

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM T-3

FOR APPLICATIONS FOR QUALIFICATION OF INDENTURES
UNDER THE TRUST INDENTURE ACT OF 1939

MAXEON SOLAR TECHNOLOGIES, LTD.

SunPower Corporation Limited
SunPower Energy Corporation Limited
SunPower Manufacturing Corporation Limited
Maxeon Rooster HoldCo, Ltd.
Maxeon Solar PTE. Ltd.
SunPower Bermuda Holdings
SunPower Technology Ltd.
SunPower Philippines Manufacturing Ltd.
Rooster Bermuda DRE, LLC
SunPower Systems Sàrl
(Name of Applicants)

8 Marina Boulevard #05-02
Marina Bay Financial Centre
018981, Singapore
(Address of principal executive offices)

Securities to be Issued under the Indenture to be Qualified

Title of Class	Amount
Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028	Up to a maximum aggregate principal amount of \$218 million

Approximate date of proposed public offering:

As soon as practicable after the date of this Application for Qualification.

Name and address for agent of service:

Corporation Service Company
1180 Avenue of the Americas, Suite 210
New York, New York 11036-8401
800-927-9800

With a copy to:

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The Applicants hereby amend this application for qualification (this "Application") on such date or dates as may be necessary to delay its effectiveness until (i) the 20th day after the filing of an amendment which specifically states that it shall supersede this Application, or (ii) such date as the Securities and Exchange Commission, acting pursuant to Section 307(c) of the Trust Indenture Act of 1939, may determine upon the written request of the Applicant.

GENERAL

1. General Information.

Applicant	Form of Organization	Jurisdiction of Organization
Maxeon Solar Technologies, Ltd. (the “Company”)	Public Company Limited by Shares	Singapore
SunPower Corporation Limited	Company Limited by Shares	Hong Kong
SunPower Energy Corporation Limited	Company Limited by Shares	Hong Kong
SunPower Manufacturing Corporation Limited	Company Limited by Shares	Hong Kong
Maxeon Rooster HoldCo, Ltd.	Exempted Company limited by shares	Bermuda
Maxeon Solar Pte. Ltd.	Private Company Limited by Shares	Singapore
SunPower Bermuda Holdings	Exempted General Partnership	Bermuda
SunPower Technology Ltd.	Exempted Company Limited by Shares	Cayman Islands
SunPower Philippines Manufacturing Ltd.	Exempted Company Limited by Shares	Cayman Islands
Rooster Bermuda DRE, LLC	Limited Liability Company	Bermuda
SunPower Systems Sàrl	Limited Liability Company	Switzerland

The foregoing entities are referred to herein collectively as the “**Applicants.**” The Applicants, other than the Company, and any other entities that will act as a guarantor under the New 2L Notes Indenture (as defined below) are referred to herein collectively as the “**Guarantors.**”

2. Securities Act exemption applicable

The Company intends to acquire approximately \$196 million aggregate principal amount of the Company’s 6.50% Green Convertible Senior Notes due 2025 (the “**Existing Notes**”), upon the terms and subject to the conditions set forth in exchange agreements (each, an “**Exchange Agreement**”) between the Company and certain holders of the Existing Notes.

In accordance with the Exchange Agreements, subject to the terms and conditions set forth therein, for each \$1,000 principal amount of Existing Notes so acquired, each holder thereof will be issued (i) (x) \$700 principal amount of Tranche A Notes of the Company’s new Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 (the “**Tranche A Notes**”); (y) \$300 principal amount of Tranche B Notes of the Company’s new Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028 (the “**Tranche B Notes**,” and together with Tranche A Notes, the “**New 2L Notes**”), plus (z) an additional principal amount of New 2L Notes, in the form of Tranche B Notes, equal to the amount of accrued and unpaid interest on such Existing Notes up to, but not including, the date on which the closing of the transactions contemplated by the Exchange Agreement occurs, and (ii) warrants (the “**Warrants**” and together with the New 2L Notes, the “**Exchange Securities**”) granting such holder the right to purchase ordinary shares, no par value (the “**Shares**”), of the Company subject to the terms and conditions set forth therein (collectively, together with such transactions contemplated by the Exchange Agreements, the “**Exchanges**”).

This Application has been filed to qualify the Indenture that will govern the New 2L Notes (the “**New 2L Notes Indenture**”). The issuance of the New 2L Notes is being made in reliance on Section 3(a)(9) of the Securities Act of 1933, as amended (the “**Securities Act**”), based upon the following facts:

- no sales of securities of the same class as the New 2L Notes have been or are intended to be made by the Company or by or through an underwriter at or about the same time as the Exchanges for which the exemption is claimed;
- no consideration has been, or is to be, given, directly or indirectly, to any person in connection with the Exchanges, except for payment of (i) advisory fees to financial advisors that advised the Company with respect to the terms of the Exchanges, (ii) advisory fees to financial advisors that advised the noteholders with respect to the terms of the Exchanges, (iii) the fees and expenses of the Company’s legal advisors for their legal services, (iv) the fees and expenses of the noteholders’ legal advisors for their legal services, (v) the fees of the Company’s tax advisors and (vi) fees charged by the trustee and the security agents under the New 2L Notes Indenture for their respective services as trustee and security agents in connection with the Exchanges;
- the Company’s financial advisors have not been retained to solicit or make, and will not be soliciting or making, any recommendation with respect to the Exchanges;
- the fees payable to the Company’s financial advisor do not depend on the closing of the Exchanges or the amount of any Existing Notes to be exchanged; and
- no holder of Existing Notes has made or will be requested to make any payment of cash or non-cash consideration in connection with the Exchanges other than the surrender of their Existing Notes.

Trust Indenture Act of 1939

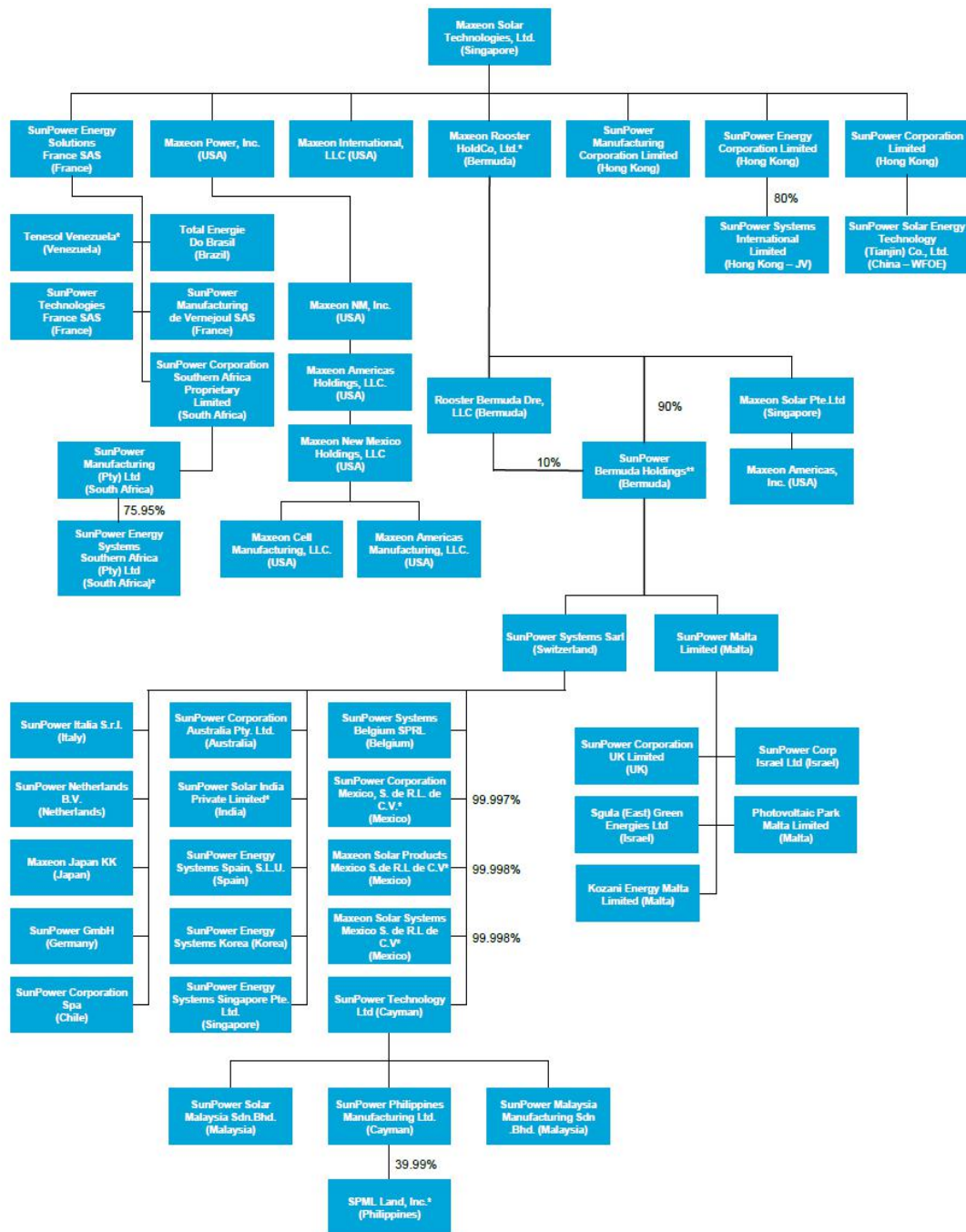
The Company hereby acknowledges that under Section 306(c) of the Trust Indenture Act of 1939 (the “**TIA**”), it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer or sell through the use or medium of any prospectus or otherwise any security which is not registered under the Securities Act and to which this subsection is applicable notwithstanding the provisions of Section 304 of the TIA, unless such security has been or is to be issued under an indenture and an application for qualification (the “**application**”) has been filed as to such indenture, or while the application is the subject of a refusal order or stop order or (prior to qualification) any public proceeding or examination under Section 307(c) of the TIA. The failure to file an application on a timely basis could result in an enforcement or other action by the Commission.

The Company acknowledges that this Application was not filed until after the Exchange Agreements were entered into. It was not certain prior to the date hereof what the parties would determine to be the terms of the New 2L Notes Indenture, and whether such notes would ultimately be issued pursuant to the exemption provided under Section 3(a)(9) of the Securities Act or Section 4(a)(2) of the Securities Act. Therefore, the Company believes it would have been premature to file the Form T-3 prior to those details being determined. The Applicants believe that the purposes behind the requirement to file a Form T-3 (namely the provision of adequate disclosure to the persons being asked to make an investment decision in respect of the securities in question through the qualification of the indentures) was served prior to the filing of this Form T-3 with respect to the New 2L Notes. The holders of the Existing Notes participating in the Exchanges were at all times adequately represented by counsel during discussions with such holders regarding the terms of the New 2L Notes. Moreover, these holders actively negotiated for the terms of the New 2L Notes contained in the New 2L Notes Indenture. Furthermore, the holders of Existing Notes had and continue to have access to a significant amount of information regarding the Applicants by virtue of both (i) having been creditors of and/or investors in the Company for an extensive period of time and (ii) having had access to the reports and other information that had been filed with the Securities and Exchange Commission by the Company, which is required to file reports with the Securities and Exchange Commission. The Applicants also believe that the New 2L Notes Indenture contains terms and conditions that are in line with market standard terms and conditions to which investors have become accustomed for transactions of this type. The Company represents that none of the New 2L Notes under the New 2L Notes Indenture to be qualified by this Application have been issued and covenants that none of such notes will be issued prior to this Application being declared effective.

AFFILIATES

3. Affiliates.

The following diagram indicates the relationship of the Applicants to each of their respective affiliates as of the date of this Application. Solid connecting lines indicate 100% ownership of voting securities, unless otherwise stated.



*** Other Ownership:**

- SunPower Energy Systems Southern Africa (Pty) Ltd: 24.05% owned by The S.A Solar Empowerment Trust
- Maxeon Rooster HoldCo, Ltd: 9.90% De minimis preferred stock held by SunPower Corporation Ltd.
- Tenesol Venezuela: 0.03% owned by Luis Raygada
- Huansheng: Tianjin Zhonghuan Semiconductor Co.Ltd: 84%
- SunPower Systems International Ltd: ZhongHuan HK Holding Ltd: 20%
- SunPower Corporation Mexico, S. de R.L. de C.V.: 0.03% owned by Sunpower Technology, Ltd.
- SunPower Solar India Private Limited: 2 shares owned by SunPower Malta Ltd
- Maxeon Solar Product Mexico S. de R.L. de C.V. is owned 0.002% by Maxeon Rooster HoldCo, Ltd.
- Maxeon Solar Systems Mexico S. de R.L. de C.V. is owned 0.002% by Maxeon Rooster HoldCo, Ltd.
- SPML Land, Inc.: BPI Trust and three shares owned by individuals
- SunPower Malta Ltd: 2 shares held by SunPower Systems Sarl

Certain directors and officers of the Applicants may be deemed to be affiliates thereof by virtue of their positions with the Applicants. See Item 4, "Directors and Executive Officers."

In addition, certain persons may be deemed to be affiliates of the Applicants by virtue of their current or anticipated holdings of voting securities of the Applicants. See Item 5, "Principal Owners of Voting Securities."

MANAGEMENT AND CONTROL

4. Directors and Executive Officers.

The following table lists the names and offices held by all current directors and executive officers of each Applicant. The address for each director and executive officer for the Applicants is c/o Maxeon Solar Technologies, Ltd., 8 Marina Boulevard #05-02, Marina Bay Financial Centre, 018981, Singapore.

As of the date hereof:

Maxeon Solar Technologies, Ltd.

<u>Name</u>	<u>Position</u>
William Mulligan	Chief Executive Officer
Matt Dawson	Chief Technology Officer
Kai Strohbecke	Chief Financial Officer
Lindsey Roon Wiedmann	Chief Legal & Sustainability Officer
Peter Aschenbrenner	Chief Strategy Officer
Tiffany See	Chief Human Resources Officer
Ralf Elias	Chief Product Officer
Vikas Desai	Chief Commercial Officer

SunPower Corporation Limited

<u>Name</u>	<u>Position</u>
Peter Aschenbrenner	Director
Diana Ma	Director

SunPower Energy Corporation Limited

<u>Name</u>	<u>Position</u>
Kai Strohbecke	Director
Peter Aschenbrenner	Director
Diana Ma	Director

SunPower Manufacturing Corporation Limited

<u>Name</u>	<u>Position</u>
Kai Strohbecke	Director
Peter Aschenbrenner	Director
Diana Ma	Director

Maxeon Rooster HoldCo, Ltd.

Name	Position
Philippe Querbes	Treasurer
Kai Strohbecke	Director
Wong Lai Ping	Vice-President

Maxeon Solar PTE. Ltd.

Name	Position
Kai Strohbecke	Chief Financial Officer/Director
Lindsey Wiedmann	Assistant Secretary
Marc Robinson	Assistant Secretary
Wong Lai Ping	Director

SunPower Bermuda Holdings

Name	Position
Frederic Biollaz	Chief Executive Officer/Director
Kai Strohbecke	Chief Financial Officer/Director
Lai Ping Wong	Vice President/Director
Philippe Querbes	Treasurer

SunPower Technology Ltd.

Name	Position
Frederic Biollaz	Chief Executive Officer/President(Director)
Wong Lai Ping	Vice President
Lindsey Wiedmann	Secretary
Matt Kasdin	Assistant Secretary
Intertrust	Assistant Secretary

SunPower Philippines Manufacturing Ltd.

Name	Position
Boris Bastien	Chief Executive Officer/President (Director)
Ryan Archival Cedillo	Assistant Secretary/SEC GIS Resident Agent
Wong Lai Ping	Vice President
Philippe Querbes	Treasurer
Lindsey Wiedmann	Assistant Secretary

Rooster Bermuda DRE, LLC

Name	Position
Kai Strohbecke	Director

SunPower Systems Sarl

Name	Position
Frederic Biollaz	President Gerant (Director)
Vincent Maurice	Gerant (Director)

5. Principal Owners of Voting Securities.

The following tables set forth certain information regarding each person known to the Company to own 10 percent or more of the voting securities of each Applicant as of May 21, 2024. Unless otherwise indicated, the mailing address of each holder listed in each of the tables set forth below is: c/o Maxeon Solar Technologies, Ltd., 8 Marina Boulevard #05-02, Marina Bay Financial Centre, 018981, Singapore.

The Company

Company Name	Principal Owner of 10% or More of Voting Securities	Title of Class Owned	Amount Owned	Percentage of Voting Securities Owned
Maxeon Solar Technologies, Ltd.	TotalEnergies SE ⁽¹⁾	Ordinary Shares	8,000,931	14.6%
Maxeon Solar Technologies, Ltd.	Zhonghuan Singapore Investment and Development Pte. Ltd. ⁽²⁾	Ordinary Shares	12,285,692	22.4%
Maxeon Solar Technologies, Ltd.	BlackRock, Inc. ⁽³⁾	Ordinary Shares	5,401,371	10.2%

(1) The mailing address of such holder is 2, place Jean Millier, La Défense 6, 92400 Courbevoie, France 00-331-4135-2834.

(2) The mailing address of such holder is No. 12 East Haitai Road, Huayuan Industrial Park, Hi-tech Industrial Zone, Tianjin, 300384, People's Republic of China

(3) The mailing address of such holder is 50 Hudson Yards, New York, New York 10001.

The Guarantors

Guarantor Name	Principal Owner of 10% or More of Voting Securities	Title of Class Owned	Amount Owned	Percentage of Voting Securities Owned
SunPower Corporation Limited	Maxeon Solar Technologies, Ltd.	Ordinary Shares	127,867,194	100%
SunPower Energy Corporation Limited	Maxeon Solar Technologies, Ltd.	Ordinary Shares	1,000	100%
SunPower Manufacturing Corporation Limited	Maxeon Solar Technologies, Ltd.	Ordinary Shares	1,000	100%
Maxeon Rooster Holdco, Ltd.	Maxeon Solar Technologies, Ltd.	Common Shares	91,000	100%
Maxeon Solar Pte. Ltd.	Maxeon Rooster Holdco, Ltd.	Ordinary Shares	2	100%
SunPower Bermuda Holdings	Rooster Bermuda Dre, LLC	N/A	N/A	10%
SunPower Bermuda Holdings	Maxeon Rooster Holdco, Ltd.	N/A	N/A	90%
SunPower Technology Ltd.	SunPower Systems Sàrl	Ordinary Shares	2,000	100%
SunPower Philippines Manufacturing Ltd.	SunPower Technology Ltd.	Ordinary Shares	2,000	100%
Rooster Bermuda DRE, LLC	Maxeon Rooster HoldCo, Ltd.	N/A	N/A	100%
SunPower Systems Sàrl	SunPower Bermuda Holdings	Common voting shares	100	100%

6. Underwriters.

(a) The name and complete mailing address of each person who, within three years prior to the date of filing this Application, acted as an underwriter of any securities of the Applicants which are outstanding on the date of filing this Application are listed below, along with the title of each class of securities underwritten by the underwriter.

Name	Address	Title of Class of Securities Underwritten
BofA Securities, LLC	One Bryant Park New York, New York 10036	Ordinary shares, no par value
Morgan Stanley & Co. LLC	1585 Broadway New York, New York 10036	Ordinary shares, no par value
Raymond James & Associates, Inc.	880 Carillon Parkway St. Petersburg, FL 33716	Ordinary shares, no par value
Roth Capital Partners, LLC	888 San Clemente Drive Suite 400 Newport Beach, CA 92660	Ordinary shares, no par value

(b) No person is acting, or proposed to be acting, as principal underwriter of the New 2L Notes proposed to be issued pursuant to the New 2L Notes Indenture.

CAPITAL SECURITIES

7. Capitalization.

(a) The following table sets forth certain information with respect to each authorized class of securities of the Applicants outstanding as of the date of the filing of this application.

Applicant	Title of Equity Securities	Amount Authorized	Amount Outstanding
Maxeon Solar Technologies, Ltd.	Ordinary Shares, no par value	Not Applicable ⁽¹⁾	54,876,005
SunPower Corporation Limited	Ordinary Shares- no par value	Not Applicable	127,867,194
SunPower Energy Corporation Limited	Ordinary Shares-no par value	Not Applicable	1,000
SunPower Manufacturing Corporation Limited	Ordinary Shares-no par value	Not Applicable	1,000
Maxeon Rooster HoldCo, Ltd.	Common Shares, par value USD \$0.01 per share	Not Applicable	91,000
Maxeon Rooster HoldCo, Ltd.	Preferred non-voting Shares, par value USD \$0.01 per share	Not applicable	10,000
Maxeon Solar Pte. Ltd.	Ordinary Shares-no par value	Not Applicable ⁽¹⁾	2
SunPower Bermuda Holdings	Not Applicable	Not Applicable	Not Applicable
SunPower Technology Ltd.	Ordinary Shares, par value USD \$1.00 per share	50,000	2,000
SunPower Philippines Manufacturing Ltd.	Ordinary Shares, par value USD \$1.00 per share	50,000	2,000
Rooster Bermuda DRE, LLC	Not Applicable	Not Applicable	Not Applicable
SunPower Systems Sàrl	Common voting shares	1,000	100

(1) There is no concept of authorized share capital under Singapore law.

(b) Unless otherwise specified, (i) each of the entities listed above has issued only one class of voting securities and (ii) the holders of such securities are entitled to one vote per share on all matters presented to securities holders.

8. Analysis of indenture provisions.

The New 2L Notes will be issued under the New 2L Notes Indenture to be entered into among the Company, the Guarantors, the trustee named therein (the “**Trustee**”), the collateral trustee named therein (the “**Collateral Trustee**”) and the supplemental collateral trustee named therein (the “**Supplemental Collateral Trustee**”). The following is a general description of certain provisions expected to be included in the New 2L Notes Indenture, and the description is qualified in its entirety by reference to the form of the New 2L Notes Indenture to be filed as Exhibit T3.C1 herewith. The Company has not entered into the New 2L Notes Indenture as of the date of this filing, and the terms of the New 2L Notes Indenture are subject to change before it is executed. Capitalized terms used below and not defined herein have the meanings ascribed to them in the New 2L Notes Indenture.

(a) Events of Default; Withholding of Notice.

The occurrence of any of the following events will constitute an Event of Default under the New 2L Notes Indenture:

(1) a default in the payment when due (whether at maturity, upon Redemption or Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, any New 2L Note;

(2) a default in the payment when due of interest on any New 2L Note, which default continues for thirty (30) days;

(3) the Company’s failure to deliver, when required by the New 2L Notes Indenture, a Fundamental Change Notice, such failure is not cured within three (3) Business Days after its occurrence;

(4) a default in the payment or delivery when due of the Exchange Consideration for any Note subject to an Optional Exchange;

(5) a default in the Company’s obligation to convert a New 2L Note in accordance with the provisions relating to the conversion of the New 2L Notes upon the exercise of the conversion right with respect thereto, if such default is not cured within two (2) Business Days after its occurrence;

(6) a default in the Company’s obligations under the covenant relating to the merger, consolidation, sale of all or substantially all assets of the Company or any Guarantor;

(7) a default in any of the Company’s obligations or agreements under the Indenture Documents (other than a default set forth in clauses (1), (2), (3), (4), (5) or (6) above) where such default is not cured or waived within thirty (30) days after notice to the Company by the Trustee and the Collateral Trustee, or to the Company, the Trustee and the Collateral Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of New 2L Notes then outstanding, which notice must specify such default, demand that it be remedied and state that such notice is a “Notice of Default”, *provided* that any issuance of Ordinary Shares in connection with any conversion (including in connection with the Optional Exchange) that results in any holder of the Notes, together with the Attribution Parties, beneficially owns or would beneficially own the number of Ordinary Shares in excess of the Exchange Cap shall not constitute a Default or an Event of Default;

(8) a default by a Company Indenture Party or any of its Significant Subsidiaries with respect to indebtedness for money borrowed (whether pursuant to one or more agreements or other instruments) of greater than twenty-five million dollars (\$25,000,000) (or its foreign currency equivalent) in the aggregate of a Company Indenture Party or any of its Significant Subsidiaries, whether such indebtedness exists as of the Issue Date or is thereafter created, either: (x) resulting in such indebtedness becoming or being declared due and payable prior to its stated maturity, or (y) constituting a failure to pay the principal of any such indebtedness when due and payable (after the expiration of all applicable grace periods) at its stated maturity, upon required repurchase, upon declaration or otherwise, and, in the case of either clause (x) or (y), such acceleration is not, after the expiration of any applicable grace period, rescinded or annulled or such indebtedness is not paid or discharged, as the case may be, within thirty (30) days after notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of New 2L Notes then outstanding in accordance with the New 2L Notes Indenture;

(9) one or more final judgments being rendered against a Company Indenture Party or any of its Subsidiaries for the payment of at least twenty-five million dollars (\$25,000,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance), where such judgment is not discharged or stayed within sixty (60) days after (i) the date on which the right to appeal the same has expired, if no such appeal has commenced; or (ii) the date on which all rights to appeal have been extinguished;

(10) certain events of bankruptcy or insolvency described in the New 2L Notes Indenture with respect to the Company Indenture Party or any of its Significant Subsidiaries;

(11) a court of competent jurisdiction enters certain orders or decrees described in the New 2L Notes Indenture granting reliefs under bankruptcy laws with respect to the Company Indenture Party or any of its Significant Subsidiaries, and such order or decrees remains unstayed and in effect for at least sixty (60) days;

(12) if the obligation of any Guarantor under its Guarantee or any other Indenture Document to which any Guarantor is a party is limited or terminated by operation of law or by such Guarantor (other than, in each case, in accordance with the terms of the New 2L Notes Indenture or such other Indenture Documents), or if any Guarantor fails to perform any obligation under its Guarantee or under any such Indenture Document, or repudiates or revokes or purports to repudiate or revoke in writing any obligation under its Guarantee, or under any such Indenture Document, or any Guarantor ceases to exist for any reason (other than as permitted or not prohibited by the New 2L Notes Indenture); or

(13) except as permitted or not prohibited by the New 2L Notes Indenture and other Indenture Documents, if the New 2L Notes Indenture or any other Indenture Document that purports to create a Lien on Collateral, shall, for any reason, fail or cease to be in full force and effect for any reason, being declared fully or partially void in judicial, regulatory or administrative proceeding or becoming enforceable against the relevant Company Indenture Parties.

