

No 08281395

The Companies Act 2006

Company Limited by Shares

## **ARTICLES OF ASSOCIATION**

(as amended by special resolution passed on 09 January 2013)

of

**DCSH Limited**

(incorporated on 5 November 2012)

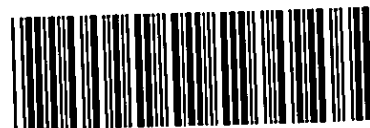
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The Companies Act 2006  
Company Limited by Shares

**Articles of Association**  
  
**of**  
  
**DCSH Limited**

**1 Objective and Power**

- 1.1** The Company has been incorporated with a view to facilitating the acquisition by Member Firms or their Affiliates of parts of the Mountain Business. It is contemplated that the Company will acquire, *inter alia*, certain subsidiaries of Mountain, certain amounts owing by these subsidiaries and certain other assets and will assume certain liabilities and will enter into arrangements pursuant to which the parts of the Mountain Business that it has acquired or the benefits connected with their ownership will be transferred, directly or indirectly, among the Shareholders or their Affiliates.
- 1.2** The Company's powers are not limited by this Article 1. Without limitation, it shall have power to do such things as the Directors think fit including conducting or running-off and closing any part of the Mountain Business that it acquires and entering into such arrangements with Shareholders or their Affiliates or other persons as the Directors think fit.

**Part 1**  
**Interpretation, limitation of liability and other matters**

**2 Defined terms**

- 2.1** In the Articles, unless the context requires otherwise

"**A Shares**" means the 'A' ordinary shares of \$0.01 each in the Company's share capital,

"**Acquisition**" means any purchase by the Company of the shares or assets of another company or group of companies,

"**Affiliate**" has, in relation to a Member Firm, the same meaning as in the Articles of Association of Deloitte Touche Tohmatsu Limited and, in relation to a Shareholder that is an Affiliate of a Member Firm, it means the relevant Member Firm and its other Affiliates,

"**Allotment Period**" shall have the meaning given to it in Article 6.2,

"**Alternate**" or "**Alternate Director**" has the meaning given in Article 24,

"**Articles**" means the Company's articles of association,

"**Associated Company**" means, in relation to a person, any holding company, subsidiary or subsidiary undertaking or any other subsidiaries or subsidiary undertakings of any such holding company, in each case of such person,

"**B Shares**" means the 'B' ordinary shares of \$0.01 each in the Company's share capital,

**"bankruptcy"** includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy,

**"Business Day"** means a day which is not a Saturday or Sunday or a bank or public holiday in either London, United Kingdom or New York, United States of America,

**"C Shares"** means the 'C' ordinary shares of \$0.01 each in the Company's share capital,

**"Chairman"** has the meaning given in Article 12,

**"Chairman of the Meeting"** has the meaning given in Article 45,

**"Companies Acts"** means the Companies Acts (as defined in Section 2 of the Companies Act 2006), in so far as they apply to the Company,

**"Company"** means DCSH Limited, a company limited by shares incorporated in England & Wales,

**"D Shares"** means the 'D' ordinary shares of \$0.01 each in the Company's share capital,

**"Director"** means a director of the Company, and includes any person occupying the position of director, by whatever name called,

**"document"** includes, unless otherwise specified, any document sent or supplied in electronic form,

**"electronic form"** has the meaning given in Section 1168 of the Companies Act 2006,

**"fully paid"** in relation to a share, means that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company,

**"hard copy form"** has the meaning given in Section 1168 of the Companies Act 2006,

**"holder"** in relation to shares means the person whose name is entered in the register of members as the holder of the shares,

**"Member Firm Partner"** has the meaning ascribed to it in the Articles of Association of Deloitte Touche Tohmatsu Limited,

**"Mountain"** means the entity identified for this purpose in correspondence between Skadden, Arps, Slate, Meagher & Flom LLP and Linklaters LLP,

**"Mountain Business"** means the business carried on by Mountain and its subsidiaries,

**"ordinary resolution"** has the meaning given in Section 282 of the Companies Act 2006,

**"paid"** means paid or credited as paid,

**"participate"** has, in relation to a Directors' meeting, the meaning given in Article 10,

**"payee"** has the meaning given in Article 36,

**"proxy notice"** has the meaning given in Article 51,

**"Relevant Company"** means the Company or any subsidiary of the Company or of any service organisation owned or controlled by or existing solely to provide services to the Company,

**"Secretary"** means any person appointed to perform the duties of the secretary of the Company (including any deputy or assistant secretary) in accordance with Article 25,

**"Participating Shareholder"** means a person who is the holder of an A Share or a B Share,

**"Shareholder"** means a person who is the holder of a Share,

**"Shares"** means A Shares, the B Shares, the C Shares and the D Shares and **"Share"** means any one of them,

**"special resolution"** has the meaning given in Section 283 of the Companies Act 2006,

**"subsidiary"** has the meaning given in Section 1159 of the Companies Act 2006,

**"transmittee"** means a person entitled to a share by reason of the bankruptcy of a Shareholder or otherwise by operation of law, and

**"writing"** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise

- 2.2** Unless the context otherwise requires, other words or expressions contained in these Articles bear the same meaning as in the Companies Act 2006 as in force on the date when these Articles become binding on the Company

### **3 Liability of Shareholders**

The liability of the Shareholders is limited to the amount, if any, unpaid on the shares held by them

### **4 Default Articles not to apply**

Neither the regulations in the Companies (Model Articles) Regulations 2008 nor any other articles nor regulations prescribing the form of articles applicable to the Company under any former enactment relating to companies shall apply to the Company

## **Part 2 Directors**

### **5 Directors' general authority and representation of the company**

- 5.1** Subject to the Articles, the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company

- 5.2** The holder of the A Shares shall be the agent of the Company in relation to its dealings with Mountain and any subsidiary of Mountain from time to time and, without limitation, pursuant to this agency shall have authority to execute or otherwise enter into such agreements and other documents and do such other things on behalf of the Company as, directly or indirectly, are connected with or arise out of the proposed acquisition by the Company of part of the Mountain Business, provided that

