the first meeting of the Board held after he becomes so interested. A general notice in writing given to the Board by any Director to the effect that he is a member of any specified company or firm, and is to be regarded as interested in any contract which may thereafter be made with the Company or firm, shall (if such Director shall give the same at the meeting of the Board or shall take reasonable steps to secure that the same is brought up and read at the next meeting of the Board after it is given), be deemed a sufficient declaration of interest in relation to any contract so made.

## **22.0 Powers and duties of the Board**

- 22.1 Save that any sale or disposal by the Directors of the Company's main undertaking shall be subject to ratification by ordinary resolution of the members in general meeting, the business of the Company shall be managed by the Directors who may pay all expenses incurred in promoting and registering the Company, and exercise all such powers of the Company as are not, by the Act, the FSA or by these Rules, required to be exercised by the Company in general meeting, subject nevertheless, to any of these Rules, to the provisions of the Act or the FSA, as may be prescribed by the Company in general meeting but no regulation made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.
- 22.2 Without limiting the powers of the Directors under Rule 22.1, the Directors may –
- 22.2.1 exercise the powers of the Company to borrow money, mortgage or charge its undertaking, property and uncalled capital and to issue debentures and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party;
  - 22.2.2 appoint any corporation, firm or person or body of persons, whether nominated directly or indirectly, to be the attorney of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in the Board under this Constitution) and for such period and subject to such conditions as the Board thinks fit, and any such power of attorney may contain provisions for the protection and convenience of persons dealing with any such attorney as the Directors think fit and may authorise an attorney to sub-delegate all or any of the powers, authorities and discretions vested in him;
  - 22.2.3 establish or arrange any contributory or non-contributory pension or superannuation scheme or retirement benefit scheme or participate in any such scheme established or arranged by the Company or an Associate for the benefit of, or pay a gratuity to, pension or emolument to any person who is or has been employed by or in the service of the Company or an Associate notwithstanding that such Associate shall cease at any time thereafter to be an Associate, or to any person who is or has been a Director or other officer of and holds or has held salaried employment in the Company or any such Associate, and the widow, family or dependants of any such person. The Directors may also subscribe to any association or fund which they consider to be for the benefit of the Company or any such Associate or any such persons as aforesaid, and make payments for or towards any hospital or scholastic expenses or any insurance of any such persons. Provided that any Director holding such salaried employment shall be entitled to retain any benefit received by him hereunder subject only, where the Act or FSA requires, to proper disclosure to the members and the approval of the Company in general meeting. For the purpose of this Rule a person entitled to any benefit aforesaid shall include a person who has been seconded to or from any Associate and his widow, family or dependants.
- 22.3 The Directors shall from time to time determine the manner in which cheques, promissory notes, drafts and negotiable instruments and receipts for money paid to the Company are to be signed, drawn, accepted, endorsed or otherwise executed, as the case may be.

## **23.0 Proceedings of the Board**

### ***Chairman***

- 23.1 The Directors may elect a Chairman of their meetings and determine the period for which he is to hold office and unless otherwise determined, the Chairman shall be elected annually; but if no such Chairman is elected, or if at any meeting the Chairman is not present within fifteen (15) minutes after the time appointed for holding the meeting, the Directors present may choose one of their number to be the chairman of the meeting.

### ***Convening of board meetings***

- 23.2 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. A Director may at any time and the Secretary shall on the requisition of any of the Directors summon a meeting of the Directors.
- 23.3 Unless otherwise determined by the Directors from time to time, notice of all Directors' meetings shall be given to all Directors and their Alternates whether or not they have a registered address in Malaysia. Seven (7) days' notice of every Directors' meeting shall be given in writing and the notice of each Directors' meeting shall be served in the manner referred to in Rule 36 and the provisions of Rule 36 shall apply mutatis mutandis to the service of notices of Directors' meetings on Directors as they apply to the service of the notices on members of the Company. A Directors' meeting for which less than seven (7) days' notice has been given shall be deemed to be validly held if all Directors (or their respective Alternates) have consented.
- 23.4 Any irregularity in the notice of meeting is waived if all Directors entitled to receive notice of the meeting attend the meeting without objection to the irregularity.

### ***Methods of holding meetings***

- 23.5 A meeting of the Board may be held either –
- 23.5.1 by a number of Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
  - 23.5.2 by means of conference telephone, video conferencing, audio visual, or other similar communications equipment by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting; or
  - 23.5.3 by a combination of both of the methods set out in Rule 23.5.1 and Rule 23.5.2.

