

CHFP025

This form should be completed in black.

## Return by an overseas company subject to branch registration of an alteration to constitutional documents

(Pursuant to Schedule 21A, paragraph 7(1) of the Companies Act 1985)

Company number

FC026217

Company name

HSBC Lion Funding (UK) Limited

Branch number

BR008387

Branch name

HSBC Lion Funding (UK) Limited

### CONSTITUTIONAL DOCUMENTS

\* Delete as applicable

Note:- A company is only required to make a return in respect of a branch where the document altered is included amongst the material registered in respect of that branch.

On 

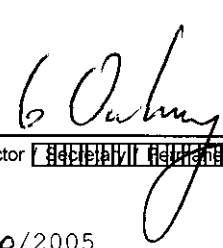
Day	Month	Year
2	1	0
9	2	0
	0	5

 an alteration was made to the constitutional document(s) of the company

A copy of the new instrument is attached

~~\* A certified translation is also attached~~

Signed

\* Director 

Bill Warner
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Date

10/10/2005

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Bill Warner

Linklaters, One Silk Street, London EC2Y 8HQ

DocNo: 5499498

Tel 020 7456 3243

DX number

DX exchange

When you have completed and signed the form please send it to the Registrar of Companies at:

**Companies House, Crown Way, Cardiff, CF14 3UZ**

**DX 33050 Cardiff**

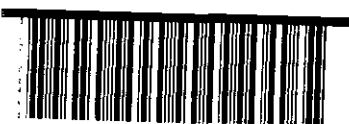
for branches registered in England and Wales

or

**Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB**

for branches registered in Scotland

**DX 235 Edinburgh  
or LP - 4 Edinburgh 2**



LD2 \*LS6519S6\* 305  
COMPANIES HOUSE 24/10/2005

**THE COMPANIES LAW (2004 REVISION)**

**COMPANY LIMITED BY SHARES**

**MEMORANDUM & ARTICLES**

**OF**

**ASSOCIATION**

**OF**

**HSBC LION FUNDING (UK) LIMITED**

**(as amended and restated by Special Resolution dated 21 September 2005)**

THE COMPANIES LAW (2004 REVISION)

COMPANY LIMITED BY SHARES

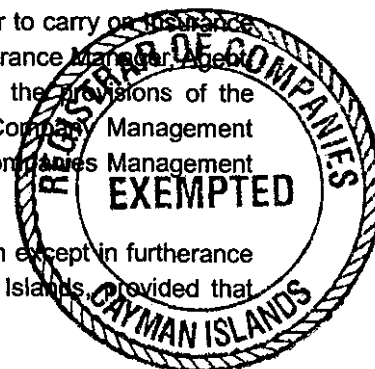
MEMORANDUM OF ASSOCIATION  
OF

HSBC LION FUNDING (UK) LIMITED

(as amended and restated by Special Resolution dated 21 September 2005)



- 1 The name of the Company is HSBC LION FUNDING (UK) LIMITED.
- 2 The Registered Office of the Company will be situated at the offices of Walkers SPV Limited, Walker House, Mary Street, PO Box 908GT, George Town, **Grand Cayman, Cayman Islands** or at such other location outside of the United States as the Directors may from time to time determine.
- 3 The objects for which the Company is established are unrestricted other than in respect of financial indebtedness which are restricted to financial indebtedness of a principal amount of GBP5,000,000 and the Company shall have full power and authority to carry out any object not prohibited by law as provided by Section 7(4) of the Companies Law (2004 Revision).
- 4 The Company shall have and be capable of exercising all the functions of a natural person of full capacity (irrespective of any question of corporate benefit as provided by Section 27(2) of the Companies Law (2004 Revision)), or a body corporate, in doing, in any part of the world whether as principal, agent, contractor or otherwise, whatever may be considered by it as necessary, appropriate or convenient for the attainment of its objects and whatever else may be considered by it as incidental or conducive thereto or consequential thereon, including, but without in any way restricting the generality of the foregoing, the power to make any alterations or amendments to this Memorandum of Association and the Articles of Association of the Company considered necessary, appropriate or convenient in the manner set out in the Articles of Association of the Company.
- 5 Nothing in the preceding sections shall be deemed to permit the Company to carry on the business of a Bank or Trust Company without being licensed in that behalf under the provisions of the Banks & Trust Companies Law (2003 Revision), or to carry on Insurance Business from within the Cayman Islands or the business of an Insurance Manager, Agent, Sub-agent or Broker without being licensed in that behalf under the provisions of the Insurance Law (2004 Revision), or to carry on the business of Company Management without being licensed in that behalf under the provisions of the Companies Management Law (2003 Revision).
- 6 The Company will not trade in the Cayman Islands with any Person except in furtherance of the business of the Company carried on outside the Cayman Islands, provided that



nothing in this section shall be construed as to prevent the Company effecting and concluding contracts in the Cayman Islands, and exercising in the Cayman Islands all of its powers necessary for the carrying on of its business outside the Cayman Islands.

- 7 The liability of the Members is limited to the amount, if any, unpaid on the Shares respectively held by them.
- 8 The authorised share capital of the Company as at the date of adoption of this Memorandum of Association is **GBP8,501** divided into **240,000 A Shares** with a nominal or par value of **GBP0.001** each and **826,100 B Shares** with a nominal or par value of **GBP0.01** each, provided always that subject to the provisions of the Companies Law (2004 Revision) and the Articles of Association the Company shall have power to purchase any of its Shares and to issue all or any part of its capital whether original, purchased by the Company, increased or reduced with or without any preference, priority or special privilege or subject to any postponement of rights or to any conditions or restrictions whatsoever and so that unless the conditions of issue shall otherwise expressly provide every issue of Shares whether stated to be ordinary, preference or otherwise shall be subject to the powers on the part of the Company hereinbefore provided.
- 9 Capitalised terms that are not defined in this Memorandum of Association bear the same meaning as those given in the Articles of Association of the Company.

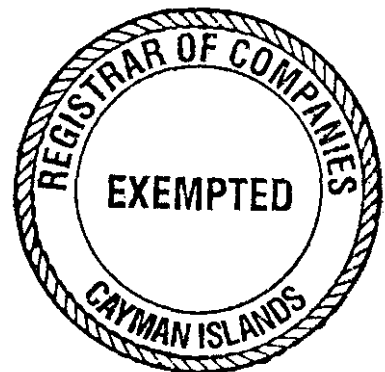
CERTIFIED TO BE A TRUE AND CORRECT COPY

SIG. \_\_\_\_\_

NEYDIS TAVERAS

Asst. Registrar

Date. 22nd September 2005



**THE COMPANIES LAW (2004 REVISION)**

**COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**HSBC LION FUNDING (UK) LIMITED**

**(as amended and restated by Special Resolution dated 21 September 2005)**

## 1 TABLE A

The Regulations contained or incorporated in Table A in the First Schedule to the Companies Law (2004 Revision) shall not apply to the Company and the following Articles shall comprise the Articles of Association of the Company:

## 2 INTERPRETATION

### 2.1 In these Articles:

**"A Member"** means the Member who is registered in the Register of Members as the holder of an A Share or A Shares from time to time;

**"A Share"** means an A share of GBP0.001 nominal or par value having the rights and subject to the restrictions set out in these Articles;

**"A Share Dividend"** means a dividend declared and payable on each A Share in accordance with these Articles;

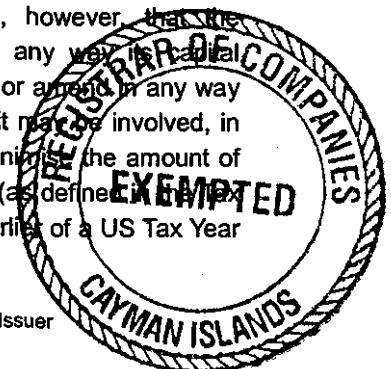
**"A Share Dividend Payment Date"** means, in respect of each A Share, any date so specified by the Directors;

**"Affiliate"** means, with respect to any Person, any other Person that controls, is controlled by, or is under common control with, such Person. For the purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting stock or shares, through the right or power to appoint a majority of the board of directors, by contract or otherwise and "controlled by" and "under common control" have corresponding meanings;

**"After-Tax Earnings"** means, in respect of any Tax Year, Earnings minus all Taxes relating to that Tax Year that have not been taken into account in the calculation of Earnings;

**"Applicable Law"** means any law, rule, regulation or official code, consent, constitution, decree, directive, enactment, guideline, injunction, interpretation, judgement, order, ordinance, policy statement, proclamation, promulgation, requirement, rule of law, rule of public policy, settlement agreement, statute or writ of any Governmental Authority, whether domestic or foreign, to which the Person in question is subject or by which it or any of its property is bound;

**"Available Tax"** means, in respect of any Tax Year, the total amount required by law to be paid to the relevant United Kingdom Taxing Authority in respect of the Company's United Kingdom corporation tax liability in respect of that Tax Year after utilising all available reliefs and deductions in computing that amount (including, for the avoidance of doubt, any expenses incurred by the Company other than those which it has been advised by internationally recognised counsel are not deductible), provided, however, that the Company shall have no obligation to change, alter or amend in any way its capital structure, organisation or constitution, or to rearrange, change, alter or amend in any way its business or investment activities or any other activities in which it may be involved, in order to maximise available reliefs and deductions or in any way minimise the amount of Tax payable by it. If, after the commencement of a Relevant Period (as defined in the Tax Matters Guidelines), the Company's Tax Year ends on or after the earliest of a US Tax Year



Termination Date (as defined in the Tax Matters Guidelines) and the date of an Offer Event, Available Tax will be zero for that Tax Year;

**"B Fixed Dividend Rate"** means, in respect of a B Share Dividend Period, the fixed rate determined in accordance with Schedule 2 multiplied by the Relevant Percentage;

**"B Floating Dividend Rate"** means, for a B Share Dividend Period, {(LIBOR multiplied by 0.8805031) - 0.00018650} multiplied by the Relevant Percentage;

**"B Member"** means a Member who is registered in the Register of Members as the holder of a B Share or B Shares from time to time;

**"B Share"** means a B share of GBP0.01 nominal or par value having the rights and subject to the restrictions set out in these Articles;

**"B Share Director"** has the meaning given in Article 18.3;

**"B Share Dividend"** means a cumulative preferential dividend declared and payable on each B Share in accordance with these Articles, and where the context requires includes an interim dividend declared payable on each B Share in accordance with these Articles;

**"B Share Dividend Payment Date"** means, in respect of each B Share:

- (a) the Rate Fixing Date;
- (b) following the Rate Fixing Date, 31 December 2005 then quarterly on 31 March, 30 June, 30 September and 31 December in each year;
- (c) the Reset Date; and
- (d) the B Share Purchase Date in respect of that B Share;

*subject to adjustment in accordance with the Modified Following Business Day Convention;*

**"B Share Dividend Period"** means, in respect of any B Share:

- (a) the period from (and including) the B Share Issue Date to (but excluding) the next B Share Dividend Payment Date; and
- (b) each successive period from (and including) a B Share Dividend Payment Date to (but excluding) the next B Share Dividend Payment Date;

**"B Share Dividend Rate"** means:

- (a) in respect of B Share Dividend Periods ending on or before the Reset Date, the B Floating Dividend Rate; or
- (b) in respect of B Share Dividend Periods ending after (but excluding) the Reset Date, the B Fixed Dividend Rate;

**"B Share Issue Date"** means the date on which B Shares are first issued;

**"B Share Purchase Amount"** means, in respect of each B Share, subject to Article 4.3.7(vi), the higher of

- (a) the amount, if any, agreed for each B Share between the Company and the relevant B Member on the date of the Purchase Notice as the fair value of such B Share; and

- (b) the Minimum B Share Purchase Amount;

**"B Share Purchase Date"** has the meaning given in Article 4.3.7(iii);

**"Board Event"** means:

- (a) the occurrence of an Insolvency Event with respect to HSBC or any member of the Company Group that is a party to a Transaction Document;
- (b) any of the terms of the Shares or the Transaction Documents are amended, waived or repudiated or purported to be amended, waived or repudiated by any member of the Company Group without the written consent of the Majority B Member;
- (c) a failure by the Company to pay in full any B Share Dividend on the relevant B Share Dividend Payment Date, without regard to whether such Dividend shall have been declared by the Directors or may lawfully be paid on such date, including in circumstances where any B Share Dividend is not paid as a result of the Company not having sufficient Distributable Funds available to pay any such B Share Dividend;
- (d) where a B Member has accepted an offer to purchase its B Shares by the Company, a failure by the Company, for any reason, to purchase any B Share in full by payment of the B Share Purchase Amount on the B Share Purchase Date relating to that B Share, including in circumstances where the B Share Purchase Amount is not paid as a result of the Company not having sufficient Purchase Funds to purchase the B Share;
- (e) the Company fails to pay when due any other amounts owed by it or fails to conduct its business, in each case subject to the periods of remedy in each of (i) and (ii), in material compliance with the terms of:
  - (i) these Articles, the Transaction Documents (with the exception of the current Investment Guidelines) to which it is a party or Applicable Law, or to pay when due all amounts (including taxes and other duties) assessed on or otherwise owed by it, and fails to remedy such conduct or pay such amounts within 20 Business Days;
  - (ii) the Investment Guidelines and does not remedy such failure within 4 Business Days,

in each case, from the earlier of (i) the date on which a Member has given written notice to the Company (with a copy to the other Members) of the breach requiring such breach to be remedied or (ii) the Company becoming aware of such breach;