In the case of an Event of Default arising from certain events of bankruptcy or insolvency, with respect to the Company Indenture Party or any of its Significant Subsidiaries, or a court of competent jurisdiction enters certain order or decrees described in the New 2L Notes Indenture granting reliefs under bankruptcy laws with respect to the Company Indenture Party or any of its Significant Subsidiaries that remains unstayed and in effect for at least sixty (60) days, all outstanding New 2L Notes will become due and payable immediately without further action or notice.

If any other Event of Default occurs and is continuing, the Trustee or the holders of at least 25% in aggregate principal amount of the then outstanding New 2L Notes may declare all the New 2L Notes of such series to be due and payable immediately.

Notwithstanding the foregoing, with respect to any Event of Default arising from the Company's failure (a "*Reporting Event of Default*") to comply with the covenant relating to the provision to the Trustee and the Collateral Trustee copies of all reports that the Company is required to file pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company is required to file the same, the Company may elect that the sole remedy for the first one hundred and eighty (180) calendar days after a Reporting Event of Default has occurred and is continuing shall consist exclusively of the accrual of the Special Interest on the New 2L Notes in addition to the interest that accrues on the New 2L Notes. On the 181st day following the Reporting Event of Default, if such Reporting Event of Default has not been cured or waived prior to such 181st day, the New 2L Notes will be subject to acceleration as provided above.

If a Default or Event of Default occurs, then the Trustee will send Holders a notice of such Default or Event of Default within ninety (90) days after it occurs or, if it is not known to the Trustee at such time, promptly (and in any event within ten (10) Business Days) after it becomes known to a Responsible Officer. Except in the case of a Default or Event of Default in the payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or interest on, any New 2L Note, the Trustee may withhold such notice if and for so long as it in good faith determines that withholding such notice is in the interests of the Holders.

(b) Authentication and Delivery of the Notes; Application of Proceeds.

The New 2L Notes may be executed on behalf of the Company by at least one Officer by manual, electronic or facsimile signature. No New 2L Note will be valid until it is authenticated by the manual or electronic signature of the Trustee. The Trustee shall, upon a written order of the Company signed by an officer, authenticate the New 2L Notes for original issue. The Trustee shall manually or electronically authenticate a New 2L Note only if (1) the Company delivers such New 2L Note to the Trustee; (2) such New 2L Note is duly executed by the Company; and (3) the Company delivers a Company Order to the Trustee that (a) requests the Trustee to authenticate such New 2L Note; and (b) sets forth the name of the Holder of such New 2L Note and the date as of which such New 2L Note is to be authenticated.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate New 2L Notes. A duly appointed authenticating agent may authenticate New 2L Notes whenever the Trustee may do so under this New 2L Notes Indenture, and a New 2L Note authenticated as provided in this New 2L Notes Indenture by such an agent will be deemed, for purposes of this New 2L Notes Indenture, to be authenticated by the Trustee.

The New 2L Notes shall be issuable only in registered form without coupons in denominations of \$1,000 and integral multiples of \$1.00 in excess thereof.

On the Issue Date, the Trustee shall, upon a Company Order, authenticate (A) one hundred and thirty-seven million two hundred thousand dollars (\$137,200,000) aggregate principal amount of the Tranche A Notes; and (b) fifty-eight million eight hundred thousand dollars (\$58,800,000) aggregate principal amount of the Tranche B Notes.

At any time thereafter, the Company may deliver PIK Notes executed by the Company to the Trustee for authentication, together with a written order of the Company in the form of an Officers' Certificate for the authentication and delivery of such PIK Notes, as applicable, and the Trustee in accordance with such written order of the Company shall authenticate and deliver such PIK Notes.

At any time thereafter, the Company may deliver Additional Notes executed by the Company to the Trustee for authentication, together with a written order of the Company in the form of an Officers' Certificate for the authentication and delivery of such Additional Notes, as applicable, and the Trustee in accordance with such written order of the Company shall authenticate and deliver such Additional Notes. For the avoidance of doubt, the Additional Notes and the PIK Notes may be issued only the form of Tranche B Notes.

The Company will not receive any proceeds from the issuance of the New 2L Notes pursuant to the Exchanges.

(c) Release of Collateral.

With respect to the New 2L Notes, subject to the terms of the Intercreditor Agreement and the terms of section 11.05(D) of the New 2L Notes Indenture, the Liens on the Collateral will be released:

(1) upon any dispositions of any portion of the Collateral that constitute a disposition permitted under any Priority Lien Debt Document; provided that Liens on such Collateral under any Priority Lien Debt Document are also released under any such Priority Lien Debt Document substantially concurrently;

(2) upon the full and final payment and performance of all Obligations of the Company under the New 2L Notes Indenture and the New 2L Notes or the satisfaction and discharge of the New 2L Notes Indenture and the other Indenture Documents as discussed below;

(3) under certain circumstances as described in section 8.03 of the New 2L Notes Indenture, with the consent of Supermajority Holders

(4) if the Collateral is owned by a Guarantor, upon the release of such Guarantor from its Notes Guarantee, pursuant to the terms of the New 2L Notes Indenture, the Intercreditor Agreement and/or the Priority Lien Debt Document;

(5) to the extent the Liens on the Collateral securing the Priority Lien Secured Obligations are released by the First Lien Collateral Trustees (other than a discharge or release by or as a result of payment under such guarantee after the occurrence of a payment default or acceleration thereunder (it being understood that a release subject to a contingent reinstatement is still a release)), upon release of such Liens; and

(6) pursuant to the Intercreditor Agreement and the Notes Security Documents.

(d) Satisfaction and Discharge.

The New 2L Notes Indenture will be discharged and will cease to be of further effect as to all Notes issued thereunder, when:

(1) all New 2L Notes then outstanding (except mutilated, lost, destroyed or wrongfully taken New 2L Notes that have been replaced) have (i) been delivered to the Trustee for cancellation; or (ii) become due and payable (whether on a Redemption Date, a Fundamental Change Repurchase Date, the Maturity Date, upon conversion or otherwise) for an amount of cash or Conversion Consideration, as applicable, that has been fixed;

(2) the Company or any Guarantor has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent (or, with respect to Conversion Consideration, the Conversion Agent), in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash (or, with respect to New 2L Notes to be converted, Conversion Consideration) sufficient to satisfy all amounts or other property (including, if applicable, all related Additional Amounts) due on all New 2L Notes then outstanding (except mutilated, lost, destroyed or wrongfully taken New 2L Notes that have been replaced); and

(3) the Company has performed all other Obligation by it under the New 2L Notes Indenture.

In addition, the Company must deliver an Officer's Certificate of the Company and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

(e) Evidence of Compliance with Conditions and Covenants.

Within one hundred twenty (120) days after the earlier of (x) the end of the fiscal year of 2024 and each fiscal year of the Company thereafter, and (y) January 5 of the following year, the Company will deliver an Officer's Certificate to the Trustee and the Collateral Trustee stating (i) that the signatory thereto has supervised a review of the activities of the Company Indenture Parties during such fiscal year with a view towards determining whether any Default or Event of Default has occurred; and (ii) whether, to such signatory's knowledge, a Default or Event of Default has occurred or is continuing (and, if so, describing all such Defaults or Events of Default and what action any Company Indenture Party is taking or proposes to take with respect thereto).

If a Default or Event of Default occurs, then the Company will, within thirty (30) days after its occurrence, deliver an Officer's Certificate to the Trustee and the Collateral Trustee describing the same and what action the Company or any Company Indenture Party is taking or proposes to take with respect thereto. However, such notice will not be required if such Default or Event of Default has been cured or waived before the date the Company is required to deliver such notice.

9. Other obligors.

No person, other than the Applicants, will be an obligor of the New 2L Notes.

Contents of Application for Qualification. This application for qualification comprises—

(a) Pages numbered 1 to 11, consecutively.

(b) The statement of eligibility and qualification of the trustee under the indenture to be qualified.

(c) The following exhibits in addition to those filed as part of the statement of eligibility and qualification of the trustee:

Exhibit T3.A1	Maxeon Solar Technologies, Ltd.'s Constitution (incorporated by reference to Exhibit 99.1 from our report on Form 6-K (File No. 001-39368) on August 27, 2020).
Exhibit T3.A2*	Certificate of Incorporation of SunPower Corporation Limited.
Exhibit T3.A3*	Certificate of Incorporation of SunPower Energy Corporation Limited.
Exhibit T3.A4*	Certificate of Incorporation of SunPower Manufacturing Corporation Limited.
Exhibit T3.A5*	Certificate of Incorporation of Maxeon Rooster HoldCo, Ltd.
Exhibit T3.A6*	Constitution of Maxeon Solar PTE. Ltd.
Exhibit T3.A7*	Certificate of Registration for an Exempted Partnership of SunPower Bermuda Holdings.
Exhibit T3.A8*	Certificate of Incorporation of SunPower Technology Ltd.
Exhibit T3.A9*	Certificate of Incorporation of SunPower Philippines Manufacturing Ltd.
Exhibit T3.A10*	Certificate of Formation of Rooster Bermuda DRE, LLC.
Exhibit T3.A11*	Deed Registry of SunPower Systems Sàrl
Exhibit T3.B1*	Memorandum and Articles of Association of SunPower Corporation Limited.
Exhibit T3.B2*	Articles of Association of SunPower Energy Corporation Limited.
Exhibit T3.B3*	Articles of Association of SunPower Manufacturing Corporation Limited.
Exhibit T3.B4*	Bye laws of Maxeon Rooster HoldCo, Ltd.
Exhibit T3.B5*	Amended and Restated Partnership Agreement of SunPower Bermuda Holdings.
Exhibit T3.B6*	Memorandum and Articles of Association of SunPower Technology Ltd.
Exhibit T3.B7*	Memorandum and Articles of Association of SunPower Philippines Manufacturing Ltd.
Exhibit T3.B8*	Limited Liability Company Agreement of Rooster Bermuda DRE, LLC.
Exhibit T3.B9*	Articles of Association of SunPower Systems Sàrl.
Exhibit T3.C1*	Form of Indenture relating to the Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028.
Exhibit T3D.1	Not Applicable.
Exhibit T3E.1	Form of Exchange Agreement by and among Maxeon Solar Technologies, Ltd. and certain holders of the 6.50% Green Convertible Senior Notes due 2025 (incorporated by reference to Exhibit 99.1 from our report on Form 6-K (File No. 001-39368) on May 30, 2024).
Exhibit T3F.1*	Cross-reference sheet showing the location in the Indenture of the provisions inserted therein pursuant to Section 310 through 318(a), inclusive, of the Trust Indenture Act of 1939.
Exhibit 25.1*	Statement of eligibility and qualification of the Trustee on Form T-1

* Filed herewith.

SIGNATURES

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

MAXEON SOLAR TECHNOLOGIES, LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Chief Financial Officer

Attest:

/s/ Lindsey Roon Wiedmann
Name: Lindsey Roon Wiedmann
Title: Chief Legal & Sustainability Officer of Maxeon Solar
Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

SUNPOWER CORPORATION LIMITED

By: /s/ Peter Aschenbrenner
Name: Peter Aschenbrenner
Title: Authorized Signatory

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann
Title: Chief Legal & Sustainability Officer of Maxeon Solar
Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

SUNPOWER ENERGY CORPORATION LIMITED

By: /s/ Kai Strohbecke

Name: Kai Strohbecke

Title: Director

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann

Title: Chief Legal & Sustainability Officer of Maxeon Solar
Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

SUNPOWER MANUFACTURING CORPORATION LIMITED

By: /s/ Kai Strohbecke

Name: Kai Strohbecke

Title: Director

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann

Title: Chief Legal & Sustainability Officer of Maxeon Solar Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

MAXEON ROOSTER HOLDCO, LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Director

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann
Title: Chief Legal & Sustainability Officer of Maxeon Solar
Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

MAXEON SOLAR PTE. LTD.

By: /s/ Kai Strohbecke

Name: Kai Strohbecke

Title: Director

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann

Title: Chief Legal & Sustainability Officer of Maxeon Solar Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

SUNPOWER BERMUDA HOLDINGS

By: /s/ Kai Strohbecke

Name: Kai Strohbecke

Title: Director

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann

Title: Chief Legal & Sustainability Officer of Maxeon Solar Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

SUNPOWER TECHNOLOGY LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann
Title: Chief Legal & Sustainability Officer of Maxeon Solar
Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

SUNPOWER PHILIPPINES MANUFACTURING LTD.

By: /s/ Kai Strohbecke
Name: Kai Strohbecke
Title: Authorized Signatory

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann
Title: Chief Legal & Sustainability Officer of Maxeon Solar
Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

ROOSTER BERMUDA DRE, LLC

By: /s/ Kai Strohbecke

Name: Kai Strohbecke

Title: Director

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann

Title: Chief Legal & Sustainability Officer of Maxeon Solar Technologies, Ltd.

Pursuant to the requirements of the Trust Indenture Act of 1939, the Applicant below has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, in the city of San Jose, California, on the 30th day of May, 2024:

SUNPOWER SYSTEMS SÀRL

By: /s/ Kai Strohbecke

Name: Kai Strohbecke

Title: Authorized Signatory

Attest:

/s/ Lindsey Roon Wiedmann

Name: Lindsey Roon Wiedmann

Title: Chief Legal & Sustainability Officer of Maxeon Solar Technologies, Ltd.

No. 1818513
 編號



公司註冊處
 COMPANIES REGISTRY

CERTIFICATE OF INCORPORATION

公司註冊證書

I hereby certify that
 本人謹此證明

SunPower Corporation Limited

is this day incorporated in Hong Kong under the Companies Ordinance
 於本日根據《公司條例》(香港法例第32章)
(Chapter 32 of the Laws of Hong Kong) and that this company is limited.
 在香港註冊成為有限公司。

Issued on 30 October 2012.

本證書於二〇一二年十月三十日發出。

Ms Ada L L CHUNG

Registrar of Companies
Hong Kong Special Administrative Region
 香港特別行政區公司註冊處處長鍾麗玲

Note 註:

Registration of a company name with the Companies Registry does not confer any trade mark rights or any other intellectual property rights in respect of the company name or any part thereof.
 公司名稱獲公司註冊處註冊，並不表示獲授予該公司名稱或其任何部分的商標權或任何其他知識產權。

編號 2138594
No. _____



公司註冊處
COMPANIES REGISTRY

公司註冊證明書
CERTIFICATE OF INCORPORATION

本人謹此證明
I hereby certify that

SunPower Energy Corporation Limited

於本日根據香港法例第622章《公司條例》
is this day incorporated in Hong Kong under the Companies Ordinance
在香港成立為法團，此公司是一間
(Chapter 622 of the Laws of Hong Kong), and that this company is
有限公司。
a limited company.

本證明書於二〇一四年八月二十八日發出。
Issued on 28 August 2014.

香港特別行政區公司註冊處處長鍾麗玲
Ms Ada L L CHUNG
Registrar of Companies
Hong Kong Special Administrative Region

註 Note:

公司名稱獲公司註冊處註冊，並不表示獲授予該公司名稱或其任何部分的商標權或任何其他知識產權。

Registration of a company name with the Companies Registry does not confer any trade mark rights or any other intellectual property rights in respect of the company name or any part thereof.

編號 2260542
No.



公司註冊處
COMPANIES REGISTRY

公司註冊證明書
CERTIFICATE OF INCORPORATION

本人謹此證明
I hereby certify that

SunPower Manufacturing Corporation Limited

於本日根據香港法例第622章《公司條例》
is this day incorporated in Hong Kong under the Companies Ordinance
在香港成立為法團，此公司是一間
(Chapter 622 of the Laws of Hong Kong), and that this company is
有限公司。
a limited company.

本證明書於二〇一五年七月八日發出。
Issued on 8 July 2015.

.....
香港特別行政區公司註冊處處長鍾麗玲
Ms Ada L L CHUNG
Registrar of Companies
Hong Kong Special Administrative Region

註 Note :

公司名稱獲公司註冊處註冊，並不表示獲授予該公司名稱或其任何部分的商標權或任何其他知識產權。

Registration of a company name with the Companies Registry does not confer any trade mark rights or any other intellectual property rights in respect of the company name or any part thereof.

FORM NO. 6

Registration No. 55442



BERMUDA

CERTIFICATE OF INCORPORATION

I hereby in accordance with section 14 of *the Companies Act 1981* issue this Certificate of Incorporation and do certify that on the 19th day of **March 2020**

Maxeon Rooster HoldCo, Ltd.

was registered by me in the Register maintained by me under the provisions of the said section and that the status of the said company is that of an **exempted** company.



Given under my hand and the Seal of the REGISTRAR OF COMPANIES this 20th day of **March 2020**

A handwritten signature in black ink, appearing to read 'M. Boodram'.

Maria Boodram
for Acting Registrar of Companies

Company No:
202010491K

THE COMPANIES ACT (CAP. 50)

REPUBLIC OF SINGAPORE

PRIVATE COMPANY LIMITED BY SHARES

CONSTITUTION

OF

MAXEON SOLAR PTE. LTD.

Incorporated on the 1st day of April 2020

(as amended by a special resolution passed on 12 August 2022)

THE COMPANIES ACT (CAP. 50)

REPUBLIC OF SINGAPORE

PRIVATE COMPANY LIMITED BY SHARES

CONSTITUTION

OF

MAXEON SOLAR PTE. LTD.

1. The name of the Company is MAXEON SOLAR PTE. LTD..
 2. The registered office of the Company will be situated in the Republic of Singapore.
 3. The Company has full capacity, rights, powers and privileges to carry on or undertake any business or activity or enter into any transaction.
 4. The liability of the members is limited.
 5. The regulations in the Model Constitution in the First Schedule to the Companies (Model Constitutions) Regulations 2015, shall not apply to the Company, except so far as the same are repeated or contained in this Constitution.
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INTERPRETATION

6. In this Constitution, unless the subject or context otherwise requires, the words standing in the first column of the table next hereinafter contained shall bear the meanings set opposite to them respectively in the second column thereof:-

electronic communication:	electronic communication has the same meaning as in section 2(1) of the Electronic Transactions Act.
electronic record	electronic record has the same meaning as in section 2(1) of the Electronic Transactions Act.
the Company:	MAXEON SOLAR PTE. LTD.
the Act:	The Companies Act (Cap. 50).
this Constitution:	This Constitution of the Company as originally framed or as altered from time to time by special resolutions.
the Directors:	The directors for the time being of the Company, the sole Director or as the case may be, the Directors assembled as a board or a committee of the board.
the Member(s):	The shareholder(s) of the Company.
the Office:	The registered office for the time being of the Company. the
Register:	The electronic register of members kept and maintained by the Registrar of private companies under section 196A of the Act.
the Registrar:	The Registrar has the same meaning as in section 4(1) of the Act.
the Seal:	The Common Seal of the Company.
the Secretary:	Any person appointed to perform the duties of a secretary of the Company.

Any provision of this Constitution that refers (in whatever words) to:

- (a) the Directors;
- (b) the Board of Directors;
- (c) a majority of the Directors; or
- (d) a specified number or percentage of the Directors of the Company

shall, unless the context otherwise requires, apply with necessary modifications in case the Company has only one Director.

Any provision of this Constitution that refers (in whatever words) to:

- (a) the Members;
- (b) a majority of Members; or
- (c) a specified number or percentage of Members of the Company

shall, unless the context otherwise requires, apply with necessary modifications in case the Company has only one Member.

Wherever any provision of this Constitution (except a provision for the appointment of a proxy) requires that a communication as between the Company, its Directors or Members be effected in legible form or a permitted alternative form, the requirement may be satisfied by the communication being given in the form of an electronic record.

Words importing the singular number only shall include the plural number, and vice versa.

Words importing the masculine gender only shall include the feminine gender; and Words importing persons shall include corporations and limited liability partnerships.

Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a legible form, including in the form of an electronic record.

Words or expressions contained in this Constitution shall be interpreted in accordance with the provisions of the Interpretation Act, Cap. 1, and of the Act as in force at the date which this Constitution become binding on the Company.

PRIVATE COMPANY

- 7. The Company is a private company and accordingly:
 - (a) The right to transfer shares in the Company shall be restricted in the manner hereinafter appearing.
 - (b) The number of Members of the Company (counting joint holders of shares as one person and not counting any person in the employment of the Company or of its subsidiary or any person who while previously in the employment of the Company or of its subsidiary was and thereafter has continued to be a Member of the Company) shall be limited to 50.

SHARE CAPITAL AND VARIATION OF RIGHTS

- 8. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares but subject to the Act, shares in the Company may be issued by the Directors and any such share may be issued with such preferred, deferred, or other special rights or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise, as the Directors, subject to any ordinary resolution of the Company, determine.
 - 9. Subject to the Act, any preference shares may, with the sanction of an ordinary
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resolution, be issued on the terms that they are, or at the option of the Company are liable, to be redeemed.

10. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied by a special resolution passed by written means by the holders of the issued shares of that class, or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of this Constitution relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll. To every such special resolution the provisions of Section 184 of the Act shall with such adaptations as are necessary apply.
 - 10A. Notwithstanding anything contained in these Regulations (including but not limited to Regulation 10), the rights, privileges or conditions for the time being attached or belonging to any class of shares for the time being forming part of the share capital of the Company which have been charged or mortgaged by way of security, from time to time, to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of such bank, fund entity, financial institution, company or other person or entity), shall not be modified, affected, varied, extended or surrendered in any way or manner without the prior written consent of such bank, fund entity, financial institution, company or other person or entity (or, as the case may be, such nominee, agent or trustee).
 11. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall, unless otherwise expressly provided by the terms of issue of the shares of the class, be deemed to be varied by the creation or issue of further shares ranking equally therewith.
 12. The Company may exercise the powers of paying commissions conferred by the Act, provided that the rate per cent or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by the Act and the commission shall not exceed the rate of 10 per cent of the price at which the shares in respect whereof the same is paid are issued or an amount equal to 10 per cent of that price (as the case may be). Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. The Company may also on any issue of shares pay such brokerage as may be lawful.
 13. (a) Except as required by law, no person shall be recognised by the Company as holding any share upon any trust.
(b) The Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future, or partial interest in any share or unit of a share or (except only as by this Constitution or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.
 14. Every person whose name is entered as a Member in the Register shall be entitled without payment to receive a certificate under the Seal of the Company in accordance with the Act but in respect of a share or shares held jointly by several persons the Company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.
 15. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding \$2, and on such terms, if any, as to evidence and indemnity, as the Directors think fit.
 16. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all money (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares (other than fully paid shares) registered in the name of a
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single person for all money presently payable by him or his estate to the Company; but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Regulation. The company's lien, if any, on a share shall extend to all dividends payable thereon.

- 16A. Notwithstanding anything contained in these Regulations, any bank, fund entity, financial institution, company or other person or entity to whom any shares have from time to time been charged or mortgaged by way of security (or any nominee, agent or trustee of or on behalf of any such bank, fund entity, financial institution, company or other person or entity) shall have a first fixed charge over such shares, ranking in priority over the lien expressed to be created under Regulation 16 (which shall in all respects be subject to such charge), whether the period for the payment, fulfilment or discharge shall have actually arrived or not, and, regardless of when such charge or mortgage has been created by the chargor or mortgagor, and such first fixed charge shall extend to all dividends from time to time declared in respect of such shares.
17. The Company may sell, in such manner as the Directors think fit, any shares on which the Company has a lien, but no sale shall be made unless a sum in respect of which the lien exists is presently payable, nor until the expiration of 14 days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.
- 17A. No sale pursuant to this Regulation 17 shall be made of any shares which have been charged or mortgaged by way of security, from time to time, to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of such bank, fund entity, financial institution, company or other person or entity).
18. To give effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser thereof. The Company shall lodge a notice of transfer of shares in relation to the shares sold to the purchaser with the Registrar, and the purchaser shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.
19. The net proceeds of any such sale shall be applied in or towards satisfaction of the amount due to the Company, or of the liability or engagement, as the case may be, and the balance (if any) shall be paid to the Member or the person (if any) entitled by transmission to the shares so sold.

CALL ON SHARES

20. The Directors may from time to time make calls upon the Members in respect of any money unpaid on their shares and not by the conditions of allotment thereof made payable at fixed times, provided that no call shall be payable at less than one month from the date fixed for the payment of the last preceding call, and each Member shall (subject to receiving at least 14 days' notice specifying the time or times and place of payment) pay to the company at the time or times and place so specified the amount called on his shares. A call may be revoked or postponed as the Directors may determine.
21. A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed and may be required to be paid by instalments.
22. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
23. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment thereof to the time of actual payment at such rate not exceeding 8 per cent per annum as the Directors may determine, but the Directors shall be at liberty to waive payment of that interest wholly or in part.
24. Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date shall for the purposes of this Constitution be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable, and in case of non-payment all the relevant provisions of this Constitution as to payment of interest and expenses, forfeiture, or otherwise shall apply as if the sum
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had become payable by virtue of a call duly made and notified.

25. The Directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.
26. The Directors may, if they think fit, receive from any Member willing to advance the same all or any part of the money uncalled and unpaid upon any shares held by him, and upon all or any part of the money so advanced may (until the same would, but for the advance, become payable) pay interest at such rate not exceeding (unless the Company in general meeting shall otherwise direct) 8 per cent per annum as may be agreed upon between the Directors and the Member paying the sum in advance.

TRANSFER AND TRANSMISSION OF SHARES

27. (a) All transfers of shares may be effected by transfer in writing in any usual or common form or in any other form acceptable to the Directors and may be under hand only.
- (b) The instrument of transfer shall be signed by or on behalf of both the transferor and the transferee.
- (c) The transferor shall remain the holder of the shares concerned until the name of the transferee is entered in the Register in respect thereof.

For the purpose of this Regulation 27 and Regulation 29, any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of any such bank, fund entity, financial institution, company or other person or entity) to whom any shares have been charged or mortgaged by way of security, from time to time, shall not be required provide any evidence to prove its title to such shares or to prove the right of the transferor to make the transfer of such shares other than the certificate of the shares to be transferred.