### ***Quorum***

- 23.6 The quorum necessary for the transaction of business of the Directors shall be a minimum of three (3) or fifty percent (50%) of the total number of Directors or their alternates, whichever is higher, and a meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all or any of the powers, authorities and discretions by or under these Rules vested in or exercisable by the Directors generally. No business may be transacted at a meeting of the Board if a quorum is not present.

- 23.7 Directors may participate in and vote at a meeting (including any adjourned meeting) of the Directors or of a committee of Directors by means of conference telephone, video conferencing, audio visual, or other similar communications equipment by means of which all persons participating in the meeting can hear each other, without a Director being in the physical presence of another Director or Directors and participation in a meeting pursuant to this provision shall constitute presence in person at such meeting. A Director participating in a meeting in the manner aforesaid may also be taken into account in ascertaining the presence of a quorum at the meeting. Such a meeting shall be deemed to take place where the largest group of Directors present for the purpose of the meeting is assembled or, if there is no such group, where the Chairman of the meeting is present. At the commencement of the meeting, each Director (or his Alternate) must acknowledge his presence for the purpose of the meeting to all of the other Directors taking part. A Director (or his Alternate) will inform the Chairman if he leaves the meeting, and until he has been disconnected from his communications equipment or upon his informing the Chairman of his leaving the meeting, he will be conclusively presumed to have been present in person and to have formed part of the quorum at all times during the meeting by communications equipment.

### ***Voting***

- 23.8 Subject to Rule 23.10, every Director has one vote.
- 23.9 Subject to Rule 23.10, questions arising at any meeting of Directors shall be decided by a majority of votes and a determination by a majority of Directors shall for all purposes be deemed a determination of the Directors. In the case of an equality of votes, the Chairman shall have a casting vote save where in the case of equality of votes where two (2) Directors form a quorum, the Chairman of a meeting at which only such a quorum is present or at which only two (2) Directors are competent to vote on the question at issue, shall not have a casting vote.
- 23.10 Subject to the provisions under section 222(2) of the Act and subject to Section 58 of the FSA, a Director who has an interest in the manner set out in section 221 of the Act in a contract or proposed contract with the Company –
- 23.10.1 shall be counted only to make the quorum at the meeting of the Board;
- 23.10.2 shall not participate in any discussion while the contract or proposed contract is being considered at the meeting; and
- 23.10.3 shall not vote on the contract or proposed contract.
- 23.11 Subject to Rule 23.12, a contract entered into in contravention of Rule 23.10 shall be voidable at the instance of the Company except if it is in favour of any person dealing with the Company for valuable consideration and without any actual notice of the contravention.
- 23.12 Every Director shall comply with the provisions of Section 219 and Section 221 of the Act and Section 58 of the FSA in connection with the disclosure of his interest in any contract or proposed contract with the Company and in connection with the disclosure of the fact and the nature, character and extent of any office or possession of any property whereby whether

directly or indirectly duties or interests might be created in conflict with his duty or interest as a Director of the Company.

- 23.13 Where proposals under consideration are concerning the appointment (including fixing or varying the terms of appointment) of two (2) or more Directors to offices or employment with the Company or any company in which the Company is interested, such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not debarred from voting under Rule 23.10) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.
- 23.14 If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the chair person of the meeting and his ruling in relation to any such Director shall be final and conclusive except in a case where the nature or extent of the interests of the Director concerned have not been fully disclosed.
- 23.15 Subject to the provisions of the FSA and the Act, the Company may by ordinary resolution suspend or relax the provisions of Rule 23 to any extent or ratify any transaction not duly authorised by reason of a contravention of Rule 23.
- 23.16 A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on the resolution are in favour of it.
- 23.17 A Director present at the meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless he expressly dissents from or votes against the resolution at the meeting.
- 23.18 The continuing Directors may act notwithstanding any vacancy in their body but if and so long as their number is reduced under Section 196 of the Act or by virtue of disqualification under the Act or any other written law, below the number fixed by or pursuant to these Rules as the necessary quorum of Directors, the continuing Directors may act for the purpose only of increasing the number of Directors to that number or of summoning a general meeting of the Company, but for no other purpose.

***Resolution passed at adjourned meeting***

- 23.19 Where a resolution is passed at an adjourned meeting of the Board, the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed and shall not be deemed to have been passed on any earlier date.

***Resolution in writing***

- 23.20 A resolution in writing, signed or assented to by electronic means, by a majority of Directors shall be as valid and effective as if it had been passed at a meeting of the Board duly called and constituted.