- (f) a failure by:
- (i) the Company to issue A Shares; or
  - (ii) the A Member to subscribe for A Shares,

in each case, in accordance with the Deed Poll following written notice from a Member that a Subscription Event has occurred and is continuing;

- (g) any failure by the Company to take prompt action to enforce its rights if:
- (i) any member of the Company Group fails to make timely payment of any material amount that it is required to make under any Transaction



Document to which it is party, and such non-payment remains unremedied for a period of two Business Days after the date on which a Member has given written notice of the non-payment and requiring its remedy;

(ii) any member of the Company Group fails to comply with the requirements of any representation or warranty made in, or otherwise breaches the terms of, any Transaction Document, and such non-compliance remains unremedied for a period of 20 Business Days after the date on which a Member has given written notice of the non-compliance and requiring its remedy;

(iii) any member of the Company Group repudiates any Transaction Document to which it is party, takes the position that any Transaction Document to which it is party has ceased to be in full force and effect, or that any Transaction Document to which it is party does not represent its legal, valid and binding obligations; and

(h) the Directors of the Company determine, or the Company receives notice from any Member, that an Income Event, an Illegality Event or a Tax Event has occurred;

**"Business Day"** means a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments in London, the United Kingdom, Amsterdam, The Netherlands, Grand Cayman, Cayman Islands, Charlotte, North Carolina and New York City, New York;

**"Change in Law"** means with respect to any jurisdiction, any amendment to or change or proposed change (including a change in tax rates) in the laws (or any regulations or rulings thereunder) of such jurisdiction or any political subdivision thereof, or any amendment or proposed amendment to or change or proposed change in an official, administrative or judicial interpretation, pronouncement or application of, or practice under, such laws (or such regulations or rulings), or any change or proposed change in the published practice of any Taxing Authority in such jurisdiction, or any change or proposed change in the official application, pronouncement or interpretation of, or any execution of or amendment to, any treaty or treaties to which such jurisdiction or political subdivision is a party, which amendment, change or execution occurs or is proposed after the B Share Issue Date.

The determination of whether a "Change in Law" has occurred shall be made by the affected party in its absolute discretion;

**"Chargeable Profits"** means profits, as defined in section 6 of the TA 1988, which are chargeable to UK corporation tax;

**"Company"** means HSBC Lion Funding (UK) Limited;

**"Company Group"** means:

- (a) the A Member; and
- (b) the Company.

**"Companies Law"** means the Companies Law (2004 Revision) of the Cayman Islands;

**"Cure"** means, in respect of a Board Event:

- (a) any action or determination not to act that is not prohibited by these Articles, the Transaction Documents or Applicable Law and that, if taken by the Directors, will

remedy or, in the reasonable judgment of the B Share Directors, is reasonably likely to remedy, in whole or part, such Board Event. "Cure" may include: declaring Dividends or causing the declaration and issuance of Dividends by an Affiliate, issuing a Purchase Notice, the Company purchasing its Shares, issuing Shares, and taking actions to replace the Directors of any Affiliate. Notwithstanding the foregoing, "Cure" shall not, in any circumstances, include (A) amending, modifying or supplementing any provision of these Articles or the constitutive documents of any Affiliate; or (B) amending, modifying, supplementing, terminating or waiving any rights of the Company under any Transaction Document; or

(b) an Offer Event has occurred;

**"Day Count Fraction"** means, with respect to a B Share Dividend Period or portion thereof, the actual number of days in such period or portion thereof divided by 365;

**"Deed Poll"** means the deed poll entered into on the B Share Issue Date by the A Member as at that date;

**"Directors"** and **"Board of Directors"** means the Directors of the Company for the time being including the B Share Directors while such directors are in office, or, as the case may be, the Directors assembled as a board or as a committee thereof;

**"Distributable Funds"** means, with respect to any Dividend Payment Date or the B Share Purchase Date, the lesser of:

- (a) amounts lawfully available for distribution by way of dividend from distributable profits of the Company (but excluding always, for the avoidance of doubt, share premium and any other moneys, property and assets);
- (b) the Earnings (if any) for the period commencing on the first day of the Tax Year in which such Dividend Payment Date or B Share Purchase Date falls and ending on such Dividend Payment Date or B Share Purchase Date, reduced by the Taxes projected to be incurred by the Company in respect of such Earnings, plus (Y) the cumulative Earnings less Taxes in respect of such Earnings for all prior Tax Years, minus (Z) the aggregate amount of all Dividends declared by the Company and paid or payable on or before the immediately preceding Dividend Payment Date or B Share Purchase Date (to the extent the same may be lawfully used to pay Dividends);

**"Dividend"** means an A Share Dividend or a B Share Dividend, as the case may be;

**"Dividend Payment Date"** means either an A Share Dividend Payment Date or a B Share Dividend Payment Date;

**"Earnings"** means in respect of any Tax Year (or where relevant for the purposes of the definition of Distributable Funds, the relevant part thereof), the amount which would be equal to the Chargeable Profits of the Company for that Tax Year (or where relevant for the purposes of the definition of Distributable Funds, the relevant part thereof) if such Chargeable Profits were calculated on the basis of the UK Tax Assumptions (whether or not such amount is equal to the actual Chargeable Profits of the Company for that Tax Year (or where relevant for the purposes of the definition of Distributable Funds, the relevant part thereof)).

**"GBP"** or **"Sterling"** means the lawful currency from time to time of the United Kingdom;

**"Governmental Authority"** means any nation or government, any state or other political subdivision thereof, and any supra-national, national, governmental, federal, state, provincial, local governmental or municipal entity and any self-regulatory or quasi-governmental organisation exercising executive, legislative, judicial, regulatory or administrative functions or pertaining to government (including, in each case, any branch, department or official thereof);

**"Guidelines"** means:

- (a) the Investment Guidelines; and
- (b) the Tax Matters Guidelines;

**"HSBC"** means HSBC Bank PLC, a company incorporated in England and Wales (registered number 00014259) whose registered office is at 8 Canada Square, London E14 5HQ;

**"Illegality Event"** means any Change in Law occurring after the Rate Fixing Date as a result of which:

- (a) any representation or warranty of a Member in the Transaction Documents to which it is a party would be false or any covenant of a Member in the Transaction Documents to which it is a party would be breached; or
- (b) in the reasonable judgement of a Member, it has or will become unlawful for that Member to hold its shareholding in the Company or for that Member to perform any material obligation under the Transaction Documents to which it is a party;

**"Income Event"** means in respect of any Tax Year, that After-Tax Earnings are less than the amount of the B Share Dividends scheduled to be paid in respect of the B Shares in that Tax Year;

**"Increased Dividend Notice"** means a written notice given to the Company by a Member that a Board Event has occurred and is continuing on the date such notice is given. For the avoidance of doubt, if an Offer Event has occurred the Increased Dividend Notice shall lapse and cease to be of effect;

**"Insolvency Event"** means, with respect to a Person, that such Person:

- (a) is dissolved or has a resolution passed for its winding-up or liquidation (in each case, other than pursuant to a solvent consolidation, amalgamation, merger or other similar business combination transaction);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition;

- (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its dissolution, winding-up or liquidation; or
  - (ii) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (e) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (f) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; and
- (g) causes or is subject to any event with respect to it which, under the Applicable Law of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (f) (inclusive) of this definition;

**"Institutional Accredited Investor"** has the meaning given in Rule 501(a)(1), (2), (3), (7) or (8) under the Securities Act;

**"Interim Dividend Payment Date"** means any date other than a B Share Dividend Payment Date on which the Board of Directors may in its discretion resolve to pay an interim B Share Dividend;

**"Intra-Period B Share Purchase Date"** has the meaning given in the definition of B Share Purchase Amount;

**"Investment Company Act"** means the United States Investment Company Act of 1940;

**"Investment Guidelines"** means the investment portfolio guidelines concerning the management of the assets of the Company as adopted by Special Resolution of the Company and as may be amended from time to time by the Company;

**"Issue Price"** means, in respect of any Share, GBP1,000 (which amount includes the nominal or par value of such Share);

**"LIBOR"** means, for any B Share Dividend Period or other specified period, the interest rate per annum for deposits in Sterling for that period:

- (a) shown on page 3750 of Telerate or any successor page as the offered rate for London interbank market deposits for such period as of 11:00 a.m. (London time) on the LIBOR Setting Date;
- (b) if the rate specified in paragraph (a) above does not appear, the rate equal to the arithmetic mean of the rates at which Sterling deposits for such period in immediately available funds are offered by four leading banks to leading banks in the London interbank market at approximately 11:00 a.m. (London time) on the LIBOR Setting Date;
- (c) if an interest rate per annum for deposits in Sterling for the B Share Dividend Period or other specified period is not available in accordance with paragraphs (a) or (b) above, then the interest rate per annum determined through the use of

straight-line interpolation of the rates quoted for the period next longer and the period next shorter than such period;

**"LIBOR Setting Date"** means, in respect of any period, the London Business Day that is the start of that period;

**"London Business Day"** means a day (other than a Saturday or a Sunday) on which commercial banks and foreign exchange markets settle payments in London;

**"Majority B Member(s)"** means, at any time, any holder of B Shares or, as the case may be, group of holders of B Shares voting together, who holds the majority of the B Shares at such time. In the case of a group of holders, the Company may assume that the Majority B Member is such group of holders that notifies to Company that it is the Majority B Member until the Company is notified to the contrary, in which case such notice shall be relied upon as conclusive evidence as to the matters stated in it;

**"Member"** means a Person whose name is entered in the Register of Members and includes the subscriber to the Memorandum of Association pending the issue to such Person of the A Share subscribed for. Where there is more than one Member of any class, references to a vote or consent or appointment right or other act of a **"Member"** or **"Members"** of a class shall mean the holders of the majority of the Shares in that class unless otherwise expressly provided;

**"Memorandum of Association"** means the Memorandum of Association of the Company, as amended from time to time;

**"Minimum B Share Purchase Amount"** means the aggregate of:

- (a) an amount in cash equal to the Paid Up Amount for such B Share; plus
- (b) the amount of any accrued and unpaid B Share Dividends on such B Share up to (and including) the B Share Purchase Date (if any); plus
- (c) if the B Share Purchase Date does not fall within sub-paragraphs (a) or (b) of the definition of "B Share Dividend Payment Date" (an "Intra-Period B Share Purchase Date"), an amount (which may be a positive or a negative amount) calculated, as of the Intra-Period B Share Purchase Date, by the Company, in accordance with the following formula:

$$\frac{(L1 - L2) \times n / 365}{1 + (L2 \times n / 365)} \times NA$$

Where:

**"L1"** is the B Share Dividend Rate expressed as a decimal determined on the LIBOR Setting Date for the period in which the Intra-Period B Share Purchase Date falls;

**"L2"** is the rate expressed as a decimal determined on the LIBOR Setting Date for the Remaining Period for the B Share Dividend Rate and, if necessary, through the use of straight-line interpolation by reference to two rates based on LIBOR, one of which shall be determined for a period of time for which rates are available not shorter than the length of the Remaining Period and the other shall be determined

for a period of time for which rates are available not longer than the length of the Remaining Period;

"NA" is the Paid Up Amount for such B Share;

"n" is the number of days in the Remaining Period; and

"Remaining Period" means the period beginning on (and including) the Intra-Period B Share Purchase Date to (but excluding) the B Share Dividend Payment Date next following the Intra-Period B Share Purchase Date;

"Modified Following Business Day Convention" means, when used in conjunction with the making of any payment, that an adjustment will be made if that payment date would otherwise fall on a day that is not a Business Day so that the relevant payment date will be the first following day that is a Business Day unless that day falls in the next calendar month, in which case that payment date will be the first preceding day that is a Business Day;

"Offer Event" means the Company has made an offer to purchase the B Shares in accordance with Article 4.3.7 and:

- (a) the Majority B Member(s) have accepted, or been deemed to have accepted, such offer in accordance with Article 4.3.7 and the Company has made payment of the B Share Purchase Amount in full; or
- (b) the Majority B Member(s) have refused the offer to purchase in accordance with Article 4.3.8;

"Ordinary Resolution" means a resolution:

- (a) passed by a simple majority of such Members as, being entitled to do so, vote in person or by proxy at a general meeting of the Company having regard, in computing a majority, to the number of votes to which each Member is entitled; or
- (b) approved in writing by all of the Members entitled to vote at a general meeting of the Company in one or more instruments each signed by one or more of the Members aforesaid and the effective date of the resolution so adopted shall be the date on which the instrument, or the last of such instruments if more than one, is executed;

"Paid Up Amount" in respect of any Share at any time, means the aggregate of such Share's par value and the share premium credited as paid on such Share on issue less any dividend or share premium paid in accordance with Article 4.3.8 in respect of such Share on or before that time;

"Person" includes any individual, company, corporation, firm, limited liability company, partnership, joint venture, undertaking, association, organisation, trust, trustee, receiver, conservator, custodian, joint stock company, Governmental Authority or any other entity (in each case, whether or not having separate legal personality), in its own or any representative capacity;

"Premium Return" means, in respect of any B Shares, where the Company has distributed by way of dividend on such B Shares the share premium paid on the issue of such B Shares to the relevant B Member in full in accordance with Article 4.3.8.