28. (a) The Directors may, in their absolute discretion, refuse to lodge a notice of transfer of shares with the Registrar. If the Directors shall refuse to lodge a notice of transfer of shares with the Registrar they shall, within one month from the date on which the application for transfer was made, send to the transferee a notice in writing stating the facts which are considered to justify refusal and send to both the transferor and transferee a notice of refusal as required by the Act. The Directors shall refuse to lodge a notice of transfer of shares with the Registrar which would cause the number of Members of the Company to exceed the number permitted under this Constitution. The Directors shall not lodge a notice of transfer of shares with the Registrar in respect of a transfer to a person who is known to them to be an infant or a person of unsound mind but the Directors shall not be bound to enquire into the age or soundness of mind of any transferee.
- (b) Except in the case of a transfer of shares expressly authorised by paragraph (c) hereof (hereinafter called a "permitted transfer") the right to transfer shares in the Company shall be subject to the following restrictions:
 - (i) Before transferring any shares of any class the person proposing to transfer the same (hereinafter called "the Offeror") shall give notice in writing (hereinafter called a "Transfer Notice") by prepaid registered mail sent on the same date to all the other existing Members of the Company at their registered addresses of the number of shares he proposes to transfer inviting each of them to state in writing within 28 days from the posting of the Transfer Notice the maximum number of the shares to be transferred which he wishes to purchase. At the expiration of the said 28 days the Offeror and such of the other Members as shall have notified their interest in purchasing as aforesaid (hereinafter called "the Interested Offerees") or, if there shall be no Interested Offerees, the Offeror and the Directors, shall join in

requesting the auditors of the Company to determine the Prescribed Price. For one month after the determination of the Prescribed Price ("the Option Period") the Interested Offerees shall have the option exercisable by notice in writing to the Offeror to purchase the shares specified in the Transfer Notice at the Prescribed Price, and in the case of competition in proportion (as nearly as may be) to their existing holdings of shares. In the event of the exercise of such option, the Offeror shall be bound, upon payment of the Prescribed Price, to transfer the shares to the Interested Offeree or Offerees accepting the same. Provided always that if the Transfer Notice shall state that the Offeror is not willing to transfer part only of the shares concerned he shall not be bound hereunder to transfer any of such shares unless the whole of such shares have been accepted by the Interested Offerees. The purchase shall be completed within 28 days of such acceptance at a place in Singapore to be appointed by the Offeror. A Transfer Notice once given shall not be revocable except with the written consent of the holders of the majority of the shares to whom the Transfer Notice shall have been given.

- (ii) If the whole of the shares comprised in the Transfer Notice shall not have been accepted pursuant to paragraph (b)(i) of this Regulation within the Option Period (or if there shall be no Interested Offerees), the Offeror may at any time within two months after the end of the Option Period (or, if there shall be no Interested Offerees, within two months after the determination of the Prescribed Price), subject only to the provisions of paragraph (a) of this Regulation, transfer the shares which have not been so accepted to any person on a bona fide sale at any price not being less than the Prescribed Price (after deducting, where appropriate, any net dividend or other distribution declared or made at the date of the Transfer Notice and to be retained by the Offeror). Provided that:
 - (A) if the Transfer Notice shall state that the Offeror is not willing to transfer part only of the shares concerned he shall not be entitled hereunder to transfer any of such shares unless in aggregate the whole of such shares are so transferred; and
 - (B) any Member may require to be reasonably satisfied that such shares are being transferred in pursuance of a bona fide sale for the consideration stated in the transfer without any deduction, rebate or allowance whatsoever to the purchaser and if not so satisfied the Directors shall refuse to lodge a notice of transfer of shares with the Registrar.
 - (iii) In the event of the liquidation (otherwise than for the purpose of reconstruction or amalgamation) bankruptcy or death of any Member then the liquidator, trustee in bankruptcy or personal representatives of the Member (as the case may be) shall be bound either to transfer forthwith the shares held by such Member as sole shareholder to another existing Member or to give forthwith to all of the other Members a Transfer Notice in respect of all the shares held by such Member as sole shareholder, and if within 90 days of the winding up, bankruptcy or death of such Member no such transfer is presented for registration or no such Transfer Notice is given, the liquidator, trustee
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in bankruptcy or personal representative as the case may be shall be deemed to have given such Transfer Notice at the expiration of such period and the provisions of this Regulation shall take effect accordingly.

- (iv) If in any case the Offeror after having become bound to transfer any shares as aforesaid shall fail or refuse to do so, the Secretary or any other person appointed by the Directors shall be deemed to have been appointed attorney of the Offeror with full power to execute, complete and deliver, in the name and on behalf of the Offeror transfers of the shares to the purchaser thereof against payment of the Prescribed Price to the Company. The receipt of the Company for the Prescribed Price shall be a good discharge to the purchaser (who shall not be bound to see to the application thereof) and after the purchaser has been registered in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person. On execution and delivery of the transfer the purchaser shall be entitled to insist upon a notice of transfer of shares in respect of such transfer to be lodged with the Registrar.
 - (v) The "Prescribed Price" shall be such sum per share as may be determined by the auditors of the Company to be the fair value as at the date the Transfer Notice was given or deemed to have been given of the shares specified in the Transfer Notice as between a willing seller and a willing buyer acting at arm's length. In making such determination the auditors of the Company shall be deemed to be acting as experts and not as arbitrators (so that the provisions of the Arbitration Act and any modification or re-enactment thereof shall not apply). The cost of the determination of the Prescribed Price shall be borne as to one-half by the Offeror and as to one-half by the Interested Offerees in proportion to their existing shareholdings (or, if there shall be no Interested Offerees, by the Offeror.)
- (c) The restrictions contained in paragraph (b) of this Regulation shall not apply to any transfer:
- (i) by any Member being a corporation of any shares to another corporation resulting from a reconstruction or amalgamation of such Member or to any subsidiary or holding company of such Member or to another subsidiary of such holding company;
 - (ii) by any Member to another Member;
 - (iii) to which the consent of all the Members for the time being is given by written means; or
 - (iv) to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of any such bank, fund entity, financial institution, company or other person or entity) to whom any shares have been charged or mortgaged by way of security, from time to time.
- (d) (i) For the purpose of ensuring that a transfer of shares is a permitted transfer or that no circumstances have arisen whereby a Transfer Notice is required to be given or to be deemed to have been given hereunder the Directors may from time to time require any Member or any person named as transferee in any transfer lodged for registration to furnish to the Company such reasonable information and evidence as the Directors may think fit regarding any matter which they may deem relevant to such purpose. Failing such information or evidence
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being furnished to the reasonable satisfaction of the Directors within a reasonable time after request, the Directors shall be entitled to refuse to register the transfer in question or (in case no transfer is in question) to require by notice in writing that a Transfer Notice be given in respect of the shares concerned. If such information or evidence discloses that a Transfer Notice ought to have been given in respect of any shares the Directors may by notice in writing require that a Transfer Notice be given in respect of the shares concerned.

- (ii) In any case where the Directors have duly required a Transfer Notice to be given in respect of any shares and such Transfer Notice is not duly given within a period of one month, or such longer period as the Directors may allow for the purpose, such Transfer Notice shall (except and to the extent that a permitted transfer of any of such shares shall have been lodged) be deemed to have been given on such date after the expiration of the said period as the Directors may by resolution determine and the provisions of the Regulations relating to Transfer Notices shall take effect accordingly.
- 28A. Notwithstanding anything contained in these Regulations (including but not limited to Regulation 28 and Regulation 30), the directors shall not decline or refuse to register any transfer of a share or shares, nor may they suspend registration thereof, nor shall they decline to accept any instrument of transfer, in respect of any shares which have been charged or mortgaged by way of security, from time to time, to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of any such bank, fund entity, financial institution, company or other person or entity) and a certificate by any officer of such bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of such bank, fund entity, financial institution, company or other person or entity) that the shares were so charged or mortgaged shall be conclusive evidence of such facts.
29. To enable the company to lodge a notice of transfer of shares with the Registrar under section 128(1)(a) of the Act, the following items in relation to the transfer of shares must be delivered by the transferor to the registered office of the Company:
- (a) the instrument of transfer referred to in Regulation 27;
 - (b) the certificate of the shares to which the instrument of transfer relates; and
 - (c) any other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.
- Upon receipt of the items referred to above, the Company must, subject to Regulation 28, lodge with the Registrar a notice of transfer of shares in accordance with section 128 of the Act and retain the instrument of transfer referred to in Regulation 27.
30. The lodging of any notice of transfer of shares with the Registrar for the purpose of updating the Register may be suspended at any time and for any period as the Directors may from time to time determine, but not for more than a total of 30 days in any year.
31. The legal personal representatives of a deceased sole holder of a share shall be the only persons recognised by the Company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the legal personal representatives of the deceased survivor, shall be the only persons recognised by the Company as having any title to the share. Nothing in this provision releases the estate of the deceased from any liability in respect of any share which had been jointly held by the deceased with other persons.
32. Any person to whom the right to any share has been transmitted by operation of law upon producing such evidence of such transmission as the Directors think sufficient may, with the consent of the Directors, be registered as a Member in respect of such shares or may subject to the provisions of this Constitution transfer such shares. A transmission by operation of law for the purpose of this Regulation shall include, without limitation, the merger of any two or more corporations under the laws of one or more foreign countries or states.
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FORFEITURE OF SHARES

33. If a Member fails to pay any call or instalment of a call on the day appointed for payment thereof, the Directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
34. The notice shall name a further day (not earlier than the expiration of 14 days from date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.
35. If the requirements of any notice are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture.
- 35A. Notwithstanding anything contained in these Regulations, Regulation 35 shall not apply to any transfer of shares which have from time to time been charged or mortgaged by way of security, from time to time, to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of any such bank, fund entity, financial institution, company or other person or entity), and a certificate by any officer of any such bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of such bank, fund entity, financial institution, company or other person or entity) that the shares were so charged or mortgaged shall be conclusive evidence of such facts.
36. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.
37. A person whose shares have been forfeited shall cease to be a Member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Company all money which, at the date of forfeiture, was payable by him to the Company in respect of the shares (together with interest at the rate of 8 per cent per annum thereon from the date of forfeiture) but his liability shall cease if and when the Company receives payment in full of all such money in respect of the shares.
38. A Statutory Declaration in writing that the declarant is a Director or the Secretary of the Company, and that a share in the Company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share.
39. The Company may receive the consideration, if any, given for a forfeited share on any sale or disposition thereof and may execute a transfer of share in favour of the person to whom the share is sold or disposed of and a notice of transfer of share shall thereupon be lodged with the Registrar, and Regulation 29 shall apply with the necessary changes to any such transfer. Such person shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.
40. The provisions of this Constitution as to forfeiture shall apply in the case of non- payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, as if the same had been payable by virtue of a call made and notified.
- 40A. Notwithstanding anything contained in these Regulations, no shares which have been charged or mortgaged by way of security, from time to time, to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of any such bank, fund entity, financial institution, company or other person or entity) shall be liable to be forfeited or surrendered or sold and the Shareholder of whom shall continue to be entitled to receive any dividend or to be present or vote at any meeting or upon a poll, or to exercise any privilege or rights as a member.

CONVERSION OF SHARES INTO STOCK

41. The Company may by ordinary resolution passed at a general meeting convert any paid-up
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shares into stock and convert any stock into paid-up shares of any denomination.

For the purpose of this Article 41, no conversion referred to in this Article 41 shall be made in respect of any shares which have been charged or mortgaged by way of security, from time to time, to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of such bank, fund entity, financial institution, company or other person or entity) without the prior written consent of such bank, fund entity, financial institution, company or other person or entity (or, as the case may be, such nominee, agent or trustee).

42. The holders of stock may transfer the same or any part thereof in the same manner and subject to the same regulations as and subject to which the share from which the stock arose might previously to conversion have been transferred or as near thereto as circumstances admit; but the Directors may from time to time fix the minimum amount of stock transferable and restrict or forbid the transfer of fractions of that minimum.
43. The holders of stock shall according to the amount of the stock held by them have the same rights, privileges and advantages as regards dividends voting at meetings of the Company and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the Company and in the assets on winding up) shall be conferred by any such aliquot part of stock which would not if existing in shares have conferred that privilege or advantage.
44. Such of the Regulations of the Company as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholders" therein shall include "stock" and "stockholders".

ALTERATION OF CAPITAL

45. The Company may from time to time by ordinary resolution:-
- (a) consolidate and divide all or any of its share capital;
 - (b) subdivide its shares or any of them; and in any such 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 the case of the share from which the reduced share is divided;
 - (c) cancel the number of shares which at the date of the passing of the resolution in that behalf have not been taken or agreed to be taken by any person or which have been forfeited and diminish the amount of its share capital by the number of shares so cancel led.
- 45A. Notwithstanding anything contained in these Regulations (including but not limited to Regulation 45), no shares nor any class of shares for the time being forming part of the share capital of the company which have been charged or mortgaged by way of security, from time to time, to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of any such bank, fund entity, financial institution, company or other person or entity), shall be subject to any consolidation, division, cancellation, subdivision or conversion into any other class of shares in any way or manner without the prior written consent of such bank, fund entity, financial institution, company or other person or entity (or, as the case may be, such nominee, agent or trustee of or on behalf of any such bank, fund entity, financial institution, company or other person or entity).
46. The new shares shall be subject to the same provisions with reference to the payment of calls, liens, transfer, transmission, forfeiture, and otherwise as the shares in the original share capital.
47. Subject to any direction to the contrary that may be given by the Company in a general meeting, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the Company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to have been declined, and, after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the Directors may dispose of those shares in such manner as they think most beneficial to the Company. The Directors may likewise so dispose of any new shares which by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares cannot, in the opinion of the Directors, be conveniently offered under this Regulation.
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48. The Company may by special resolution reduce its share capital in any manner as required by law.
- 48A. Notwithstanding anything contained in these Regulations, the company may not purchase or acquire or otherwise reduce its share capital in respect of any shares which have been charged or mortgaged by way of security, from time to time, to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of such bank, fund entity, financial institution, company or other person or entity) without the prior written consent of such bank, fund entity, financial institution, company or other person or entity (or, as the case may be, such nominee, agent or trustee).

PURCHASE OF OWN SHARES

49. Subject to the provisions of the Act, the Company may purchase or otherwise acquire its own shares upon such terms and subject to such conditions as the Company may deem fit.

GENERAL MEETINGS

50. An annual general meeting of the Company shall be held in accordance with the provisions of the Act. All general meetings other than annual general meetings shall be called extraordinary general meetings.
51. The Directors may, whenever they think fit, convene an extraordinary general meeting and extraordinary general meetings shall also be convened on such requisition, or in default may be convened by such requisitionists, as provided by Section 176 of the Act. If at any time there are not within Singapore sufficient Directors capable of acting to form a quorum, any Director or any two Members of the Company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.
52. Subject to the provisions of the Act relating to special resolutions and agreements for shorter notice, 14 days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, day and hour of meeting and in the case of special business the general nature of that business shall be given to such persons as are entitled to receive such notices from the Company. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any Member shall not invalidate the proceedings at any meeting.
53. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of (i) the declaration of a dividend, (ii) the consideration of the financial statements, the statements of the Directors, and the report of the auditors, (iii) the election of Directors in the place of those retiring (if any), and (iv) the appointment and fixing of the remuneration of the auditors.
54. Subject to the provisions of the Act, if the Company has only one Member as a shareholder of the Company, then any resolution passed by that Member shall be deemed to be a resolution passed at the general meeting of the Company.

PROCEEDINGS AT GENERAL MEETINGS

55. (a) 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. Save as herein otherwise provided, a Member or Members entitled to vote being present in person or by proxy or representative and representing between them more than one-half of the total voting rights of all the Members having the right to vote at the meeting shall be a quorum for a general meeting. For the purposes of this Regulation "Member" includes a person attending as a proxy or as representing a corporation or a limited liability partnership which is a Member.

- (b) Members may participate in a meeting by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and such participation shall constitute presence in person.
56. If within half-an-hour from the time appointed for the meeting a quorum is not present, the meeting if convened upon the requisition of Members shall be dissolved; but in any other case it shall stand adjourned to the same day in the next week at the same time and place, unless the same shall be a public holiday, when it shall be adjourned to the day following at the same time and place, and if at such adjourned meeting a quorum is not present, those Members who are present shall be deemed a quorum, and may transact the business for which the meeting was called.
57. The Chairman, if any, of the board of Directors shall preside as Chairman at every general meeting of the Company, or if there is no such Chairman, or if he is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the Members present shall elect one of their number to be Chairman of the meeting.
58. The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 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.
59. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:-
- (a) by the Chairman;
 - (b) by at least two Members present in person or by proxy;
 - (c) by any Member or Members present in person or by proxy and representing not less than five per cent of the total voting rights of all the Members having the right to vote at the meeting; or
 - (d) by a Member or Members holding shares in the Company conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than five per cent of the total sum paid up on all the shares conferring that right.
- Unless a poll is so demanded a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. Any demand for a poll may be withdrawn.
60. If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairman directs, and the result of the
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poll shall be the resolution of the meeting at which the poll was demanded, but a poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith.

61. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
62. Subject to any rights or restrictions for the time being attached to any class or classes of shares, at meetings of Members or classes of Members, each Member entitled to vote may vote in person or by proxy or by attorney and on a show of hands every person present (whether in person or by proxy) who is a Member or an attorney or other duly authorised representative of a Member shall have one vote, and on a poll every Member present in person or by proxy or by attorney or other duly authorised representative shall have one vote for each share he holds.
63. (a) Resolutions in writing may be passed by the Members in the manner prescribed by the Act and any such resolution shall be as effective as if the same had been passed at a general meeting of the Company duly convened and held, and may consist of several documents in legible form or a permitted alternate form containing the text of the resolution, each signed by one or more of such Members.
- (b) Subject to the provisions of the Act, all general meetings may be held by means of video conference or by other means of electronic communications and in such manner as may be agreed by the Company in general meeting. All the provisions in this Constitution as to general meetings shall, mutatis mutandis, be applicable.
- The expressions "written means" and "indicating the Member's agreement to the resolution" include approval by electronic communication by any such Member.
64. 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 other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the Register.
65. A Member who is of unsound mind or whose person or estate is liable to be dealt with in any way under the law relating to mental disorder may vote, whether on a show of hands or on a poll, by his committee or by such other person as properly has the management of his estate, and any such committee or other person may vote by proxy or attorney.
66. No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
67. The Company shall be treated as having no right to vote in respect of any treasury shares it may hold and the treasury shares shall be treated as having no voting rights.
68. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.
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69. The instrument appointing a proxy shall be in writing (in the common or usual form) under the hand of the appointer or of his corporation or his limited liability partnership, either under the seal or under the hand of an officer or attorney duly authorised. A proxy may but need not be a Member of the Company. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
70. Where it is desired to afford Members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit or as otherwise approved by the Directors:

MAXEON SOLAR PTE. LTD.

I/We, _____ of _____ being a Member/

Members of the above-named Company, hereby appoint

of _____, or failing him,

of _____, as my/our proxy to vote for me/us

on my/our behalf at the (annual or extraordinary, as the case may be)

general meeting of the company, to be held on the _____ day of

and at any adjournment thereof.

Signed this _____ day of

* in favour of

This form is to be used-----the resolution.

against

* Strike out whichever is not desired. (Unless otherwise instructed, the proxy may vote as he thinks fit.)

71. Subject to the Act, the instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the Office of the Company, or at such other place within Singapore as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.
72. A vote given in accordance with the terms of an instrument of proxy or attorney shall be valid notwithstanding the previous death or unsoundness of mind of the principal or revocation of the instrument or of the authority under which the instrument was executed, or the transfer of the share in respect of which the instrument is given, if no intimation in writing of such death, unsoundness of mind, revocation, or transfer as aforesaid has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the instrument is used.

73. Any corporation and limited liability partnership which is a Member of the Company may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members of the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation or limited liability partnership could exercise if it were an individual Member of the Company.
74. Notwithstanding the foregoing, where the Company has only one Member, the Company may pass a resolution by that Member recording the resolution and signing on the record.

DIRECTORS: APPOINTMENT, ETC

75. The number of the Directors shall not be less than the minimum required by the Act.
76. The Company may from time to time by ordinary resolution passed at a general meeting place any limit on or reduce the number of Directors, but the number of Directors shall never be less than the minimum required by the Act.
77. The Directors shall have power at any time and from time to time to appoint any person to be a Director either to fill a casual vacancy or as an additional Director but so that the total number of Directors shall not at any time exceed the maximum number, if any, fixed by or in accordance with this Constitution.
78. Any Director who holds any executive office or who serves on any committee, or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration by way of salary, commission or otherwise as the Directors may determine.
79. The Company in a general meeting may appoint any person to be a Director for such term as may be resolved or may remove any existing Director and may by an ordinary resolution appoint another person in his stead. A person appointed in place of a removed Director is subject to retirement at the same time as if such person had become a Director on the day on which the Director in whose place the person is appointed was last elected a Director.
80. The remuneration of the Directors shall from time to time be determined by the Company in a general meeting. That remuneration shall be deemed to accrue from day to day. The Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or in connection with the business of the Company.
81. It shall not be necessary for a Director to hold any share qualification in the Company.
82. The office of Director shall become vacant if the Director
- (a) ceases to be a Director by virtue of the Act;
 - (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - (c) becomes prohibited from being a Director by reason of any order made under the Act;
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- (d) becomes disqualified from being a Director by virtue of
 - (i) Section 148, 149, 149A, 154, 155, 155A or 155C under the Act;
 - (ii) Section 50 or 54 of the Banking Act (Cap. 19);
 - (iii) Section 47 of the Finance Companies Act (Cap. 108);
 - (iv) Section 57 of the Financial Advisers Act (Cap. 110);
 - (v) section 62 or 63 of the Financial Holdings Companies Act 2013 (Act 13 of 2013)
 - (vi) Section 31, 31A, 35ZJ or 41(2)(a)(ii) of the Insurance Act (Cap. 142);
 - (vii) Section 40 of the Monetary Authority of Singapore Act (Cap. 186);
 - (viii) Section 35 of the Payment Services Act 2019 (Act 2 of 2019);
 - (ix) Section 66 of the Payment Services Act 2019;
 - (x) Section 43, 46Z, 81P, 81ZJ, 97, 123Y, 123ZU or 292A of the Securities and Futures Act (Cap. 289); or
 - (xi) Section 14 of the Trust Companies Act (Cap. 336);
- (e) being a director of a Registered Fund Management Company as defined in the Securities and Futures (Licensing and Conduct of Business) Regulations (Cap. 289, Rg 10), he or she has been removed by the Registered Fund Management Company as director in accordance with those Regulations;
- (f) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental disorder;
- (g) subject to Section 145 of the Act, resigns his office by notice in writing to the Company, such notice to comply with the requirements of Regulation 126;
- (h) is for more than six months absent without permission of the Directors from meetings of the Directors held during the period; or
- (i) without the consent of the Company in a general meeting holds any other office of profit under the Company except that of Managing Director or Manager.

POWERS AND DUTIES OF DIRECTORS

- 83. The business of a company is managed by or under the direction or supervision of the directors. The directors may exercise all the powers of a company except any power that the Act or this Constitution requires the company to exercise in general meeting.
 - 84. 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 and other securities whether outright or as security for any debt, liability, or obligation of the Company or of any third party.
 - 85. The Directors may exercise all the powers of the Company in relation to any official
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seal for use outside Singapore and in relation to branch registers of debenture holders kept in any place outside Singapore.

86. The Directors may from time to time by power of attorney appoint any corporation, limited liability partnership, firm or person or body of persons, 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 discretions (not exceeding those vested in or exercisable by the Directors under this Constitution) and for such period and subject to such conditions as they may think fit, and any such powers 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 discretions vested in him.
87. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two Directors or in such other manner as the Directors from time to time determine.
88. The Directors shall cause minutes to be made -
- (a) of all the appointments of officers;
 - (b) of names of Directors present at all meetings of the Company and of the Directors; and
 - (c) of all proceedings at all meetings of the Company and of the Directors.

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

PROCEEDINGS OF DIRECTORS

89. The Directors may meet together for the despatch of business adjourn and otherwise regulate their meetings as they think fit. A Director may at any time and the Secretary shall on the requisition of a Director summon a meeting of the Directors.
90. Subject to this Constitution questions arising at any meeting of the Directors shall be decided by a majority of votes and a determination by a majority of the Directors present shall for all purposes be deemed a determination of the Directors. In case of an equality of votes the Chairman of the meeting shall have a second or casting vote.
91. (a) A Director or Chief Executive Officer may be a party to or in any way interested in any contract or arrangement or transaction to which the Company is a party or in which the Company is in any way engaged or concerned or interested. A Director or Chief Executive Officer may hold and be remunerated in respect of any office or place of profit (other than the office of auditor of the Company or any subsidiary thereof) under the Company or any other company in which the Company is in any way interested and he (or any firm of which he is a member) may act in a professional capacity for the Company or any such other company and be remunerated thereof. Subject to the provisions of the Act, on any matter in which a Director or Chief Executive Officer (who is a Director) is in any way interested he may nevertheless vote and be taken into account for the purposes of a quorum and (save as otherwise agreed) may retain for his own absolute use and benefit all profits
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and advantages directly or indirectly accruing to him therefrom.

(b) A Director or Chief Executive Officer who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company shall declare the nature of his interest in accordance with the provisions of the Act.

92. Any Director may, with the approval of the Directors, appoint any person (whether a Member of the Company or not) to be his alternate or substitute Director and to act in his place during such period as he thinks fit. Any person while he so holds office as an alternate or substitute Director shall be entitled to notice of meetings of the Directors and to attend and vote accordingly, and to exercise all the powers of his appointor. An alternate or substitute Director shall ipso facto vacate office if his appointor vacates office as a Director or removes the appointee from office. Any appointment or removal under this Regulation shall be effected by notice in writing under the hand of the Director making the same.
 93. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors and, unless so fixed, shall be two.
 94. 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 this Constitution as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company, but for no other purpose.
 95. The Directors may elect a Chairman of their meetings and determine the period for which he is to hold office; but if no such Chairman is elected, or if at any meeting the Chairman is not present within ten minutes after the time appointed for holding the meeting, the Directors present may choose one of their number to be Chairman of the meeting.
 96. 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 in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.
 97. A committee may elect a Chairman of its meetings; if no such Chairman is elected, or if at any meeting the Chairman is not present within ten minutes after the time appointed for holding the meeting, the members present may choose one of their number to be Chairman of the meeting.
 98. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the Chairman shall have a second or casting vote.
 99. All acts done by any meeting of the Directors or of a committee of the Directors or by any person acting as a Director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or persons 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.
 100. A resolution in writing signed by a majority of the Directors of the Company shall be as valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted. Any such resolution may consist of several documents in like form.
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each signed by one or more Directors. The expressions "in writing" and "signed" include approval by electronic communication by any such director.