- 23.21 A resolution signed or assented to by a Director need not be signed or assented to by the Alternate Director, if any, appointed by him in that capacity and a resolution signed or assented to by an Alternate Director need not be signed or assented to by the Director who appointed him.
- 23.22 Any such resolution may consist of several documents, including facsimile or other means of communication, in similar form and each document shall be signed or assented to by one or more Directors.
- 23.23 All such resolutions shall be described as “Directors’ Circular Resolutions” and shall be forwarded or otherwise delivered to the Secretary without delay, and shall be recorded by him in the minute book of Board proceedings.

***Other proceedings***

- 23.24 Except as otherwise provided in this Constitution and the FSA, the Directors may regulate its own proceedings.

***Committees of the Board***

- 23.25 The Directors may establish any committee of Directors, comprising members of their body only or of members of their body and members of the Company’s senior management, for managing any affairs of the Company, either in Malaysia or elsewhere, and may lay down, vary or annul such rules and regulations as they may think fit for the conduct of the business thereof, and may fix their remuneration and may delegate to such committee any of the powers, authorities and discretions vested in Directors, and may authorise a member or members of any such committee to fill any vacancies therein and to act notwithstanding vacancies, and any such appointment may be made upon such terms and subject to such conditions the Directors may think fit.
- 23.26 Subject to any rules and regulations made pursuant to Rule 23.25, a committee may meet and adjourn as it thinks proper and questions arising at any meeting shall be determined by a majority of votes of the members present (if more than one). In the case of an equality of votes, the chairman shall have a casting vote save where in the case of an equality of votes where two (2) members form a quorum, the chairman of a meeting at which only such a quorum is present or at which only two (2) members are competent to vote on the question at issue, shall not have a casting vote.
- 23.27 A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within fifteen (15) minutes after the time appointed for holding the meeting, the members present may choose of one (1) of their number to be the chairman of the meeting.

***Managing Director and Chief Executive Officer***

- 23.28 Subject to the approval of Bank Negara Malaysia, the Directors may, from time to time, appoint one (1) or more of its body to be managing director and chief executive officer or hold any employment or executive office for such term and subject to such other conditions as the Board thinks fit. The Directors may revoke or terminate any such appointment without

prejudice to any claim for damages for breach of contract between the Director and the Company.

- 23.29 Subject to the provisions of the FSA, the Directors may entrust to and confer upon a managing director or chief executive officer any of the powers exercisable by the Board upon such terms and conditions and with such restrictions as the Directors may think fit, and either collaterally with or to the exclusion of the Board's own powers, and may from time to time revoke, withdraw, alter or vary all or any of those powers.
- 23.30 Subject to the provisions of the FSA, the remuneration of a managing director or chief executive officer shall be fixed by the Directors and may only be by way of salary and other agreed emoluments and prerequisites, pension and superannuation and not by way of a commission or percentage of turnover or profits.

***Alternate Directors***

- 23.31 Subject to the approval of Bank Negara Malaysia, each Director (other than an Alternate Director) shall have the power from time to time to nominate any person not being a Director, to act as his Alternate Director and at his discretion to remove such Alternate Director and until approved by a majority of the other Directors, his appointment shall not take effect.
- 23.32 An Alternate Director shall (except as regards power to appoint an Alternate Director and remuneration) be subject in all respects to the terms and conditions existing with reference to the other Directors, and shall be entitled to receive notices of all general meetings and meetings of the Directors and to attend speak and vote at any such meeting at which his appointor is not present.
- 23.33 Any appointment or removal of an Alternate Director may be made cable, telegram, radiogram, telex, electronic means or in any other manner approved by the Directors. Any cable, telegram, radiogram, telex or electronic means shall be confirmed as soon as possible by letter, but may be acted upon by the Company in the meantime.
- 23.34 If a Director making any such appointment as aforesaid shall cease to be a Director (otherwise than by reason of vacating his office at a meeting of the Company at which he is re-elected), the person appointed by him shall thereupon cease to have any power or authority to act as an Alternate Director.
- 23.35 A Director shall not be liable for the acts and defaults of any Alternate Director appointed by him.
- 23.36 An Alternate Director shall not be taken into account in reckoning the minimum or maximum number of Directors required under these Rules or the Act.
- 23.37 A person may act as Alternate Director to more than one (1) Director and while he is so acting shall be entitled to a separate vote for each Director he represents and, if he is himself a Director, his vote or votes as an Alternate Director shall be in addition to his own vote.