"Proceedings" has the meaning given in Article 25.2.3;

**"Purchase Funds"** means the lesser of:

- (a) amounts lawfully available for a purchase by the Company of its Shares (including by way of a distribution out of the Share Premium Account); and
- (b) the sum of:
  - (i) Distributable Funds (to the extent the same may be lawfully utilised on a purchase by the Company of its Shares) as of the relevant B Share Purchase Date; and
  - (ii) the Share Premium Account and the Share Capital Account (to the extent the same may be lawfully utilised on a purchase by the Company of its Shares) as of the relevant B Share Purchase Date;

**"Purchase Notice"** means a notice served by the Company on any relevant B Members pursuant to Article 4.3.7(iii);

**"Qualified Purchaser"** has the meaning given in Section (2)(A)(51) of the Investment Company Act;

**"Rate Fixing Date"** means the fifth day following the B Share Issue Date;

**"Register of Members"** means the register of members of the Company to be kept by the Company in the Cayman Islands and otherwise in accordance with Section 40 of the Companies Law;

**"Relevant Percentage"** means:

- (a) after the occurrence of a Board Event which is continuing, with effect from close of business (London time) 7 Business Days after the date on which an Increased Dividend Notice is given to the Company, the Relevant Percentage with respect to any B Share Dividend Period or portion shall be 120 per cent. (unless and until an Offer Event has occurred in which case the Board Event shall be Cured and the Increased Dividend Notice shall lapse and cease to be of effect); and
- (b) otherwise, the Relevant Percentage is 100 per cent.;

**"Reset Date"** means the date on which the Majority B Members elect by written notice to the Company to convert the B Share Dividend Rate from the B Floating Dividend Rate to the B Fixed Dividend Rate as set out in Article 4.3.4;

**"Reset Notice"** means a notice substantially in the form set out in Schedule 1;

**"Securities Act"** means the United States Securities Act of 1933;

**"Security Interest"** means a mortgage, charge, pledge, lien, assignment, equities (including rights of set-off or counterclaim) or other encumbrance or security interest securing any obligation of any Person or any other agreement or arrangement having a similar effect;

**"Share"** means any share in the capital of the Company;

**"Share Capital Account"** means the share capital account used to record the amount credited from time to time of sums equal to the nominal or par value paid on the issue of any Share;

**"Share Certificate"** has the meaning given in Article 8.1;

**"Share Premium Account"** means the share premium account established in accordance with these Articles and Section 34 of the Companies Law;

**"Special Resolution"** means a resolution passed in accordance with Section 60 of the Companies Law, being a resolution:

- (a) passed by a majority of not less than 81 per cent. of such Members as, being entitled to do so, vote in person or by proxy at a general meeting of the Company having regard, in computing a majority, to the number of votes to which each Member is entitled; or
- (b) approved in writing by all of the Members entitled to vote at a general meeting of the Company in one or more instruments each signed by one or more of the Members aforesaid and the effective date of the Special Resolution so adopted shall be the date on which the instrument or the last of such instruments, if more than one, is executed;

**"Specified Percentage"** means the maximum prevailing statutory rate of UK corporation tax that is fixed from time to time for companies generally for the purposes of section 6 TA 1988 ;

**"Spread Event"** means, as of any date of determination, the mid quoted spread of credit default swaps referencing the unsubordinated five year payment obligations of HSBC as the reference entity expressed as a per cent. per annum and displayed on the appropriate Reuters, Telerate or Bloomberg screen on the date of determination, equals or exceeds 0.3 per cent. per annum. If such Reuters, Telerate or Bloomberg screen is replaced or ceases to be available, at the request of the Majority B Member, the spread in lieu of the quoted spread, shall be determined by averaging the bid quotations obtained from not less than two dealers;

**"Subscription Event"** means:

- (a) a Spread Event occurs and is continuing; or
- (b) a Change in Law or any legal, regulatory or economic development (including changes in market interest rates, currency exchange rates, and other objective economic factors) occurs that in the reasonable judgment of the Directors creates a material risk or materially increases the risk that the Company will not be able to make a payment of a B Share Dividend on a B Share Dividend Payment Date;

**"TA 1988"** means the United Kingdom Income and Corporation Taxes Act 1988;

**"Taxes"** means, with respect to any jurisdiction or Taxing Authority, all present and future taxes (including, for the avoidance of doubt, income, corporation, capital or chargeable gains, gross receipts, windfall profits, severance, property, production, sales, use, license, excise, franchise, employment, stamp, withholding or similar taxes) including any amounts withheld or deducted for or on account of such taxes, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties and **"Taxation"** and **"Tax"** shall be construed accordingly;

**"Tax Event"** means that there is a positive Rate Differential Amount at the end of any Tax Year other than as a result only of fluctuations in the mark to market or fair value profits or losses on Permitted Assets;



**"Taxing Authority"** means any Governmental Authority responsible for the administration or the collection of Taxes;

**"Tax Matters Guidelines"** means the tax matters guidelines concerning the tax affairs of the Company as adopted by Special Resolution of the Company and as may be amended from time to time by the Company;

**"Tax Year"** means an accounting period as defined for the purposes of Section 12 of the TA 1988;

**"Transaction Document"** means:

- (a) the Deed Poll;
- (b) the Guidelines;
- (c) the Memorandum of Association and Articles; and
- (d) any transaction document defined as such in the Deed Poll to which the Company is party;

**"Transfer Date"** means each date on which the Majority B Member transfers all or some of the B Shares held by it;

**"UK" or "United Kingdom"** means the United Kingdom of Great Britain and Northern Ireland';

**"UK Tax Assumptions"** has the meaning given to that term in the Deed Poll; and

**"United States"** means the United States of America.

**2.2** In these Articles, save where the context requires otherwise:

- 2.2.1 words importing the singular number shall include the plural number and vice versa;
- 2.2.2 words importing the masculine gender only shall include the feminine gender;
- 2.2.3 "may" shall be construed as permissive and "shall" shall be construed as imperative;
- 2.2.4 an event or circumstance is "continuing" if it has not been remedied, waived or the circumstances of the occurrence have not ceased to exist and for the avoidance of doubt, shall not be regarded as continuing until the expiry of any applicable grace or cure period;
- 2.2.5 references to a statutory enactment shall include reference to any amendment or re-enactment thereof for the time being in force;
- 2.2.6 references to any agreement or instrument shall include reference to any amendment or novation to such agreement or instrument;
- 2.2.7 references to any agreement or instrument being signed shall include a signature or representation of a signature affixed by mechanical means;
- 2.2.8 references to any Person shall be construed so as to include its successors in title, permitted assignees and permitted transferees; and

2.2.9 references to "paid up" shall mean paid up as to the par value and any premium payable in respect of the issue of any Shares and shall include credited as paid up.

2.3 Subject to the last two preceding Articles, any words defined in the Companies Law shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.

### **3 PRELIMINARY**

3.1 The business of the Company may be commenced as soon after incorporation as the Directors see fit.

3.2 The Directors may pay, out of the capital or any other moneys of the Company, all expenses incurred in or about the formation and establishment of the Company, including the expenses of registration.

3.3 The registered office of the Company shall be at such address in the Cayman Islands as the Directors shall from time to time determine. The Company shall establish and maintain its principal place of business in the United Kingdom.

### **4 SHARES**

4.1 The authorised share capital of the Company as at the date of adoption of these Articles is **GBP8,501** divided into:

4.1.1 **240,000 A Shares** with a nominal or par value of **GBP0.001** each; and

4.1.2 **826,100 B Shares** with a nominal or par value of **GBP0.01** each.

4.2 The Company may not issue Shares that are to be redeemed or are liable to be redeemed at the option of the Member or the Company or any other Person.

4.3 The rights and restrictions attaching to the A Shares and the B Shares are as follows:

#### **4.3.1 Single A Member Restriction**

Notwithstanding anything to the contrary in these Articles, only one Person at any given time (and from time to time) may be the registered holder of all the A Shares. Any issuance or transfer which would violate the restriction set forth in this Article 4.3.1 shall, to the fullest extent permitted by law, be null and void for all purposes of these Articles.

#### **4.3.2 Ranking of Dividends**

(i) For so long as any B Shares remain outstanding, if and when a Dividend is declared by the Directors in accordance with Article 24.1, each B Member shall be entitled, and the Company shall pay, in priority to the payment of any Dividend to the A Member, a B Share Dividend on each B Share held by such B Member at the applicable B Share Dividend Rate for such B Share calculated in accordance with Article 4.3.3.

(ii) After payment of all Dividends on the B Shares then declared, the Directors may in their discretion resolve that the Company pay to the A Member on an A Share Dividend Payment Date such A Share Dividends (if any) as the Directors may lawfully declare out of Distributable Funds. No A Share Dividend shall be paid after any B Shares are issued while any B Shares

remain outstanding unless the Majority B Member consents in writing and the Directors are satisfied sufficient undistributed reserves have been maintained to meet the future business needs of the Company and to provide an appropriate reserve for future distributions.

- (iii) Other than as expressly provided in these Articles or as agreed among the Members by amendment to these Articles by Special Resolution, the Members shall not be entitled to any further Dividends (in addition to those referred to in this Article 4.3) or other right of participation in the profits of the Company (except for purchases by the Company of its own Shares, capital distributions (whether on a liquidation or winding-up of the Company or otherwise), payment of amounts from income of the Company in accordance with the Tax Matters Guidelines or capital reductions (not being, in each such case, a redemption)).
- (iv) Subject to Articles 4.3.2(i) and (ii), Dividends shall be payable to the Members as they appear on the Register of Members at the opening of business on the A Share Dividend Payment Date and/or the B Share Dividend Payment Date, as the case may be.

#### **4.3.3 B Share Dividends**

- (i) To the extent declared by the Directors, the B Share Dividend payable on a B Share Dividend Payment Date shall be calculated as the product of:
  - (a) in respect of B Share Dividend Periods ending on or before the Reset Date, the Paid Up Amount for a B Share multiplied by the B Floating Dividend Rate and the Day Count Fraction; or
  - (b) in respect of B Share Dividend Periods ending after (but excluding) the Reset Date, the Paid Up Amount for a B Share multiplied by the B Fixed Dividend Rate and the Day Count Fraction,

and, in each case, is subject to adjustment in accordance with Articles 4.3.3(iv) and (v) and is payable in arrear on each B Share Dividend Payment Date out of Distributable Funds .

- (ii) The B Share Dividend shall be cumulative and shall be paid following a declaration by the Directors, provided that, if and to the extent that the Distributable Funds (excluding out of the Share Premium Account) are not sufficient to pay the full amount of the B Share Dividend due for payment on a particular B Share Dividend Payment Date then the Directors may declare and pay a B Share Dividend to the extent of Distributable Funds (excluding out of the Share Premium Account) on such B Share Dividend Payment Date and the unpaid part shall be paid as soon as, and to the extent that, the Directors determine in their discretion that the Company is able and there are Distributable Funds (excluding out of the Share Premium Account) available therefor. For the avoidance of doubt, to the extent a B Share Dividend is not paid or is not paid in full on a B Share Dividend Payment Date for any reason, the B Members are not entitled to any interest or compounding on the amount unpaid.

- (iii) With respect to any B Share Dividend Period or portion where more than one Relevant Percentage applies in determining the B Share Dividend Rate, the B Share Dividend Rate shall be a weighted average of such B Share Dividend Rates determined by reference to the different Relevant Percentages (based on the number of days during such B Share Dividend Period or portion on which each such rate was in effect).
- (iv) To the extent declared by the Directors, an interim dividend on the B Shares may be paid on an Interim Dividend Payment Date. To the extent an interim dividend is paid during and in relation to a particular B Share Dividend Period, the amount of the B Share Dividend payable on the next following B Share Dividend Payment Date (being the B Share Dividend Payment Date on which the relevant B Share Dividend Period ends) shall be calculated as the product of the amounts referred to in Articles 4.3.3(i)(a) or (b), as the case may be, minus the amount of the relevant interim dividend.
- (v) To the extent declared by the Directors, a Premium Return may be paid at any time in accordance with Article 4.3.8 and shall, upon payment, be deemed to reduce immediately the Paid Up Amount in respect of each B Share to which the Premium Return relates. Any calculation of a B Share Dividend, B Share Purchase Amount and any amount payable under Article 4.3.10(i) shall be adjusted accordingly.