- (i) although no person dealing with the Company shall be bound to enquire as to whether any act by the holder of the A Shares is duly authorised, unless the Directors agree otherwise, the holder of the A Shares shall not be authorised (a) to execute or procure the execution of an Asset Purchase Agreement (the **"APA"**) with Mountain and certain of its subsidiaries except on terms that are, in the good faith judgment of the holder of the A Shares, consistent with the aggregate net



transaction costs estimate (including price and restructuring and severance costs) agreed among the representatives of the holders of the A Shares and the B Shares prior to the entering into of that agreement and include a "key man" schedule and a buyer condition that requires 80% of those included in the schedule to agree to engagement by the Company, one of the Shareholders or one of their respective subsidiaries or (b) to execute or procure the execution, or otherwise to enter into or procure the entering into, of other agreements or documents or do and procure the doing of other things required to be taken at or around the time of such execution with a view to the APA becoming binding on the parties unless, in each case, in the good faith judgment of the holder of the A Shares, the relevant agreement, document or thing will not result in a material increase in the said aggregate net transaction costs or (c) to agree materially to alter the conditions to closing of the sale and purchase pursuant to the APA, to agree to material waiver of any material condition precedent to such closing or to agree to effect such closing of other than in circumstances in which the Company is legally obliged to do so or (d) to do anything that, by reason of the altering of the arrangements set out in or contemplated by the APA, when considered together with all other such alterations has a materially adverse impact upon the Shareholders (other than the A Shareholder) collectively or any Shareholder (other than the A Shareholder) individually which impact is either not consistent with the aggregate net transaction costs estimate or is not substantially off-set by the financial arrangements between Holdco and the Shareholders or among the Shareholders, and

- (ii) for the avoidance of doubt, the agency conferred by this Article 5 2 shall not extend to any matters connected with the relationship between the Company and its Shareholders or their Affiliates or the operation of the Company (including, without limitation, matters of the kind referred to in Article 5 3 below) or the conduct of any part of the Mountain Business following its acquisition

**5.3** Without limitation, in accordance with any agreements entered into from time to time between the Company and Shareholders or their Affiliates or any other person, the Directors shall have power and authority to make determinations relating to issues relating to the sale by it or any of its subsidiaries of parts of the Mountain Business including issues relating to the division of the Mountain Business among Shareholders and their Affiliates, the allocation of the working capital of the Mountain Business among Shareholders and their Affiliates and the terms of any related purchase price adjustments, how liabilities are to be borne, the run-down and closing of any parts of the Mountain Business not acquired by any Shareholder or an Affiliate of any Shareholder and any other relevant financial adjustments

**5.4** The Directors may from time to time promulgate regulations designed to protect the structural integrity of the Company including regulations relating to communications, marketing, contracting, personnel assignment, arrangements with Shareholders All Shareholders shall observe and be bound by such regulations

## **6 Directors' power to allot securities**

**6.1** Subject to the provisions of the Companies Acts, these Articles and any resolution of the Company, the Directors may allot shares in the Company and grant rights to subscribe for, or to convert any security into, shares to such persons, at such times and on such terms,

including as to the ability of such persons to assign their rights to be issued such shares, as they think proper

**6.2** The Directors shall be generally and unconditionally authorised pursuant to and in accordance with Section 551 of the Companies Act to exercise for a period of five years (ending on 30 October 2017) (the "Allotment Period") all the powers of the Company to allot shares, and to grant rights to subscribe for, or to convert any security into, shares, of an aggregate nominal amount up to \$1,000. By such authority the Directors may, during the Allotment Period, make offers or agreements which would or might require shares to be allotted, or rights to be granted, after the expiry of such period.

**6.3** During each Allotment Period the Directors shall be empowered to allot equity securities wholly for cash pursuant to and within the terms of the authority in Article 6.2 as if Section 561(1) of the Companies Act 2006 did not apply to any such allotment. Under such power the Directors may, during the Allotment Period, make offers or agreements which would or might require equity securities to be allotted after the expiry of such period.

## **7 Delegation of Directors' powers**

**7.1** Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles

**7.1.1** to such person (who need not be a Director) or committee (comprising any number of persons, who need not be Directors),

**7.1.2** by such means (including by power of attorney),

**7.1.3** to such an extent,

**7.1.4** in relation to such matters or territories, and

**7.1.5** on such terms and conditions,

as they think fit

**7.2** If the Directors so specify, any such delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.

**7.3** Any reference in these Articles to the exercise of a power or discretion by the Directors shall include a reference to the exercise of a power or discretion by any person or committee to whom it has been delegated.

**7.4** The Directors may revoke any delegation by the Directors in whole or part, or alter its terms and conditions.

**7.5** The Directors may make regulations in relation to the procedures of committees or sub-committees to whom their powers or discretions have been delegated or sub-delegated. Subject to any such regulations, the meetings and procedures of any committee or sub-committee shall be governed by the provisions of these Articles regulating the meetings and procedures of Directors.

## **Decision-making by Directors**

### **8 Directors' resolutions**

- 8.1** At any Directors' meeting, the Director appointed by the holder of the A Shares shall have four votes and each Director appointed by a holder of B Shares shall have one vote and decisions at Directors' meetings shall be taken by simple majority of the Directors participating and entitled to vote
- 8.2** If a Director is absent from a meeting and no Alternate Director representing him or her is present, his or her vote may be exercised by any other Director appointed by the same Participating Shareholder
- 8.3** A written resolution signed by more than 50% of the Directors entitled to vote on such resolution (being not less than the quorum for meetings of the Directors) shall be as valid and effective as a resolution duly passed at a meeting of the Directors and may consist of several documents in like form each signed by one or more of the Directors. The Directors signing any such resolution shall ensure that a copy of it is sent to all other Directors as soon as practicable

### **9 Calling a Directors' meeting**

- 9.1** The Directors may decide how often a Directors' meeting shall be take place
- 9.2** Either the Chairman or any three Directors may call a Directors' meeting at any time
- 9.3** At least two Business Days notice in writing of a Directors' meeting must be given to each Director by e-mail, courier or fax, unless all of the Directors present at a quorate Directors' meeting agree to a shorter notice period and all the Directors are notified by e-mail, courier or fax of the shorter notice period. This shall not apply to an adjourned Directors' meeting

### **10 Participation in Directors' meetings**

- 10.1** Subject to the Articles, Directors participate in a Directors' meeting, or part of a Directors' meeting, when
  - 10.1.1** the meeting has been called and takes place in accordance with the Articles, and
  - 10.1.2** they can each hear and speak to each other and can each communicate to the others any information or opinions they have on any particular item of the business of the meeting
- 10.2** In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other

### **11 Quorum for Directors' meetings**

- 11.1** At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting
- 11.2** The quorum at a Directors' meeting shall be one Director appointed by the holder of the A Shares and one Director appointed by a holder of B Shares
- 11.3** If a quorum is not participating within half an hour of the time appointed for the meeting or ceases to participate, the Directors participating shall adjourn the Directors' meeting to a

specified place and time where the same quorum shall be required Notice of the adjourned Directors' meeting shall be given to all the Directors