***General Managers and Advisers***

- 23.38 The Board may from time to time appoint one or more persons (who need not be a Director or Directors) to be general managers, deputy general managers or assistant general managers of the business of the Company or of any particular branch or department of such business, and may remove and discharge any such person or persons and appoint a substitute or substitutes. The Board may from time to time, fix and alter the terms of any such appointment, and duties to be performed and the powers to be exercised by any such appointee, but so that no appointee shall be invested with any power or entrusted with any duties which the Directors themselves could not have exercised or performed.
- 23.39 The Board may from time to time appoint any person or persons to hold office as adviser or as advisers to the Company at the Office or at any of the branches of the Company. It shall be the duty of an Adviser or Advisers to assist the Company with his/their counsel and advice when so requested.

***Associate directors***

- 23.40 The Board may, from time to time, appoint any person to be an associate director and may from time to time revoke such appointment.
- 23.41 The Board may fix, determine and vary the powers, duties and remuneration of any person appointed as an associate director, but a person so appointed shall not have any right to attend or vote at any meeting of the Board except by invitation and with the consent of the Board.

***Contract with sole member who is also a Director***

- 23.42 When a contract, other than a contract which is in writing, is made in circumstances set out in this Rule, the Company shall ensure that the terms of the contract are duly recorded in the minutes of the meetings of the Board immediately after the contract is made –
- 23.42.1 the Company has only one (1) member enters into a contract with the sole member;
- 23.42.2 the sole member is also a Director of the Company; and
- 23.42.3 the contract is not entered into in the ordinary course of Company's business.

**24.0 Remuneration of Directors**

- 24.1 The Directors shall be paid by way of remuneration for their services such fixed sum (if any) as shall from to time be determined by the Company in general meeting, and such remuneration shall be divided among the Directors in such proportions and manner as the Directors may determine. Provided that:-
- 24.1.1 Fees payable to the Directors who hold no executive office in the Company shall be paid by a fixed sum and not by a commission on or percentage of turnover or profits;

24.1.2 Salaries payable to Directors may not include a commission on or percentage of turnover or profits;

24.1.3 Any fee paid to an Alternate Director shall be such as shall be agreed between himself and the Director nominating him and shall be paid out of the remuneration of the latter.

24.2 The Directors shall be paid all their travelling and other expenses properly and necessarily expended by them including, without prejudice to the generality of the foregoing, their travelling and other expenses incurred in attending board meetings or any committee meetings of the Directors or general meetings of the Company or in connection with the business of the Company from and to their residence in whichever country it may be or as requisite to and from whichever country they may be in at the time.

## **25.0 Inspection of Directors' service contracts**

25A.1 Subject to Rules 25A.2, the Company shall keep and maintain a copy of every Director's service contract with the Company or with its subsidiaries available for inspection. All the copies of contracts shall be kept at the Office and made available for inspection for at least one (1) year from the date of termination or expiry of the contract. The service contract to be kept and maintained shall include the original contract and any variation thereof.

25A.2 Every copy of the contract required to be kept under Rule 25A.1 shall be made available for inspection by members holding at least five per centum (5%) of the total paid up capital.

## **26.0 Secretary**

26.1 The Secretary or Secretaries shall in accordance with the Act be appointed by the Directors for such term, at such remuneration and upon such conditions as it thinks fit, and any Secretary or Secretaries so appointed may be removed by them. The Directors may from time to time by resolution appoint a temporary substitute for the Secretary or Secretaries who shall be deemed to be the Secretary during the term of his appointment.

26.2 A Secretary may resign from his office by giving a notice to the Directors. If none of the Directors can be communicated with at the last known residential address, the Secretary, may notwithstanding Section 235(1) of the Act, notify the Registrar of that fact and of his intention to resign from office.

26.3 The Secretary shall cease to be the Secretary of the Company:

26.3.1 on the expiry of thirty (30) days from the date of the notice lodged in Rule 26.2; or

26.3.2 on the expiry of thirty (30) days from the date of the notice to the Registrar.

## **27.0 Auditor**

27.1 Auditors shall be appointed and their duties regulated in accordance with the Act and FSA.

27.2 Subject to the provisions of the Act, all acts done by any person acting as an auditor shall, as regards all persons dealing in good faith with the Company, be valid, notwithstanding that there was some defect in his appointment or that he was at the time of his appointment not qualified for appointment.

27.3 The Auditor or Auditors shall be entitled to attend any general meetings and to receive all notices of and other communications relation to any general meetings which any member is entitled to receive, and to be heard at any general meeting on any part of the business of the meeting which concerns him as auditor.

## **28.0 Validity of acts of Directors and officers**

28.1 All acts done by any meeting of the Directors, or by any committee established by the Board or by any person acting as a Director or manager or secretary shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualification of any Director or manager or secretary or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director or secretary or manager, as the case may be.