#### **4.3.4 Reset of the B Share Dividend Rate**

- (i) The Majority B Member shall be entitled, at the times and in the manner set out in this Article 4.3.4 to reset the B Share Dividend Rate from the B Floating Dividend Rate to the B Fixed Dividend Rate.
- (ii) The right to reset the B Share Dividend Rate shall be exercisable, at the option of the Majority B Member, on any Business Day by the giving of a Reset Notice to the Company, specifying the date on which such reset is to be effective (the "Reset Date") being a Business Day not less than 12 Business Days after the date of the Reset Notice.
- (iii) For the purposes of determining the B Fixed Dividend Rate, the procedure set out in Schedule 2 applies.
- (iv) If, prior to the Reset Date, an Offer Event has occurred then, notwithstanding the service of a Reset Notice, the Reset Notice shall lapse and be of no further force or effect.
- (v) A Reset Notice once given may not be withdrawn without the consent in writing of the Company.

#### **4.3.5 Voting**

- (i) Subject to Article 7, for so long as there are B Shares in issue, the A Member, present in person, and any person representing such Member by proxy at a general meeting of the Company, shall have the right to a share of 80 per cent. of the total voting rights of all of the Members at such meeting. If there are no B Shares in issue, the A Member, present in person, and any person representing such A Member by proxy at a general

meeting of the Company, shall have 100 per cent. of the voting rights of all the Members at such meeting.

- (ii) Subject to Article 7, for so long as there are B Shares in issue, the B Member(s) present in person and any person representing such B Member(s) by proxy at a general meeting of the Company shall have the right to a share of 20 per cent. of the total voting rights of all of the Members at such meeting and such votes divided pro rata amongst the B Member(s) present by reference to the number of B Shares held as against the number of B Shares held by all Members at such meeting.
- (iii) If there are no A Shares in issue, the B Member(s) present in person and any person representing such B Member(s) by proxy at a general meeting of the Company shall have 100 per cent. of the voting rights of all the Members at such meeting.

#### **4.3.6 No Redemption of the A Shares: Company purchase of its A Shares**

The A Shares are not redeemable and not capable of purchase by the Company.

#### **4.3.7 Purchase by the Company of the B Shares in full**

- (i) The B Shares are not redeemable. The Company may not purchase the B Shares unless so agreed between the Company and the relevant B Member in respect of such B Member's B Shares in accordance with this Article 4.3.7.
- (ii) Subject to the provisions of the Companies Law and this Article 4.3.7 (including without limitation Article 4.3.7(i)), the Company shall offer to purchase all (but not some only) of the B Shares held by the B Member(s), out of Purchase Funds at a price per B Share equal to the B Share Purchase Amount, such offer to be made immediately on becoming aware or being notified by a B Member that an Illegality Event has occurred.
- (iii) Subject to the provisions of the Companies Law and this Article 4.3.7 (including without limitation) Article 4.3.7(i), the Company shall be entitled to offer to purchase all (but not some only) of the B Shares held by the B Member(s) out of Purchase Funds at a price per B Share equal to the B Share Purchase Amount on the date (the "**B Share Purchase Date**"):
  - (a) set out in a Purchase Notice served by the Company on that Member, such date being a Business Day falling not earlier than seven Business Days after delivery to the relevant B Member of a Purchase Notice; and
  - (b) where a Board Event has occurred and is continuing, or a Reset Notice or an Increased Dividend Notice has been given or there is a Change in Law, the date set out in a Purchase Notice served by the Company on that Member, such date being a Business Day falling not earlier than one Business Day after delivery by the Company to the relevant B Member of a Purchase Notice.
- (iv) Service of any Purchase Notice on a B Member shall be to the B Member's last known address as listed in the Register of Members and a Purchase

Notice served on a B Member pursuant to Article 4.3.7(iii)(b) shall be served on such B Member by 2pm (London time) on the date of such service.

- (v) A B Member may accept the purchase of its B Shares by the Company by serving a notice of such acceptance on the Company at its registered office by the close of business (London time) on the Business Day immediately preceding the relevant B Share Purchase Date. If any B Member has not accepted nor refused the offer to purchase its B Shares by the Company by the close of business (London time) on the Business Day immediately preceding the relevant B Share Purchase Date it shall be deemed to have accepted the offer.
- (vi) For the avoidance of doubt, the Company may only serve a Purchase Notice on a B Member in respect of all B Shares held by that B Member, unless there are insufficient Purchase Funds to purchase all such B Shares and (save as provided following in this Article), no B Share shall be purchased by the Company unless all other B Shares held by the B Member(s) whose B Shares are due, pursuant to this Article 4.3.7, to be purchased by the Company have been or will be purchased by the Company simultaneously with such B Share. The Company shall purchase all of the B Shares specified in the relevant Purchase Notice provided that, if the Company does not have sufficient Purchase Funds to purchase all or any of the B Shares specified in the relevant Purchase Notice, the Company shall purchase such number of B Shares specified in the relevant Purchase Notice as may lawfully be purchased at that time. If there is more than one B Member, for the purpose of ascertaining the particular B Shares specified in the relevant Purchase Notice to be purchased by the Company, the Directors shall cause a drawing to be made at the registered office of the Company or at such other place and in such other manner as the Directors may decide. The Company shall purchase any remaining B Shares specified in the relevant Purchase Notice which otherwise would have fallen to be purchased in accordance with this Article 4.3.7(vi) as soon as a reasonably large number of them as the Directors may decide may be lawfully purchased for the B Share Purchase Amount and, if there shall be more than one B Member for the purpose of ascertaining the particular B Shares specified in the relevant Purchase Notice to be purchased, shall cause a drawing to be made at the registered office of the Company or at such other place and in such other manner as the Directors may decide. If the Company and relevant B Member have agreed to a purchase of B Shares in accordance with these Articles, the Company shall (save as provided foregoing in this Article) purchase any B Shares specified in the relevant Purchase Notice at a price per B Share equal to the B Share Purchase Amount.
- (vii) The Company shall purchase the B Shares held by the B Member(s) whose B Shares are due to be purchased on a B Share Purchase Date, on the payment, on the B Share Purchase Date, by the Company (save as otherwise provided in this Article 4.3.7) to each such B Member of the relevant B Share Purchase Amount due in accordance with Article 4.3.7(vi)

in immediately available funds by wire transfer (or as otherwise directed by the relevant B Member at least one Business Day prior to a B Share Purchase Date) to the bank account designated by the relevant B Member, such bank account to be designated by such B Member at least one Business Day prior to the relevant B Share Purchase Date and if no such account has been designated, to the account to which the last B Share Dividend was paid to such B Member and, if no such account, at the B Member's risk, by cheque to the B Member's address in the Register of Members.

- (viii) The B Share Dividend shall cease to be payable on a B Share from the date on which such B Share is purchased by the Company.
- (ix) The voting rights and other rights attaching to the B Share shall terminate on the date on which such B Share is purchased by the Company.
- (x) No B Share shall be purchased by the Company until payment in full has been made of all moneys due to the relevant Member by the Company under these Articles and until such payment is made such B Share shall remain in issue with all the rights attributable to a B Share, including, without limitation, voting rights and rights to the B Share Dividend.
- (xi) On a purchase by the Company of a B Share that B Share shall be noted as purchased in the Register of Members but shall be available for reissue (subject to the provisions of these Articles) and, until reissued, shall remain part of the unissued share capital of the Company.

#### **4.3.8 Premium Return in respect of the B Shares**

- (i) Any B Member may refuse to accept the offer to purchase its B Shares by the Company in accordance with Article 4.3.7 by giving notice to the Company at its registered office by the close of business (London time) on the Business Day immediately preceding the relevant B Share Purchase Date.
- (ii) If an Offer Event has occurred, then in respect of any B Shares that are not purchased by the Company ("**Outstanding B Shares**"), the Company may to the fullest extent applicable law so permits distribute by way of dividend to the B Member holding the Outstanding B Shares, on the date which would have otherwise have been the B Share Purchase Date, all share premium credited as paid up on the issue of all (and not some only) of the Outstanding B Shares in accordance with Article 4.3.8(iii).
- (iii) Subject to the provisions of Article 4.3.8(ii), the provisions of the Companies Law and these Articles (including as applicable Article 4.3.3), the Company shall make the payment to each such B Member required under Article 4.3.8(ii) of the relevant amount specified in Article 4.3.8(ii) in immediately available funds by way of wire transfer (or as otherwise directed by the relevant B Member at least one Business Day prior to the date which would have otherwise have been the B Share Purchase Date) to the bank account designated by the relevant B Member, such bank account to be designated by such B Member at least one Business Day prior to the date which would have otherwise have been the B Share Purchase Date and if

no such account has been designated, to the account to which the last B Share Dividend was paid to such B Member and, if no such account, by cheque to the B Member's last known address as listed in the Register of Members at the B Member's risk.

#### **4.3.9 Transfers of Shares**

- (i) Subject to Article 4.3.9(ii), any Member (the "Transferor") may sell, transfer, charge or otherwise dispose of or grant or permit to exist any Security Interest or other interest (a "Dealing") in or over all of the A Shares or all or some only of the B Shares held by such Member provided that the Transferor shall give at least 10 Business Days' prior written notice to the Company of such Dealing unless:
  - (a) this notice period has been disapplied by a resolution of the Directors; or
  - (b) it is a sale, transfer or other disposal of B Shares to a person who is or was an A Member,provided always that no Member's Shares may be redeemed.
- (ii) So long as any B Shares are outstanding, the A Shares may only be sold or otherwise transferred, provided that, in giving effect to such sale or transfer, the restriction in Article 4.3.1 will continue to be complied with.

#### **4.3.10 Return of Capital on Liquidation**

On a return of capital on liquidation or winding up of the Company, the assets of the Company available for distribution amongst its Members shall be applied in the following order of priority:

- (i) first, (subject to Article 4.3.3(v)) paying to the holder of each B Share then in issue *pari passu* an amount on such B Share equal to the Minimum B Share Purchase Amount (and upon such payment in full the holders of B Shares shall not be entitled to any further rights of participation in the assets of the Company on a return of capital on liquidation or winding up of the Company or otherwise); and
- (ii) thereafter, the remainder to the A Member.

#### **4.3.11 Liquidated Damages**

Each holder of B Shares from time to time agrees that liquidated damages for breach of the covenant contained in clause 8.1 of the Deed Poll (whether as a result of, or in conjunction with, a breach of representation) provide an appropriate remedy and such damages shall be payable in the amount determined in clause 9.1 of the Deed Poll and a claim for damages shall not be valid unless made before the date specified in clause 9.1 of the Deed Poll.

## **5 RESTRICTED MATTERS**

From the B Share Issue Date and for so long as the B Shares issued on the B Share Issue Date remain outstanding, without the consent of the Majority B Member, the Company may not:



- 5.1 sell, lease or exchange all or substantially all of the assets of the Company (except to the extent explicitly referred to or authorised in the Articles and the current Guidelines); and
- 5.2 admit in writing the Company's inability to pay its debts generally as they become due or take action in furtherance of any such action.

## **6 UNISSUED SHARES**

Subject as otherwise provided in these Articles (including, without limitation, Article 4.3.1), all Shares for the time being and from time to time unissued shall be under the control of the Directors, and may be re-designated, allotted or disposed of in such manner to such Persons and on such terms as the Directors, in their absolute discretion, may think fit. No Shares may be issued other than as A Shares or B Shares and all Shares must be issued fully paid provided always that this shall not apply to the one A Share issued to the Subscriber to the Memorandum of Association.

## **7 VARIATION OF RIGHTS ATTACHING TO SHARES**

- 7.1 If at any time the share capital is divided into different classes of Shares, the rights attaching to any class (unless otherwise provided by the terms of issue of the Shares of that class) may only be varied or abrogated by the Company with the consent in writing of all Members of that class.
- 7.2 The rights conferred upon the holders of the Shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied or abrogated by the creation or issue of any further A Shares or B Shares. The rights attached to any class of Shares issued with preferred or other rights shall be deemed to not be varied or abrogated by the purchase by the Company of any of its own Shares.