- 11.4** If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision

## **12 Chairing of Directors' meetings**

- 12.1** The Directors may appoint a Director to chair their meetings
- 12.2** The person so appointed for the time being is known as the Chairman
- 12.3** The Chairman does not have a casting vote
- 12.4** If the Chairman is not present at any Directors' meeting, the Directors present may appoint any one of their number to act as Chairman for the purpose of the meeting
- 12.5** The Chairman shall ensure that all relevant papers for any Directors' meeting are properly circulated in advance and that all such Directors' meetings are quorate

## **13 Validity of proceedings**

All acts done by any meeting of Directors, or of any committee or sub-committee of the Directors, or by any person acting as a member of any such committee or sub-committee, shall as regards all persons dealing in good faith with the Company be valid, notwithstanding that there was some defect in the appointment of any Director or any such persons, or that any such persons were disqualified or had vacated office, or were not entitled to vote

## **14 Record of decisions to be kept**

The Directors (or Secretary, where the Directors so direct) must ensure that the Company keeps a record, in writing, of every majority decision taken by the Directors and of every Directors' written resolution for at least 10 years from the date of the decision or resolution

## **15 Directors' discretion to make further rules**

Subject to the Articles, the Directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to Directors

## **Directors' Interests**

### **16 Authorisation of Directors' interests**

- 16.1** For the purposes of Section 175 of the Companies Act 2006, the Directors shall have the power to authorise any matter which would or might otherwise constitute or give rise to a breach of the duty of a Director to avoid a situation in which he/she has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company
- 16.2** Authorisation of a matter under this Article shall be effective only if

- 16.2.1 the matter in question shall have been proposed in writing for consideration at a meeting of the Directors, in accordance with the Directors' normal procedures or in such other manner as the Directors may determine,
- 16.2.2 any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question and any other interested Director (together the "**Interested Directors**"), and
- 16.2.3 the matter was agreed to without the Interested Directors voting or would have been agreed to if the votes of the Interested Directors had not been counted

**16.3** Any authorisation of a matter under this Article may

- 16.3.1 extend to any actual or potential conflict of interest which may arise out of the matter so authorised,
- 16.3.2 be subject to such conditions or limitations as the Directors may determine, whether at the time such authorisation is given or subsequently,
- 16.3.3 be terminated by the Directors at any time,

and a Director shall comply with any obligations imposed on him/her by the Directors pursuant to any such authorisation

**16.4** A Director shall not, save as otherwise agreed by him/her, be accountable to the Company for any benefit which he/she (or a person connected with him/her) derives from any matter authorised by the Directors under this Article and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such benefit

**17 Permitted Interests**

**17.1** Subject to compliance with Article 17.2, a Director notwithstanding his office may have an interest of the following kind

- 17.1.1 where a Director (or a person connected with him/her) is a party to, or otherwise interested in, any contract, transaction or arrangement with a Relevant Person or in which the Company is otherwise interested,
- 17.1.2 where a Director (or a person connected with him/her) is a Member Firm Partner or a director or other officer of, or employed by, or otherwise interested (including by the holding of shares) in, any Relevant Person,
- 17.1.3 where a Director (or a person connected with him/her) is Member Firm Partner or a director of any company or represents the interests of any member whose interests may conflict, from time to time, with the interests of the Company,
- 17.1.4 an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest,
- 17.1.5 an interest, or a transaction or arrangement giving rise to an interest, of which the Director is not aware, or
- 17.1.6 where the interest has been authorised by ordinary resolution

A Director shall not infringe his duty to avoid a situation in which he/she has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the

Company where he/she has an interest permitted by Article 17 1 and no authorisation under Article 15 shall be necessary in respect of any such interest

- 17.2** A Director shall declare the nature and extent of any interest permitted under Articles 17 1 1 to 17 1 3 at a meeting of the Directors or in such other manner as the Directors may determine
- 17.3** A Director shall not, save as otherwise agreed by him/her, be accountable to the Company for any benefit which he/she (or a person connected with him/her) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any Relevant Person, each as referred to in Article 17 1, and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit
- 17.4** For the purposes of this Article 17, "**Relevant Person**" means
- 17.4.1** the Company,
  - 17.4.2** a subsidiary undertaking of the Company,
  - 17.4.3** any parent undertaking of the Company or a subsidiary undertaking of such parent undertaking,
  - 17.4.4** any member of the Company or a parent undertaking or subsidiary undertaking of any such member,
  - 17.4.5** any body corporate promoted by the Company,
  - 17.4.6** any body corporate in which the Company is otherwise interested,
  - 17.4.7** any other body corporate in which
    - (i) a member of the Company holds an interest, or
    - (ii) any parent undertaking or subsidiary undertaking of such member, or any subsidiary undertaking of such parent undertaking, holds an interest, and
  - 17.4.8** any Member Firm or Affiliate of any Member Firm

## **18 Quorum and voting**

- 18.1** A Director shall not be entitled to vote on any resolution in respect of any contract, transaction or arrangement, or any other proposal, in which he (or a person connected with him or her) has an interest, unless the interest is solely of a kind permitted by Article 17 1
- 18.2** A Director shall not be counted in the quorum at a meeting of the Directors in relation to any resolution on which he is not entitled to vote
- 18.3** If a question arises at any time as to whether any interest of a Director prevents him from voting or being counted in the quorum under this Article, and such question is not resolved by his voluntarily agreeing to abstain from voting, that question shall be referred to the Chairman and his ruling in relation to any Director other than himself or herself shall be final and conclusive except in a case where the nature or extent of the interest of such Director has not been fairly disclosed. If any such question shall arise in respect of the Chairman, the question shall be decided by resolution of the Directors and the resolution shall be conclusive except in a case where the nature or extent of the interest of the Chairman (so far as it is known to him/her) has not been fairly disclosed to the Directors

- 18.4** Where any proposal is under consideration concerning two or more Directors or in which two or more Directors are interested, the proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning himself/herself

## **19 Confidential information**

- 19.1** Subject to Article 19 2, if a Director, otherwise than by virtue of his position as Director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required

**19 1 1** to disclose such information to the Company or to the Directors, or to any Director, officer or employee of the Company, or

**19 1.2** otherwise use or apply such confidential information for the purpose of or in connection with the performance of his duties as a Director

- 19.2** Where such a duty of confidentiality arises out of a situation in which the Director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company, Article 19 1 shall apply only if the conflict arises out of a matter which has been authorised under Article 16 1 or which is permitted by Article 17 1

- 19.3** Without prejudice to Articles 19 1 and 19 2, a Director shall be entitled to disclose to the Participating Shareholder which appointed him/her as Director such information concerning the business and affairs of the Company as he/she sees fit