## **29.0 Common seal**

29.1 The Directors shall provide for the safe custody of the common seal which shall only be used pursuant to a resolution of the Directors or a committee of the Directors authorised to use the common seal. The Directors may from time to time make such regulations as they think fit determining the persons and the number of such persons in whose presence the common seal shall be affixed and until otherwise so determined, the common seal shall be affixed in the presence of two (2) Directors or of one (1) Director and the Secretary or some other person appointed by the Directors or the committee of directors for that purpose, who shall sign every instrument to which the common seal is affixed.

29.2 The Directors may exercise all the powers of the Company in relation to the common seal for use outside Malaysia and in relation to branch registers.

## **30.0 Execution and authentication of documents or proceedings**

### ***Execution of contracts***

30.1 A contract may be made -

30.1.1 by the Company, in writing under its common seal;

30.1.2 on behalf of the Company, by any person acting under its authority, express or implied; or

30.1.3 on behalf of the Company, orally, by any person acting under its authority, express or implied.

***Execution of documents***

- 30.2 Where a document is required by any written law or agreement to be executed under a common seal, the Company may execute such document by –
- 30.2.1 affixing its common seal, if any, in accordance with this Constitution; or
- 30.2.2 signature on behalf of the Company by at least two (2) authorised officers, one of whom shall be a Director.

***Authentication of document or proceeding***

- 30.3 Any Director or the Secretary or any person appointed by the Directors for the purpose shall have power to authenticate any documents affecting the Constitution and need not be made under common seal and any resolution passed by the Company or the Directors and any books, records, documents and accounts relating to the business of the Company and to certify copies thereof or extracts therefrom as true copies or extracts; and, where any books, records, documents or accounts are kept elsewhere than in the Office, the local manager or other officer of the Company having the custody thereof shall be deemed to be a person appointed by the Directors as aforesaid.
- 30.4 A document purporting to be a copy of a resolution of the Directors or an extract from the minutes of a meeting of the Board which is certified as such by a Director or the Secretary shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that such extract is a true and accurate record of a duly constituted meeting of the Directors.

***Authorised officer***

- 30.5 For the purposes of Rules 30.2, 30.3 and 30.4, an “authorised officer” means –
- 30.5.1 a Director;
- 30.5.2 a secretary; or
- 30.5.3 any other person,  
approved by the Directors.

***Execution of deeds***

- 30.6 A document is validly executed by the Company as a deed if –
- 30.6.1 it is duly executed by the Company; and
- 30.6.2 it is duly delivered as a deed.
- 30.7 Notwithstanding Rule 30.6, the Company may, by instrument executed as a deed, empower a person, either generally or in respect of specified matters, to execute deeds or other

documents on its behalf. A deed or other document executed by the person referred to in this Rule shall have the effect as if the deed or document is executed by the Company.

### **31.0 Accounts**

31.1 The Directors and managers of the Company shall cause the accounting and other records to be kept in accordance with the requirements of the Act and FSA—

31.1.1 to sufficiently explain the transactions and financial position of the Company and enable true and fair profit and loss accounts and balance sheet and documents to be attached thereto to be prepared; and

31.1.2 in a manner as to enable such accounting and other records to be conveniently and properly audited.

31.2 The Directors and managers of the Company shall cause the appropriate entries to be made in the accounting and other records within sixty (60) days of the completion of the transactions to which the entries relate.

31.3 The records referred to in Rule 31.1 shall –

31.3.1 be retained for seven (7) years after the completion of the transactions or operations to which the entries relate;

31.3.2 be kept at the office or at such other place as the Board thinks fit;

31.3.3 at all times be open for inspection by the Directors but no member who is not a Director shall have any right to inspect any account or book or paper of the Company except as conferred by statute or by the Directors or by the Company in general meeting.

### **32.0 Financial statements**

32.1 The Directors shall:

32.1.1 prepare or cause to be prepared and published financial statements in accordance with the requirements of the Act and the FSA;

32.1.2 cause the financial statements to be audited;

32.1.3 cause the audited financial statements and reports relating thereto to be sent at least twenty-one (21) days before the date of the annual general meeting of the Company, to –

(a) every member;

(b) every person who is entitled to receive notice of general meetings of the Company;

- (c) every auditor of the Company; and
- (d) every debenture holder of the Company upon request being made to the Company,

unless a shorter period was agreed by all the members entitled to attend and vote at the annual general meeting; and

32.1.4 cause the audited financial statements and reports to be laid before the annual general meeting of the Company pursuant to Rule 18.1 above.