101. Any Director or member of a committee of the Directors may participate in a meeting of the Directors or such committee by means of conference telephone or similar electronic communications equipment whereby all persons participating in the meeting can hear each other and participation in the meeting in such manner shall be deemed to constitute presence in person at such meeting.
102. Notwithstanding the foregoing, where the Company has only one Director, that Director may pass a resolution by recording the resolution and signing on the record.

MANAGING DIRECTOR / CHIEF EXECUTIVE OFFICER

103. The Directors may from time to time appoint one or more of their body to the office of Managing Director / Chief Executive Officer for such period and on such terms as they think fit and, subject to the terms of any agreement entered into in any particular case, may revoke any such appointment. The appointment of a Managing Director / Chief Executive Officer (other than a Chief Executive Officer who is not a Director) shall be automatically determined if he ceases for any reason whatsoever to be a Director.
104. A Managing Director / Chief Executive Officer shall, subject to the terms of any agreement entered in any particular case, receive such remuneration (whether by way of salary, commission, or participation in profits, or partly in one way and partly in another) as the Directors may determine.
105. The Directors may entrust to and confer upon a Managing Director/ Chief Executive Officer any of the powers exercisable by them upon such terms and conditions and with such restrictions of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of those powers.

SECRETARY

106. The Secretary shall in accordance with the Act be appointed by the Directors for such terms, at such remuneration, and upon such conditions as they may think fit, and any Secretary so appointed may be removed by them.

SEAL

107. The Directors shall provide for the safe custody of the Seal, which shall only be used by the authority of the Directors or of a committee of the Directors authorised by the Directors in that behalf, and every instrument to which the Seal is affixed shall be signed by a Director and shall be countersigned by the Secretary or by a second Director or by some other person appointed by the Directors for the purpose, or where the Company has only one Director, signed by that Director and such signature(s) shall be conclusive evidence of the fact that the Seal has been properly affixed.
108. The Company may exercise the powers conferred by the Act with regard to having an official seal for use outside Singapore and such powers shall be vested in the Directors.

ACCOUNTS

109. The Directors shall cause proper accounting and other records to be kept and shall
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distribute copies of financial statements and other documents as required by the Act and shall from time to time determine whether and to what extent and at what time and places and under what conditions or regulations the accounting and other records of the Company or any of them shall be opened to the inspection of Members not being Directors, and no Member (not being a Director) shall have any right of inspecting any accounts or book or paper of the Company except as conferred by the Act or authorised by the Directors or by the Company in a general meeting.

AUDITORS

110. Auditors shall be appointed and their appointment and duties regulated in accordance with the provisions of the Act.

DIVIDENDS AND RESERVES

111. The Company in a general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Directors.
112. The Directors may from time to time pay to the Members such interim dividends as appear to the Directors to be justified by the profits of the Company.
113. No dividend shall be paid otherwise than out of the profits or shall bear interest against the Company.
114. The Directors may, before recommending any dividend, set aside out of the profits of the Company such sums as they think proper as reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied, and pending any such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than shares in the Company) as the Directors may from time to time think fit. The Directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.
115. Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this Regulation as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid but if any such share is issued on terms providing that it shall rank for dividend as from a particular date that share shall rank for dividend accordingly.
116. The Directors may deduct from any dividend payable to any Member all sums of money, if any, presently payable by him to the Company on account of calls or otherwise in relation to the shares of the Company. However, no deduction of dividend shall be made in respect of any shares which have been charged or mortgaged by way of security, from time to time, to any bank, fund entity, financial institution, company or other person or entity (or any nominee, agent or trustee of or on behalf of such bank, fund entity, financial institution, company or other person or entity).
117. Any general meeting declaring a dividend or bonus may direct payment of such dividend or bonus wholly or partly by the distribution of specific assets and in particular of paid-up shares, debentures or debenture stock of any other Company or in any one or more such ways and the Directors shall give effect to such resolution, and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient, and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any
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Members upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as may seem expedient to the Directors.

118. Any dividend, interest, or other money payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the Register or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two joint holders may give effectual receipts for any dividends, bonuses, or other money payable in respect of the shares held by them as joint holders.
119. No dividend or any other distribution of the Company's assets, whether in cash or otherwise, may be made to the Company in respect of the treasury shares.

CAPITALISATION OF PROFITS

120. The Company in a general meeting may upon the recommendation of the Directors resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the Company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the Members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such Members respectively or paying up in full unissued shares or debentures of the Company to be allotted and distributed credited as fully paid up to and amongst such Members in the proportion aforesaid, or partly in the one way and partly in the other, and the Directors shall give effect to such resolution.
121. Whenever such a resolution as aforesaid shall have been passed the Directors shall make all appropriations and applications of the undivided profits resolved to be capitalized thereby, and all allotments and issues of fully paid shares or debentures, if any, and generally shall do all acts and things, required to give effect thereto, with full power to the Directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and also to authorise any person to enter on behalf of all the Members entitled thereto into an agreement with the Company providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon such capitalisations, or (as the case may require) for the payment by the Company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such Members.

NOTICES AND OTHER DOCUMENTS

122. Subject to the Act and where the context of any provisions of this Constitution otherwise requires, any notice, accounts, balance-sheet, report or other document that may be given by the Company to any Member can be given personally or by sending it by post to his registered address (or if he has no registered address within Singapore, to the address, if any, within Singapore supplied by him to the Company
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for the giving of notices to him) or by any other means in the form of an electronic record. Where postal service is used, service shall be deemed to be effected by properly addressing, pre-paying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting on the day after the date of its posting, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

123. (a) A notice may also be sent or supplied by the Company by electronic means to a Member who has agreed generally or specifically that the notice may be given by electronic means and who has not revoked that agreement.
- (b) Where the notice is given by electronic means, service of the notice is treated as effected properly by sending or supplying it to an address specified for the purpose by the Member generally or specifically.
- (c) Where electronic means is used, service shall be deemed on transmission provided that the transmission records reveal that there has been no error or break in the transmission.
124. A notice may be given by the Company to the joint holders of a share by giving the notice to the joint holders first named in the register of Members in respect of the share.
125. A notice may be given by the Company to the persons entitled to a share in consequence of the death or bankruptcy of a Member by sending it through the post in a prepaid letter addressed to them by name, or by the title or representatives of the deceased, or assignee of the bankrupt, or by any like description, at the address, if any, within Singapore supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.
126. (a) Any notice or other communication ("Notice") to be given by any party to the Company under, or in connection with, this Constitution shall be in writing (which shall include text transmitted by e-mail) and signed by the party giving it.
- (b) Any Notice may be served by sending an electronic copy in portable document format by e-mail (in a form that identifies the sender and clearly indicates the subject matter of the Notice in the subject heading of the e-mail) to such e-mail address as the Company has notified to such party in writing, provided that the original Notice shall subsequently be delivered by post (which shall include by courier, whether local or international) to the Company as soon as reasonably practicable.
127. (a) Notice of every general meeting shall be given in any manner hereinbefore authorised to:-
- (i) every Member;
- (ii) every person entitled to share in consequence of the death or bankruptcy of a Member who, but for his death or bankruptcy, would be entitled to receive notice of the meeting; and
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(iii) the auditor for the time being of the Company.

(b) No other person shall be entitled to receive notices of general meetings.

WINDING UP

128. If the Company is wound up the liquidator may, with the sanction of a special resolution of the Company, divide amongst the Members in kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and may for that purpose set such value as he deems fair upon any property to be divided as aforesaid and may determine how the division shall be carried out as between the Members or different classes of Members. The liquidator may, with the like sanction, vest the whole or any part of any such assets in trustees upon such trusts for the benefits of the contributories as the liquidator with the like sanction, thinks fit, but so that no Member shall be compelled to accept any shares or other securities whereon there is any liability.

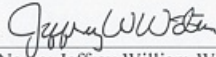
INDEMNITY

129. Every officer of the Company shall be indemnified out of the assets of the Company against any liability (other than any liability referred to in Section 172B(1)(a) or (b) of the Act) incurred by the officer to a person other than the Company attaching to the officer in connection with any negligence, default, breach of duty or breach of trust.

130. An auditor may be indemnified out of the assets of the Company against any liability incurred by the auditor in defending any proceedings, whether civil or criminal, in which judgment is given in the auditor's favour or in which the auditor is acquitted or in connection with any application under the Act in which relief is granted to the auditor by the Court in respect of any negligence, default, breach of duty or breach of trust.

* * * * *

We, the undersigned whose name, address and description are hereunto subscribed, are desirous of being formed into a company in pursuance of this Constitution, and we agree to take the number of shares in the capital of the company set opposite to our name.

Name(s), Address(es) and Description of Subscriber(s)	Number of Share(s) taken by each Subscriber
<p>MAXEON ROOSTER HOLDCO, LTD. Conyers Corporate Services (Bermuda) Limited Clarendon House, 2 Church Street Hamilton, HM 11, Bermuda</p> <p>Company Incorporated in Bermuda Company Registration Number: 55442</p> <p>Signed for and on behalf of Maxeon Rooster Holdco, Ltd. by:</p> <p> Name: Jeffrey William Waters Director</p>	<p>One (1)</p>
<p>Total number of share taken</p>	<p>One (1)</p>

Dated this 27 day of March 2020.

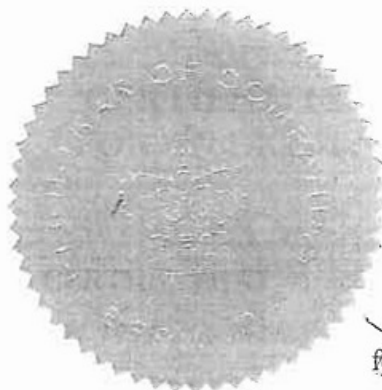
Registration No. 42587



BERMUDA

CERTIFICATE OF REGISTRATION FOR AN EXEMPTED PARTNERSHIP

I HEREBY CERTIFY THAT in accordance with section 9(3) of *the Exempted Partnerships Act 1992* and amendments ("the Act") **SunPower Bermuda Holdings** was delivered to the Office of the Registrar of Companies and registered on the **30th** day of **October, 2008** and as required by section 9(3) of the Act a facsimile of the Certificate of Exempted Partnership is attached to this Certificate of Registration.



Given under my hand and the Seal of
the Registrar of Companies this
3rd day of November, 2008


for Registrar of Companies

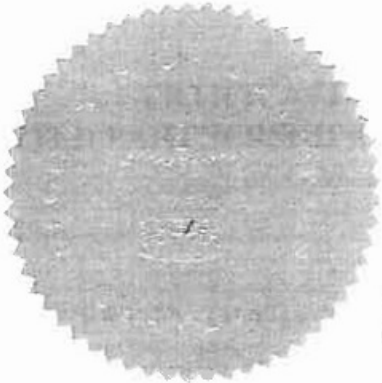
Registration No. 42587



BERMUDA

**CERTIFICATE OF REGISTRATION OF
EXEMPTED PARTNERSHIP HAVING IRREVOCABLE SEPARATE
LEGAL PERSONALITY**

I HEREBY CERTIFY THAT in accordance with section 4A (5) of *the Partnership Act 1902* and amendments ("the Act"), a Declaration of Irrevocable Separate Legal Personality on behalf of **SunPower Bermuda Holdings** was delivered to the Office of the Registrar of Companies and registered on the **30th** day of **October, 2008**.



Given under my hand and the Seal of
the Registrar of Companies this
3rd day of **November, 2008**


for Registrar of Companies

CERTIFICATE OF EXEMPTED PARTNERSHIP
(Pursuant to Section 5 of the Exempted Partnerships Act 1992 (as amended))

NAME OF PARTNERSHIP: SunPower Bermuda Holdings

PARTNERS: SunPower Corporation, Systems
3939 North First Street
San Jose, CA 95134

SunPower Corporation
3939 North First Street
San Jose, CA 95134

REGISTERED OFFICE: Clarendon House
2 Church Street
Hamilton HM11
Bermuda

DATE OF COMMENCEMENT: Date of the Registration of this Certificate of Exempted Partnership.

TERMINATION DATE: In accordance with Clause 2.2 of the Partnership Agreement.


PARTNERSHIP BUSINESS: To acquire and invest in shares of any entities, corporations, companies, partnerships or other institutions and to manage and dispose of such investments, and to engage in any other business or activity that now or hereafter may be necessary, incidental, proper, advisable or convenient to accomplish the foregoing purpose (including obtaining financing).

RESIDENT REPRESENTATIVE: Codan Services Limited
Clarendon House
2 Church Street
Hamilton HM11
Bermuda

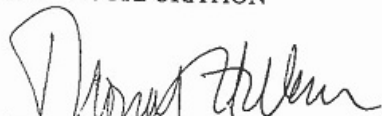
LEGAL PERSONALITY: The partnership elects to have legal personality pursuant to section 4A(2) of the Partnership Act 1902.

Dated the 30 day of October, 2008

SUNPOWER CORPORATION, SYSTEMS

By: 
Name: Thomas H. Werner
Title: Chief Executive Officer

SUNPOWER CORPORATION

By: 
Name: Thomas H. Werner
Title: Chief Executive Officer

CR-125925

Certificate Of Incorporation

CERTIFIED COPY OF ORIGINAL

[Signature]
CHARTERED TRUST SERVICES LTD.

I, D. EVADNE EBANKS Assistant Registrar of Companies of the Cayman Islands
DO HEREBY CERTIFY, pursuant to the Companies Law CAP. 22, that all requirements of the said Law in respect of registration were complied with by

SunPower Technology Ltd.

an Exempted Company incorporated in the Cayman Islands with Limited Liability with effect from the 22nd day of May Two Thousand Three

Given under my hand and Seal at George Town in the Island of Grand Cayman this 22nd day of May Two Thousand Three

[Signature]
Assistant Registrar of Companies,
Cayman Islands, B.W.I.

CR-125924

Certificate Of Incorporation


I, D. EVADNE EBANKS Assistant Registrar of Companies of the Cayman Islands
DO HEREBY CERTIFY, pursuant to the Companies Law CAP. 22, that all requirements of the said Law in respect of registration were complied with by

SunPower Philippines Manufacturing Ltd.

an Exempted Company incorporated in the Cayman Islands with Limited Liability with effect from the 22nd day of May Two Thousand Three

Given under my hand and Seal at George Town in the Island of Grand Cayman this 22nd day of May Two Thousand Three




Assistant Registrar of Companies,
Cayman Islands, B.W.I.

Registration No. 55433



FORM 3

BERMUDA

LIMITED LIABILITY COMPANY ACT 2016

CERTIFICATE OF FILING

THIS IS TO CERTIFY that in accordance with sections 30, 32, 36, and 39 of the Limited Liability Company Act 2016 the **Certificate of Formation** a facsimile of which is attached hereto was filed in the office of the Registrar by: **Rooster Bermuda DRE, LLC** on the **25th** day of **March 2020** and that the effective date of such form shall be the **25th** day of **March 2020** in accordance with section 37 of the aforesaid Act.



Given under my hand and the Seal of
the REGISTRAR OF COMPANIES this
26th day of **March 2020**

A handwritten signature in black ink, appearing to read 'M. Boodram'.

Maria Boodram
for **Registrar of Companies**

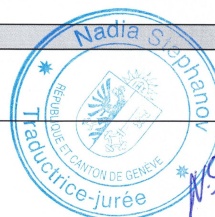
[Geneva Coat of Arms] REGISTER OF COMMERCE OF THE CANTON OF GENEVA
 Extract with potential cancellations

EXTRACT FROM THE REGISTER
 Carry over from 15 July 2009
 Ref. No. 10456/2005
 Fed. No. CHE-270-3013559-7
 IDE CHE-112.357.739

SunPower Systems Sàrl
 Registered on 13 May 2005
 Limited Liabilities Company

Ref.	Company Name	
1	SunPower Systems Sàrl	
14	SunPower Systems Sàrl (SunPower Systems LLC)	
Registered Office		
1	Geneva	
14	Meyrin	
Address		
1	Avenue de Frontenex 8, 1207 Geneva	
12	Rue du Rhône 14, 1204 Geneva	
14	Route de Pré-Bois 29, 1215 Geneva	
16	Route de Pré-Bois 14, 1215 Geneva 15 Aéroport	
18	Route de Pré-Bois 14, 216, Cointrin	
Dates of the Articles of Association		
1	06.07.2009 (new Articles)	19 22.09.2022
14	28.02.2017 (new Articles)	
Purpose, Remarks		
1	Purpose: (canc. ref. 19) sales, planning, manufacturing and construction of solar installations and similar products or systems.	
1	Ancillary services: (canc. ref. 14) Obligation to provide ancillary services, rights of preference, pre-emption or emption: for details, see the Articles of Association.	
2	The modalities for the transfer of corporate shares deviate from the law according to the articles of association.	
9	The identification number CH-270-3013559-7 is replaced by the corporate identification number (IDE/UID) CHE-112.357.739.	
19	Purpose: The purpose of the company is the sale, planning, manufacture and construction of solar products or similar systems. It can: Carry out any financial, commercial or industrial activity, directly or indirectly related to its purpose; Create branches or subsidiaries in Switzerland or abroad; Hold shares in any company that have a direct or indirect relationship with its purpose; Participate in group financing, in particular by granting loans and other direct or indirect financing (including through cash pooling) to its affiliated companies, including its direct or indirect associates and the direct or indirect subsidiaries of these associates, or by granting guarantees or other security interests of any kind to third parties for the obligations of these group companies, including by means of pledges or assignments of receivables for security purposes, even if such guarantees or security interests are granted without consideration. The company may not acquire any interest in real estate. The company may also pursue any business directly or indirectly related to the above-mentioned purpose or capable of promoting it.	
Conversions (Lfus) (Swiss Federal Act on Mergers, Demergers, Conversions and Transfers of Assets)		
1	The public limited company was transformed into a limited liability company in accordance with the transformation project of 25.06.2009 and the balance sheet as at 31.12.2008, showing assets of CHF 521'664'947 and liabilities to "third parties" of CHF 505'382'968, in exchange for the allocation of 100 shares of CHF 1'000 to the partner.	
Publication Medium		
1	Communications to partners: in writing or by email (canc. ref. 14)	
1	Swiss Official Gazette of Commerce	
14	Communications to partners: in writing, by email or fax	

[Stamp of the Register of Commerce of the Canton of Geneva]



Ref.	Capital		
	Nominal	Fully paid in	Partners' Contributions
1	CHF 100,000	CHF 100,000	

Ref.			Partners, Managers and Persons qualified to sign		
Reg.	Mod.	Canc.	Name, Forenames, Place of Origin, Domicile	Functions, Corporate Share	Signature
1		2	SUNPOWER CORPORATION, SYSTEMS , in San Jose, USA, for 100 shares of CHF 1,000	Partner	
1		4	Dinwoodie Thomas L., of the USA, in Piedmont, USA	Manager-Chairman	Joint sign. (2)
1		4	Böni Pascal, of Basel, in Binningen	Manager	Joint sign. (2)
1		4	Tamisier Christian, of Geneva, in Anières	Manager	Joint sign. (2)
1		7	PricewaterhouseCoopers SA (CH-660-1784998-4), branch in Geneva	Auditors	
1		3	Lacueva Canut Christian, of Geneva, in Geneva	Administrator	Individual sign.
2			SunPower Bermuda Holdings , in Hamilton, BMU, for 100 shares of CHF 1,000	Partner	
3	m 4		Brachet Carl Manuel, of Zürich, in Geneva	Administrator	Joint sign. (2)
3		4	Braga Daniele, of Italy, in Geneva	Administrator	Joint sign. (2)
3	m 6		Riello Mario, of Italy, in Geneva	Administrator	Joint sign. (2)
4		5	Arriola Dennis Victor, of the USA, in Palo Alto, CA, USA	Manager-Chairman	Individual sign.
4	m 11		Brachet Carl Manuel, of Zürich, in Geneva	Manager	Individual sign.
4		10	Ring Marina, of Russia, in Geneva		Joint sign. (2)
4		14	Scapinelli Carlo, of Italy, in Bèrolle		Joint sign. (2)
5		13	Wenger Howard, of the USA, in Walnut Creek, CA, USA	Manager-Chairman	Individual sign.
6	m 12		Riello Mario, of Italy, in Geneva	Administrator	Individual sign.
8			Ernst & Young SA (CH-660-0176999-6), branch in Lancy	Auditors	
11		12	Brachet Carl Manuel, of Zürich, in Collonges-sous-Salève, F	Manager	Individual sign.
12		17	Riello Mario, of Italy, in Geneva	Manager	Individual sign.
13		15	Dawe James, of Ireland, in Satigny	Manager-Chairman	Individual sign.
15			Biollaz Frédéric, of Chamoson, in Chamoson	Manager-Chairman	Individual sign.
17			Maurice Vincent, of France, in Lyon, FRA	Manager	Individual sign.

Ref.	Journal		SOGC Publication	
	No.	Date	Date	Page/ID
0		Carry-over		
2	14786	24.09.2009	30.09.2009	11/5271300
4	21518	21.12.2010	27.12.2010	14/5961362
6	8216	24.05.2012	30.05.2012	6696274
8	19311	15.11.2012	20.11.2012	6938832
10	21025	17.12.2014	22.12.2014	1895653
12	7024	29.04.2015	04.05.2015	2133589
14	4766	14.03.2017	17.03.2017	3411521
16	17724	23.09.2019	26.09.2019	1004725034
18	13077	12.07.2022	15.07.2022	1005522471

Ref.	Journal		SOGC Publication	
	No.	Date	Date	Page/ID
1	11463	22.07.2009	28.07.2009	10/5165282
3	6509	13.04.2010	19.04.2010	10/5592898
5	7497	10.05.2012	15.05.2012	6679022
7	12759	26.07.2012	31.07.2012	6791732
9		Complement	19.12.2013	7225832
11	21346	22.12.2014	29.12.2014	1906043
13	17296	14.10.2016	19.10.2016	3117321
15	6995	08.04.2019	11.04.2019	1004609007
17	12880	28.07.2020	31.07.2020	1004949929
19	17430	27.09.2022		



Last entry approved by the Federal Office of the Register of Commerce but having effect toward third parties only upon publication in the SOGC (art. 936a CO)

Geneva, 28 September 2022

Certified true copy
28 SEPT. 2022
For the Register
[signed]

[Stamp of the Register of Commerce of the Canton of Geneva]

End of extract

Only a certified true extract, signed and stamped with the Registrar's seal, has legal value.

CERTIFIED PHOTOCOPY
OF THE ORIGINAL

Geneva, 24 Nov. 2022

Pierre-Philippe Rigaud
Notary in Geneva
[stamp & signature]

CERTIFIED TRUE & CORRECT
TRANSLATION. GENEVA.....
28 Nov. 2022



SunPower Systems Sàrl

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THE COMPANIES ORDINANCE

Company Limited by Shares

MEMORANDUM

- and -

ARTICLES OF ASSOCIATION

(as amended by special resolutions passed on 26 July 2020 and 17 August 2022 respectively)

of

SunPower Corporation Limited

Incorporated on 30 October 2012



CERTIFIED TRUE COPY
For and on behalf of
Dentons Secretarial Services (Hong Kong) Limited

Authorised Signature(s)
Dentons Secretarial Services (Hong Kong) Limited
Company Secretary
Date: 01/09/2022

THE COMPANIES ORDINANCE

Company Limited by Shares

MEMORANDUM OF ASSOCIATION

OF

SunPower Corporation Limited

1. The name of the Company is SunPower Corporation Limited.
 2. The registered office of the Company will be situated in Hong Kong.
 3. The Company has the capacity and the rights, powers and privileges of a natural person.
 4. The liability of the members is limited.
 5. [deleted]
-

The share capital and initial shareholdings on the Company's formation are as follows:-

NAME OF FOUNDER MEMBER	Number of Shares taken by each Founder Member	Total amount of Share Capital
SunPower Corporation	ONE SHARE	HKD1.00

THE COMPANIES ORDINANCE

Company Limited by Shares

ARTICLES OF ASSOCIATION

(as amended by special resolutions passed on 26 July 2020 and 17 August 2022 respectively)

OF

SunPower Corporation Limited

INTRODUCTORY

1. **Table A not to apply**

The regulations in Table A in the First Schedule to the predecessor Companies Ordinance (Chapter 32) shall not apply to the Company.

INTERPRETATION

2. **Interpretation**

- (1) In these Articles the words standing in the first column of the following table shall bear the meanings set opposite to them respectively in the second column thereof, if not inconsistent with the subject or context:

WORDS	MEANINGS
Appointment	includes election (and appoint includes elect);
Articles	these articles of association, as originally adopted, or as from time to time altered in accordance with the Statutes;
Auditors	the auditors for the time being of the Company;
Directors	the directors for the time being of the Company;
In writing	written, printed, typewritten or telexed or transmitted by facsimile, or visibly expressed in any other mode of representing or reproducing words, or partly one and partly another;
Month	calendar month;
Office	the registered office for the time being of the Company;
Ordinance	the predecessor Companies Ordinance (Chapter 32 of the Laws of Hong Kong), as amended from time to time;
Paid up	includes credited as paid up;
Register	the register of members of the Company (including any branch register kept in accordance with the Statutes);
Relevant Person	(a) any person to whom any share of the Company has been mortgaged or charged; or (b) any nominee, agent and/or trustee of a person referred to in (a) above; or (c) any person who acquires any interest in any share of the Company from any of the persons referred to in (a) or (b) above;
Seal	the common seal of the Company or any official seal that the Company may have in accordance with the Statutes;
Statutes	the Ordinance and every other ordinance for the time being in force concerning companies and affecting the Company;
Year	the year from 1st January to 31st December, inclusive.