## **8 SHARE CERTIFICATES AND KEEPING OF REGISTER OF MEMBERS**

- 8.1 The Company shall, upon the issuance of Shares to any Member in accordance with the provisions of these Articles and at the request of the Member who holds such Shares, issue share certificates in the name of such Member (each a "**Share Certificate**"). Each Share Certificate shall specify the number and class of Shares of the Company represented by it and shall be signed on behalf of the Company by manual signature of a Director of the Company.
- 8.2 Upon a Member notifying the Company of a lost, stolen, destroyed or mutilated Share Certificate, the Company may issue replacement Share Certificates to replace such lost, stolen, destroyed or mutilated Share Certificates on such terms (if any) as to evidence and indemnity as the Directors may prescribe.
- 8.3 *The Register of Members shall be kept in the Cayman Islands at the registered office of the Company. No branch Register of Members shall be kept outside the Cayman Islands.*
- 8.4 The Company shall deliver a certified copy of the Register of Members to, or to the order of, any Member as soon as reasonably practicable after receipt of a written request therefor.

## **9 TRANSFER OF SHARES**

- 9.1** The instrument of transfer of any Share shall be in any usual or common form or such other form as the Directors may, in their absolute discretion, approve and be executed by or on behalf of the transferor and if in respect of a nil or partly paid up Share shall also be executed on behalf of the transferee, and shall be accompanied by such evidence as the Directors may reasonably require to show the right of the transferor to make the transfer. The transferor shall be deemed to remain a holder of the Share until the name of the transferee is entered in the Register of Members in respect thereof.
- 9.2** The Directors shall decline to register a transfer of Shares unless it is made in accordance with Article 4.3.9 and the Directors shall promptly but in any event within two Business Days register a transfer of Shares made in accordance with Article 4.3.9.
- 9.3** Notwithstanding any other provision of these Articles, if at any time the Directors determine or are notified that any Member is not an Institutional Accredited Investor and a Qualified Purchaser then the Company shall have the right to:
- 9.3.1** call for evidence that such Member does not satisfy the above criterion; and
  - 9.3.2** compel the Member to sell the relevant Shares to a person that meets the above criterion and is qualified to hold the Shares immediately upon receipt of a notice from the Company that the Member does not satisfy the above criterion. Each Member grants the Company all power and authority to execute, on behalf of such Member, all necessary documentation to effect such sale.
- 9.4** All instruments of transfer which are registered shall be retained by the Company at its registered office in the Cayman Islands, but any instrument of transfer which the Directors decline to register shall (except in any case of fraud) be returned to the Person depositing the same accompanied by a statement as to the reason for refusing the registration of such transfer.

## **10 TRANSMISSION OF SHARES**

- 10.1** The legal personal representative of a deceased sole holder of a Share shall be the only Person recognised by the Company as having any title to the Share. In the case of a B Share registered in the name of two or more holders, the survivors or survivor, or the legal personal representatives of the deceased survivor, shall be the only Person recognised by the Company as having any title to that Share.
- 10.2** Any Person becoming entitled to a Share in consequence of the death or bankruptcy of a Member shall upon such evidence being produced as may from time to time be required by the Directors, have the right either to be registered as a Member in respect of the Share or, instead of being registered himself, to make such transfer of the Share as the deceased or bankrupt Member could have made; but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by the deceased or bankrupt person before the death or bankruptcy.
- 10.3** A Person becoming entitled to a Share by reason of the death or bankruptcy of a Member shall be entitled to the same dividends and other advantages to which such Person would be entitled if such Person were the registered holder of the Share, except that such Person shall not, before being registered as a Member in respect of the Share, be entitled, in

respect of it, to exercise any right conferred by membership in relation to meetings of the Company.

- 10.4** Notwithstanding any other provision of these Articles, if, by reason of the death or bankruptcy of a Member, any Member that becomes entitled to a Share by reason of such death or bankruptcy is not an Institutional Accredited Investor and a Qualified Purchaser, the Company shall have the right to:

**10.4.1** call for evidence that such Member does not satisfy the above criterion; and

**10.4.2** compel the Member to sell the relevant Shares to a person that meets the above criterion and is qualified to hold the Shares immediately upon receipt of a notice from the Company that the Member does not satisfy the above criterion. Each Member grants the Company all power and authority to execute, on behalf of such Member, all necessary documentation to effect such sale.

## **11 ALTERATION OF SHARE CAPITAL**

- 11.1** The Company may from time to time by Special Resolution (and only by Special Resolution) increase the share capital by such sum, to be divided into Shares of such classes and amount, as the resolution shall prescribe.

- 11.2** The Company may by Special Resolution (and only by Special Resolution):

**11.2.1** consolidate and divide all or any of its share capital into Shares of a larger amount than its existing Shares;

**11.2.2** convert all or any of its paid up Shares into stock and reconvert that stock into paid up Shares of any denomination;

**11.2.3** subdivide its existing Shares, or any of them into Shares of a smaller amount provided that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced Share shall be the same as it was in case of the Share from which the reduced Share is derived;

**11.2.4** cancel any Shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any Person and diminish the amount of its share capital by the amount of the Shares so cancelled.

- 11.3** The Company may by Special Resolution reduce its share capital and any capital redemption reserve in any manner authorised by law.

## **12 PURCHASE OF OWN SHARES**

- 12.1** Subject to the provisions of the Companies Law and the other provisions of these Articles, the Company may:

**12.1.1** not issue Shares on terms that they are redeemable or are liable to be redeemed;

**12.1.2** purchase the B Shares, or may enter into a contract under which it will or may purchase the B Shares, on such terms and in such manner as the Directors may determine and agree with the applicable B Member; and

**12.1.3** make a payment in respect of the purchase of its own Shares otherwise than out of profits, Share Premium Account or the proceeds of a fresh issue of Shares.

- 12.2** Any Share in respect of which a Purchase Notice has been served shall not be entitled to participate in the profits of the Company in respect of the period after the date specified as the date of purchase in the Purchase Notice unless purchase of such Share by the Company does not occur on the date specified in any such Purchase Notice.

### **13 CLOSING REGISTER OF MEMBERS OR FIXING RECORD DATE**

- 13.1** For the purpose of determining those Members that are entitled to receive notice of, attend or vote at any meeting of Members or any adjournment thereof, or in order to make a determination as to who is a Member for any other purpose, the Directors may provide that the Register of Members shall be closed for transfers for a stated period which shall not exceed in any case two Business Days. If the Register of Members shall be so closed for the purpose of determining those Members that are entitled to receive notice of, attend or vote at a meeting of Members the Register of Members shall be so closed for at least two Business Days immediately preceding such meeting and the record date for such determination shall be the date of the closure of the Register of Members.
- 13.2** In lieu of or apart from closing the Register of Members, the Directors may fix in advance a date as the record date for any such determination of those Members that are entitled to receive notice of, attend or vote at a meeting of the Members.
- 13.3** If the Register of Members is not so closed and no record date is fixed for the determination of those Members entitled to receive notice of, attend or vote at a meeting of Members, the date on which notice of the meeting is posted shall be the record date for such determination of Members. When a determination of those Members that are entitled to receive notice of, attend or vote at a meeting of Members has been made as provided in this Article, such determination shall apply to any adjournment thereof.

### **14 CONVENING OF GENERAL MEETINGS**

- 14.1** The Directors may, whenever they think fit, convene a general meeting of the Company.
- 14.2** A Member entitled to attend and vote at general meetings of the Company may, whenever it thinks fit, convene a general meeting of the Company. General meetings shall be convened on the written requisition of any Member or Members entitled to attend and vote at general meetings of the Company who hold not less than 10 per cent. of the paid up voting share capital of the Company deposited at the registered office of the Company specifying the objects of the meeting for a date no later than 21 days from the date of deposit of the requisition signed by the requisitionists, and if the Directors do not convene such meeting for a date not later than 45 days after the date of such deposit, the requisitionists themselves may convene the general meeting in the same manner, as nearly as possible, as that in which general meetings may be convened by the Directors, and all reasonable expenses incurred by the requisitionists as a result of the failure of the Directors to convene the general meeting shall be reimbursed to them by the Company.

### **15 NOTICE OF GENERAL MEETINGS**

- 15.1** The notice period for a general meeting shall be the time provided for in the notice convening the meeting.

- 15.2** Notices of general meetings shall specify the place in the United Kingdom, the day and the hour of the meeting, the general nature of the business to be conducted at the meeting and the terms of any resolution proposed to be put to that meeting and shall be given in the manner provided in these Articles to such Persons as are, under these Articles, entitled to receive such notice. The failure to set out in the notice of general meeting the terms of the resolutions to be put to that meeting shall, unless all the Members present at that meeting agree on the amendments to any resolution before it is put to the meeting, invalidate the notice and the meeting.
- 15.3** With the consent of all the Members entitled to attend and vote at a particular general meeting, that meeting may be convened by such shorter notice or without notice and in such manner as those Members may think fit.

## **16 PROCEEDINGS AT GENERAL MEETINGS**

- 16.1** No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. All general meetings shall be held in the United Kingdom.
- 16.2** The quorum for general meetings shall be at least the A Member present in person or by proxy and the Majority B Member present in person or by proxy, unless there are no B Shares in issue in which case the quorum shall be the A Member present in person or by proxy. Where quorum is not achieved in any general meeting (other than in circumstances where there are no B Shares), due to the A Member or Majority B Member not being present in person or by proxy, such meeting shall be adjourned and reconvened with no less than two Business Days notice to the Members and at such reconvened meeting quorum may be achieved without the presence of such A Member or Majority B Member who was not present at the adjourned meeting, as relevant.
- 16.3** Subject to Article 16.2, if within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall be dissolved.
- 16.4** If the Directors wish to make this facility available to Members for a specific or all general meetings of the Company, a Member may participate in any general meeting of the Company, by means of telephone or similar communication equipment by way of which all persons participating in such meeting can hear each other and such participation shall be deemed to constitute presence in person at the meeting.
- 16.5** The chairman, if any, of the Board of Directors shall preside as chairman at every general meeting of the Company.
- 16.6** If there is no such chairman, or if at any general meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the Members present shall choose one of their number to be chairman of that meeting.
- 16.7** The chairman may, with the consent of any general meeting at which a quorum is present (and shall if so directed by the meeting), adjourn a meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 14 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

- 16.8** At any general meeting a resolution put to the vote of the meeting shall be decided on a poll. A poll shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 16.9** In the case of an equality of votes the chairman of the meeting shall not be entitled to a second or casting vote and the resolution will not be passed.
- 16.10** In the case of joint holders the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the joint holders and for this purpose seniority shall be determined by the order in which the names stand in the Register of Members.
- 16.11** A Member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote on a poll, by his committee, or other Person in the nature of a committee appointed by that court, and any such committee or other Person, may vote by proxy.
- 16.12** No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by such Member in respect of Shares carrying the right to vote held by such Member have been paid.
- 16.13** Votes may be given either personally or by proxy.
- 16.14** The instrument appointing a proxy shall be in writing under the hand of the appointor or of 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. A proxy need not be a Member.
- 16.15** An instrument appointing a proxy may be in any usual or common form or such other form as the Directors may approve.
- 16.16** A resolution in writing signed in the United Kingdom by all the Members for the time being entitled to receive notice of and to attend and vote at general meetings (or being corporations by their duly authorised representatives) shall be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held.

## **17 CORPORATIONS ACTING BY REPRESENTATIVES AT MEETINGS**

Any corporation which is a Member or a Director may authorise such Person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members or of the Board of Directors or of a committee of Directors, and the Person so authorised shall be entitled to exercise the same powers on behalf of the corporation which such Person represents as that corporation could exercise if it were an individual Member or Director.

## **18 DIRECTORS**

- 18.1** Subject to Article 18.3, the maximum number of Directors shall be three. The name of the first Director(s) shall be determined in writing by the sole subscriber to the Memorandum of Association. The Company shall keep or cause to be kept at its registered office the register of the Directors in the manner required by the Companies Law.
- 18.2** The A Member may, subject to Articles 18.3, 18.4 and 18.5, appoint and remove by written notice up to three Directors.

- 18.3** For so long as any B Shares are in issue, following the occurrence of a Board Event, the maximum number of Directors shall immediately and automatically upon the written request of any B Member to the Company be increased from three to seven (without the need for the Board to take any action or for any further action by the Company or any other Person) (unless an Offer Event has occurred before the written request is received by the Company in which case the Board Event shall be Cured and the written request shall lapse and cease to be of effect). For so long as any B Shares are in issue, following the occurrence of a Board Event, the Majority B Member may, subject to Article 18.4, appoint and remove by written notice four Directors (the "B Share Directors") and the A Member may appoint and remove by written notice up to three Directors (but may not appoint and remove the B Share Directors). For the avoidance of doubt, subject to Article 19.4, a B Share Director, once appointed, shall not be removed solely because of a Cure of the Board Event which gave rise to their entitlement to be appointed.
- 18.4** If an Offer Event has occurred, (a) the term of office of the B Share Directors shall terminate from and after the date of such Offer Event (without the need for the Board to take any action or for any further action by the Company or any other Person) and (b) the maximum number of Directors shall be decreased to three (without the need for the Board to take any action or for any further action by the Company or any other Person) all of whom shall be appointable and removable by the A Member.
- 18.5** No person shall be eligible to be appointed a Director unless that person is and has been for more than two and a half years prior to the date of appointment resident in the United Kingdom for tax purposes.
- 18.6** Subject to the provisions of these Articles, a Director shall hold office until such time as he is removed from office by the Company pursuant to Article 22.1 or such Director's office is otherwise vacated in accordance with Article 22.1 or by the Members responsible for originally appointing that Director and such Director shall (without prejudice to Article 18.3) be replaced with a Director appointed by the Members responsible for originally appointing the removed Director.
- 18.7** Any remuneration of the Directors may be determined by the Board of Directors or by the Company by Ordinary Resolution.
- 18.8** There shall be no shareholding qualification for Directors.