- 32.2 Copies of the financial statements and reports shall be sent to the last known address provided to the Company.
- 32.3 Any member or debenture holder to whom copies of the financial statements and reports have not been sent shall, on a request being made by the member or debenture holder to the Company be furnished with such copies without charge

### **33.0 Minutes and registers**

- 33.1 The Directors shall cause minutes to be duly entered in books provided for the purpose -
  - 33.1.1 of all appointments of officers;
  - 33.1.2 of the names of all the Directors present at each meeting of the Board and of any committee of directors and of the Company in general meeting;
  - 33.1.3 of all resolutions and proceedings of general meetings and of meetings of the Board and committee of directors;
  - 33.1.3 of all orders made by the Board and any committee of directors.

Such minutes shall be signed by the Chairman of the meeting at which the proceedings were held or by the Chairman of the next succeeding meeting.

- 33.2 The Company shall in accordance with the provisions of the Act keep at the Office a register containing such particulars with respect to the Directors and managers of the Company as are required by the Act, and shall from time to time notify the Registrar of any change in such register and of the date of change in manner prescribed by the Act.
- 33.3 The books containing the minutes of proceedings of any general meeting shall be kept by the Company at the Office or the principal place of business in Malaysia of the Company and shall be open to the inspection of any Member without charge.

### **34.0 Distribution and reserves**

- 34.1 Subject to the Act and compliance with the provisions of the FSA, the Company may make a distribution to its members out of profits of the Company provided that the Company is solvent.
- 34.2 Before a distribution is made by the Company to any member, such distribution must be authorised by the Directors. The Directors may authorise a distribution at such time and in such amount as they consider appropriate, if they are satisfied that the Company will be solvent immediately after the distribution is made.
- 34.3 If after a distribution is authorised and before it is made, the Directors cease to be satisfied on reasonable grounds that the Company will be solvent immediately after the distribution is made, the Directors shall take all necessary steps to prevent the distribution from being made.
- 34.4 The Directors may fix the time that a distribution is payable and the method of payment. A distribution can be paid in cash, by the issue of shares or other securities, by the grant of options and by the transfer of assets to a member.
- 34.5 Before authorising a distribution, the Directors may set aside out of the profits of the Company such sums as they think proper as reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied. Pending any such application, the reserves may be employed in the business of the Company or be invested in such investments as the Directors think fit. The Directors may also carry forward any profits which they think prudent not to distribute without placing the same to reserve.
- 34.6 Subject to the rights of persons, if any, entitled to shares with special rights as to distribution, all distributions shall be declared and paid according to the amounts paid or credited as paid on the shares in respect of which the distribution is paid. No amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this Rule as paid on the share.
- 34.7 All distributions shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion of the period in respect of which the distribution is paid; but if any share is issued on terms providing that it shall rank for distribution as from a particular date, that share shall rank for distribution accordingly.
- 34.8 No distribution shall carry interest as against the Company unless otherwise provided by the rights attached to that share.
- 33.9 The Directors may deduct from any dividend payable to any member all sums of money, if any, due from him to the Company on account of calls made or payable on the shares of the Company. This right shall not extend to any dividend payable in respect of fully paid shares held by a member.
- 34.10 The Directors may retain the dividends payable upon shares in respect of which any person is, under the provisions of this Constitution relating to the transmission of shares, entitled to become a member, or which any person is under those provisions entitled to transfer, until such person becomes a member in respect of such shares or transfers the same.

- 34.11 Any dividend or other money payable in respect of a share which remains unclaimed for not less than one (1) year (or such other period as prescribed under the Unclaimed Moneys Act 1965) after having become payable may be disposed of in accordance with the provisions of the Unclaimed Moneys Act 1965. The Company shall not be liable to any member or other person entitled for any loss that he may suffer as a result of the Company's compliance with the aforesaid legislation.
- 34.12 Where any difficulty arises in relation to any distribution which is to be satisfied wholly or partly by the distribution of specific assets and in particular of paid-up shares, debentures or debenture stock of any other company or in any one or more of such ways, the Directors may settle the same as they think expedient and fix the value of such assets for the purposes of the distribution and may determine that cash payments be made to any member upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such assets in trustees as the Directors deem expedient.
- 34.13 Any distribution, interest or other money payable in respect of a share may be paid in such manner as may be determined by the Directors, including –
- 34.13.1 by crediting the money to a bank account nominated by a member from time to time;  
or
- 34.13.2 by cheque sent by post –
- (a) to the address of the holder as shown in the Register or in the case of joint holders, to the address shown in the Register as the address of the joint holder who is first named in the Register;
- (b) to such other address as the holder or joint holders may in writing direct; or
- (c) if several persons are entitled to a share in consequence of the death or bankruptcy of a member, to any one of such persons and to such address as those persons may in writing direct.
- 34.14 Every payment by cheque shall be made payable to the person or persons entitled and be sent at the risk of the person or persons entitled to the money thereby represented. The payment of any such cheque shall be a good discharge to the Company for the amount represented thereby.
- 34.15 Any one of the joint holders of shares may give effectual receipts for any dividend and payment on account of dividend, bonus, return of capital and other money payable in respect of such share.