- 19.4** This Article 19 2 is without prejudice to any equitable principle or rule of law which may excuse or release the Director from disclosing information, in circumstances where disclosure may otherwise be required under this Article

## **20 Directors' interests - general**

- 20.1** For the purposes of these Articles

**20 1 1** Section 252 of the Companies Act 2006 shall determine whether a person is connected with a Director, and

**20.1 2** an interest (whether of his or of such a connected person) of which a Director has no knowledge and of which it is unreasonable to expect him/her to have knowledge shall not be treated as an interest of his

- 20.2** Where a Director has an interest which can reasonably be regarded as likely to give rise to a conflict of interest, the Director may, and shall if so requested by the Directors take such additional steps as may be necessary or desirable for the purpose of managing such conflict of interest, including compliance with any procedures laid down from time to time by the Directors for the purpose of managing conflicts of interest generally and/or any specific procedures approved by the Directors for the purpose of or in connection with the situation or matter in question, including without limitation

**20.2 1** absenting himself/herself from any meetings of the Directors at which the relevant situation or matter falls to be considered, and

**20.2 2** not reviewing documents or information made available to the Directors generally in relation to such situation or matter and/or arranging for such documents or

information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him/her to have access to such documents or information

- 20.3** The Company may by ordinary resolution ratify any contract, transaction or arrangement, or other proposal, not properly authorised by reason of a contravention of any provisions of Articles 16 to 20

## **Appointment of Directors**

### **21 Methods of appointing Directors**

- 21.1** The A Shareholder may appoint one Director by giving notice in writing to the Company
- 21.2** Each B Shareholder may appoint one Director by giving notice in writing to the Company
- 21.3** A notice of appointment under Article 21.1 or 21.2 must identify the appointee and, if required by the Company, contain a statement signed by the appointee stating that the appointee is willing to act as a Director
- 21.4** Any such appointment may be terminated at any time by notice in writing to the Company

### **22 Termination of Director's appointment**

A person ceases to be a Director as soon as

- 22.1** that person ceases to be a Director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
- 22.2** a bankruptcy order is made against that person,
- 22.3** a composition is made with that person's creditors generally in satisfaction of that person's debts,
- 22.4** a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months,
- 22.5** by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have,
- 22.6** notification is received by the Company from the Director that the Director is resigning from office, and such resignation has taken effect in accordance with its terms, or
- 22.7** the Shareholder who appointed the Director ceases to be a Shareholder or ceases to have the right to appoint a Director pursuant to Article 26.5

### **23 Directors' remuneration and expenses**

- 23.1** Without prejudice to any remuneration payable to a Director in respect of executive duties carried out under any separate service agreement with the Company, the Directors shall not be entitled to receive any remuneration by way of salary, commission, fees or otherwise in relation to the performance of their duties as directors



- 23.2** The Company may pay any reasonable expenses which the Directors properly incur in fulfilling their duties as Directors (except in relation to expenses relating to attendance at Directors' meetings which shall be paid by the Participating Shareholder that appointed him/her)

## **Alternate Directors**

### **24 Alternate Directors**

- 24.1** Each Participating Shareholder may appoint up to two alternate directors (each an "Alternate" or the "Alternate Director") for each Director appointed by it to exercise that Director's powers and carry out that Director's responsibilities where that Director is unable to attend any meetings. Such appointment may be terminated at any time by the Participating Shareholder.
- 24.2** Any appointment or termination of appointment must be effected by giving notice in writing to the Company.
- 24.3** The notice must identify the proposed Alternate and, in the case of an appointment and if required by the Company, contain a statement signed by the proposed Alternate stating that the proposed Alternate is willing to act as the Alternate of the Director giving the notice.
- 24.4** Each Participating Shareholder may terminate such appointment at any time by giving notice in writing to the Company.
- 24.5** Subject to Article 24.6, an Alternate Director shall be entitled to receive notices of meetings of the Directors and of any committee of the Directors of which such Director for whom he/she is acting as Alternate is a member and shall be entitled to attend, speak and vote as a Director at any such meeting and be counted in the quorum at any such meeting at which such Director for whom he/she is acting as Alternate for is not personally present and generally at such meetings to perform all functions of his or her appointor as a Director. For the purposes of the proceedings at such meetings, the provisions of these Articles shall apply as if the Alternate Director were a Director.
- 24.6** Only one Alternate Director for each Director may attend a Directors' meeting at any time and be counted in the quorum. If an Alternate is himself/herself a Director or shall attend any such meeting as an Alternate for more than one Director, his voting rights shall be cumulative but he shall not be counted more than once for the purposes of the quorum.
- 24.7** Where more than one Alternate Director is present on behalf of an absent Director at a Directors' meeting, the Chairman shall determine which one shall be counted in the quorum and shall have the right to speak and vote.
- 24.8** The appointment of an Alternate Director shall terminate
- 24.8.1** when the relevant Participating Shareholder revokes the appointment by notice in writing to the Company specifying when it is to terminate, or
  - 24.8.2** on the occurrence in relation to the Alternate of any event which if it happened to a Director, would result in the termination of such Director's appointment as a Director.

- 24.9** If a Director is for the time being temporarily unable to act through ill health or disability, such Director's Alternate's signature to any resolution in writing of the Directors shall be as effective as the signature of the relevant Director
- 24.10** This Article 24 shall also apply (with such changes as are necessary) to such extent as the Directors may from time to time resolve to any meeting of any committee of the Director for whom he or she is acting as Alternate for is a member
- 24.11** An Alternate Director shall not (except as otherwise provided in this Article 24) have power to act as a Director, nor shall he or she be deemed to be a Director for the purposes of these Articles, nor shall he or she be deemed to be the agent of the relevant Participating Shareholder or such Director which appointed him/her
- 24.12** An Alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to the same extent as if he were a Director
- 24.13** An Alternate Director shall be entitled to be repaid expenses and to be indemnified to the same extent as if he or she were a Director but he or she shall not be entitled to receive remuneration from the Company in respect of his appointment as Alternate Director except to the extent the Participating Shareholder directs the Company to pay to the Alternate Director some of the remuneration otherwise payable to that Director

## **Secretary**

### **25 Secretary**

If the Directors so resolve, a Secretary shall be appointed on such terms as the Directors think fit Any Secretary so appointed may at any time be removed from office by the Directors, but without prejudice to any claim for damages for breach of any contract of service between him/her and the Company