## **19 ALTERNATE DIRECTOR**

- 19.1** Any Director may in writing appoint another person who is, and shall have been for more than two and a half years prior to the date of appointment, resident in the United Kingdom for tax purposes to be their alternate to act in his place at any meeting of the Directors at which that Director is unable to be present. Every such alternate shall be entitled to notice of meetings of the Directors and to attend and vote thereat as a Director when the person appointing such alternate is not personally present and where such alternate is a Director to have a separate vote on behalf of the Director such alternate is representing, in addition to the alternate's own vote as a Director. A Director may at any time in writing revoke the appointment of an alternate appointed by such Director. Such alternate shall not be an officer of the Company and shall be deemed to be the agent of the Director appointing the alternate. The remuneration of such alternate shall be payable out of the remuneration of

the Director appointing the alternate and the proportion thereof shall be agreed between them.

- 19.2** Any Director may appoint any person who is, and shall have been for more than two and a half years prior to the date of appointment, resident in the United Kingdom for tax purposes, whether or not a Director, to be the proxy of that Director to attend and vote on his behalf, in accordance with instructions given by that Director, or in the absence of such instructions at the discretion of the proxy, at a meeting or meetings of the Directors which that Director is unable to attend personally. The instrument appointing the proxy shall be in writing under the hand of the appointing Director and shall be in any usual or common form, or such other form as the Directors may approve, and must be lodged with the chairman of the meeting of the Directors at which such proxy is to be used, or first used, prior to the commencement of the meeting.

## **20 POWERS AND DUTIES OF DIRECTORS**

- 20.1** Subject to the provisions of the Companies Law, the Memorandum of Association and these Articles (including, without limitation, Articles 5, 20.6, 21, 23.3 and 28) and to any resolutions made in a general meeting, the business and affairs of the Company shall be managed in the United Kingdom by the Directors, who may pay all expenses incurred in setting up and registering the Company and may exercise all powers of the Company. No resolution made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if that resolution had not been made.
- 20.2** The Directors may from time to time appoint any person who is, and shall have been for more than two and a half years prior to the date of appointment, resident in the United Kingdom for tax purposes, whether or not a Director to hold such office in the Company as the Directors may think necessary for the administration of the Company, including but not limited to, the office of President, one or more vice-presidents, treasurer, assistant treasurer, secretary, assistant secretary, manager or controller. Any such appointment shall be at such remuneration (whether by way of salary, commission or participation in profits or partly in one way and partly in another), and shall enjoy such powers and duties as the Directors may think fit. Unless otherwise specified in Article 22.1 any such appointment may only be terminated by Special Resolution. The Directors may also appoint one or more of their number to the office of Managing Director upon like terms, but any such appointment shall *ipso facto* terminate if any Managing Director ceases from any cause to be a Director, or if the Company by Ordinary Resolution resolves that his tenure of office be terminated.
- 20.3** The Directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall consist entirely of persons who are and shall have been for more than two and a half years prior to the date of appointment resident in the United Kingdom for tax purposes and shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.
- 20.4** The Directors may from time to time and at any time by power of attorney appoint any company, firm or Person or body of Persons who in each case is and shall have been for more than two and a half years prior to the date of appointment resident in the United Kingdom for tax purposes, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers,



authorities and discretion (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit, and any such power of attorney may contain such provisions for the protection and convenience of Persons dealing with any such attorney as the Directors may think fit, and may also authorise any such attorney to delegate all or any of the powers, authorities and discretion vested in the attorney.

**20.5** The Directors may, from time to time, provide for the management of the affairs of the Company in such manner as they shall think fit.

**20.6** In addition to any other duties provided herein:

**20.6.1** to the extent allowed by applicable law, each Director and officer of the Company shall agree to be subject to fiduciary duties that such Person would have if he or she were a Director or officer, as the case may be, of a company incorporated under the laws of England and Wales, provided that no Director shall be required to comply with any requirement of English law as to such fiduciary duties to the extent that it is inconsistent with, *fiduciary duties under Cayman Islands law as currently in effect or as the same may be amended or modified from time to time*;

**20.6.2** subject to the fiduciary duties set out in Article 20.6.1 each Director shall exercise their powers in accordance with the current Guidelines once such Guidelines have been approved by Special Resolution.

## **21 BORROWING POWERS OF DIRECTORS**

Subject to these Articles, the Memorandum of Association and as may be permitted or contemplated by the Company's objects, the Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital or any part thereof and to issue debentures, debenture stock, mortgages, bonds and other such securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

## **22 DISQUALIFICATION OF DIRECTORS AND OTHER OFFICERS**

**22.1** The office of Director or other person appointed in accordance with Article 20.2 shall be vacated, if the Director or such person:

**22.1.1** becomes bankrupt or makes any arrangement or composition with such Director's or such person's creditors;

**22.1.2** ceases to be resident in the United Kingdom for tax purposes;

**22.1.3** is found to be or becomes of unsound mind;

**22.1.4** resigns that office by notice in writing to the Company;

**22.1.5** is removed from office by Special Resolution;

**22.1.6** is removed in accordance with Articles 18.2 and 18.3; or

**22.1.7** has their term of office terminated under Articles 18.3 and 18.4.

## **23 PROCEEDINGS OF DIRECTORS**

- 23.1** The Directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings and proceedings as they think fit. All meetings of the Board of Directors must be held in the United Kingdom and for these purposes with respect to a meeting of the Board of Directors convened by telephone at least a majority of the Directors attending the meeting, whether in person or by telephone, must be present in the United Kingdom and the telephone call must originate from the United Kingdom.
- 23.2** Questions arising at any meeting shall be decided by a majority of votes. Subject to Article 23.3, each Director, including each B Share Director, shall have one vote. In the case of an equality of votes the chairman shall not be entitled to a second or casting vote.
- 23.3** For so long as one or more Board Events has occurred and is continuing, a B Share Director may, from time to time, call a meeting of the Board of Directors to authorise any action to be taken by the Board of Directors to effect a Cure of such Board Event, which action may be authorised by the Board of Directors with the B Share Directors being entitled to cast a number of votes sufficient to authorise that action, without regard to whether the other Directors agree.
- 23.4** A Director may, and a secretary or assistant secretary on the requisition of a Director shall, at any time on at least three Business Days' notice given to all Directors summon a meeting of the Board of Directors, provided that following the occurrence of a Board Event a Director may on one Business Days' notice given to all Directors summon a meeting of the Board of Directors. A meeting of the Board of Directors may, with the consent of all the Directors, be convened on such shorter notice or without notice and in such manner as all the Directors may think fit.
- 23.5** Subject to Article 23.1, a Director or Directors may participate in any meeting of the Board of Directors, or of any committee appointed by the Board of Directors of which such Director or Directors are members, by means of telephone or similar communication equipment by way of which all persons participating in such meeting can hear each other and such participation shall be deemed to constitute presence in person at the meeting provided that nothing in this Article shall be deemed to allow a meeting to take place outside the United Kingdom.
- 23.6** The quorum necessary for the transaction of the business of the Directors shall be:
- 23.6.1** upon the appointment of the B Share Directors by the holder(s) of the majority of the B Shares following a Board Event which has not been Cured, four Directors;
- 23.6.2** if all of the B Shares held by the B Member(s) who appointed the B Share Directors have been purchased by the Company, two Directors; and
- 23.6.3** in all other cases (including, for the avoidance of doubt, prior to a Board Event which has not been Cured) and/or if no B Shares are in issue, two Directors.

A Director represented by proxy or by an Alternate Director at any meeting shall be deemed to be present for the purposes of determining whether or not a quorum is present. Where quorum is not achieved at any meeting due to the non-attendance by any Director (or its proxy or Alternate Director), such meeting shall be reconvened with no less than 1 Business Day's notice to all Directors until there is a quorum.

- 23.7** A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company shall declare the nature of such interest at a meeting of the Directors. A general notice given to the Board of Directors by any Director to the effect that such Director is a member of any specified company or firm or any Affiliate thereof and is to be regarded as interested in any contract which may thereafter be made with that company or firm shall be deemed a sufficient declaration of interest in regard to any contract so made. A Director may vote in respect of any contract or proposed contract or arrangement notwithstanding that such Director may be interested therein and if such Director does so such Director's vote shall be counted and such Director may be counted in the quorum at any meeting of the Directors at which any such contract or proposed contract or arrangement shall come before the meeting for consideration.
- 23.8** A Director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with the office of Director for such period and on such terms (as to remuneration and otherwise) as the Directors may determine and no Director or intending Director shall be disqualified by such office from contracting with the Company either with regard to such Director's tenure of any such other office or place of profit or as vendor, purchaser or otherwise, nor shall any such contract or arrangement entered into by or on behalf of the Company in which any Director is in any way 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 relation thereby established. A Director, notwithstanding such Director's interest, may be counted in the quorum present at any meeting of the Directors whereat such Director or any other Director is appointed to hold any such office or place of profit under the Company or whereat the terms of any such appointment are arranged and such Director may vote on any such appointment or arrangement.
- 23.9** Any Director may act personally or through a firm in a professional capacity for the Company, and such Director or firm shall be entitled to remuneration for professional services as if such Director were not a Director; provided that nothing herein contained shall authorise a Director or firm to act as auditor to the Company.
- 23.10** The Directors shall cause minutes to be made in books or loose-leaf folders provided for the purpose of recording:
- 23.10.1** all appointments of officers made by the Directors;
- 23.10.2** the names of the Directors present at each meeting of the Directors and of any committee of the Directors;
- 23.10.3** all resolutions and proceedings at all meetings of the Company, and of the Directors and of committees of Directors.
- 23.11** Subject to Article 23.1 and provided that any meeting of the Directors is held in the United Kingdom, when the chairman of a meeting of the Directors signs the minutes of such meeting, that meeting shall be deemed to have been duly held in all respects notwithstanding that all the Directors have not actually come together or that there may have been a technical defect in the proceedings.
- 23.12** A resolution signed in the United Kingdom by all the Directors shall be as valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted.

When signed a resolution may consist of several documents each signed by one or more of the Directors and shall be valid and effective as and when the last such document is signed.

- 23.13** The continuing Directors may act notwithstanding any vacancy in their body but if and so long as their number is reduced below the number fixed by or pursuant to these Articles as the necessary quorum of Directors, the continuing Directors may act for the purpose of increasing the number, or of summoning a general meeting of the Company, but for no other purpose.
- 23.14** The Directors may elect a chairman of their meetings and determine the period for which the chairman is to hold office but if no such chairman is elected, or if at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the meeting, the Directors present may choose one of their number to be chairman of the meeting.
- 23.15** A committee appointed by the Directors may elect a chairman of its meetings. If no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairman of the meeting.
- 23.16** A committee appointed by the Directors may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the committee members present and in case of an equality of votes the chairman shall have a second or casting vote.
- 23.17** All acts done by any meeting of the Directors or of a committee of Directors, or by any person acting as a Director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director 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 unless the defect in question, or the disqualification in question is that one or more persons were not or had not been for more than two and a half years prior to the date of appointment resident in the United Kingdom for tax purposes, or were not present in the United Kingdom at the relevant time.

## **24 DIVIDENDS**

- 24.1** Subject to any rights and restrictions for the time being attached to any class or classes of Shares, the Directors may from time to time declare Dividends (including interim dividends) and other distributions on Shares in issue and authorise payment of the same out of Distributable Funds provided that, except as provided in Article 4.3.8(ii), no B Dividend, and no interim dividends on any B Share, shall be paid out of the Share Premium Account which shall be disregarded in determining funds available for distribution by way of Dividend on the B Shares.
- 24.2** The Directors may, before recommending, declaring or paying any Dividend, set aside out of Distributable Funds such sums as they think proper as a reserve or reserves which shall, in the absolute discretion of the Directors be applicable for meeting contingencies, or for equalising Dividends or for any other purpose to which those funds may be properly applied and pending such application may, in the absolute discretion of the Directors, either be employed in the business of the Company or be invested in such investments (other than shares) as the Directors may from time to time think fit.