- (2) Subject as aforesaid, any words defined in the Statutes shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.
- (3) Unless inconsistent with the subject or context, words importing the singular number shall include the plural number and vice versa, words importing the masculine gender shall include the feminine gender and words importing persons shall include corporations and bodies of persons.
- (4) The expression the "Secretary" shall (subject to the provisions of the Statutes) include a joint, assistant or deputy Secretary and any person appointed by the Directors to perform any of the duties of the Secretary.
- (5) The headings are inserted for convenience only and shall not affect the construction of these Articles.
- (6) A special resolution shall be effective for any purpose for which an ordinary resolution is expressed to be required under any provision of these Articles.
- (7) References in these Articles to any statutory provision shall be construed as including references to:
 - (a) any statutory modification or re-enactment thereof;
 - (b) all subsidiary legislation, regulations or orders made pursuant thereto; and
 - (c) any statutory provisions of which such statutory provision is a re-enactment or modification.

PRIVATE COMPANY

3. Private Company

The Company is a private company and accordingly:

- (a) the right to transfer shares in the Company shall be restricted in the manner provided by these Articles;
- (b) the number of members of the Company (not including persons who are in the employment of the Company and persons who, having been formerly in the employment of the Company, were while in that employment, and have continued after the determination of that employment to be, members of the Company) is limited to fifty; provided that, where two or more persons hold one or more shares in the Company jointly, they shall, for the purposes of this paragraph, be treated as a single member; and
- (c) no invitation shall be made to the public to subscribe for any shares or debentures of the Company.

4. Office

The Office shall be at such place in Hong Kong as the Directors shall from time to time appoint.

INCREASE OF CAPITAL

5. Company may increase its capital

The Company may from time to time, by ordinary resolution, whether or not all the shares for the time being authorised shall have been issued, or all the shares for the time being issued shall have been fully paid up, increase its capital by the creation of new shares of such amount as may be deemed expedient.

6. Rights attached to new shares

Any resolution of the Company creating any new shares in the capital of the Company may, subject to the Statutes and without prejudice to the rights and privileges attached to any then existing shares in the capital, specify rights and privileges to be attached to such new shares and restrictions to which they shall be subject and may (subject to the Statutes) provide that the same are to be issued on terms that they are, or at the option of the holder or the Company are liable, to be redeemed and set out the terms on and the manner in which redemption of the same may be effected.

7. New shares considered as original capital

Subject to any direction or determination that may be given or made in accordance with the powers contained in these Articles, all shares created on any increase of capital shall be subject to the provisions contained herein with reference to the payment of calls, transfer, transmission, forfeiture, lien and otherwise as if they had been part of the original capital.

ALTERATION OF CAPITAL

8. Power to consolidate, sub-divide and cancel shares

- (1) The Company may, from time to time, by ordinary resolution:
- (a) consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares;
 - (b) 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; and
 - (c) by sub-division of its existing shares or any of them, divide its share capital or any part thereof into shares of smaller amount than is fixed by its memorandum of association, so, however, that in the sub-division the proportion between the amount paid up and the amount (if any) not paid up on each such share of smaller amount shall be the same as it was in the case of the share from which it was derived. Any resolution whereby any share is sub-divided may determine that, as between the holders of the shares resulting from such sub-division, one or more of the shares may have such preferred or other special rights, or may have such qualified or deferred rights or be subject to such restrictions, as compared with the other or others, as the Company has power to attach to new shares,
- (2) Anything done in pursuance of this Article shall be done in any manner provided, and subject to any conditions imposed, by the Statutes, so far as they shall be applicable, and, so far as they
-

shall not be applicable, in accordance with the terms of the resolution authorising the same, and, so far as such resolution shall not be applicable, in such manner as the Directors deem most expedient.

9. Reduction of capital

Subject to the provisions of the Statutes and these Articles, the Company may by special resolution reduce its share capital, any capital redemption reserve and any share premium account in any way.

PURCHASE OF OWN SHARES

10. Purchase of own shares

- (1) Subject to sections 49 to 49S of the Ordinance, the Company may purchase its own shares (including any redeemable shares).
- (2) Subject to sections 491 to 490 of the Ordinance, the Company may make a payment in respect of the redemption or purchase of its own shares otherwise than out of the distributable profits of the company or the proceeds of a fresh issue of shares.

VARIATION OF RIGHTS

11. Variation of rights

- (1) Whenever the capital of the Company is divided into different classes of shares, all or any of the special rights or privileges attached to any class may be varied or abrogated, either with the consent in writing of holders of three-fourths in nominal value of the issued shares of that class or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of that class (but not otherwise), and may be so varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up. To every such separate general meeting all the provisions of these articles relating to general meetings of the Company or to the proceedings thereat shall apply mutatis mutandis, except that:
 - (a) the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy not less than one-third in nominal amount of the issued shares of the class, and if the Company has only one member, the one member present in person or by proxy shall be quorum at any such separate general meeting of the Company;
 - (b) at an adjourned meeting the necessary quorum shall be one person holding shares of the class or his proxy;
 - (c) the holders of shares of the class shall, on a poll, have one vote in respect of every share of the class held by them respectively; and
 - (d) a poll may be demanded by any one holder of shares of the class whether present in person or by proxy.
- (2) For the purposes of this provision any particular issue of shares not carrying the same rights (whether as to rate of dividend, redemption or otherwise) as any other shares for the time being

in issue, shall be deemed to constitute a separate class of shares.

12. Shares at the disposal of the Directors

All unissued shares shall (subject to any contract binding on the Company, the Statutes, these Articles and any resolution of the Company pursuant thereto) be at the disposal of the Directors, who may (subject to the provisions of any such contract, the Statutes, these Articles and any such resolution):

- (a) allot (with or without conferring a right of renunciation), grant options over or otherwise deal with or dispose of the same to such persons, at such times and generally on such terms as they think proper; and
- (b) issue the same with such rights and privileges attached thereto and subject to such restrictions as they may determine and, in particular, such shares may be issued with a preferential, qualified or deferred right to dividends and/or in the distribution of assets of the Company and with or without any right of voting (whether special or not) and any share may be issued on terms that it is, or at the option of the Company or the holder is liable, to be redeemed and the terms on and the manner in which redemption of the same may be effected may be determined by the Directors.

13. Allotments etc. of shares

The Company shall duly comply with any provisions of the Statutes regarding the allotment, issue and paying up of share capital.

14. Power to pay commission and brokerage

- (1) The Company may pay a commission to any person in consideration of his subscribing, or agreeing to subscribe, whether absolutely or conditionally, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the capital of the Company, but such commission shall not exceed the limits permitted by the Statutes. Any such commission may be paid in cash or by the allotment of fully or partly paid shares or partly in one way and partly in the other. The Company may, in addition to, or in lieu of, such commission, in consideration of any person so subscribing or agreeing to subscribe, or of his procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the Company, confer on any such person an option to call within a specified time for a specified number or amount of shares in the Company at a specified price not being less than par. The payment or agreement to pay a commission or the conferring of an option shall be in the discretion of the Directors on behalf of the Company and subject to the provisions of the Statutes.
- (2) The Company may also pay such brokerage as may be lawful.

15. Joint holders

The Company shall not be bound to register more than four persons as joint holders of any share (except in the case of executors or administrators of a deceased member), and any one of such registered joint holders may give effective receipts for any dividend or other moneys payable in respect of such share.

16. Exclusion of equities

Except as otherwise required by law or these Articles and notwithstanding any information received by the Company, no person shall be recognised by the Company as holding any share

upon any trust and the Company shall not be bound in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or any other right in respect of any share, except an absolute right to the entirety thereof in the registered holder.

- 16A. Article 16 shall not apply to any share or any interest or right relating to any share that is registered in the name of, or held or purported to be held on trust by or for, or has been mortgaged or charged in favour of, any relevant person

CERTIFICATES

17. **Issue of certificates**

Every member shall be entitled, without payment, to receive within two months after allotment or lodgment of transfer, duly stamped and otherwise valid, (or within such other period as the conditions of issue may provide) a certificate for all his shares in any particular class, provided that:

- (a) in the event of a member transferring part of the shares represented by a certificate in his name, a new certificate in respect of the balance thereof shall be issued in his name without payment;
- (b) in the case of joint holders, the Company shall not be bound to issue more than one certificate for all the shares in any particular class registered in their joint names, and delivery of a certificate for a share to any one of several joint holders thereof shall be sufficient delivery to all; and
- (c) the provisions of Article 109 concerning the sealing of certificates shall be complied with whenever share certificates are issued.

18. **Replacement of certificates**

If a share certificate shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new share certificate representing the same shares may be issued to the holder upon request subject to delivery up of the old certificate or (if alleged to have been lost, stolen or destroyed) subject to compliance with such conditions as to evidence and indemnity as the Directors may think fit and (in either case) to the payment of any exceptional expenses of the Company incidental to its investigation of the evidence of such alleged loss, theft or destruction.

CALLS ON SHARES

19. **Directors may make calls**

The Directors may, subject to any conditions of allotment, from time to time make such calls upon the members in respect of all moneys unpaid on their shares as they think fit, provided that, except as otherwise fixed by the conditions of application or allotment, seven days' notice at least is given of each call, and each member shall be liable to pay the amount of every call so made upon him to the persons and at the times and places appointed by the Directors. Any call may be made payable in one sum or by instalments and may be revoked or postponed as the Directors may determine. A person upon whom a call is made shall remain liable therefor notwithstanding the subsequent transfer of the shares in respect whereof the call is made.

20. Time when made

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

21. Liability of joint holders

The joint holders of a share shall be jointly and severally liable for the payment of all calls and instalments in respect thereof.

22. Interest on calls

If a call or instalment payable in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the amount is due shall pay interest on the amount of the call or instalment, from the day appointed for payment to the day of actual payment, at such rate (not exceeding 15 per cent. per annum) as the Directors shall from time to time determine, and shall also pay all costs, charges and expenses which the Company may have incurred or become liable for in order to procure payment of or in consequence of the non-payment of such call or instalment but the Directors shall be at liberty to waive payment of such interest, costs, charges and expenses, wholly or in part.

23. Sums due on allotment etc. to be treated as calls

Any sum which by the conditions of allotment of a share is made payable on allotment, or at any fixed time, or by instalments at any fixed times, shall for all purposes of these Articles be deemed to be a call duly made and payable on the date or dates fixed for payment and, in case of non-payment, the provisions of these Articles as to payment of interest and expenses, forfeiture and the like, and all other relevant provisions of the Statutes or of these Articles shall apply as if such sum were a call duly made and notified as hereby provided.

24. Power to differentiate

The Directors may make arrangements on any issue of shares for a difference between the holders of such shares in the amounts and times of payment of calls on their shares.

25. Payment of calls in advance

The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys payable upon his shares beyond the sum actually called up thereon and, upon all or any of the moneys so paid in advance, or so much thereof as exceeds the amount for the time being called up on the shares in respect of which such advance has been made, the Directors may pay or allow interest at such rate (not exceeding 15 per cent per annum) as may be agreed upon between the Directors and the member paying such sum in advance, in addition to the dividend payable upon such part of the shares in respect of which such advance has been made as is actually called up. The Directors may also at any time repay the amount so advanced upon giving to such member one month's notice.

26. Rights suspended if payment in arrear

No member shall be entitled to receive any dividend, or (save as proxy for another member) to be present or vote at any general meeting, either personally or by proxy, or to exercise any privilege as a member, or be reckoned in a quorum in respect of any share held by him (whether alone or jointly with any other person) if and so long as he shall have defaulted in payment of any call or other sum for the time being due and payable on such share or any interest or expenses (if any) payable in connection therewith.

LIEN ON SHARES

27. Company to have lien on partly paid shares

- (1) The Company shall have a first and paramount lien and charge on all the shares not fully paid up, registered in the name of a member (whether solely or jointly with others), for any amount payable in respect of such shares. Such lien shall extend to all dividends and other moneys from time to time declared or payable in respect of such shares.
 - (2) Unless otherwise agreed, the registration of a transfer of shares shall operate as a waiver of the Company's lien (if any) on such shares.
 - (3) The Directors may resolve that any share or shares shall for some specified period be exempt, in whole or in part, from the provisions of this Article.
- 27A. Notwithstanding anything contained in the Memorandum of Association or the Articles of Association of the Company, the Company and/or its directors shall not be entitled to exercise any lien provided for in these Articles in respect of any share that has been mortgaged or otherwise provided as security to any relevant person.

28. Sale of shares subject to lien

- (1) For the purpose of enforcing such lien, the Directors may sell all or any of the shares subject thereto in such manner as they may think fit, but no sale shall be made until:
 - (a) the date for payment of the amount referred to in paragraph (1) of the preceding Article shall have arrived;
 - (b) a notice demanding payment of the said amount and giving notice of intention to sell in default shall have been served in accordance with these Articles on such member or the person (if any) entitled by transmission to the shares; and
 - (c) default in such payment shall have been made by him for 14 days after such notice.
- (2) The net proceeds of any such sale, after payment of the costs, shall be applied in or towards satisfaction of the said amount, and the residue (if any) shall (subject to a like lien for debts or liabilities not presently payable as existed upon the shares prior to the sale) be paid to the member or the person (if any) entitled by transmission to the shares.

29. Purchaser protected

To give effect to any such sale as aforesaid the Directors may authorise some person to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser and a sold note in respect thereof and may enter the purchaser's name in the Register as holder of the shares, and the purchaser shall not be bound to see to the regularity or validity of or be affected by any irregularity in or invalidity of the proceedings or be bound to see to the application of the purchase money and the validity of the sale shall not be impeached by any person, and the remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.

FORFEITURE OF SHARES

30. Notice of unpaid calls

If any member fails to pay the whole or any part of any call or instalment on or before the day appointed for the payment thereof, the Directors may, at any time thereafter during such time as the call or instalment or any part thereof remains unpaid, serve a notice on him, requiring him to pay such call or instalment, or such part thereof as remains unpaid, together with any accrued interest and any costs, charges and expenses incurred by the Company by reason of such non-payment.

31. Notice to state time and place for payment

The notice shall name a further day, being not less than 14 days from the date of such notice, on or before which such call or instalment, or part thereof as aforesaid, and all such interest and costs, charges and expenses as aforesaid are to be paid. It shall also name the place where payment is to be made and shall state that, in the event of non-payment on or before the day and at the place appointed, the share in respect of which such call was made or instalment is payable will be liable to be forfeited.

32. Forfeiture on non-compliance with notice

If the requirements of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may, at any time thereafter before payment of all calls or instalments, interest, costs, charges and expenses due in respect thereof has been made, be forfeited by a resolution of the Directors to that effect. Every forfeiture shall include all dividends declared in respect of the forfeited share, and not actually paid before the forfeiture. The Directors may accept a surrender of any share liable to be forfeited hereunder.

32A. Notwithstanding anything contained in the Memorandum of Association or the Articles of Association of the Company, any share that has been mortgaged or otherwise provided as security to any relevant person shall be exempt from the provisions of these Articles relating to forfeiture.

33. Notice of forfeiture to be given

When any share has been forfeited in accordance with these Articles, notice of the forfeiture shall forthwith be given to the holder of the share, or the person entitled to the share by transmission, as the case may be, and an entry of such notice having been given, and of the forfeiture, with the date thereof, shall forthwith be made in the Register opposite to the entry of the share; but no forfeiture shall be in any manner invalidated by any omission or neglect to give such notice or to make such entry as aforesaid.

34. Power to annul forfeiture or surrender

Notwithstanding any such forfeiture as aforesaid, the Directors may, at any time before the forfeited or surrendered share has been sold, re-allotted or otherwise disposed of, annul the forfeiture or surrender upon payment of all calls and interest due upon and costs, charges and expenses incurred in respect of the share, and upon such further conditions (if any) as they may think fit.

35. Sale of forfeited or surrendered shares

Every share which shall be forfeited or surrendered shall thereupon be deemed for the purposes of this Article to be the property of the Company, and (subject to the provisions of the Statutes) may be sold, re-allotted or otherwise disposed of, upon such terms and in such manner as the Directors shall think fit either to the person who was before the forfeiture the holder of such share or to any other person and whether with or without all or any part of the amount previously paid up on the share being credited as so paid up. The Directors may, if necessary,

authorise some person to execute an instrument of transfer of a forfeited or surrendered share to any person to whom the same has been sold, re-allotted or disposed of.

36. Rights and liabilities of members whose shares have been forfeited or surrendered

A person any of whose shares have been forfeited or surrendered shall cease to be a member in respect of the forfeited or surrendered shares and shall surrender to the Company for cancellation the certificate for the shares forfeited but shall, notwithstanding, be liable (unless payment is waived in whole or in part by the Directors) to pay to the Company all calls, instalments, interest, costs, charges and expenses owing upon or in respect of such share at the time of forfeiture or surrender, together with interest thereon from the time of forfeiture or surrender until payment at such rate (not exceeding 15 per cent, per annum) as the Directors shall think fit, in the same manner as if the share had not been forfeited or surrendered, and to satisfy all the claims and demands (if any) which the Company might have enforced in respect of the share at the time of forfeiture or surrender, without any deduction or allowance for the value of the share at the time of forfeiture or surrender.

37. Title to forfeited or surrendered shares

A statutory declaration by a Director or Secretary of the Company that a share has been duly forfeited or surrendered or sold to satisfy a lien of the Company in pursuance of these Articles, and stating the day when it was forfeited, surrendered or sold, shall, as against all persons claiming to be entitled to the share, be conclusive evidence of the facts therein stated, and such declaration, together with a certificate in respect of such share, delivered to a purchaser or allottee thereof shall (subject to the execution of any necessary transfer and sold note) constitute a good title to the share, and the new holder thereof shall be discharged from all calls made prior to such purchase or allotment and shall not be bound to see to the application of the purchase money (if any) nor shall his title to the share be affected by any omission, irregularity in or invalidity of or relating to or connected with the proceedings in reference to the forfeiture, surrender, sale, re-allotment or disposal of the share.

TRANSFER OF SHARES

38. Form of transfer

A member may not transfer all or any of his shares otherwise than in accordance with these Articles and, subject thereto, every transfer must be:

- (a) in writing and in the usual or common form, or in any other form which the Directors may approve;
- (b) left at the Office, or at such other place as the Directors may determine, for registration; and
- (c) accompanied by the certificate of the shares to be transferred and such other evidence (if any) as the Directors may reasonably require to prove the title of the intending transferor or his right to transfer the shares.

39. Execution

The instrument of transfer of a share shall be signed by or on behalf of the transferor and (unless the share is fully paid) by or on behalf of the transferee, and the transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in

respect thereof. Shares of different classes shall not be comprised in the same instrument of transfer.

40. Retention of instruments

- (1) All instruments of transfer which shall be registered may be retained by the Company but any instrument of transfer which the Directors may refuse to register shall (except in any case where fraud or any other crime involving dishonesty is suspected in relation to such transfer) be returned to the person presenting the same.
- (2) Subject as hereinafter provided the Company, if so authorised by a resolution of the Directors, shall be entitled to destroy:
 - (a) at any time after the expiration of six years from the date of registration thereof, all instruments of transfer of shares in the Company and all other documents transferring or purporting to transfer shares in the Company or representing or purporting to represent the right to be registered as the holder of shares in the Company on the faith of which entries have been made in the Register;
 - (b) at any time after the expiration of one year from the date of cancellation thereof, all registered share certificates which have been cancelled;
 - (c) at any time after the expiration of two years from the date of recording thereof, all dividend mandates and notifications of change of address; and
 - (d) at any time after the expiration of one year from the date of actual payment thereof, all paid dividend warrants and cheques.
- (3) It shall be presumed conclusively in favour of the Company that every entry in the Register purporting to have been made on the basis of an instrument of transfer or other document so destroyed was duly and properly made, that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered, that every share certificate so destroyed was a valid certificate duly and properly cancelled, that every other document mentioned above so destroyed was a valid and effective document in accordance with the particulars thereof recorded in the books and records of the Company and that every paid dividend warrant and cheque so destroyed was duly paid; provided always that:
 - (a) the provisions aforesaid shall apply only to the destruction of documents in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
 - (b) nothing herein contained shall be construed as imposing upon the Company any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances in which liability would not attach to the Company in the absence of this Article;
 - (c) references herein to the destruction of any documents include references to the disposal thereof in any manner.

41. Directors' power to refuse to register transfers

- (1) The Directors may, subject to Article 41(2), in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share, whether or not is a fully paid share.
 - (2) Notwithstanding anything to the contrary contained in these Articles, the Directors shall not decline to register any transfer of shares, or unreasonably delay, or suspend the registration of any transfer of shares, where such transfer is to a relevant person. A certificate by a relevant person or any officer of a relevant person certifying that any share which is being transferred was or has been mortgaged or charged shall be conclusive evidence of that fact.
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- (3) For the purpose of these Articles, a "relevant person" means:
- (a) any person to whom any share of the company has been mortgaged or charged; or
 - (b) any nominee, agent and/or trustee of a person referred to in (a) above; or
 - (c) any person who acquires any interest in any share of the Company from any of the persons referred to in (a) or (b) above.

42. Notice of refusal to register

If the Directors refuse to register any transfer of any share, they shall, within two months after the date on which the transfer was lodged with the Company, send to the transferor and the transferee notice of the refusal.

43. No fee payable

No fee shall be charged for registration of a transfer or in respect of the registration of any probate, letters of administration, certificate of marriage or death, power of attorney or other document relating to or affecting the title to any shares or for making any entry in the Register affecting the title to any share.

44. Power to suspend registration of transfers

The registration of transfers of shares or of any class of shares may be suspended at such times and for such periods as the Directors may from time to time determine provided always that such registration shall not be suspended for more than thirty days in any year.

45. Renunciations

Nothing contained in these Articles shall preclude the Directors from recognising a renunciation of the allotment of any share by the allottee in favour of some other person.

TRANSMISSION OF SHARES

46. Transmission on death

In the case of the death of a member, the survivors or survivor where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole or only surviving holder, shall be the only person or persons recognised by the Company as having any title to his shares; but nothing herein contained shall release the estate of a deceased holder, whether sole or joint, from any liability in respect of any share solely or jointly held by him.

47. Registration of personal representative, Trustee in Bankruptcy, etc.

Any person becoming entitled to a share in consequence of the death or bankruptcy of a member or in consequence of the making in respect of a member of an order by any court having jurisdiction (whether in Hong Kong or elsewhere) in matters concerning mental disorder, may, upon producing such evidence of his title as the Directors shall require, and subject as herein provided, elect either to be registered himself as the holder of the share or to have some person nominated by him registered as the transferee thereof.

48. Notice of election to be registered

If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the Company a notice signed by him, stating that he so elects. All the provisions of these Articles relating to the transfer of shares shall apply to the notice as if it were an instrument of transfer executed by the person from whom the title by transmission is derived.

49. Registration of nominee

If the person so becoming entitled shall elect to have his nominee registered, he shall execute and deliver or send to the Company an instrument of transfer of the share to that person. All the provisions of these Articles relating to the transfer of shares shall apply to the instrument of transfer as if the event upon which the transmission took place had not occurred and it were an instrument of transfer executed by the person from whom the title by transmission is derived.

50. Rights of unregistered personal representative, Trustee in Bankruptcy, etc.

A person so becoming entitled shall have the right to receive and give a discharge for any dividends or other moneys payable in respect of the share, but he shall have no right (save as mentioned in Article 69) to receive notice of or to attend or vote at meetings of the Company or to any of the rights (other than the right to receive and give discharges for dividends or other moneys as aforesaid) or privileges of a member in respect of the share, unless and until he shall be registered as the holder thereof.

GENERAL MEETINGS

51. Annual General Meetings

The Company shall comply with the requirements of the Statutes regarding the holding of annual general meetings. Subject to such requirements, the Directors shall determine the date, time and place at which each annual general meeting shall be held.

52. Extraordinary General Meetings

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

53. Convening of Extraordinary General Meetings

- (1) The Directors may convene an extraordinary general meeting whenever they think fit.
- (2) Extraordinary general meetings may also be convened in accordance with Article 87 hereof.
- (3) Extraordinary general meetings shall also be convened by the Directors on the requisition of members pursuant to the provisions of the Statutes.

NOTICE OF GENERAL MEETINGS

54. Notice of Meetings

Subject to section 116C of the Ordinance, at least 21 clear days' notice of every annual general meeting and of every extraordinary general meeting at which it is proposed to pass a special resolution, and at least 14 clear days' notice of every other extraordinary general meeting (in each case exclusive of the day on which the notice is served or deemed to be served and of the day for which it is given) shall be given in manner hereinafter mentioned to all members (other than those who, under the provisions of these Articles, are not entitled to receive such notices from the Company), to the Directors and to the Auditors, but the accidental omission to give such notice to, or the non-receipt of such notice by, any member or Director or the Auditors shall not invalidate any resolution passed or proceeding had at any such meeting.

55. What notice is to specify

- (1) Every notice of meeting shall specify the place, the day and the time of the meeting and, in the case of special business, the general nature of such business. In the case of a meeting convened for passing a special resolution, the notice shall also specify the intention to propose the Resolution as a special resolution.
- (2) In the case of an annual general meeting, the notice shall also specify the meeting as such.
- (3) Every notice of meeting shall also state with reasonable prominence that a member entitled to attend and vote at the meeting may appoint one or more proxies to attend and vote thereat instead of him and that a proxy need not also be a member.
- (4) Every notice of meeting shall also state the place where instruments of proxy are to be deposited if the Directors shall have determined such place to be other than at the Office.

PROCEEDINGS AT GENERAL MEETINGS

56. Special business and business of annual general meetings

All business shall be deemed special that is transacted at an extraordinary general meeting, and all business that is transacted at an annual general meeting shall also be deemed special with the exception of:

- (a) declaring dividends;
- (b) the consideration of the documents required by the Statutes to be comprised in the accounts to be laid before such meeting;
- (c) the re-appointment of the retiring Auditors provided that they were last appointed to such office by the Company in general meeting; and
- (d) the fixing of remuneration of the Auditors or determining the manner in which such remuneration is to be fixed.