## **Part 3 Shares and distributions**

## **Shares**

### **26 Rights of shares**

- 26.1** The A Shares, B Shares, C Shares and D Shares shall be separate classes of shares in the Company but shall rank par passu in all respects save as expressly provided in these Articles
- 26.2** The Shares shall carry voting rights as follows
- 26.2.1** on a show of hands and on a poll, every holder of an A Share who is present by a duly authorised representative or by proxy shall have one vote (regardless of the number of A Shares held by such Shareholder),
- 26.2.2** on a show of hands and on a poll, every holder of a B Share who is present by a duly authorised representative or by proxy shall have one vote (regardless of the number of B Shares held by such Shareholder),

- 26.2.3** on a show of hands and on a poll, every holder of a C Share who is present by a duly authorised representative or by proxy shall have one vote (regardless of the number of C Shares held by such Shareholder), and
- 26.2.4** no voting rights shall attach to the D Shares
- 26.3** The Shares shall carry rights to dividends as follows
- 26.3.1** the holders of the D Shares shall be entitled to, and the D Shares shall rank equally for, any dividends recommended, made or paid by the Company in accordance with these Articles, and
- 26.3.2** no right to dividend shall attach to the A Shares, B Shares and C Shares
- 26.4** On a winding up, liquidation of, or other return of capital by the Company, the surplus assets of the Company remaining after payment of its liabilities shall be distributed as follows
- 26.4.1** first, the holders of the D Shares shall be entitled to receive an amount equal to the aggregate paid-up nominal value of their D Shares, on a pari passu basis,
- 26.4.2** secondly, the holders of the A Shares, B Shares and C Shares shall be entitled to receive an amount equal to the aggregate paid-up nominal value of their respective Shares, on a pari passu basis,
- 26.4.3** thirdly, the holders of the D Shares shall be entitled to the remainder of the surplus on a pari passu basis, and
- 26.4.4** fourthly, if there are no D Shares in issue, the holders of the A Shares, B Shares and C Shares shall be entitled to the remainder of the surplus on a pari passu basis
- 26.5** Notwithstanding anything else in these Articles, if the holder of a B Share, in any respect that the Directors resolves is material, defaults on its obligations to the Company
- 26.5.1** that shareholder shall thereupon cease to have any right to appoint a Director,
- 26.5.2** the shares held by that Shareholder shall cease to carry votes, and
- 26.5.3** that Shareholder shall cease to have any right to receive notices of or attend at general meetings of the Company
- 26.6** The Directors may at any time, at their discretion, restore the rights referred to in Article 26.5 or any of them
- 26.7** Notwithstanding anything else in these Articles, except as otherwise required by the US Internal Revenue Code of 1986 (as amended) but without prejudice to the limited liability of the Shareholders, the Company shall allocate Profit and Loss to the Shareholders pro rata according to their Territory Percentages For this purpose
- (i) the terms "Profit" and "Loss" mean the items of profit and loss of the Company (including separately stated items) as computed under Treas Reg 1.704-1(b)(2)(iv), as reasonably interpreted by the Directors or any person to whom the Directors shall have delegated this power, based on advice of a qualified tax advisor, and
- (ii) the expression "Territory Percentage" means, in the case of each Shareholder, the percentage specified as such in the agreements entered into by the relevant

Shareholder and the Company for the purchase by the Shareholder from Holdco of a part of the Mountain Business or, in the case of the A shareholder, for the division of the Mountain Business between the A Shareholder and Holdco, in each case, as from time to time amended in accordance with the relevant agreement

## **27 General provisions relating to class rights**

**27.1** Subject to the provisions of the Companies Act, all or any of the rights for the time being attached to any class of Shares in issue may (unless otherwise provided by the terms of allotment of the Shares of that class) from time to time (whether or not the Company is being wound up) be varied or abrogated either

**27.1.1** with the consent in writing of the holders of the issued Shares of that class, which consent may be in hard copy form or electronic form sent to such address (if any) for the time being notified by or on behalf of the Company for that purpose or a combination of both, or

**27.1.2** with the sanction of a special resolution passed at a separate general meeting of the holders of that class of Shares

**27.2** For the purposes of Article 27.1, unless otherwise expressly provided by the terms of their issue, the rights attached to any class of Shares shall not be deemed to be varied by

**27.2.1** the creation or issue of further Shares ranking prior to, or equally with, or subsequent to, that class of Shares except that no A Shares or shares having a right similar to that set out in Article 5.2 shall be issued without the consent of the holders of the A Shares, or

**27.2.2** the purchase or redemption by the Company of its own Shares

**27.3** All the provisions of these Articles relating to general meetings of the Company or to the proceedings at general meetings shall apply, mutatis mutandis, to every such separate general meeting, except that

**27.3.1** the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy at least one-third in nominal amount of the issued Shares of the class,

**27.3.2** at an adjourned meeting the necessary quorum shall be two people holding Shares of the class or his proxy,

**27.3.3** every holder of Shares of the class shall, on a poll, have such number of votes attributable to the relevant class of Shares in Article 26.2, and

**27.3.4** a poll may be demanded by any one holder of Shares of the class whether present in person or by proxy

## **28 All shares to be fully paid up**

**28.1** No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the Company in consideration for its issue

**28.2** This does not apply to shares taken on the formation of the Company by the subscribers to the Company's memorandum

## **29 Pre-emption rights**

The Directors may allot equity securities as if Section 561 of the Companies Act 2006 (Existing shareholders' rights of pre-emption) did not apply to the allotment and otherwise on such terms as they may agree

## **30 Powers to issue different classes of shares**

**30.1** Subject to the Articles, but without prejudice to the rights attached to any existing share, the Company may issue shares with such rights or restrictions as may be determined by the Directors

**30.2** The Company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder, and the Directors may determine the terms, conditions and manner of redemption of any such shares

## **31 Company not bound by less than absolute interests**

Except as required by law, no person is to be recognised by the Company as holding any share upon any trust, and except as otherwise required by law or the Articles, the Company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

## **32 Share certificates**

**32.1** The Company must issue each Shareholder, free of charge, with one or more certificates in respect of the shares which that Shareholder holds

**32.2** Every certificate must specify

**32.2.1** the number and class of shares to which it relates,

**32.2.2** the nominal value of those shares,

**32.2.3** that the shares are fully paid, and

**32.2.4** any distinguishing numbers assigned to them

**32.3** No certificate may be issued in respect of shares of more than one class

**32.4** If more than one person holds a share, only one certificate may be issued in respect of it

**32.5** Certificates must

**32.5.1** have affixed to them the Company's common seal, or

**32.5.2** be otherwise executed in accordance with the Companies Acts

## **33 Replacement share certificates**

**33.1** A Shareholder who has separate certificates in respect of shares of one class may request in writing that it be replaced with a consolidated certificate. The Company may comply with such request at its discretion

**33.2** A Shareholder who has a consolidated share certificate may request in writing that it be replaced with two or more separate certificates representing the shares in such proportions as he may specify. The Company may comply with such request at its discretion