- 24.3** Save as otherwise provided in these Articles or requested in writing at least one Business Day prior to the date such Dividend is paid by the relevant Members entitled to receive such Dividend, any Dividend shall be paid by electronic funds transfer in immediately available funds to the account of the Member or Person entitled thereto, or in the case of joint holders, to the account of any one of such joint holders, in each case specified at least one Business Day prior to the date of payment, or to such Person and such account as the Member or Person entitled, or such joint holders, may direct at least one Business Day prior to the date of payment.
- 24.4** If several Persons are registered as joint holders of any B Share, any of them may give effectual receipts for any Dividend or other moneys payable on or in respect of that Share.
- 24.5** Subject to Article 24.1, if and so far as in the opinion of the Directors that the Distributable Funds of the Company justify such payments, the Directors may from time to time declare and authorise payment of interim dividends on Shares of any class in such amounts and on such dates and in respect of such periods as they think fit. Provided the Directors act in good faith they shall not incur any liability to the holders of any Shares for any loss they may suffer by the lawful payment, on any other class of Shares having rights ranking after or *pari passu* with those shares, of any such interim dividend as aforesaid.

## **25 ACCOUNTS AND AUDIT**

- 25.1** The books of account relating to the Company's affairs shall be kept in such manner as may be determined from time to time by the Directors and at such place or places as the Directors think fit, and shall always be open to the inspection of the Directors. The Company shall make up its accounts to 31 December in each year unless the Directors approve otherwise.
- 25.2** Unless the relevant Member (or any Affiliate of that Member) or Director is already in possession of the information, the Company shall, as soon as reasonably practicable, provide to the fullest extent permitted under applicable law all Members and Directors:
- 25.2.1** with copies of any notice, circular, report, document or other written information provided to the Company by any Member or any creditor;
  - 25.2.2** with such further information as a Member or a Director may request which information is in the possession or power of the Company regarding its business, financial condition and operations and which is not prohibited from disclosure by any contractual, legal or fiduciary obligation; and
  - 25.2.3** with notice of any action, arbitration or administrative proceeding, whether current, threatened or pending, before any court or agency ("**Proceedings**") and provide such further information as they reasonably request in respect thereof, including copies of all submissions by the parties to such Proceedings or any orders by the adjudicator.
- 25.3** The Directors shall appoint the auditors of the Company.

## **26 CAPITALISATION OF RESERVES**

Subject to the Companies Law, the Directors may, with the authority of a Special Resolution:

- 26.1** resolve to capitalise an amount standing to the credit of reserves (including the Share Premium Account, capital redemption reserve and profit and loss account), whether or not available for distribution;
- 26.2** appropriate the sum resolved to be capitalised to the Members in proportion to the nominal amount of Shares (whether or not fully paid) held by them respectively and apply that sum on their behalf in or towards:
- 26.2.1** paying up the amounts (if any) for the time being unpaid on Shares held by them respectively, or
- 26.2.2** paying up in full unissued Shares or debentures of a nominal amount equal to that sum,
- and allot the Shares or debentures, credited as fully paid, to the Members (or as they may direct) in those proportions, or partly in one way and partly in the other, but the Share Premium Account, capital redemption reserve and profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued Shares to be allotted to Members credited as fully paid;
- 26.3** make any arrangements they think fit to resolve a difficulty arising in the distribution of a capitalised reserve;
- 26.4** authorise a Person to enter (on behalf of all the Members concerned) an agreement with the Company providing for either:
- 26.4.1** the allotment to the Members respectively, credited as fully paid, of Shares or debentures to which they may be entitled on the capitalisation, or
- 26.4.2** the payment by the Company on behalf of the Members (by the application of their respective proportions of the reserves resolved to be capitalised) of the amounts or part of the amounts remaining unpaid on their existing Shares,
- and any such agreement made under this authority being effective and binding on all those Members; and
- 26.5** generally do all acts and things required to give effect to the resolution.

## **27 SHARE PREMIUM ACCOUNT**

- 27.1** The Directors shall in accordance with Section 34 of the Companies Law establish a Share Premium Account and shall carry to the credit of such account from time to time a sum equal to the amount or value of the premium paid on the issue of any Share. Such Share Premium Account may be applied for the purpose of Articles 4.3.7(vi) and 4.3.8(ii).
- 27.2** On the purchase of a Share by the Company there shall be debited to the Share Premium Account the difference between the nominal value of such Share and the purchase price provided always that at the discretion of the Directors such sum may be paid out of the profits of the Company or, if permitted by Section 37 of the Companies Law, out of capital.
- 27.3** On the distribution by way of dividend by the Company in accordance with Article 4.3.8(ii) there shall be debited to the Share Premium Account the amount of premium so distributed to B Members.

## **28 GUIDELINES**

*The Company shall, prior to the Rate Fixing Date, by Special Resolution adopt the Guidelines, as previously approved by the Board of Directors, in such form as the Members see fit.*

## **29 NOTICES**

- 29.1** Any notice or document may be served by the Company or by the Person entitled to give notice to any Member either personally, by facsimile or by sending it through the post in a prepaid letter or via a recognised courier service, fees prepaid, addressed to the Member at his address as appearing in the Register of Members. In the case of joint holders of a B Share, all notices shall be given to that one of the joint holders whose name stands first in the Register of Members in respect of the joint holding, and notice so given shall be sufficient notice to all the joint holders.
- 29.2** Any Member present, either personally or by proxy, at any meeting of the Company shall for all purposes be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was convened.
- 29.3** Subject to Article 29.7, any notice or other document, if served by (a) post, shall be deemed to have been served five days after the time when the letter containing the same is posted, or (b) facsimile, shall be deemed to have been served upon production by the transmitting facsimile machine of a report confirming transmission of the facsimile in full to the facsimile number of the recipient, or (c) recognised courier service, shall be deemed to have been served three days after the time when the letter containing the same is delivered to the courier service. In proving service by post or courier service it shall be sufficient to prove that the letter containing the notice or documents was properly addressed and duly posted or delivered to the courier service.
- 29.4** Any notice or document delivered or sent by post to or left at the registered address of any Member in accordance with the terms of these Articles shall notwithstanding that such Member be then dead or bankrupt, and whether or not the Company has notice of his death or bankruptcy, be deemed to have been duly served in respect of any Share registered in the name of such Member as sole or joint holder, unless such Member's name shall at the time of the service of the notice or document, have been removed from the Register of Members as the holder of the Share, and such service shall for all purposes be deemed a sufficient service of such notice or document on all Persons interested (whether jointly with or as claiming through or under such Member) in the Share.
- 29.5** Notice of every general meeting of the Company shall be given to:
- 29.5.1** all Members (and any Affiliate of a Member specified by such Member) holding Shares with the right to receive notice and who have supplied to the Company an address for the giving of notices to them; and
  - 29.5.2** every Person 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.
- 29.6** Notwithstanding Articles 29.1 to 29.5, but subject to Article 29.7, any notice shall be in writing or by facsimile transmission (provided that in the case of facsimile transmission it shall be confirmed in writing simultaneously dispatched) addressed to the relevant party for

the attention of the appropriate person. Any such facsimile transmission shall be deemed to have been received at the time that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be that of the sender and will not be proved by a transmission report generated by the sender's facsimile machine), provided that such receipt occurred between 9:00 a.m. and 5:00 p.m. on a Business Day in the place of receipt of the relevant notice, failing which it shall be deemed to have been received if received prior to 9:00 a.m. on a Business Day at the commencement of business on that Business Day, and if received after 5:00 p.m. on a Business Day in the place of receipt of the relevant notice or at any time on a non-Business Day at the commencement of business on the next Business Day. Any such written notice shall be treated as received when actually received (without reference to time of receipt of any copies, provided such copies have been sent).

- 29.7** For the purposes of delivery of any Increased Dividend Notice or Purchase Notice, such notice shall be deemed to be given to the recipient on actual receipt.

### **30 INDEMNITY**

- 30.1** Every Director (including for the purposes of this Article any Alternate Director appointed pursuant to the provisions of these Articles), Secretary, Assistant Secretary, or other officer for the time being and from time to time of the Company (but not including the Company's auditors) and the personal representatives of the same shall be indemnified and secured harmless out of the assets and funds of the Company against all actions, proceedings, costs, charges, expenses, losses, damages or liabilities incurred or sustained by such Director in or about the conduct of the Company's business or affairs or in the execution or discharge of his duties, powers, authorities or discretions, including without prejudice to the generality of the foregoing, any costs, expenses, losses or liabilities incurred by such Director in defending (whether successfully or otherwise) any civil proceedings concerning the Company or its affairs in any court whether in the Cayman Islands or elsewhere, provided that such Director acted in good faith with a view to the best interests of the Company.

- 30.2** No such Director, Alternate Director, Secretary, Assistant Secretary or other officer of the Company (but not including the Company's auditors) shall be liable (a) for the acts, receipts, neglects, defaults or omissions of any other Director or officer or agent of the Company or (b) for any loss on account of defect of title to any property of the Company or (c) on account of the insufficiency of any security in or upon which any money of the Company shall be invested or (d) for any loss incurred through any bank, broker or other similar Person or (e) for any loss occasioned by any negligence, default, breach of duty, breach of trust, error of judgement or oversight on his part or (f) for any loss, damage or misfortune whatsoever which may happen in or arise from the execution or discharge of the duties, powers, authorities, or discretions of his office or in relation thereto, unless the same shall happen through his own dishonesty.

### **31 NON-RECOGNITION OF TRUSTS**

No Person shall be recognised by the Company as holding any Share upon any trust and the Company shall not (unless required by law) be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent or future interest in



any of its Shares or any other rights in respect thereof except an absolute right to the entirety thereof in each Member registered in the Register of Members.

### 32 WINDING UP

If the Company shall be wound up the liquidator may, with the sanction of a Special Resolution or by decision of the majority of the Board of Directors of the Company and subject to Article 4.3.10, divide amongst the Members (consistently with Article 4.3.10) in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may, for such purpose set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Members or different classes of Shares. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories (consistently with Article 4.3.10) as the liquidator, with the like sanction shall think fit, but so that no Member shall be compelled to accept any shares or other securities whereon there is any liability.

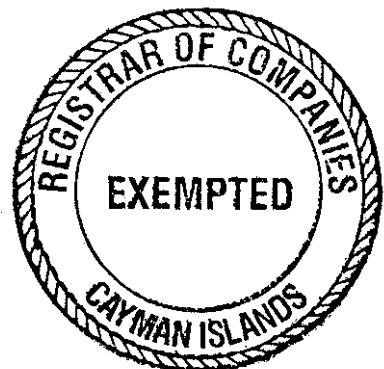
CERTIFIED TO BE A TRUE AND CORRECT COPY

SIG. 

NEYDIS TAVERAS

Asst. Registrar

Date. 22nd September, 2005



## **SCHEDULE 1**

### **FORM OF RESET NOTICE**

To: HSBC Lion Funding (UK) Limited  
8 Canada Square  
London E14 5HQ

Attn: [●]

Fax: [●]

Dated: [●]

Dear Sirs

**Articles of Association of HSBC Lion Funding (UK) Limited  
adopted on [ ] September 2005 (the "Articles")**

- (i) We refer to the Articles. This is a Reset Notice. Terms defined in the Articles have the same meaning in this Reset Notice unless given a different meaning in this Reset Notice.
- (ii) In accordance with Article 4.3.4, we give notice that we elect that the B Floating Dividend Rate shall be converted to the B Fixed Dividend Rate in accordance with the procedures in the Articles.
- (iii) The Reset Date is [●], being not less than 12 Business Days' prior notice in accordance with Article 4.3.4 (ii).
- (iv) We confirm that we have been authorised to sign this Reset Notice on behalf of the Majority B Member.

Yours faithfully

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authorised signatory for  
Majority B Member

## SCHEDULE 2

### AUCTION PROCEDURES

#### 1 Definitions

Terms used in this Schedule shall have the meaning given to them in the Articles unless defined below:

**"Applicable Percentage"** means the percentage set forth below:

For the first two years following the B Share Issue Date the percentage in the table below:

Average of Moody's Credit rating for the Permitted Assets (as defined in the Investment Guidelines)	Average of S&P's Credit Rating for the Permitted Assets (as defined in the Investment Guidelines)	Applicable Percentage
Aa3 or above	AA- or above	99%
A3 to A1	A- to A+	105%
Below A3	Below A-	115%

after the date which is two years following the B Share Issue Date the percentage in the table below:

Average of Moody's Credit rating for the Permitted Assets (as defined in the Investment Guidelines)	Average of S&P's Credit Rating for the Permitted Assets (as defined in the Investment Guidelines)	Applicable Percentage
Aa3 or above	AA- or above	105%
A3 to A1	A- to A+	115%
Below A3	Below A-	135%

provided (i) that to the extent that any of the Permitted Assets are loans to Eligible Debtors (as defined in the Investment Guidelines) that do not have a credit rating, the credit rating for such Permitted Assets for the purposes of the above tables shall be three credit ratings lower than the credit ratings for HSBC and (ii) that if a B Member Change in Law Event has occurred such percentage calculated in accordance with the above tables shall be multiplied by the Change in Law Adjustment.