### **35.0 Capitalisation of profits**

- 35.1 The Directors may resolve to utilise the profits or other distributable reserves of the Company–
- 35.1.1 in paying up any amounts unpaid on shares held by the members;

35.1.2 in paying up in full unissued shares or debentures to be issued to the members as fully paid; or

35.1.3 partly for the purposes stated in Rule 35.1.1 and partly for the purposes stated in Rule 35.1.2,

on a basis which is in proportion to the shares held by each member.

35.2 The Directors shall do all acts required to give effect to the resolution and shall have the power to –

35.2.1 make payment in cash in lieu of issuing fractions of shares or debentures to any member; and

35.2.2 authorise any person to enter on behalf of all the members entitled to any shares or debentures into an agreement with the Company for –

(a) the allotment and issue to those members of any shares or debentures credited as fully paid up, upon such capitalisation; or

(b) the payment by the Company on behalf of those members, of their respective proportions of the profits to be capitalised of the amount or any part of the amount remaining unpaid on their existing shares,

in accordance with the resolution. Any agreement made pursuant to this Rule shall be effective and binding on all members.

### **36.0 Communications between the Company and the members**

36.1 Notice of general meetings of the Company shall be given by the Company to the members in the manner set out in Rules 18.18 to 18.21.

36.2 Any other communication between the Company and the members, including matters relating to resolutions, supply of information or documents or otherwise for the purposes of complying with the Act may be –

36.2.1 in hard copy;

36.2.2 in electronic form; or

36.2.3 partly in hard copy and partly in electronic form.

36.3 A communication in hard copy for the matters stated in Rule 36.2 shall be valid if –

36.3.1 addressed to the Company at the Office; or

36.3.2 addressed to the member at the last known address.

- 36.4 A communication in electronic form for the matters stated in Rule 36.2 shall be valid if –
- 36.4.1 addressed to the Company at an electronic address provided for that purpose; or
  - 36.4.2 addressed to the member at the last known electronic address provided for that purpose.
- 36.5 A communication by hard copy shall be deemed to be served –
- 36.5.1 where the communication is sent in Malaysia to an addressee who has an address for service in Malaysia, four (4) days following that on which a properly stamped envelope containing the same is posted; and
  - 36.5.2 where the communication is sent from Malaysia to an addressee who has an address for service outside Malaysia or sent from a place outside Malaysia to an addressee who has an address for service in Malaysia, seven (7) days following that on which an envelope stamped at the appropriate airmail rates containing the same is posted from Malaysia.

In proving service by post it shall be sufficient to prove that the letter containing the notice or document was properly addressed and stamped and put into a government post box or delivered to the postal authority for delivery.

- 36.6 A communication in electronic form shall be deemed to be served upon transmission of the same to the electronic address of the addressee unless the sender receives an automated delivery failure notice after the communication has been transmitted.
- 36.7 All notices required to be given to the members shall with respect to any share to which persons are jointly entitled, be given to whichever of such person is named first in the register in respect of the joint holding and notice so given shall be sufficient notice to all the joint holders.
- 36.8 Any notice or document delivered by hard copy or in electronic form, if such member be then deceased, and whether or not the Company has notice of his death, be deemed to have been given duly served on his legal personal representative.

### **37.0 Winding up**

- 37.1 If the Company is wound up the liquidator may, with the sanction of a special resolution of the Company, divide amongst the members in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and may, for that purpose, set such value as he deems fair upon any property to be divided as aforesaid and may 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 any such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction thinks fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

37.2 Save that this Rule shall be without prejudice to the rights of holders of shares issued upon special terms and conditions the following provisions shall apply:-

37.2.1 If the Company shall be wound up and the assets available for distribution among the members as such shall be insufficient to repay the whole of the paid up capital, such assets shall be distributed so that as nearly as may be the losses shall be borne by the members in proportion to the capital paid up, or which ought to have been paid up at the commencement of the winding-up, on the shares held by them respectively; and

37.2.2 If in a winding-up the assets available for distribution among the members shall be more than sufficient to repay the whole of the capital paid up at the commencement of the winding-up, the excess shall be distributed among the members in proportion to the capital paid up, or which ought to have been paid up at the commencement of the winding-up, on the shares held by them respectively.