57. Quorum

No business shall be transacted at any general meeting unless the requisite quorum is present when the meeting proceeds to business. Two members, present in person or by proxy and entitled to vote, shall be a quorum for all purposes. If the Company has only one member, one member present in person or by proxy shall be a quorum of a meeting of the Company.

58. Adjournment if quorum not present

If within 15 minutes from the time appointed for the holding of a general meeting a quorum be not present, the meeting shall stand adjourned to the same day in the next week (or if that day be a holiday, to the next working day thereafter), at the same time and place as the original meeting, or to such other day, and at such other time and place as the Directors may determine and the provisions of Article 60 as to notices and as to business to be transacted shall apply. If at such adjourned meeting a quorum is not present within 15 minutes from the time fixed for holding the meeting, the meeting shall be dissolved.

59. Chairman

The Chairman (if any) or failing him any Deputy Chairman of the Board of Directors (the senior in office taking precedence if more than one) or, failing him, one of the Directors appointed for that purpose by the Directors or, failing such appointment, by the members present, shall preside at every general meeting, but if no Director shall be present within 15 minutes after the time fixed for holding the same or, if none of the Directors present is willing to preside, the members present and entitled to vote shall choose one of their number to preside at the meeting.

60. Adjournment

With the consent of any meeting at which a quorum is present the chairman thereof may (and shall if so directed by the meeting) adjourn the same from time to time and from place to place. Whenever a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as aforesaid, no person shall be entitled to any notice of an adjournment or of the business to be transacted at an adjourned meeting. No business shall be transacted at any adjourned meeting other than the business which might have been transacted at the meeting from which the adjournment took place.

61. Voting and demand for poll

- (1) At every general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless (before or upon the declaration of the result of the show of hands) a poll be demanded by any member present in person or by proxy and entitled to vote.
 - (2) A poll demanded on the appointment of a chairman of the meeting and a poll demanded on a question of adjournment shall both be taken at the meeting immediately and without adjournment.
 - (3) A demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman of the meeting and the demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
 - (4) Unless a poll be so demanded (and the demand is not withdrawn), a declaration by the chairman of the meeting that a resolution has been carried, or has been carried by a particular majority, or lost, or not carried by a particular majority, shall be conclusive, and an entry to that effect in the books of proceedings of the Company shall be conclusive evidence thereof, without proof of the number or proportion of the votes recorded in favour of or against such resolution.
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62. How poll to be taken

If a poll be demanded in manner aforesaid (and the demand is not withdrawn), it shall be taken at such time (either at the meeting at which the poll is demanded or within fourteen days after the said meeting) and place and in such manner as the chairman of the meeting shall direct and he may appoint scrutineers (who need not be members). The result of the poll shall be deemed to be a resolution of the meeting at which the poll was demanded.

63. Continuance of business after demand for poll

The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

64. Casting vote

In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall be entitled to a casting vote in addition to any other vote he may have.

VOTES OF MEMBERS

65. Voting rights

Subject to any special rights or restrictions as to voting for the time being attached to any shares and to the provisions of these Articles, on a show of hands every member who (being an individual) is present in person or (being a corporation) is present by a duly authorised representative or proxy not being himself a member, shall have one vote and, on a poll, every member who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or proxy, shall have one vote for every share of which he is the holder.

66. How votes may be given and who can act as proxy

On a poll votes may be given either personally or by proxy and a member entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way. A proxy need not be a member of the Company and a member may appoint more than one proxy to attend on the same occasion.

67. Representation of corporations which are members of the Company at meetings

Any corporation which is a member of the Company may, by resolution of its directors or other governing body, authorise any person to act as its representative at any meeting of the Company or of any class of members of the Company; and such representative shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member present at the meeting in person, including (without limitation) power to vote on a show of hands or on a poll and to demand or concur in demanding a poll.

68. Voting rights of joint holders

Where there are joint registered holders of any share, any one of such persons may vote at any meeting either personally or by proxy in respect of such share as if he were solely entitled thereto, but so that, if more than one of such joint holders shall tender a vote on the same resolution, whether personally or by proxy, the vote of the senior who tenders a vote shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of such share.

69. Voting rights of members incapable of managing their affairs

A member in respect of whom an order has been made by any Court having jurisdiction (whether in Hong Kong or elsewhere) in matters concerning mental disorder, may vote, whether on a show of hands or on a poll, by his receiver, curator bonis, or other person in the nature of a receiver or curator bonis appointed by such Court, and any such receiver, curator bonis or other person may, on a poll, vote by proxy, provided that such evidence as the Directors may require of the authority of the person claiming to vote as aforesaid shall have been produced at the Office or at such other place as the Directors may determine at least 48 hours before the time fixed for holding the meeting or adjourned meeting (as the case may be) at which such person proposes to vote as aforesaid and in default the right to vote shall not be exercisable.

70. Objections to admissibility of votes

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

71. Execution of proxies

The instrument appointing a proxy shall be in writing signed by the appointor, or his agent duly authorised in writing, or, if such appointor be a corporation, shall either be executed under its common seal or be signed by some agent or officer duly authorised in that behalf. The Directors may, but shall not be bound to, require evidence of the authority of any such agent or officer. The signature on such instrument need not be witnessed,

72. Proxy may demand a poll

The instrument appointing a proxy shall be deemed also to confer authority to demand or concur in demanding a poll.

73. Form of proxy

An instrument appointing a proxy shall be in any usual or common form or any other form which the Directors shall from time to time approve or accept.

74. Deposit of proxies

- (1) The instrument appointing a proxy shall be deposited at the Office (or at such other place as the Directors may determine) at least 48 hours before the time fixed for holding the meeting or, as the case may be, adjourned meeting (or, in the case of a poll, before the time appointed for the taking of the poll) at which the person named in such instrument proposes to vote or shall be delivered to the Secretary or the chairman of the meeting on the day and at the place, but before the start, of the meeting or adjourned meeting or poll.
 - (2) In the case of an instrument signed by an attorney of a member who is not a corporation, there shall also be deposited, in manner set out in paragraph (1) above, the authority under which such instrument is signed or a certified copy thereof.
 - (3) In the case of an instrument signed by an officer or agent of a corporation, there shall also be deposited, in manner set out in paragraph (1) above, the authority under which such instrument is signed, or a notarially certified copy thereof, or such other authorities or documents as shall be specified in the notice of the relevant meeting or in the notes to any instruments of proxy issued by the Company in connection with the relevant meeting.
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- (4) In the event of the documents required by the foregoing paragraphs not being so deposited, the person named in the instrument of proxy shall not be entitled to vote in respect thereof.
- (5) No instrument of proxy shall be valid except for the meeting or meetings mentioned therein and any adjournment thereof.

75. Intervening death of principal etc. not to revoke proxy

A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal, or revocation of the proxy or the authority under which the same was executed or (until entered in the Register) the transfer of the share in respect of which the vote is given, provided no intimation in writing of the death, insanity, revocation or transfer shall have been received at the Office (or at such other place at which the instrument of proxy was duly deposited) six hours at least before the time fixed for holding the meeting or adjourned meeting (or, in the case of a poll, before the time appointed for the taking of the poll) at which the vote is given or shall have been received by the Secretary or the chairman of the meeting on the day and at the place, but before the start, of the meeting or adjourned meeting or poll.

76. Written resolutions

- (1) A resolution in writing signed or approved in writing by all the members for the time being entitled to receive notice of and attend and vote at general meetings or at a meeting of any class of members of the Company shall be as effective as if the same had been passed at a general meeting of the Company or at such class meeting (as the case may be), duly convened and held, and, where relevant, as a special resolution so passed, and may consist of several documents in the like form each signed or approved by one or more persons. In the case of a corporation the resolution may be signed or approved on its behalf by a Director or the Secretary thereof or by its duly appointed attorney or duly authorised representative.
- (2) Where the Company has only one member and that member takes any decision that may be taken by the Company in general meeting and that has effect as if agreed by the Company in general meeting, that one member shall (unless that decision is taken by way of a written resolution) provide the Company with a written record of that decision within 7 days after the decision is made.

77. Conference meetings

- (1) A general meeting or a meeting of any class of members of the Company may consist of a conference between members some or all of whom are in different places provided that each member who participates is able:
 - (a) to hear each of the other participating members addressing the meeting; and
 - (b) if he so wishes, to address all of the other participating members simultaneously,whether directly, by conference telephone or by any other form of communications equipment (whether or not such equipment is available when this Article is adopted) or by a combination of those methods.
 - (2) A quorum is deemed to be present if those conditions are satisfied in respect of at least the number of members required to form a quorum.
 - (3) A meeting held in this way is deemed to take place at the place where the largest group of participating members is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates.
 - (4) A resolution put to the vote of a meeting held in this way shall be decided by each member indicating to the chairman (in such manner as the chairman may direct) whether the member
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votes in favour of or against the resolution or abstains.

- (5) References in this Article to members shall include their duly appointed proxies and, in the case of corporate members, their duly authorised representatives.

DIRECTORS

78. Number of Directors

Unless otherwise determined by an ordinary resolution of the Company, the number of Directors shall not be less than two and there shall be no maximum number of Directors. The names of the first directors shall be determined in writing by the founder member of the Company.

79. Directors need not be members

A Director need not be a member of the Company but shall be entitled to receive notice of and to attend and speak at all general meetings of the Company and at all separate meetings of the holders of any class of shares of the Company.

80. Remuneration of Directors and expenses

- (1) The ordinary remuneration of the Directors shall from time to time be determined by the Company in general meeting and such remuneration shall be divided among them in such proportion and manner as they may agree or, failing agreement, equally.
- (2) The Directors shall also be paid out of the funds of the Company all their travelling, hotel and other expenses properly incurred by them in and about the discharge of their duties, including their expenses of travelling to and from meetings of the Directors, or committee meetings, or general meetings (subject always to the provisions of any agreement between the Company and any Director).

81. Special remuneration

The Directors may grant special remuneration to any Director who, being called upon, shall perform any special or extra services to or at the request of the Company. Such special remuneration may be made payable to such Director in addition to or in substitution for his ordinary remuneration (if any) as a Director, and may, without prejudice to the provisions of Article 88, be made payable by a lump sum or by way of salary, or commission on the dividends or profits of the Company or of any other company in which the Company is interested or other participation in any such profits or otherwise, or by any or all or partly by one and partly by another or other of those modes.

APPOINTMENT AND REMOVAL OF DIRECTORS

82. Appointment and removal of Directors by the Company

The first Directors of the Company shall be appointed in writing by the founder member of the Company or by ordinary resolution of the Company. Thereafter, the Company may by ordinary resolution elect any person to be a Director, either to fill a casual vacancy or by way of an addition to their number, but so that the total number of Directors shall not at any time exceed

any maximum number fixed by or in accordance with these Articles. The Company may by ordinary resolution remove any Director before the expiration of his period of office and may (subject to these Articles) by ordinary resolution appoint another person in his place.

83. The Directors' power to appoint additional Directors

The Directors may, at any time, and from time to time, appoint any person to be a Director, either to fill a casual vacancy or by way of addition to their number but so that the total number of Directors shall not exceed the maximum number (if any) fixed by or in accordance with these Articles.

DISQUALIFICATION OF DIRECTORS

84. Vacation of office of Director

The office of a Director shall ipso facto be vacated:

- (a) if he ceases to be a Director by virtue of any provision of the Statutes or he is convicted of an indictable offence or he becomes prohibited by law from being a Director; or
- (b) if he becomes bankrupt or a receiving order is made against him or he makes any arrangement or composition with his creditors generally; or
- (c) if he is, or may be, suffering from mental disorder and an order is made by a court claiming jurisdiction in that behalf (whether in Hong Kong or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person by whatever name called to exercise powers with respect to his property or affairs; or
- (d) if he shall for more than six months have been absent without special leave of absence from the Directors from meetings of the Directors held during that period, and they pass a resolution that he has by reason of such absence vacated office; or
- (e) if he serves on the Company notice of his wish to resign, in which event he shall ipso facto vacate office on the service of such notice on the Company or such later time as is specified in such notice; or
- (f) if he is removed in the manner provided in Article 82; or
- (g) if he is removed by ordinary resolution of the Company in accordance with the Statutes.

ALTERNATE DIRECTORS

85. Power to appoint alternate Directors

- (1) Each Director (other than an alternate Director) shall have the power to appoint any other Director, any director of any holding company of the Company or of any other subsidiary of that holding company or any other person who is willing to act, to be an alternate Director, in his place, at any meeting of the Directors at which he is unable to be present, and at his discretion to remove such alternate Director.

- (2) On such appointment being made the alternate Director shall (except as regards the power to appoint an alternate) be subject in all respects to the provisions, terms and conditions of these Articles existing with reference to the other Directors of the Company, and each alternate Director, whilst acting in the place of an absent Director, shall be entitled to exercise and discharge all the powers and duties of the Director he represents, but shall look to such Director solely for his remuneration as alternate Director.
- (3) Any Director of the Company who is appointed an alternate Director shall be entitled to vote at a meeting of the Directors on behalf of the Director so appointing him as distinct from the vote to which he is entitled in his own capacity as a Director, and shall also be considered as two Directors for the purpose of making a quorum of Directors.
- (4) Any person appointed as an alternate Director shall vacate his office as such alternate Director if and when the Director by whom he has been appointed vacates his office as Director or removes him by notice to the Company or upon the happening of any event which, if he were a Director, would cause him to vacate such office.
- (5) Every instrument appointing or removing an alternate Director shall be in writing signed by the appointor (or in any other manner approved by the Directors) and shall be effective upon delivery at the Office or at a meeting of the Directors.
- (6) Save as otherwise provided in these Articles, an alternate Director shall be deemed to be the agent of the Director who has appointed him and the appointing Director shall be vicariously liable for any acts, defaults or torts committed by his alternate Director while acting in the capacity of alternate Director

POWERS OF DIRECTORS

86. General powers of Directors to manage Company's business

- (1) The business of the Company shall be managed by the Directors who may exercise all the powers of the Company to the extent that the same are not required by the Statutes or these Articles to be exercised by the Company in general meeting. Any exercise of such powers by the Directors shall be in accordance with the provisions of the Statutes and these Articles. No alteration of these Articles shall invalidate any prior act of the Directors which would have been valid if the same had not been passed or made.
- (2) The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Directors by any other Article or by any resolution of the Company in general meeting.

87. Power to act notwithstanding vacancy

The continuing Directors or the sole continuing Director at any time may act notwithstanding any vacancy in their body; provided always that if the Directors shall at any time be reduced in number to less than the minimum number fixed by or in accordance with these Articles, it shall be lawful for him or them to act as Director(s) for the purpose of filling up vacancies in their body or convening general meetings of the Company or of the holders of any class of shares in the Company, but not for any other purpose. If there shall be no Director able or willing to act, then any two members, or one member if the Company has only one member, may summon a general meeting for the purpose of appointing Directors.

88. Pensions, etc.

- (1) The Directors may procure the establishment and maintenance of or participate in, or contribute to any non-contributory or contributory pension or superannuation fund, scheme or arrangement or life assurance scheme or arrangement for the benefit of, and pay, provide for or procure the grant of donations, gratuities, pensions, allowances, benefits or emoluments to, any persons who are or shall have been at any time Directors of the Company or in the employment or service of the Company or of any company which is or was a subsidiary of or associated with the Company or of the predecessors in business of the Company or any such subsidiary or associated company or the wives, widows, families, relatives or dependants of any such persons.
- (2) The Directors may also procure the establishment and subsidy of or subscription to and support of any institutions, associations, clubs, funds or trusts calculated to be for the benefit of any such persons as aforesaid or otherwise to advance the interests and well-being of the Company or of any such other company as aforesaid, or its members, and may make or procure payments for or towards the insurance of any such persons as aforesaid and subscriptions or guarantees for charitable or benevolent objects or for any exhibition or for any public, general or useful object.
- (3) Without prejudice to the generality of the foregoing paragraphs of this Article, the Directors may exercise any of the powers conferred by the Statutes to make provision for the benefit of any such persons as aforesaid in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the Company or any of its subsidiaries.
- (4) The Directors may procure any of the matters aforesaid to be done by the Company either alone or in conjunction with any other company.

BORROWING POWERS

89. Power to borrow money

Subject as hereinafter provided, the Directors may exercise all the powers of the Company to borrow money, and to mortgage or charge the whole or any part of its undertaking, property and assets (both present and future) and uncalled capital and (subject, to the extent applicable, to the provisions of the Statutes) to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

DIRECTORS INTERESTS, ETC.

90. Power of Directors to hold offices of profit and to contract with Company

- (1) A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract (being a contract of significance in relation to the Company's business) with the Company shall, if his interest in such contract or proposed contract is material, declare the nature of his interest at a meeting of the Directors in accordance with the provisions of the Statutes applicable thereto. In relation to any such matter a Director may notwithstanding his interest vote and be taken into account for the purposes of a quorum and may retain for his own absolute use and benefit all profits and advantages accruing to him.

- (2) No Director or intending Director shall be disqualified by his office from contracting with the Company, either with regard to his tenure of any office or position in the management, administration or conduct of the business of the Company or as vendor, purchaser or otherwise, nor (subject to the interest of the Director being duly declared) shall any 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 relationship thereby established.
- (3) Any Director may act by himself or his firm in a professional capacity for the Company, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director, provided that nothing herein contained shall authorise a Director or his firm to act as Auditors of the Company.
- (4) Any Director may continue to be or become a member or director of, or hold any other office or place of profit under, any other company in which the Company may be interested, and no such Director shall be accountable for any dividend, remuneration, superannuation payment or other benefits received by him as a member or director of, or holder of any other office or place of profit under, any such other company. The Directors may exercise the voting powers conferred by the shares in any company held or owned by the Company or exercisable by them as directors of such other company in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them directors or officers of such company, or voting or providing for the payment of remuneration, superannuation payments or other benefits to the directors or officers of such company).
- (5) The Company may by ordinary resolution suspend or relax the provisions of this Article to any extent or ratify any transaction not duly authorised by reason of a contravention of this Article.

PROCEEDINGS OF DIRECTORS

91. Board meetings, quorum and voting

The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit and may determine the quorum necessary for the transaction of business. Until otherwise determined by the Directors, a majority of the Directors, (or one if the Company has only one Director), shall be a quorum. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote.

92. Notice of meetings

A Director may at any time, and, on the request of any Director, the Secretary shall, call a meeting of the Directors. Notice of meetings of the Directors shall be given to all Directors and to any alternate Directors appointed by them.

93. Chairman or Deputy-Chairman to preside

The Chairman, or failing him any Deputy-Chairman (the senior in office taking precedence, if more than one be present), shall, if present and willing, preside at all meetings of the Directors, but if no such Chairman or Deputy-Chairman be appointed, or if he be not present within five minutes after the time fixed for holding the meeting or is unwilling to act as chairman of such meeting, the Directors present shall choose one of their number to act as chairman of such meeting and the Director so chosen shall preside at such meeting accordingly

94. Competence of board meetings

A meeting of the Directors at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions for the time being vested in or exercisable by the Directors generally,

95. Power to appoint Committees

The Directors may from time to time appoint committees consisting of such member or members of their body as they think fit, and may delegate any of their powers to any such committee, and from time to time revoke any such delegation and discharge any such committee wholly or in part. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may from time to time be imposed upon it by the Directors.

96. Procedure at Committee meetings

Subject to Article 95, committees may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present and, in the case of an equality of votes, the chairman of a meeting shall have a second or casting vote.

97. Resolutions in writing and conference meetings

(1) A resolution in writing signed or approved in writing by all the Directors entitled to notice of a meeting of the Directors or by all the members of a committee for the time being shall be as valid and effectual as if it had been passed at a meeting of the Directors or, as the case may be, such committee duly called and constituted. Such resolution may be contained in one document or in several documents in like form, each signed or approved by one or more of the said Directors or the said members of the committee concerned. For the purpose of this Article the signature or approval of an alternate director (if any) shall suffice in place of the signature of the Director appointing him.

(2) (a) a meeting of the Directors or of a committee of the Directors may consist of a conference between Directors or members of the committee some or all of whom are in different places provided that each Director, or as the case may be, member of the committee who participates is able:

- (i) to hear each of the other participating Directors or members of the committee addressing the meeting; and
- (ii) if he so wishes, to address all of the other participating Directors or members of the committee simultaneously,

whether directly, by conference telephone or by any other form of communications equipment (whether or not such equipment is available when this Article is adopted) or by a combination of those methods.

(b) a quorum is deemed to be present if those conditions are satisfied in respect of at least the number of Directors or members of the committee required to form a quorum; and

(c) a meeting held in this way is deemed to take place at the place where the largest group of participating Directors or, as the case may be, members of the committee is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates.

- (3) Where the Company has only one Director and that Director takes any decision that may be taken in a meeting of the Directors and that has effect as if agreed in a meeting of the Directors, that one Director shall (unless that decision is taken by way of a written resolution) provide the Company with a written record of that decision within 7 days after the decision is made.

98. Validity of acts of Directors so appointed

All acts bona fide 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 or had vacated office or were not entitled to vote, be as valid as if every such person had been duly appointed and qualified to be a Director and had continued to be a Director and had been entitled to vote.

99. Minutes

The Directors shall cause minutes to be made in books provided for the purpose:

- (a) of all appointments of officers made by the Directors;
- (b) of the names of all the Directors present at each meeting of the Directors and of any committee of Directors; and
- (c) of all resolutions and proceedings of all meetings of the Company and of any class of members, and of the Directors and of any committee of Directors

and any such minutes as aforesaid, if purporting to be signed by the chairman of the meeting at which such appointments were made or such Directors were present or such resolutions were passed or proceedings held (as the case may be), or by the chairman of the next succeeding meeting of the Company or Directors or committee (as the case may be), shall be sufficient evidence without any further proof of the facts therein stated.

CHAIRMAN, DEPUTY-CHAIRMAN, MANAGING DIRECTOR, ETC.

100. Appointment

The Directors may from time to time appoint one or more of their number to any office or employment under the Company (including, but without limitation, that of Chairman, Deputy-Chairman, Managing Director or Joint Managing Director) for such period and on such terms as they think fit, and may also permit any person appointed to be a Director to continue in any office or employment held by him before he was so appointed. The Directors may also from time to time (without prejudice to any claim for damages for breach of any agreement between him or them and the Company) remove him or them from office and appoint another or others in his place or their places.

101. Remuneration of Director so appointed

The remuneration and other terms and conditions of appointment of a Director appointed to any office or employment under the Company pursuant to the last preceding Article shall from time to time (without prejudice to the provisions of any agreement between him and the Company) be fixed by the Directors, and may (without prejudice to the provisions of Article 88) be by way

of fixed salary or commission on the dividends or profits or turnover of the Company or of any other company in which the Company is interested or other participation in any such profits or otherwise or by any or all or partly by one and partly by another or others of those modes.

102. Powers and duties of Directors so appointed

The Directors may, from time to time, entrust to and confer upon a Director appointed to any office or employment pursuant to Article 100 such of the powers exercisable under these Articles by the Directors as they may think fit, and may confer such powers for such time, and to be exercised for such objects and purposes, and upon such terms and conditions, and with such restrictions, as they may consider expedient, and may confer such powers collaterally with, or to the exclusion of, and in substitution for, all or any of the powers of the Directors in that behalf; and may from time to time revoke, withdraw, alter or vary all or any of such powers.

LOCAL MANAGEMENT

103. Power to appoint local managers

The Directors may, from time to time, provide for the management and transaction of the affairs of the Company in or from any specified locality, whether in Hong Kong or elsewhere, in such manner as they think fit, and the provisions contained in the two next following Articles shall be without prejudice to the general powers conferred by this Article.

104. Power to appoint attorney

The Directors may, at any time, and from time to time, by power of attorney under the Seal, appoint any person to be the attorney of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as the Directors may from time to time think fit, and such appointment may (if the Directors think fit) be made in favour of any body corporate, or of the members, directors, nominees or managers of any body corporate or unincorporate, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Directors, and any such power of attorney may contain such powers for the protection or convenience of persons dealing with such attorney as the Directors may think fit.

105. Power to sub-delegate

Any such delegate or attorney as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities or discretions for the time being vested in him.

SECRETARY

106. Appointment of Secretary

The Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may (without prejudice to any claim for damages for breach of any contract between him and the Company) be removed by them. A sole Director shall not be the Secretary of the Company. The Company shall not have as Secretary a body corporate the sole Director of which is the sole Director of the Company. The first Secretary is the person named as the Secretary in the incorporation form submitted in respect of the Company pursuant to Section 14A.

107. Dual capacity

A provision of the Statutes or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Secretary.

108. Assistant Secretary

The Directors may, at any time and from time to time, appoint any person to be Assistant Secretary and anything required or authorised to be done by or to the Secretary may be done by or to any Assistant Secretary so appointed; and any Assistant Secretary may (without prejudice to any claim for damages for breach of any contract between him and the Company) be removed by the Directors.

SEAL

109. Seal

- (1) The Directors shall provide for the safe custody of the Seal and the Company may exercise the powers conferred by the Statutes with regard to having an official seal for use in any territory outside Hong Kong, and such powers shall be vested in the Directors. Whenever in these Articles reference is made to the Seal the reference shall, when and so far as may be applicable, be deemed to include any such official seal as aforesaid.
- (2) The Seal shall not be affixed to any instrument, except by the general or special authority of a resolution of the Directors, or of a committee of the Directors authorised in that behalf. The Directors may from time to time make such regulations as they think fit (subject to the provisions of these Articles) determining the persons and the number of such persons who shall sign every instrument to which the Seal is affixed. Until otherwise so determined, every such instrument shall be signed by any one Director or the Secretary or any one or more persons authorised for the purpose by the Directors, and, in favour of any purchaser or person bona fide dealing with the Company, the signatures of such persons shall be conclusive evidence of the fact that the Seal has been properly affixed.
- (3) Every certificate of shares, debentures, debenture stock or representing any other form of security of the Company (other than letters of allotment, receipts for securities or certificates of deposit) shall be issued under the Seal or under any official seal kept by the Company pursuant to section 73(A) of the Ordinance.
- (4) Each certificate to which the Seal shall be affixed shall bear the autographic signature of at least one Director or the Secretary or any one or more other persons authorised for the purpose by the Directors, provided that the Directors may by resolution determine (either generally or in any particular case or cases) that such signatures shall be dispensed with, or shall be affixed by means of some method or system of mechanical signature.
- (5) Each certificate to which such official seal as is referred to in paragraph(3) of this Article shall be affixed need not bear any signatures.