**33.3** If a share certificate is damaged or defaced or alleged to have been lost, stolen or destroyed, the member shall be issued a new certificate representing the same shares upon request

**33.4** No new certificate will be issued pursuant to this Article 33 unless the relevant Shareholder has

**33.4 1** first delivered the old certificate or certificates to the Company for cancellation, or

**33.4 2** complied with such conditions as to evidence and indemnity as the Directors may think fit, and

**33.4 3** paid such reasonable fee as the Directors may decide

**33.5** In the case of shares held jointly by several persons, any request pursuant to this Article 33 may be made by any one of the joint holders

## **34 Share transfers**

**34.1** In this Article 34

**34.1 1** "Sell" means sell, assign, transfer or otherwise dispose of, or grant any option over, any Shares or any interest in Shares, (b) create or permit to subsist any Encumbrance over Shares or any interest in Shares, (c) enter into any agreement in respect of the votes or any other rights attached to any Shares, or (d) renounce or assign any right to receive any Shares or any interest in Shares, and

**34.1 2** "Encumbrance" means any claim, charge, mortgage, lien, option, equity, power of sale, hypothecation, usufruct, retention of title, right of pre-emption, right of first refusal or other third party rights or security interest of any kind or an agreement, arrangement or obligation to create any of the foregoing

**34.2** Notwithstanding any other provision of these Articles, save for transfers to an Affiliate of the relevant Shareholder and other transfers approved by the Directors, no Shareholder shall

**34 2.1** Sell any Shares or deal in any other manner with the legal title to or the beneficial ownership of, any Shares, or

**34 2 2** create or permit to exist any Encumbrance over any Shares

**34.3** Shares may be transferred by means of an instrument of transfer executed by or on behalf of the transferor. Such instrument of transfer must be in hard copy form but may otherwise be in any usual form or any other form approved by the Directors

**34.4** No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share

**34.5** The Company may retain any instrument of transfer which is registered

**34.6** The transferor remains the holder of the shares concerned until the transferee's name is entered in the register of members in respect of those shares

**34.7** Directors shall not register any transfer not made in accordance with the provisions of these Articles and may refuse to register any transfer of Shares which are not fully paid or on which the Company has a lien. Any transfer made in breach of these Articles shall be void

## **Dividends and other distributions**

### **35 Procedure for declaring dividends**

- 35.1** Subject to the Company having profits available for distribution in accordance with the Companies Act, the Directors may, if it appears to them that the profits available for distribution justify the payment, resolve to pay to the holders of the D Shares a dividend or an interim dividend without the need for declaration of a dividend by the Company in a general meeting
- 35.2** Unless the Directors' resolution, or the terms on which the D Shares are issued, specify otherwise, the dividend must be paid pro rata to such Shareholder's holding of the D Shares on the date of the resolution or decision to declare or pay it.

### **36 Payment of dividends and other distributions**

- 36.1** Where a dividend or other sum which is a distribution is payable in respect of a D Share, it must be paid by one or more of the following means
- 36.1.1** transfer to a bank or building society account specified by the payee either in writing or as the Directors may otherwise decide,
  - 36.1.2** sending a cheque made payable to the payee by post to the payee at the payee's registered address (if the payee is a holder of the share), or (in any other case) to an address specified by the payee either in writing or as the Directors may otherwise decide,
  - 36.1.3** sending a cheque made payable to such person by post to such person at such address as the payee has specified either in writing or as the Directors may otherwise decide, or
  - 36.1.4** any other means of payment as the Directors agree with the payee either in writing or by such other means as the Directors decide
  - 36.1.5** Any dividend or other sum payable on or in respect of a D Share may be paid in such currency as the directors may resolve, using such exchange rate for currency conversions as the directors may select
- 36.2** In the Articles, the "payee" means, in respect of a D Share in respect of which a dividend or other sum is payable
- 36.2.1** the holder of the D Share,
  - 36.2.2** if the holder of the D Share is no longer entitled to the share by reason of bankruptcy, or otherwise by operation of law, the transmittee, or
  - 36.2.3** such other person or persons as the holder of the D Share may direct.

### **37 No interest on distributions**

- 37.1** The Company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by
- 37.1.1** the terms on which the share was issued, or

37.1.2 the provisions of another agreement between the holder of that share and the Company

### **38 Unclaimed distributions**

38.1 All dividends or other sums which are

38.1.1 payable in respect of shares, and

38.1.2 unclaimed after having been declared or become payable,

may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed

38.2 The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it.

38.3 If

38.3.1 twelve years have passed from the date on which a dividend or other sum became due for payment, and

38.3.2 the payee has not claimed it,

the payee is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company

### **39 Non-cash distributions**

39.1 Subject to the terms of issue of the share in question, the Directors may direct the payment of a dividend in whole or in part by the transfer of non-cash assets, or by procuring the receipt by shareholders of non-cash assets, of equivalent value (including, without limitation, shares or other securities in any Company)

39.2 For the purposes of paying a non-cash distribution, the Directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution

39.2.1 fixing the value of any assets,

39.2.2 paying cash to any payee on the basis of that value in order to adjust the rights of recipients, and

39.2.3 vesting any assets in trustees

### **40 Waiver of distributions**

Payees may waive their entitlement to a dividend or other distribution payable in respect of a share in whole or in part by giving the Company notice in writing to that effect

## **Capitalisation of Profits**

### **41 Authority to capitalise and appropriation of capitalised sums**

41.1 Subject to the Articles, the Directors may, if they are so authorised by an ordinary resolution



- 41.1.1 capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account, capital redemption reserve or other undistributable reserve, and
- 41.1.2 appropriate any sum which they so decide to capitalise (a "**capitalised sum**") to the persons who would have been entitled to it if it were distributed by way of dividend (the "**persons entitled**") and in the same proportions
- 41.2 Capitalised sums must be applied
  - 41.2.1 on behalf of the persons entitled, and
  - 41.2.2 in the same proportions as a dividend would have been distributed to them
- 41.3 Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- 41.4 A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct
- 41.5 Subject to the Articles the Directors may
  - 41.5.1 apply capitalised sums in accordance with Articles 41 3 and 41 4 partly in one way and partly in another;
  - 41.5.2 make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this Article 41 (including to disregard fractional entitlements or for the benefit of them to accrue to the Company ), and
  - 41.5.3 authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this Article 41