**"Auction Date"** has the meaning given in paragraph 3 of this Schedule 2;

**"Auction Interests"** means, in respect of a B Member:

- (a) all Auction Shares; and

- (b) all rights and obligations of that B Member under the Transaction Documents applicable to such Auction Shares;

**"Auction Notice"** has the meaning given in paragraph 2 of this Schedule 2;

**"Auction Shares"** means the B Shares;

**"Bid"** means an unconditional bid to purchase all of the Auction Interests for cash consideration payable for same day settlement on the Reset Date and which specifies a Proposed B Fixed Dividend Rate;

**"Bidder"** means any Person entitled to make a Bid including the A Member or a B Member who makes a bid directly or indirectly through a proxy, at the auction other than:

- (a) a member of the Company Group;
- (b) any other Person acting in concert with any member of the Company Group; or
- (c) any other Person having any interest in the outcome of the auction (other than as a genuine bidder in the auction);

**"B Member Change In Law Event"** means any change in U.S. or U.K. law that in the reasonable judgement of the B Member (which shall be supported by an opinion of nationally recognized tax counsel), will result in a material reduction in the B Member's after-tax return from holding the B Shares.

**"Change in Law Adjustment"** means a percentage adjustment in the Maximum Bid Rate after a B Member Change In Law Event has occurred so that if the B Member were to receive the Maximum Bid Rate, the B Member would receive the same after-tax return that the B Member would have received had the B Member received the Maximum Bid Rate (prior to any adjustment) and no B Member Change In Law Event had occurred.

**"Failed Auction"** means:

- (a) an auction where there are no Bidders;
- (b) an auction where there are no Bidders other than the A Member or B Members; and
- (c) on the Reset Date there is non-payment or non-delivery in breach of paragraph 5 of this Schedule 2;

**"Failed Remarketing"** has the meaning given in paragraph 4.5 of this Schedule 2;

**"Five-Year Swap Rate"** means the offered fixed rate per annum as quoted on Bloomberg IRSB Page (or any successor page) for an interest rate swap with a tenure of five years;

**"Maximum Bid Rate"** means the lower of:

- (a) the Five-Year Swap Rate plus 5.00 per cent per annum; or
- (b) the Five-Year Swap Rate multiplied by the Applicable Percentage,

in each case, as permitted by Revenue Ruling 90-27, 1990 1 CB 50;

**"Notice of Change in Law Adjustment"** means a notice substantially in the form set out in Schedule 3;

**"Proposed B Fixed Dividend Rate"** means a proposed B Fixed Dividend Rate that is no higher than the Maximum Bid Rate;

**"Remarketing Agent"** has the meaning given in paragraph 4.1 of this Schedule 2;

**"Selling B Member"** means any B Member selling Auction Shares;

**"Winning Bid Rate"** has the meaning given to that term in paragraph 4.2 of this Schedule 2; and

**"Winning Bidder"** means the Bidder with the Winning Bid Rate.

## **2 Auction Notice**

At any time after a Reset Notice has been given to the Company, the Majority B Member shall have the right by notice (an **"Auction Notice"**) to the Company not less than 10 Business Days prior to the Reset Date, to cause the Company to conduct an auction to sell the Auction Interests simultaneously as part of a single transaction in accordance with the auction procedures set out in this Schedule and, if an Auction Notice has been given to the Company, and if applicable, to deliver a Notice of Change in Law Adjustment.

## **3 Auction Date**

If notified to conduct an auction, the Company shall conduct an auction of the Auction Interests at least five Business Days prior to the Reset Date (an **"Auction Date"**).

## **4 Terms of Auction**

Upon receipt of an Auction Notice, the Company shall use its best endeavours to conduct an auction on the following terms:

**4.1** The Company shall, in its discretion, appoint a qualified independent agent to market the Auction Interests and to solicit Bids from potential Bidders (such agent, the **"Remarketing Agent"**). The Company shall enter into a Remarketing Agreement with the Remarketing Agent not later than five Business Days prior to the Auction Date.

**4.2** On or prior to the Auction Date, under procedures specified by the Remarketing Agent, any prospective purchaser of Auction Shares that is a Qualified Purchaser (each such prospective purchaser, including any existing B Member, a **"Bidder"**) may submit a Bid indicating:

**4.2.1** the number of B Shares (if any) that the Bidder wishes to hold following a conversion of the B Share Dividend Rate on the Reset Date;

**4.2.2** the Bidder's Proposed B Fixed Dividend Rate; provided that, the B Fixed Dividend Rate following the Reset Date is not less than the Proposed B Fixed Dividend Rate per annum then specified by such Bidder in such Bid; and

**4.2.3** where the Bidder is an existing B Member, the number of B Shares (if any) in respect of which the Bidder wishes to receive the Minimum B Share Purchase Amount in cash, without regard to the B Fixed Dividend Rate following the Reset Date.

On the Business Day immediately preceding the Reset Date, the Remarketing Agent shall determine the lowest Proposed B Fixed Dividend Rate specified in such Bids (such lowest Proposed B Fixed Dividend Rate, shall be the **"Winning Bid Rate"**). The Winning Bid

Rate will be the B Share Dividend Rate on and following the Reset Date for all B Shares; provided that, in no event shall any Proposed B Fixed Dividend Rate that exceeds the Maximum Bid Rate be accepted by the Remarketing Agent. The Winning Bid Rate determined by the Remarketing Agent shall, absent manifest error, be binding and conclusive upon the Company and all B Members.

- 4.3** If no Bids have been made with respect to the Auction Interests, then a Failed Auction shall be deemed to have occurred and the provisions of paragraph 8 shall apply.
- 4.4** On the Business Day immediately preceding the Reset Date, the Remarketing Agent shall designate the Bidder or Bidders providing Bids containing a Proposed B Fixed Dividend Rate less than or equal to the Winning Bid Rate. If a Proposed B Fixed Dividend Rate less than or equal to the Winning Bid Rate is specified in the Bids submitted by two or more Bidders, the Remarketing Agent shall, in consultation with the Company, determine the number of Auction Shares, if any, which each such Bidder shall purchase (each such Bidder, a "**Purchaser**"). If any existing B Member is designated a Purchaser, it shall receive the Auction Shares that were the subject of the Bid, after the sale and conversion procedure described below in this paragraph 4, with the B Fixed Dividend Rate equal to the Winning Bid Rate. The sale of the Auction Shares to a Purchaser or Purchasers pursuant to this paragraph 4 shall be referred to as a "**Remarketing**". The Remarketing Agent shall, promptly after its determination of the Purchasers, provide a written notice to the Company and each Member (including each existing B Member) setting forth the identity of each Purchaser and the number of Auction Shares which each Purchaser shall purchase.
- 4.5** In the event of a Remarketing, from and including the Reset Date on which Auction Shares are to be sold to any Purchaser, the B Fixed Dividend Rate for the B Shares shall be the Winning Bid Rate; provided that, if settlement of the Remarketing in accordance with paragraph 5 below does not occur on or before the Reset Date, then a failed Remarketing (a "**Failed Remarketing**") shall be deemed to occur on the Reset Date and the provisions of paragraph 8 shall apply.
- 4.6** Settlement of a Remarketing or a Failed Remarketing shall occur on the Reset Date, following a Remarketing pursuant to paragraph 5 or a Failed Remarketing pursuant to paragraph 8, through conversion of the B Share Dividend Rate from the B Floating Dividend Rate to the B Fixed Dividend Rate as set out in Article 4.3.4. Such settlement shall occur through the delivery by the Selling B Member(s) to the Remarketing Agent of the Auction Shares and the transfer of such Auction Shares by the Remarketing Agent to the Winning Bidders as in paragraphs 5 or 6 below, as the case may be. Upon transfer of the Auction Shares to the Winning Bidders, the Auction Shares shall have terms and conditions identical to those of the B Shares (and all references in these Articles to the B Shares shall apply to the Auction Shares *mutatis mutandis*), except that the Auction Shares delivered to Winning Bidders shall accrue Dividends from (and including) the Reset Date at the B Fixed Dividend Rate determined in accordance with paragraph 4 or paragraph 6 as applicable, and the Auction Shares delivered to Winning Bidders shall not be eligible for subsequent auction pursuant to this paragraph 4.
- 4.7** If, on or prior to the Auction Date, the Board of Directors determines that the Maximum Bid Rate exceeds a reasonable commercial rate for the B Fixed Dividend Rate, the Company shall serve a Purchase Notice on all the B Members in accordance with Article 4.3.7. Delivery by the Company of such a Purchase Notice shall terminate and release the

Company from its obligations under this Schedule 2 regardless of any other actions that may have been taken or determinations made hereunder.

- 4.8** The procedures contemplated in Revenue Ruling 90-27, 1990 1 CB 50, to the extent not inconsistent with the terms of the provisions of this Schedule 2, shall apply for the purposes of this paragraph 4.

## **5 Remarketing**

In the event of a Remarketing, on the Reset Date, unless the Winning Bidder is an existing B Member (in which case paragraph 6 shall apply), the following shall occur as part of a simultaneous transaction:

- 5.1** the Remarketing Agent shall promptly provide notice to the Company of the identity of the Winning Bidders and to the Winning Bidders of the acceptance of their Bid;
- 5.2** the Winning Bidders shall pay to the Remarketing Agent for same day settlement an amount in Sterling in immediately available funds equal to the Minimum B Share Purchase Amount for each Auction Share (calculated following the payment, to the extent permitted by law, of accrued and unpaid Dividends on the Auction Shares as set out in paragraph 5.6 below so as to avoid double-counting) for each Auction Share on such Reset Date;
- 5.3** the Selling B Member(s) shall deliver to the Remarketing Agent any certificates or evidence of title to the Auction Interests together with such transfer instruments and evidence of ownership as the Remarketing Agent and/or the Winning Bidders may reasonably request;
- 5.4** the Remarketing Agent shall immediately and simultaneously transfer Auction Interests and funds to the Winning Bidders and Selling B Member(s) according to the results of the Remarketing;
- 5.5** the Winning Bidders and the Selling B Member(s) shall execute and deliver to the Company the appropriate Share transfer instruments in respect of the Auction Shares;
- 5.6** the Auction Interests shall be deemed to be transferred to the Winning Bidders upon the payment in full of the Minimum B Share Purchase Amount by the Winning Bidders to the Remarketing Agent and the Company shall update the Register of Members on the date of such payment; and
- 5.7** the Company shall, to the extent permitted by law, pay any Dividends accrued and unpaid on the Auction Shares on the Reset Date to the Selling B Member(s) immediately prior to the transfer and the rights of the Selling B Member(s) as a B Member shall cease on and as of the Reset Date, except in the case of a Failed Auction.

## **6 B Member**

If the Winning Bid Rate is specified in a Bid submitted by a B Member and there are no other Bidders participating in the auction, there shall be no sale but, on and including the Reset Date, the B Fixed Dividend Rate shall be adjusted to equal the Winning Bid Rate. If there is more than one Bidder and such B Member is participating in the auction, but such B Member does not submit a Proposed B Share Dividend Rate less than nor equal to the Winning Bid Rate, such B Member shall sell the Auction Interests as set forth in paragraph 5 above.

**7 B Fixed Dividend Rate**

If there is a Winning Bid Rate for any auction, the Winning Bid Rate shall be the B Fixed Dividend Rate applicable to the B Shares for each Dividend Period commencing after the applicable Reset Date.

**8 Failed Auction or Failed Remarketing**

If there is a Failed Auction or a Failed Remarketing, the B Fixed Dividend Rate applicable to the B Shares for each Dividend Period commencing after the applicable Reset Date shall be the Maximum Bid Rate for that auction or remarketing.

**9 Remarketing Fees**

Unless a Purchase Notice is given under paragraph 4.7, the Company shall be responsible for payment of the fees associated with the Remarketing, including customary fees for trust companies and brokers, as well as any placement fee required in respect of the Remarketing.



**Schedule 3**  
**Form of Notice of Change in Law Adjustment**

To: HSBC Lion Funding (UK) Limited  
8 Canada Square  
London E14 5HQ

Attn: [●]

Fax: [●]

Dated: [●]

Dear Sirs

**Articles of Association of HSBC Lion Funding (UK) Limited adopted on [ ] September 2005 (the "Articles")**

- (i) We refer to the Articles. This is a Notice of a Change In Law Adjustment (the "Notice"). Terms defined in the Articles have the same meaning in this Notice unless given a different meaning in this Notice.
- (ii) In accordance with paragraph 2 of Schedule 2 (*Auction Procedures*) of the Articles, we give notice that the following B Member Change In Law Event has occurred: [●].
- (iii) We attach a copy of the opinion of [●].

We confirm that we have been authorised to sign this Notice on behalf of the Majority B Member.

Yours faithfully

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authorised signatory for  
Majority B Member