AUTHENTICATION OF DOCUMENTS

110. Any Director or the Secretary or any person appointed by the Directors for the purpose shall have power to authenticate any documents affecting the constitution of the Company and any resolutions passed by the Company or the Directors or any committee, and any books, records, documents and accounts relating to the business of the Company, and to certify copies thereof or extracts therefrom as true copies or extracts; and where any books, records, documents or accounts are elsewhere than at the Office the local manager or other officer of the Company having the custody thereof shall be deemed to be a person appointed by the Directors as aforesaid. A document purporting to be a copy of a resolution, or an extract from the minutes of a meeting, of the Company or of the Directors or any committee which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that any minute so extracted is a true and accurate record of proceedings at a duly constituted meeting.

DIVIDENDS

111. Application of profits in payment of dividends

Subject to the provisions of the Statutes and of these Articles and to any rights, privileges or restrictions for the time being attached to any shares in the capital of the Company having preferential or special rights in regard to dividend, the profits of the Company which it shall from time to time be determined to distribute by way of dividend shall be applied in payment of dividends upon the shares of the Company in proportion to the amounts paid up thereon respectively otherwise than in advance of calls, provided that if any share be issued upon terms providing that it shall rank for dividend as from or after a particular date, or be entitled to dividends declared or paid after a particular date, such share shall rank for or be entitled to dividend accordingly.

112. Declaration of dividends

Subject to the provisions of the Statutes the Company may, from time to time, by ordinary resolution, declare a dividend to be paid to the members, according to their rights and interests in the profits, and may fix the time for payment of such dividend.

113. No larger dividend than recommended by Directors

No larger dividend shall be declared than is recommended by the Directors, but the Company may by ordinary resolution declare a smaller dividend.

114. Fixed and interim dividends

- (1) Subject to the provisions of the Statutes, if and to the extent that the Directors think fit and the position of the Company in their opinion justifies such payment, the Directors may declare and pay dividends on shares carrying an entitlement to fixed dividends in accordance with the rights attached thereto and may also from time to time declare and pay interim dividends on shares of any class of such amounts and on such dates and in respect of such periods as they think fit.
- (2) Provided that the Directors act bona fide, they shall not incur any responsibility to the holders of shares conferring a preference for any damage that they may suffer by reason of the payment

of a dividend on any shares not ranking *pail passu* or in priority thereto in respect of dividends.

115. Unclaimed dividends

All unclaimed dividends may be invested or otherwise made use of by the Directors as they shall think fit, until the same be claimed and so that the Company shall not thereby be constituted as a trustee in respect thereof and any dividend unclaimed after a period of six years from the date for payment of such dividend shall be forfeited and shall revert to the Company.

116. No interest payable on dividends etc.

No dividend or other moneys payable on or in respect of a share in the capital of the Company shall bear interest against the Company.

117. Power to satisfy dividend in specie, fractional certificates and cash adjustments

With the sanction of an ordinary resolution of the Company and upon the recommendation of the Directors any dividend may be paid and satisfied, either wholly or in part, by the distribution of specific assets, and in particular of paid-up shares or debentures of any other company, or partly in one way and partly in another or others, and where any difficulty arises in regard to the distribution, the Directors may settle the same as they think expedient, and in particular they may issue fractional certificates, and may fix the value for distribution of such specific assets or any part thereof, and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees upon such trusts for the persons entitled to the dividend as may seem expedient to the Directors.

118. Deduction of debts due to Company

The Directors may deduct from any dividend or other moneys payable in respect of any shares held by a member, either alone or jointly with any other member, all such sums of money (if any) as may be presently due and payable by him, either alone or jointly with any other person, to the Company in relation to shares of the Company.

119. Moneys payable by cheque

Any moneys payable in respect of any share (whether by way of return of capital, dividend, interest or otherwise) may (unless otherwise directed by the member or other person entitled thereto) be paid by cheque or warrant sent through the post to the registered address of such member or person entitled thereto, or, in the case of joint holders, to the registered address of that one whose name stands first in the Register in respect of the joint holding, and (unless otherwise directed as aforesaid) every cheque or warrant so sent shall be made payable to the order of the person to whom it is sent, and the Company shall not be responsible for any loss in transmission, and payment of the cheque or warrant shall be a good discharge to the Company.

RESERVES

120. Power to provide for depreciation and carry profits to reserve

The Directors may, before recommending any dividend, write off such sums as they think proper for depreciation, and carry forward in the revenue accounts any profits as they think should not be divided, and may also set aside out of profits of the Company such sum or sums as they think proper as a reserve or reserves, which shall at the discretion of the Directors be applicable for meeting contingencies, for the gradual liquidation of any debt or liability of the Company, or for repairing, maintaining or adding to the property of the Company, or for such other purposes as the Directors shall, in their absolute discretion, think fit, and pending any such application may, at the discretion of the Directors, either be employed in

the business of the Company, or be invested in such investments (other than shares in the Company) as the Directors may from time to time think fit.

121. Reserves

The Directors may establish such reserve accounts and may divide the Company's reserves into such special funds as they may think fit. The Directors may also carry forward any profits which they may think prudent not to divide without placing the same to reserves.

CAPITALISATION OF RESERVES, ETC.

122. Capitalisation of reserves

- (1) The Company may at any time and from time to time, upon the recommendation of the Directors, by ordinary resolution resolve that any sum not required for the payment or provision of any fixed preferential dividend and standing, at the time the ordinary resolution is passed or, if such resolution is conditional, at the time it becomes unconditional, to the credit of any reserve accounts of the Company (including Share Premium Account and Capital Redemption Reserve) or to the credit of profit and loss account (whether or not the same be available for distribution) be capitalised, and that such sum be appropriated as capital to and amongst the holders of ordinary shares in the capital of the Company in proportion to the nominal amount of the ordinary shares held by them respectively at the time the ordinary resolution is passed or, if such resolution is conditional, at the time it becomes unconditional or at such other time as may be stipulated in such resolution, and that the Directors shall in accordance with such resolution apply such sum in paying up in full or in part any unissued shares or debentures of the Company on behalf of such holders of ordinary shares in the capital of the Company, and appropriate such shares or debentures to and distribute the same credited as fully or partly paid up amongst such holders of ordinary shares in the capital of the Company in the proportions aforesaid in satisfaction of their shares and interests in the said capitalised sum, or shall apply such sum or any part thereof on behalf of such holders of ordinary shares in the capital of the Company in paying up the whole or part of any amounts which shall for the time being be unpaid in respect of any issued shares in the Company held by them respectively, or otherwise deal with such sum as directed by such resolution; provided that:
 - (a) any sum standing to the credit of any Share Premium Account or Capital Redemption Reserve may only be applied in paying up unissued shares to be allotted as fully paid up; and
 - (b) any, sum not available for distribution in accordance with the Statutes may only be applied in paying up in full or in part unissued shares to be allotted as fully or partly paid up.
- (2) Where any difficulty arises in respect of any such distribution, the Directors may settle the same as they think expedient, and in particular they may make such provisions as they think proper for the case of shares or debentures becoming distributable in fractions (including, but without limitation, provisions for the issue of fractional certificates, for the sale and distribution of the proceeds of sale of shares or debentures representing such fractions, and provisions whereby the benefit of fractional entitlements accrue to the Company rather than the members concerned) and further the Directors may fix the value for distribution of any fully paid-up shares or debentures, make cash payment to any shareholders on the footing of the value so fixed in order to adjust rights, and vest any shares or debentures in trustees upon such trusts for the persons entitled to share in the distribution as may seem just and expedient to the Directors. When deemed requisite, a proper contract for the allotment and acceptance of any shares or debentures to be distributed as aforesaid shall be executed and (if necessary) filed in accordance with any applicable provisions of the Statutes, and the Directors may appoint any person to sign such contract on behalf of the persons entitled to share in the distribution, and such appointment shall be effective, and the contract may provide for the acceptance by such persons of the shares or

debentures to be allotted to them respectively in satisfaction of their claims in respect of the sum so distributed, and any such contract shall be effective and binding on all such persons.

ACCOUNTS

123. Directors to keep proper accounting records

The Directors shall cause proper accounting records of the Company to be kept and the provisions of the Statutes in this regard shall be complied with.

124. Where accounting records to be kept

The accounting records shall be kept at the Office, or, subject to section 121(3) of the Ordinance, at such other place as the Directors shall think fit, and shall always be open to the inspection of the Directors.

125. Inspection of records

The Directors shall, from time to time, determine whether in any particular case, or class of cases, or generally, and at what times, and places, and under what conditions or regulations, the accounting records of the Company, or any of them, shall be open to the inspection of the members, and no member, not being a Director, shall have any right of inspecting any account, book or document of the Company, except as conferred by law or authorised by the Directors or by any ordinary resolution of the Company, nor shall any such member be entitled to require or receive any information concerning the business, trading or customers of the Company, or any trade secret of or secret process used by the Company.

126. Balance sheet and profit and loss accounts.

- (1) The Directors shall, from time to time, in accordance with the Statutes, cause to be prepared and to be laid before the annual general meeting of the Company such profit and loss accounts, balance sheets, group accounts (if any), reports of the Directors and of the Auditors and other documents (if any) as are required by the Statutes. Each balance sheet shall be signed on behalf of the Directors by two of their number, or one (if the Company has only one Director).
 - (2) A copy of the said balance sheet, accounts, reports and other documents (if any) shall, not less than 21 days before the meeting, be delivered or sent by post to the registered address of every member and debenture holder of the Company, or in the case of a joint holding to that member or debenture holder (as the case may be) whose name stands first in the appropriate Register in respect of the joint holding. The Auditors' report shall be read at the meeting. No accidental non-compliance with the provisions of this Article shall invalidate the proceedings at the meeting.
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AUDIT

127. Provisions of Statutes regarding Auditors

- (1) The provisions of the Statutes as to the appointment, powers, rights, remuneration and duties of the Auditors shall be complied with and, subject to the provisions of the Statutes, all acts done by any person acting as an auditor of the Company shall, as regards all persons dealing in good faith with the Company, be valid, notwithstanding that there was some defect in his appointment or that he was at the time of his appointment, or subsequently became, disqualified.
- (2) An auditor of the Company shall be entitled to attend any general meeting and to receive all notices of and other communications relating to any general meeting which any member is entitled to receive and to be heard at any general meeting on any part of the business of the meeting which concerns him as Auditor.

NOTICES

128. Notices to be in writing

Any notice to be given to or by any person pursuant to these Articles shall be in writing except that a notice calling a meeting of the Directors need not be in writing.

129. Service of notices

A notice or other document may be served by the Company upon any member either personally or by facsimile transmission or telex, or by sending it by mail, postage prepaid (and, in any case where the registered address of a member is outside Hong Kong, by prepaid airmail), addressed to such member at his registered address. Any such facsimile transmission shall be deemed duly served only if it is confirmed by telex or by mail as aforesaid served within seven days of such transmission.

130. Registered address of member

Each member shall, from time to time, notify in writing to the Company some place which shall be deemed his registered address for the purposes of the last preceding Article.

131. Notice to joint holders

All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the Register in respect of such share, and notice so given shall be sufficient notice to all the holders of such share.

132. Service on Company

Any summons, notice, order or other document required to be sent to or served upon the Company, or upon any officer of the Company, may be sent or served by facsimile transmission or telex, or by leaving the same or sending it by mail, postage prepaid (and, if posted outside Hong Kong, by prepaid airmail), addressed to the Company or to such officer at the Office.

133. Proof of postage to be sufficient proof of service

- (1) Any notice or other document, if sent by facsimile transmission or telex, shall be deemed to have been served on the day on which such facsimile transmission or telex was transmitted, provided (in the case of a facsimile transmission) it is confirmed as provided in Article 129 and (in the case of a telex) the answerback is received.
- (2) Any notice or other document, if sent by mail, postage prepaid, to a registered address in Hong Kong, shall be deemed to have been served on the day following that on which the letter, envelope, or wrapper containing the same is put into the post, or, if sent by prepaid airmail, shall be deemed to have been served on the fifth day following that on which the letter, envelope or wrapper containing the same was put into the post. In proving such service it shall be sufficient to prove that the letter, envelope or wrapper containing the notice or document was properly addressed and put into the post as prepaid mail or prepaid airmail (as the case may be).

134. Members present at meeting deemed to have received due notice

Any member present, either personally or by proxy, at any meeting of the Company or class of members 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.

135. Successors in title to be bound by notices to predecessors

Every person who, by operation of law, transfer or any other means whatsoever, shall become entitled to any shares shall be bound by every notice in respect of such shares which previously to his name and address being entered in the Register shall be duly given to the person from whom he derives his title to such shares.

136. Service of notice to be sufficient notwithstanding death of member served

Any notice or document served upon or sent to, or left at the registered address or notified facsimile transmission or telex number of; any member in pursuance of these Articles, shall, notwithstanding that such member be then deceased 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 held by such member, whether held solely or jointly with other persons, until some other person be registered instead of him as the holder or joint holder of such share, and such service shall, for all purposes of these Articles, be deemed a sufficient service of such notice or document on his executors, administrators or assigns, and all persons (if any) jointly interested with him in such share.

137. Signature on notices

The signature on any notice to be given by the Company may be written or printed.

WINDING UP

138. Directors' power to present winding-up petition

The Directors shall have power in the name and on behalf of the Company to present a petition to the Court for the Company to be wound up.

139. Rule for division of assets in liquidation

If the Company shall be wound up, the surplus assets remaining after payment of all creditors shall be divided among the members in proportion to the capital which at the commencement of the winding up is paid up, or ought to have been paid up, on the shares held by them respectively and, if such surplus assets shall be insufficient to repay the whole of the paid-up capital, they shall be distributed so that, as nearly as may be, the losses shall be borne by the members in proportion to the capital paid up, or which ought to have been paid up, at the commencement of the winding up on the shares held by them respectively. But this Article is to be subject to the rights attached to any shares which may be issued on special terms or conditions.

140. Powers to distribute in specie

If the Company shall be wound up the Liquidator (whether voluntary or official) may, with the sanction of a special resolution of the Company, divide among the members in specie any part of the assets of the Company, or vest any part of the assets of the Company in trustees upon such trusts for the benefit of the members or any of them as the resolution shall provide. Any such resolution may provide for and sanction a distribution of any specific assets amongst different classes of members otherwise than in accordance with their existing rights.

141. Members abroad to give address for service

In the event of a winding up of the Company every member of the Company who is not for the time being in Hong Kong shall be bound, within 14 days after the passing of an effective resolution to wind up the Company voluntarily, or within the like period after the making of an order for the winding up of the Company, to serve notice on the Company appointing some person resident in Hong Kong upon whom all summonses, notices, processes, orders and judgements in relation to or under the winding up of the Company may be served, and in default of such nomination the Liquidator of the Company shall be at liberty on behalf of such member to appoint some such person, and service upon any such appointee shall be deemed to be a good personal service on such member for all purposes, and where the Liquidator makes any such appointment he shall, with all convenient speed, give notice thereof to such member by advertisement in any leading Hong Kong daily newspaper, or by a letter sent by registered or recorded delivery post and addressed to such member at his registered address, and such notice shall be deemed to be served on the day following that on which the advertisement appears or the letter is posted.

INDEMNITY AND INSURANCE

142. Indemnity of Directors and officers

- (1) Subject to the provisions of the Statutes, every Director, Auditor, Secretary or other officer of the Company shall be entitled to be indemnified by the Company against any liability incurred by him:
- (a) in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted; or
 - (b) in connection with any application under section 358 of the Ordinance in which relief is granted to him by the court.

- (2) The Company may purchase and maintain for any Director, Auditor, Secretary or other officer of the Company:
- (a) insurance against any liability to the Company, a related company or any other party in respect of any negligence, default, breach of duty of trust (save for fraud) of which he may be guilty in relation to the Company or a related company; and
 - (b) insurance against any liability incurred by him in defending any proceedings, whether civil or criminal, taken against him for any negligence, default, breach of duty or breach of trust (including fraud) of which he may be guilty in relation to the Company or a related company.

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No. 1818513

THE COMPANIES ORDINANCE

Company Limited by Shares

MEMORANDUM

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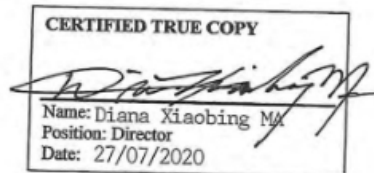
ARTICLES OF ASSOCIATION

*(as amended by special resolution passed on
26 July 2020)*

of

SunPower Corporation Limited

Incorporated on 30 October 2012



Company No.: 1818513

THE COMPANIES ORDINANCE

(CHAPTER 622)

SPECIAL RESOLUTION

OF

SunPower Corporation Limited

PASSED ON THE 26TH DAY OF JULY 2020

By resolutions in writing of the sole member of SunPower Corporation Limited (the "**Company**") pursuant to article 76 of the articles of association of the Company and the Companies Ordinance (Cap. 622 of the Laws of Hong Kong) passed on 26 July 2020, the following resolution was duly passed as special resolutions of the Company:-

"**THAT** the Articles of Association of the Company be amended as follows:

1. ARTICLE 16A

The following new Article 16A is to be inserted immediately after Article 16 as follows:

"16A. Article 16 shall not apply to any share or any interest or right relating to any share that is registered in the name of, or held or purported to be held on trust by or for, or has been mortgaged or charged in favour of, any relevant person."

2. ARTICLE 41

Article 41 is to be deleted in its entirety and is to be replaced by the following:

"41. Directors' power to refuse to register transfers

- (1) The Directors may, subject to Article 41(2), in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share, whether or not is a fully paid share.
- (2) Notwithstanding anything to the contrary contained in these Articles, the Directors shall not decline to register any transfer of shares, or unreasonably delay, or suspend the registration of any transfer of shares, where such transfer is to a relevant person. A certificate by a relevant person or any officer of a relevant person certifying that any share which is being transferred was or has been mortgaged or charged shall be conclusive evidence of that fact.
- (3) For the purpose of these Articles, a "**relevant person**" means:
 - (a) any person to whom any share of the company has been mortgaged or charged; or
 - (b) any nominee, agent and/or trustee of a person referred to in (a) above; or
 - (c) any person who acquires any interest in any share of the Company from any of the persons referred to in (a) or (b) above."

(Sd.) Jerry William Waters

For and on behalf of
Maxeon Solar Technologies, Ltd.
(formerly known as
Maxeon Solar Technologies, Pte. Ltd.)

THE COMPANIES ORDINANCE

Company Limited by Shares

MEMORANDUM OF ASSOCIATION

OF

SunPower Corporation Limited

1. The name of the Company is SunPower Corporation Limited.
2. The registered office of the Company will be situated in Hong Kong.
3. The Company has the capacity and the rights, powers and privileges of a natural person.
4. The liability of the members is limited.
5. [deleted]

The share capital and initial shareholdings on the Company's formation are as follows:-

NAME OF FOUNDER MEMBER	Number of Shares taken by each Founder Member	Total amount of Share Capital
SunPower Corporation	ONE SHARE	HKD1.00

THE COMPANIES ORDINANCE

Company Limited by Shares

ARTICLES OF ASSOCIATION

(as amended by special resolution passed on 26 July 2020)

OF

SunPower Corporation Limited

INTRODUCTORY

1. **Table A not to apply**

The regulations in Table A in the First Schedule to the predecessor Companies Ordinance (Chapter 32) shall not apply to the Company.

INTERPRETATION

2. **Interpretation**

- (1) In these Articles the words standing in the first column of the following table shall bear the meanings set opposite to them respectively in the second column thereof, if not inconsistent with the subject or context:

WORDS	MEANINGS
Appointment	includes election (and appoint includes elect);
Articles	these articles of association, as originally adopted, or as from time to time altered in accordance with the Statutes;
Auditors	the auditors for the time being of the Company;
Directors	the directors for the time being of the Company;
In writing	written, printed, typewritten or telexed or transmitted by facsimile, or visibly expressed in any other mode of representing or reproducing words, or partly one and partly another;
Month	calendar month;
Office	the registered office for the time being of the Company;
Ordinance	the predecessor Companies Ordinance (Chapter 32 of the Laws of Hong Kong), as amended from time to time;
Paid up	includes credited as paid up;
Register	the register of members of the Company (including any branch register kept in accordance with the Statutes);
Seal	the common seal of the Company or any official seal that the Company may have in accordance with the Statutes;
Statutes	the Ordinance and every other ordinance for the time being in force concerning companies and affecting the Company;
Year	the year from 1st January to 31st December, inclusive.

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- (2) Subject as aforesaid, any words defined in the Statutes shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.
 - (3) Unless inconsistent with the subject or context, words importing the singular number shall include the plural number and vice versa, words importing the masculine gender shall include the feminine gender and words importing persons shall include corporations and bodies of persons.
 - (4) The expression the "Secretary" shall (subject to the provisions of the Statutes) include a joint, assistant or deputy Secretary and any person appointed by the Directors to perform any of the duties of the Secretary.
 - (5) The headings are inserted for convenience only and shall not affect the construction of these Articles.
 - (6) A special resolution shall be effective for any purpose for which an ordinary resolution is expressed to be required under any provision of these Articles.
 - (7) References in these Articles to any statutory provision shall be construed as including references to:
 - (a) any statutory modification or re-enactment thereof;
 - (b) all subsidiary legislation, regulations or orders made pursuant thereto; and
 - (c) any statutory provisions of which such statutory provision is a re-enactment or modification.

PRIVATE COMPANY

3. Private Company

The Company is a private company and accordingly:

- (a) the right to transfer shares in the Company shall be restricted in the manner provided by these Articles;
- (b) the number of members of the Company (not including persons who are in the employment of the Company and persons who, having been formerly in the employment of the Company, were while in that employment, and have continued after the determination of that employment to be, members of the Company) is limited to fifty; provided that, where two or more persons hold one or more shares in the Company jointly, they shall, for the purposes of this paragraph, be treated as a single member; and
- (c) no invitation shall be made to the public to subscribe for any shares or debentures of the Company.

4. Office

The Office shall be at such place in Hong Kong as the Directors shall from time to time appoint.

INCREASE OF CAPITAL

5. Company may increase its capital

The Company may from time to time, by ordinary resolution, whether or not all the shares for the time being authorised shall have been issued, or all the shares for the time being issued shall have been fully paid up, increase its capital by the creation of new shares of such amount as may be deemed expedient.

6. Rights attached to new shares

Any resolution of the Company creating any new shares in the capital of the Company may, subject to the Statutes and without prejudice to the rights and privileges attached to any then existing shares in the capital, specify rights and privileges to be attached to such new shares and restrictions to which they shall be subject and may (subject to the Statutes) provide that the same are to be issued on terms that they are, or at the option of the holder or the Company are liable, to be redeemed and set out the terms on and the manner in which redemption of the same may be effected.

7. New shares considered as original capital

Subject to any direction or determination that may be given or made in accordance with the powers contained in these Articles, all shares created on any increase of capital shall be subject to the provisions contained herein with reference to the payment of calls, transfer, transmission, forfeiture, lien and otherwise as if they had been part of the original capital.

ALTERATION OF CAPITAL

8. Power to consolidate, sub-divide and cancel shares

(1) The Company may, from time to time, by ordinary resolution:

- (a) consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares;
- (b) 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; and
- (c) by sub-division of its existing shares or any of them, divide its share capital or any part thereof into shares of smaller amount than is fixed by its memorandum of association, so, however, that in the sub-division the proportion between the amount paid up and the amount (if any) not paid up on each such share of smaller amount shall be the same as it was in the case of the share from which it was derived. Any resolution whereby any share is sub-divided may determine that, as between the holders of the shares resulting from such sub-division, one or more of the shares may have such preferred or other special rights, or may have such qualified or deferred rights or be subject to such restrictions, as compared with the other or others, as the Company has power to attach to new shares,

(2) Anything done in pursuance of this Article shall be done in any manner provided, and subject to any conditions imposed, by the Statutes, so far as they shall be applicable, and, so far as they

shall not be applicable, in accordance with the terms of the resolution authorising the same, and, so far as such resolution shall not be applicable, in such manner as the Directors deem most expedient.

9. Reduction of capital

Subject to the provisions of the Statutes and these Articles, the Company may by special resolution reduce its share capital, any capital redemption reserve and any share premium account in any way.

PURCHASE OF OWN SHARES

10. Purchase of own shares

- (1) Subject to sections 49 to 49S of the Ordinance, the Company may purchase its own shares (including any redeemable shares).
- (2) Subject to sections 491 to 490 of the Ordinance, the Company may make a payment in respect of the redemption or purchase of its own shares otherwise than out of the distributable profits of the company or the proceeds of a fresh issue of shares.

VARIATION OF RIGHTS

11. Variation of rights

- (1) Whenever the capital of the Company is divided into different classes of shares, all or any of the special rights or privileges attached to any class may be varied or abrogated, either with the consent in writing of holders of three-fourths in nominal value of the issued shares of that class or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of that class (but not otherwise), and may be so varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up. To every such separate general meeting all the provisions of these articles relating to general meetings of the Company or to the proceedings thereat shall apply mutatis mutandis, except that:
 - (a) the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy not less than one-third in nominal amount of the issued shares of the class, and if the Company has only one member, the one member present in person or by proxy shall be quorum at any such separate general meeting of the Company;
 - (b) at an adjourned meeting the necessary quorum shall be one person holding shares of the class or his proxy;
 - (c) the holders of shares of the class shall, on a poll, have one vote in respect of every share of the class held by them respectively; and
 - (d) a poll may be demanded by any one holder of shares of the class whether present in person or by proxy.
- (2) For the purposes of this provision any particular issue of shares not carrying the same rights (whether as to rate of dividend, redemption or otherwise) as any other shares for the time being

in issue, shall be deemed to constitute a separate class of shares.