## Part 4

### Decision-making by Shareholders

#### General meetings

#### 42 Frequency and location of general meetings

- 42.1 A general meeting of the Shareholders shall be held at least once in every calendar year at such time and place as may be determined by the Directors
- 42.2 The Directors may, whenever they think fit, and shall, on requisition in accordance with Companies Acts, proceed to convene a general meeting
- 42.3 The persons convening any general meeting shall use reasonable endeavours to ensure that it is held at a location reasonably convenient for all Participating Shareholders
- 42.4 The notice of the general meeting shall set out an agenda identifying in reasonable detail the matters to be discussed at the general meeting

## **Organisation of general meetings**

### **43 Attendance and speaking at general meetings**

- 43.1** A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting
- 43.2** A person is able to exercise the right to vote at a general meeting when
- 43.2.1** that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
  - 43.2.2** that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting
- 43.3** The Directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it
- 43.4** In determining attendance at a general meeting, it is immaterial whether any two or more Shareholders attending it are in the same place as each other
- 43.5** Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them

### **44 Quorum for general meetings**

- 44.1** Except as otherwise specified in these Articles, the quorum for a general meeting shall be one duly authorised representative of the holder of the "A" Shares and at least two duly authorised representatives of the holders of "B" Shares present in person or by proxy
- 44.2** No business other than the appointment of the Chairman of the Meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum

### **45 Chairing general meetings**

- 45.1** If the Directors have appointed a Chairman, the Chairman shall chair general meetings if present and willing to do so
- 45.2** If the Directors have not appointed a Chairman, or if the Chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start
- 45.2.1** the Directors present, or
  - 45.2.2** (if no Directors are present), the meeting,
- must appoint a Director or Participating Shareholder to chair the meeting, and such appointment must be the first business of the meeting
- 45.3** The person chairing a meeting in accordance with this Article 45 is referred to as the "Chairman of the Meeting"
- 45.4** The Chairman of the Meeting shall not have a casting vote

## **46 Attendance and speaking by Directors and non-shareholders**

**46.1** Directors may attend and speak at general meetings

**46.2** A representative of DTTL shall be entitled to attend all general meetings

**46.3** The Chairman of the Meeting may permit other persons who are not

**46.3.1** Shareholders, or

**46.3.2** otherwise entitled to exercise the rights of Shareholders in relation to general meetings, to attend and speak at a general meeting

## **47 Adjournment**

**47.1** If a quorum is not present within half an hour from the time appointed for the general meeting, the meeting shall be adjourned (as determined by the Chairman of the Directors if present, or if not present, a majority of the Directors present and voting at any Directors' meeting convened at the same time as or promptly after the adjourned general meeting) and each Shareholder shall be notified at least two Business Days in advance of the time, date and place for the reconvened meeting

**47.2** The Chairman of the Meeting may adjourn a general meeting at which a quorum is present if

**47.2.1** the meeting consents to an adjournment, or

**47.2.2** the Chairman of the Meeting considers that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner

**47.3** The Chairman of the Meeting must adjourn a general meeting if directed to do so by the meeting

**47.4** When adjourning a general meeting, the Chairman of the Meeting must

**47.4.1** either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Directors, and

**47.4.2** have regard to any directions as to the time and place of any adjournment which have been given by the meeting

**47.5** No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place

## **Voting at General Meetings**

### **48 Voting: general**

A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles

### **49 Errors and disputes**

**49.1** No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid

**49.2** Any such objection must be referred to the Chairman of the Meeting, whose decision is final

## **50 Poll votes**

**50.1** A poll on a resolution may be demanded

**50.1.1** in advance of the general meeting where it is to be put to the vote, or

**50.1.2** at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared

**50.2** A poll may be demanded by

**50.2.1** the Chairman of the Meeting,

**50.2.2** the Directors,

**50.2.3** two or more persons having the right to vote on the resolution, or

**50.2.4** a person or persons representing not less than one tenth of the total voting rights of all the Participating Shareholders having the right to vote on the resolution

**50.3** A demand for a poll may be withdrawn if

**50.3.1** the poll has not yet been taken, and

**50.3.2** the Chairman of the Meeting consents to the withdrawal

**50.4** Polls must be taken immediately and in such manner as the Chairman of the Meeting directs

## **51 Content of proxy notices**

**51.1** Proxies may only validly be appointed by a notice in writing (a "**proxy notice**") which

**51.1.1** states the name and address of the Participating Shareholder appointing the proxy,

**51.1.2** identifies the person appointed to be that Participating Shareholder's proxy and the general meeting in relation to which that person is appointed,

**51.1.3** is signed by or on behalf of the Participating Shareholder appointing the proxy, or is authenticated in such manner as the Directors may determine, and

**51.1.4** is delivered to the Company in accordance with the Articles and any instructions contained in the notice of the general meeting to which they relate

**51.2** The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes

**51.3** Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions

**51.4** Unless a proxy notice indicates otherwise, it must be treated as

**51.4.1** allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and

**51.4.2** appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself

## **52 Delivery of proxy notices**

- 52.1** Proxy notices in hard copy form must be received at such place and by such deadline specified in the notice convening the meeting. If no place is specified, then the proxy notice must be received at the registered office of the Company for the time being. If no deadline is specified, proxy notices must be received, before the start of the meeting or adjourned meeting or, if a poll is taken otherwise than at or on the same day as the meeting or adjourned meeting, at the time for the taking of the poll at which it is to be used.
- 52.2** A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.
- 52.3** An appointment under a proxy notice may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- 52.4** A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- 52.5** If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.
- 52.6** Any vote cast or poll demanded by a proxy shall not be invalidated by the revocation or termination of the appointment of the proxy or of the authority under which the appointment was made unless notice of such revocation or termination was received in writing at the address or one of the addresses specified for the receipt of appointments of proxy before the start of the meeting or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for the taking of the poll.

## **53 Amendments to resolutions**

- 53.1** An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if
- 53.1.1** notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the Chairman of the Meeting may determine), and
  - 53.1.2** the proposed amendment does not, in the reasonable opinion of the Chairman of the Meeting, materially alter the scope of the resolution.
- 53.2** A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if
- 53.2.1** the Chairman of the Meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
  - 53.2.2** the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

- 53.3** If the Chairman of the Meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the Chairman of the Meeting's error does not invalidate the vote on that resolution

**54 Written Resolution**

A written resolution which is either

- (iii) signed by or on behalf of all of the Shareholders, or
- (iv) passed in accordance with Part 13 of the Companies Act 2006,

shall be as valid and effective as a resolution duly passed at a meeting of Shareholders and may consist of several documents in like form each signed by or on behalf of one or more of the Shareholders

**Part 5**  
**Administrative Arrangements**

**55 Means of communication to be used**

- 55.1** Subject to the Articles and as otherwise agreed by the Participating Shareholders, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company