37.3 On the voluntary liquidation of the Company, no commission or fee shall be paid to a liquidator unless it shall have been ratified by the members. The amount of such payment shall be notified to all members at least seven (7) days prior to the meeting at which it is to be considered.

### **38.0 Indemnity**

38.1 Subject to the provisions of the Act, the Company may indemnify an officer or auditor of the Company for any costs incurred by him or the Company in respect of any proceedings–

38.1.1 that relate to the liability for any act or omission in his capacity as an officer or auditor; and

38.1.2 in which judgment is given in favour of the officer or auditor or in which the officer or auditor is acquitted or is granted relief under this Act, or where proceedings are discontinued or not pursued.

38.2 Subject to the provisions of the Act, the Company may indemnify an officer or auditor of the Company in respect of –

38.2.1 any liability to any person, other than the Company, for any act or omission in his capacity as an officer or auditor;

38.2.2 any costs incurred by that Director or officer in defending or settling any claim or proceedings relating to such liability except –

(a) any liability of the Director to pay -

(i) A fine imposed in criminal proceedings; or

(ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature, howsoever arising; or

- (b) any liability incurred by the Director –
    - (i) in defending any criminal proceedings in which he is convicted; or
    - (ii) in defending any civil proceedings brought by the Company, or an associated company, in which judgment is given against him; or
- 38.2.3 any costs incurred in connection with an application for relief under the Act.
- 38.3 The Company may, with the prior approval of the Board, effect insurance for an officer or auditor of the Company in respect of –
  - 38.3.1 civil liability, for any act or omission in his capacity as a Director or officer or auditor; and
  - 38.3.2 costs incurred by that officer or auditor in defending or settling any claim or proceeding relating to any such liability; or
  - 38.3.3 costs incurred by that officer or auditor in defending or settling any proceedings that have been brought against that person in relation to any act or omission in that person’s capacity as an officer or auditor –
    - (a) in which that person is acquitted;
    - (b) in which that person is granted relief under the Act; or
    - (c) where proceedings are discontinued or not pursued.
- 38.4 The provisions of Rules 38.2, 38.3.1 and 38.3.2 shall not apply to any civil or criminal liability in respect of a breach by a Director of his duties under Section 213 of the Act.
- 38.5 The Directors shall –
  - 38.5.1 record or cause to be recorded in the minutes of the Board; and
  - 38.5.2 disclose or cause to be disclosed in the directors’ report referred to in Section 253 of the Act,the particulars of any indemnity given, or insurance effected for any officer or auditor of the Company.
- 38.6 Where insurance is effected for an officer or auditor of the Company and the provisions of Rule 38.4 or 38.5 has not been complied with, the officer or auditor shall be personally liable to the Company for the cost of effecting the insurance unless the officer or auditor satisfies the Court that he is not liable.
- 38.7 For the purposes of Rules 38.1 to 38.6 –
  - 38.7.1 “officer” includes –

- (a) any Director, manager, secretary or employee of the Company;
- (b) a former officer;
- (c) a receiver or receiver and manager of any part of the undertaking of the Company appointed under a power contained in any instrument; and
- (d) any liquidator of the Company appointed in a voluntary winding up, but does not include –
  - (i) any receiver who is not also a manager;
  - (ii) any receiver and manager appointed by Court; or
  - (iii) any liquidator appointed by the Court or by the creditors of the Company;

38.7.2 “effect insurance” includes pay, whether directly or indirectly, the costs of the insurance; and

38.7.3 “indemnify” includes relieve or excuse from liability, whether before or after the liability arises, and “indemnity” has a corresponding meaning.

### **39.0 Language**

39.1 Where any accounts, minute books or other records required to be kept by the Act and under FSA are not kept in the English language, the Directors shall cause a true translation of such accounts, minute books and other records to be made time to time at intervals of not more than seven (7) days and shall cause such translation to be kept with the original accounts, minute books and other records for so long as the original accounts, minute books and other records are required by the Act and FSA to be kept.

### **40.0 Inconsistencies with the Act**

40.1 If any of the Rules in this Constitution is inconsistent with or in breach of any of the provisions of the Act other than any replaceable rule which has been modified, replaced or excluded by the provisions in this Constitution, then –

40.1.1 that Rule shall be read down to the extent necessary to comply with the provisions of the Act; and

40.1.2 that Rule or those portions thereof which are inconsistent with or in breach of any provision of the Act shall be struck out and deemed not to form part of this Constitution.