- 55.2** Any notice, document or information (including a share certificate) which is sent or supplied by the Company in hard copy form, or in electronic form but to be delivered other than by electronic means, which is

**55.2.1** sent by hand or by courier and, in each case, properly addressed shall be deemed to have been received by the intended recipient on the day of delivery,

**55.2.2** sent by pre-paid post and properly addressed shall be deemed to have been received by the intended recipient at the expiration of 24 hours (or, where first class mail is not employed, 48 hours) after the time it was posted,

and in proving such receipt it shall be sufficient to show that such notice, document or information was properly addressed and, in the case of post, pre-paid and posted

- 55.3** Any notice, document or information which is sent or supplied by the Company by electronic means shall be deemed to have been received by the intended recipient 24 hours after it was transmitted, and in proving such receipt it shall be sufficient to show that such notice, document or information was properly addressed

- 55.4** The accidental failure to send, or the non-receipt by any person entitled to, any notice of or other document or information relating to any meeting or other proceeding shall not invalidate the relevant meeting or proceeding

- 55.5** Subject to the Articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being

- 55.6** A Director may agree with the Company that notices, documents or information sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than that provided in this Article 55

## **56 Company seals**

- 56.1** Any common seal may only be used by the authority of the Directors
- 56.2** The Directors may decide by what means and in what form any common seal is to be used
- 56.3** Unless otherwise decided by the Directors, if the Company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature
- 56.4** For the purposes of this Article 56, an authorised person is
- 56.4.1** any Director of the Company,
  - 56.4.2** the Secretary (if any), or
  - 56.4.3** any person authorised by the Directors for the purpose of signing documents to which the common seal is applied

## **57 Accounts and records**

- 57.1** The currency of account of the Company shall be US dollars and the Company's financial statements shall be denominated in US dollars
- 57.2** Except as provided by law or authorised by the Directors or agreed by the ordinary resolutions, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a Shareholder

## **58 Indemnity and provision for employees**

- 58.1** Subject to the provisions of, and so far as may be permitted by and consistent with, the Companies Acts, the Company shall indemnify and hold harmless (i) each Director (ii) each individual member of any other body entrusted with responsibilities for the Company, including any Secretary appointed by the Company, (iii) at the discretion of the Directors, any other individual acting on behalf of the Company, (iv) any officer, director, employee, or partner of any subsidiary of the Company or of any service organization owned or controlled by or existing solely to provide services to the Company and (v) the A Shareholder in its capacity as agent of the Company pursuant to Article 5 2 (each a "Relevant Officer") from and against any loss, liability, or expense, including legal fees and administrative or other expenses, arising out of, or in connection with, any act or omission in the performance of his or her duties, except that no individual shall be indemnified for any illegal act or omission or any act or omission in bad faith
- 58.2** Subject to the provisions of, and so far as may be permitted by and consistent with, the Companies Acts, the Company may (i) provide any Relevant Officer with funds to meet expenditures incurred or to be incurred by him or her (1) in defending any criminal or civil proceedings in connection with any negligence, default, breach of duty or breach of trust by him or her in relation to any Relevant Company, or (2) in connection with any application for relief under the provisions mentioned in Section 205(5) of the Companies

Act 2006, and (ii) do anything to enable any such Relevant Officer to avoid incurring such expenditure

**58.3** Where the Relevant Officer is a Director of the Company and in such other circumstances as the Company, in its sole discretion, considers desirable or appropriate, the terms set out in Section 205(2) of the Companies Act 2006 shall apply to any provision of funds or other things done under this Article 20

**58.4** Subject to the provisions of, and so far as may be permitted by and consistent with, the Companies Acts, the Company may (i) provide a Relevant Officer with funds to meet expenditure incurred or to be incurred by him or her in defending himself or herself in an investigation by a regulatory authority or against action proposed to be taken by a regulatory authority in connection with any alleged negligence, default, breach of duty or breach of trust by him or her in relation to any Relevant Company, and (ii) do anything to enable any such Relevant Officer to avoid incurring such expenditure

**58.5** Without prejudice to Article 19, the Directors shall have the power to purchase and maintain insurance for or for the benefit of any person who is or was at any time a Relevant Officer of any Relevant Company, including insurance against any liability (including all costs, charges, losses and expenses in relation to such liability) incurred by or attaching to him or her in relation to his or her duties, powers or offices in relation to any Relevant Company

**58.6** The Directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a Director or former Director or shadow Director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that subsidiary

## **59 Bank mandates**

The Directors may by majority decision or written resolution authorise such person or persons as they think fit to act as signatories to any bank account of the Company and may amend or remove such authorisation from time to time by resolution

## **60 Authentication of documents**

**60.1** Any Director or the Secretary or any person appointed by the Directors for the purpose shall have power to authenticate

**60.1.1** any document affecting the constitution of the Company,

**60.1.2** any resolution passed at a general meeting or at a meeting of the Directors or any committee, and

**60.1.3** any book, record, document or account relating to the business of the Company,

**60.1.4** and to certify copies or extracts as true copies or extracts

**60.2** A document purporting to be a copy of any such resolution, or an extract from the minutes of any such meeting, which is certified shall be conclusive evidence in favour of all persons dealing with the Company that such resolution has been duly passed or, as the case may be, that any minute so extracted is a true and accurate record of proceedings at a duly constituted meeting



**61 Tax affairs**

The Directors and the Shareholders shall take such action as is commercially reasonable to cause Holdco to "check the box" so as to be treated as a partnership for US federal income tax purpose

**62 Governing law and dispute resolution**

**62.1** These Articles and all other obligations undertaken in connection with membership of the Company shall be governed by and construed in accordance with the law of England

**62.2** The Directors and the Shareholders shall negotiate in good faith using the good offices of the Chairman of DTTL as a mediator to resolve any dispute, controversy or claim between the Company and the Shareholders, or among the Shareholders, arising out of or related to these Articles or any other obligations undertaken in connection with Membership of the Company, or the breach, termination or invalidity thereof. Where the matter involves the said Chairman or his or her Member Firm or any of its Affiliates, the mediation services of a member of the Governance Committee of DTTL, designated by the Governance Committee, shall be utilised instead.

**62.3** If such dispute, controversy or claim cannot be resolved by mediation within 60 days after mitigation thereof, then the dispute, controversy or claim shall be settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce (the "**Rules**") as from time to time in force by one or more arbitrators appointed in accordance with the Rules. The place of arbitration shall be London, England and the language used in the arbitral proceedings shall be English. Any determination by such arbitration shall be made in accordance with applicable English law and shall be final and conclusively binding. Judgment upon the arbitral award may be entered in any court having jurisdiction thereof.