12. Shares at the disposal of the Directors

All unissued shares shall (subject to any contract binding on the Company, the Statutes, these Articles and any resolution of the Company pursuant thereto) be at the disposal of the Directors, who may (subject to the provisions of any such contract, the Statutes, these Articles and any such resolution):

- (a) allot (with or without conferring a right of renunciation), grant options over or otherwise deal with or dispose of the same to such persons, at such times and generally on such terms as they think proper; and
- (b) issue the same with such rights and privileges attached thereto and subject to such restrictions as they may determine and, in particular, such shares may be issued with a preferential, qualified or deferred right to dividends and/or in the distribution of assets of the Company and with or without any right of voting (whether special or not) and any share may be issued on terms that it is, or at the option of the Company or the holder is liable, to be redeemed and the terms on and the manner in which redemption of the same may be effected may be determined by the Directors.

13. Allotments etc. of shares

The Company shall duly comply with any provisions of the Statutes regarding the allotment, issue and paying up of share capital.

14. Power to pay commission and brokerage

- (1) The Company may pay a commission to any person in consideration of his subscribing, or agreeing to subscribe, whether absolutely or conditionally, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the capital of the Company, but such commission shall not exceed the limits permitted by the Statutes. Any such commission may be paid in cash or by the allotment of fully or partly paid shares or partly in one way and partly in the other. The Company may, in addition to, or in lieu of, such commission, in consideration of any person so subscribing or agreeing to subscribe, or of his procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the Company, confer on any such person an option to call within a specified time for a specified number or amount of shares in the Company at a specified price not being less than par. The payment or agreement to pay a commission or the conferring of an option shall be in the discretion of the Directors on behalf of the Company and subject to the provisions of the Statutes.
- (2) The Company may also pay such brokerage as may be lawful.

15. Joint holders

The Company shall not be bound to register more than four persons as joint holders of any share (except in the case of executors or administrators of a deceased member), and any one of such registered joint holders may give effective receipts for any dividend or other moneys payable in respect of such share.

16. Exclusion of equities

Except as otherwise required by law or these Articles and notwithstanding any information received by the Company, no person shall be recognised by the Company as holding any share

upon any trust and the Company shall not be bound in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any share, or any interest in any fractional part of a share, or any other right in respect of any share, except an absolute right to the entirety thereof in the registered holder.

- 16A. Article 16 shall not apply to any share or any interest or right relating to any share that is registered in the name of, or held or purported to be held on trust by or for, or has been mortgaged or charged in favour of, any relevant person

CERTIFICATES

17. **Issue of certificates**

Every member shall be entitled, without payment, to receive within two months after allotment or lodgment of transfer, duly stamped and otherwise valid, (or within such other period as the conditions of issue may provide) a certificate for all his shares in any particular class, provided that:

- (a) in the event of a member transferring part of the shares represented by a certificate in his name, a new certificate in respect of the balance thereof shall be issued in his name without payment;
- (b) in the case of joint holders, the Company shall not be bound to issue more than one certificate for all the shares in any particular class registered in their joint names, and delivery of a certificate for a share to any one of several joint holders thereof shall be sufficient delivery to all; and
- (c) the provisions of Article 109 concerning the sealing of certificates shall be complied with whenever share certificates are issued.

18. **Replacement of certificates**

If a share certificate shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new share certificate representing the same shares may be issued to the holder upon request subject to delivery up of the old certificate or (if alleged to have been lost, stolen or destroyed) subject to compliance with such conditions as to evidence and indemnity as the Directors may think fit and (in either case) to the payment of any exceptional expenses of the Company incidental to its investigation of the evidence of such alleged loss, theft or destruction.

CALLS ON SHARES

19. **Directors may make calls**

The Directors may, subject to any conditions of allotment, from time to time make such calls upon the members in respect of all moneys unpaid on their shares as they think fit, provided that, except as otherwise fixed by the conditions of application or allotment, seven days' notice at least is given of each call, and each member shall be liable to pay the amount of every call so made upon him to the persons and at the times and places appointed by the Directors. Any call may be made payable in one sum or by instalments and may be revoked or postponed as the Directors may determine. A person upon whom a call is made shall remain liable therefor notwithstanding the subsequent transfer of the shares in respect whereof the call is made.

20. Time when made

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

21. Liability of joint holders

The joint holders of a share shall be jointly and severally liable for the payment of all calls and instalments in respect thereof.

22. Interest on calls

If a call or instalment payable in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the amount is due shall pay interest on the amount of the call or instalment, from the day appointed for payment to the day of actual payment, at such rate (not exceeding 15 per cent. per annum) as the Directors shall from time to time determine, and shall also pay all costs, charges and expenses which the Company may have incurred or become liable for in order to procure payment of or in consequence of the non-payment of such call or instalment but the Directors shall be at liberty to waive payment of such interest, costs, charges and expenses, wholly or in part.

23. Sums due on allotment etc. to be treated as calls

Any sum which by the conditions of allotment of a share is made payable on allotment, or at any fixed time, or by instalments at any fixed times, shall for all purposes of these Articles be deemed to be a call duly made and payable on the date or dates fixed for payment and, in case of non-payment, the provisions of these Articles as to payment of interest and expenses, forfeiture and the like, and all other relevant provisions of the Statutes or of these Articles shall apply as if such sum were a call duly made and notified as hereby provided.

24. Power to differentiate

The Directors may make arrangements on any issue of shares for a difference between the holders of such shares in the amounts and times of payment of calls on their shares.

25. Payment of calls in advance

The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys payable upon his shares beyond the sum actually called up thereon and, upon all or any of the moneys so paid in advance, or so much thereof as exceeds the amount for the time being called up on the shares in respect of which such advance has been made, the Directors may pay or allow interest at such rate (not exceeding 15 per cent per annum) as may be agreed upon between the Directors and the member paying such sum in advance, in addition to the dividend payable upon such part of the shares in respect of which such advance has been made as is actually called up. The Directors may also at any time repay the amount so advanced upon giving to such member one month's notice.

26. Rights suspended if payment in arrear

No member shall be entitled to receive any dividend, or (save as proxy for another member) to be present or vote at any general meeting, either personally or by proxy, or to exercise any privilege as a member, or be reckoned in a quorum in respect of any share held by him (whether alone or jointly with any other person) if and so long as he shall have defaulted in payment of any call or other sum for the time being due and payable on such share or any interest or

expenses (if any) payable in connection therewith.

LIEN ON SHARES

27. Company to have lien on partly paid shares

- (1) The Company shall have a first and paramount lien and charge on all the shares not fully paid up, registered in the name of a member (whether solely or jointly with others), for any amount payable in respect of such shares. Such lien shall extend to all dividends and other moneys from time to time declared or payable in respect of such shares.
- (2) Unless otherwise agreed, the registration of a transfer of shares shall operate as a waiver of the Company's lien (if any) on such shares.
- (3) The Directors may resolve that any share or shares shall for some specified period be exempt, in whole or in part, from the provisions of this Article.

28. Sale of shares subject to lien

- (1) For the purpose of enforcing such lien, the Directors may sell all or any of the shares subject thereto in such manner as they may think fit, but no sale shall be made until:
 - (a) the date for payment of the amount referred to in paragraph (1) of the preceding Article shall have arrived;
 - (b) a notice demanding payment of the said amount and giving notice of intention to sell in default shall have been served in accordance with these Articles on such member or the person (if any) entitled by transmission to the shares; and
 - (c) default in such payment shall have been made by him for 14 days after such notice.
- (2) The net proceeds of any such sale, after payment of the costs, shall be applied in or towards satisfaction of the said amount, and the residue (if any) shall (subject to a like lien for debts or liabilities not presently payable as existed upon the shares prior to the sale) be paid to the member or the person (if any) entitled by transmission to the shares.

29. Purchaser protected

To give effect to any such sale as aforesaid the Directors may authorise some person to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser and a sold note in respect thereof and may enter the purchaser's name in the Register as holder of the shares, and the purchaser shall not be bound to see to the regularity or validity of or be affected by any irregularity in or invalidity of the proceedings or be bound to see to the application of the purchase money and the validity of the sale shall not be impeached by any person, and the remedy of any person aggrieved by the sale shall be in damages only and against the Company exclusively.

FORFEITURE OF SHARES

30. Notice of unpaid calls

If any member fails to pay the whole or any part of any call or instalment on or before the day appointed for the payment thereof, the Directors may, at any time thereafter during such time as the call or instalment or any part thereof remains unpaid, serve a notice on him, requiring him to pay such call or instalment, or such part thereof as remains unpaid, together with any accrued interest and any costs, charges and expenses incurred by the Company by reason of such non-payment.

31. Notice to state time and place for payment

The notice shall name a further day, being not less than 14 days from the date of such notice, on or before which such call or instalment, or part thereof as aforesaid, and all such interest and costs, charges and expenses as aforesaid are to be paid. It shall also name the place where payment is to be made and shall state that, in the event of non-payment on or before the day and at the place appointed, the share in respect of which such call was made or instalment is payable will be liable to be forfeited.

32. Forfeiture on non-compliance with notice

If the requirements of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may, at any time thereafter before payment of all calls or instalments, interest, costs, charges and expenses due in respect thereof has been made, be forfeited by a resolution of the Directors to that effect. Every forfeiture shall include all dividends declared in respect of the forfeited share, and not actually paid before the forfeiture. The Directors may accept a surrender of any share liable to be forfeited hereunder.

33. Notice of forfeiture to be given

When any share has been forfeited in accordance with these Articles, notice of the forfeiture shall forthwith be given to the holder of the share, or the person entitled to the share by transmission, as the case may be, and an entry of such notice having been given, and of the forfeiture, with the date thereof, shall forthwith be made in the Register opposite to the entry of the share; but no forfeiture shall be in any manner invalidated by any omission or neglect to give such notice or to make such entry as aforesaid.

34. Power to annul forfeiture or surrender

Notwithstanding any such forfeiture as aforesaid, the Directors may, at any time before the forfeited or surrendered share has been sold, re-allotted or otherwise disposed of, annul the forfeiture or surrender upon payment of all calls and interest due upon and costs, charges and expenses incurred in respect of the share, and upon such further conditions (if any) as they may think fit.

35. Sale of forfeited or surrendered shares

Every share which shall be forfeited or surrendered shall thereupon be deemed for the purposes of this Article to be the property of the Company, and (subject to the provisions of the Statutes) may be sold, re-allotted or otherwise disposed of, upon such terms and in such manner as the Directors shall think fit either to the person who was before the forfeiture the holder of such share or to any other person and whether with or without all or any part of the amount previously paid up on the share being credited as so paid up. The Directors may, if necessary,

authorise some person to execute an instrument of transfer of a forfeited or surrendered share to any person to whom the same has been sold, re-allotted or disposed of.

36. Rights and liabilities of members whose shares have been forfeited or surrendered

A person any of whose shares have been forfeited or surrendered shall cease to be a member in respect of the forfeited or surrendered shares and shall surrender to the Company for cancellation the certificate for the shares forfeited but shall, notwithstanding, be liable (unless payment is waived in whole or in part by the Directors) to pay to the Company all calls, instalments, interest, costs, charges and expenses owing upon or in respect of such share at the time of forfeiture or surrender, together with interest thereon from the time of forfeiture or surrender until payment at such rate (not exceeding 15 per cent, per annum) as the Directors shall think fit, in the same manner as if the share had not been forfeited or surrendered, and to satisfy all the claims and demands (if any) which the Company might have enforced in respect of the share at the time of forfeiture or surrender, without any deduction or allowance for the value of the share at the time of forfeiture or surrender.

37. Title to forfeited or surrendered shares

A statutory declaration by a Director or Secretary of the Company that a share has been duly forfeited or surrendered or sold to satisfy a lien of the Company in pursuance of these Articles, and stating the day when it was forfeited, surrendered or sold, shall, as against all persons claiming to be entitled to the share, be conclusive evidence of the facts therein stated, and such declaration, together with a certificate in respect of such share, delivered to a purchaser or allottee thereof shall (subject to the execution of any necessary transfer and sold note) constitute a good title to the share, and the new holder thereof shall be discharged from all calls made prior to such purchase or allotment and shall not be bound to see to the application of the purchase money (if any) nor shall his title to the share be affected by any omission, irregularity in or invalidity of or relating to or connected with the proceedings in reference to the forfeiture, surrender, sale, re-allotment or disposal of the share.

TRANSFER OF SHARES

38. Form of transfer

A member may not transfer all or any of his shares otherwise than in accordance with these Articles and, subject thereto, every transfer must be:

- (a) in writing and in the usual or common form, or in any other form which the Directors may approve;
- (b) left at the Office, or at such other place as the Directors may determine, for registration; and
- (c) accompanied by the certificate of the shares to be transferred and such other evidence (if any) as the Directors may reasonably require to prove the title of the intending transferor or his right to transfer the shares.

39. Execution

The instrument of transfer of a share shall be signed by or on behalf of the transferor and (unless the share is fully paid) by or on behalf of the transferee, and the transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in

respect thereof. Shares of different classes shall not be comprised in the same instrument of transfer.

40. Retention of instruments

- (1) All instruments of transfer which shall be registered may be retained by the Company but any instrument of transfer which the Directors may refuse to register shall (except in any case where fraud or any other crime involving dishonesty is suspected in relation to such transfer) be returned to the person presenting the same.
- (2) Subject as hereinafter provided the Company, if so authorised by a resolution of the Directors, shall be entitled to destroy:
 - (a) at any time after the expiration of six years from the date of registration thereof, all instruments of transfer of shares in the Company and all other documents transferring or purporting to transfer shares in the Company or representing or purporting to represent the right to be registered as the holder of shares in the Company on the faith of which entries have been made in the Register;
 - (b) at any time after the expiration of one year from the date of cancellation thereof, all registered share certificates which have been cancelled;
 - (c) at any time after the expiration of two years from the date of recording thereof, all dividend mandates and notifications of change of address; and
 - (d) at any time after the expiration of one year from the date of actual payment thereof, all paid dividend warrants and cheques.
- (3) It shall be presumed conclusively in favour of the Company that every entry in the Register purporting to have been made on the basis of an instrument of transfer or other document so destroyed was duly and properly made, that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered, that every share certificate so destroyed was a valid certificate duly and properly cancelled, that every other document mentioned above so destroyed was a valid and effective document in accordance with the particulars thereof recorded in the books and records of the Company and that every paid dividend warrant and cheque so destroyed was duly paid; provided always that:
 - (a) the provisions aforesaid shall apply only to the destruction of documents in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
 - (b) nothing herein contained shall be construed as imposing upon the Company any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances in which liability would not attach to the Company in the absence of this Article;
 - (c) references herein to the destruction of any documents include references to the disposal thereof in any manner.

41. Directors' power to refuse to register transfers

- (1) The Directors may, subject to Article 41(2), in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share, whether or not is a fully paid share.
- (2) Notwithstanding anything to the contrary contained in these Articles, the Directors shall not decline to register any transfer of shares, or unreasonably delay, or suspend the registration of any transfer of shares, where such transfer is to a relevant person. A certificate by a relevant

person or any officer of a relevant person certifying that any share which is being transferred was or has been mortgaged or charged shall be conclusive evidence of that fact.

- (3) For the purpose of these Articles, a "relevant person" means:
- (a) any person to whom any share of the company has been mortgaged or charged; or
 - (b) any nominee, agent and/or trustee of a person referred to in (a) above; or
 - (c) any person who acquires any interest in any share of the Company from any of the persons referred to in (a) or (b) above.

42. Notice of refusal to register

If the Directors refuse to register any transfer of any share, they shall, within two months after the date on which the transfer was lodged with the Company, send to the transferor and the transferee notice of the refusal.

43. No fee payable

No fee shall be charged for registration of a transfer or in respect of the registration of any probate, letters of administration, certificate of marriage or death, power of attorney or other document relating to or affecting the title to any shares or for making any entry in the Register affecting the title to any share.

44. Power to suspend registration of transfers

The registration of transfers of shares or of any class of shares may be suspended at such times and for such periods as the Directors may from time to time determine provided always that such registration shall not be suspended for more than thirty days in any year.

45. Renunciations

Nothing contained in these Articles shall preclude the Directors from recognising a renunciation of the allotment of any share by the allottee in favour of some other person.

TRANSMISSION OF SHARES

46. Transmission on death

In the case of the death of a member, the survivors or survivor where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole or only surviving holder, shall be the only person or persons recognised by the Company as having any title to his shares; but nothing herein contained shall release the estate of a deceased holder, whether sole or joint, from any liability in respect of any share solely or jointly held by him.

47. Registration of personal representative, Trustee in Bankruptcy, etc.

Any person becoming entitled to a share in consequence of the death or bankruptcy of a member or in consequence of the making in respect of a member of an order by any court having jurisdiction (whether in Hong Kong or elsewhere) in matters concerning mental disorder, may, upon producing such evidence of his title as the Directors shall require, and subject as herein provided, elect either to be registered himself as the holder of the share or to have some person nominated by him registered as the transferee thereof.

48. Notice of election to be registered

If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the Company a notice signed by him, stating that he so elects. All the provisions of these Articles relating to the transfer of shares shall apply to the notice as if it were an instrument of transfer executed by the person from whom the title by transmission is derived.

49. Registration of nominee

If the person so becoming entitled shall elect to have his nominee registered, he shall execute and deliver or send to the Company an instrument of transfer of the share to that person. All the provisions of these Articles relating to the transfer of shares shall apply to the instrument of transfer as if the event upon which the transmission took place had not occurred and it were an instrument of transfer executed by the person from whom the title by transmission is derived.

50. Rights of unregistered personal representative, Trustee in Bankruptcy, etc.

A person so becoming entitled shall have the right to receive and give a discharge for any dividends or other moneys payable in respect of the share, but he shall have no right (save as mentioned in Article 69) to receive notice of or to attend or vote at meetings of the Company or to any of the rights (other than the right to receive and give discharges for dividends or other moneys as aforesaid) or privileges of a member in respect of the share, unless and until he shall be registered as the holder thereof.

GENERAL MEETINGS

51. Annual General Meetings

The Company shall comply with the requirements of the Statutes regarding the holding of annual general meetings. Subject to such requirements, the Directors shall determine the date, time and place at which each annual general meeting shall be held.

52. Extraordinary General Meetings

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

53. Convening of Extraordinary General Meetings

- (1) The Directors may convene an extraordinary general meeting whenever they think fit.
- (2) Extraordinary general meetings may also be convened in accordance with Article 87 hereof.
- (3) Extraordinary general meetings shall also be convened by the Directors on the requisition of members pursuant to the provisions of the Statutes.

NOTICE OF GENERAL MEETINGS

54. Notice of Meetings

Subject to section 116C of the Ordinance, at least 21 clear *days'* notice of every annual general meeting and of every extraordinary general meeting at which it is proposed to pass a special resolution, and at least 14 clear *days'* notice of every other extraordinary general meeting (in each case exclusive of the day on which the notice is served or deemed to be served and of the day for which it is given) shall be given in manner hereinafter mentioned to all members (other than those who, under the provisions of these Articles, are not entitled to receive such notices from the Company), to the Directors and to the Auditors, but the accidental omission to give such notice to, or the non-receipt of such notice by, any member or Director or the Auditors shall not invalidate any resolution passed or proceeding had at any such meeting.

55. What notice is to specify

- (1) Every notice of meeting shall specify the place, the day and the time of the meeting and, in the case of special business, the general nature of such business. In the case of a meeting convened for passing a special resolution, the notice shall also specify the intention to propose the Resolution as a special resolution.
- (2) In the case of an annual general meeting, the notice shall also specify the meeting as such.
- (3) Every notice of meeting shall also state with reasonable prominence that a member entitled to attend and vote at the meeting may appoint one or more proxies to attend and vote thereat instead of him and that a proxy need not also be a member.
- (4) Every notice of meeting shall also state the place where instruments of proxy are to be deposited if the Directors shall have determined such place to be other than at the Office.

PROCEEDINGS AT GENERAL MEETINGS

56. Special business and business of annual general meetings

All business shall be deemed special that is transacted at an extraordinary general meeting, and all business that is transacted at an annual general meeting shall also be deemed special with the exception of:

- (a) declaring dividends;
- (b) the consideration of the documents required by the Statutes to be comprised in the accounts to be laid before such meeting;
- (c) the re-appointment of the retiring Auditors provided that they were last appointed to such office by the Company in general meeting; and
- (d) the fixing of remuneration of the Auditors or determining the manner in which such remuneration is to be fixed.

57. Quorum

No business shall be transacted at any general meeting unless the requisite quorum is present when the meeting proceeds to business. Two members, present in person or by proxy and entitled to vote, shall be a quorum for all purposes. If the Company has only one member, one member present in person or by proxy shall be a quorum of a meeting of the Company.

58. Adjournment if quorum not present

If within 15 minutes from the time appointed for the holding of a general meeting a quorum be not present, the meeting shall stand adjourned to the same day in the next week (or if that day be a holiday, to the next working day thereafter), at the same time and place as the original meeting, or to such other day, and at such other time and place as the Directors may determine and the provisions of Article 60 as to notices and as to business to be transacted shall apply. If at such adjourned meeting a quorum is not present within 15 minutes from the time fixed for holding the meeting, the meeting shall be dissolved.

59. Chairman

The Chairman (if any) or failing him any Deputy Chairman of the Board of Directors (the senior in office taking precedence if more than one) or, failing him, one of the Directors appointed for that purpose by the Directors or, failing such appointment, by the members present, shall preside at every general meeting, but if no Director shall be present within 15 minutes after the time fixed for holding the same or, if none of the Directors present is willing to preside, the members present and entitled to vote shall choose one of their number to preside at the meeting.

60. Adjournment

With the consent of any meeting at which a quorum is present the chairman thereof may (and shall if so directed by the meeting) adjourn the same from time to time and from place to place. Whenever a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as aforesaid, no person shall be entitled to any notice of an adjournment or of the business to be transacted at an adjourned meeting. No business shall be transacted at any adjourned meeting other than the business which might have been transacted at the meeting from which the adjournment took place.

61. Voting and demand for poll

- (1) At every general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless (before or upon the declaration of the result of the show of hands) a poll be demanded by any member present in person or by proxy and entitled to vote.
- (2) A poll demanded on the appointment of a chairman of the meeting and a poll demanded on a question of adjournment shall both be taken at the meeting immediately and without adjournment.
- (3) A demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman of the meeting and the demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- (4) Unless a poll be so demanded (and the demand is not withdrawn), a declaration by the chairman of the meeting that a resolution has been carried, or has been carried by a particular majority, or lost, or not carried by a particular majority, shall be conclusive, and an entry to that effect in the books of proceedings of the Company shall be conclusive evidence thereof, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

62. How poll to be taken

If a poll be demanded in manner aforesaid (and the demand is not withdrawn), it shall be taken at such time (either at the meeting at which the poll is demanded or within fourteen days after the said meeting) and place and in such manner as the chairman of the meeting shall direct and he may appoint scrutineers (who need not be members). The result of the poll shall be deemed to be a resolution of the meeting at which the poll was demanded.

63. Continuance of business after demand for poll

The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.

64. Casting vote

In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall be entitled to a casting vote in addition to any other vote he may have.

VOTES OF MEMBERS

65. Voting rights

Subject to any special rights or restrictions as to voting for the time being attached to any shares and to the provisions of these Articles, on a show of hands every member who (being an individual) is present in person or (being a corporation) is present by a duly authorised representative or proxy not being himself a member, shall have one vote and, on a poll, every member who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or proxy, shall have one vote for every share of which he is the holder.

66. How votes may be given and who can act as proxy

On a poll votes may be given either personally or by proxy and a member entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way. A proxy need not be a member of the Company and a member may appoint more than one proxy to attend on the same occasion.

67. Representation of corporations which are members of the Company at meetings

Any corporation which is a member of the Company may, by resolution of its directors or other governing body, authorise any person to act as its representative at any meeting of the Company or of any class of members of the Company; and such representative shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member present at the meeting in person, including (without limitation) power to vote on a show of hands or on a poll and to demand or concur in demanding a poll.

68. Voting rights of joint holders

Where there are joint registered holders of any share, any one of such persons may vote at any meeting either personally or by proxy in respect of such share as if he were solely entitled thereto, but so that, if more than one of such joint holders shall tender a vote on the same resolution, whether personally or by proxy, the vote of the senior who tenders a vote shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of such share.

69. Voting rights of members incapable of managing their affairs

A member in respect of whom an order has been made by any Court having jurisdiction (whether in Hong Kong or elsewhere) in matters concerning mental disorder, may vote, whether on a show of hands or on a poll, by his receiver, curator bonis, or other person in the nature of a receiver or curator bonis appointed by such Court, and any such receiver, curator bonis or other person may, on a poll, vote by proxy, provided that such evidence as the Directors may require of the authority of the person claiming to vote as aforesaid shall have been produced at the Office or at such other place as the Directors may determine at least 48 hours before the time fixed for holding the meeting or adjourned meeting (as the case may be) at which such person proposes to vote as aforesaid and in default the right to vote shall not be exercisable.

70. Objections to admissibility of votes

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

71. Execution of proxies

The instrument appointing a proxy shall be in writing signed by the appointor, or his agent duly authorised in writing, or, if such appointor be a corporation, shall either be executed under its common seal or be signed by some agent or officer duly authorised in that behalf. The Directors may, but shall not be bound to, require evidence of the authority of any such agent or officer. The signature on such instrument need not be witnessed,

72. Proxy may demand a poll

The instrument appointing a proxy shall be deemed also to confer authority to demand or concur in demanding a poll.

73. Form of proxy

An instrument appointing a proxy shall be in any usual or common form or any other form which the Directors shall from time to time approve or accept.

74. Deposit of proxies

- (1) The instrument appointing a proxy shall be deposited at the Office (or at such other place as the Directors may determine) at least 48 hours before the time fixed for holding the meeting or, as the case may be, adjourned meeting (or, in the case of a poll, before the time appointed for the taking of the poll) at which the person named in such instrument proposes to vote or shall be delivered to the Secretary or the chairman of the meeting on the day and at the place, but before the start, of the meeting or adjourned meeting or poll.
- (2) In the case of an instrument signed by an attorney of a member who is not a corporation, there shall also be deposited, in manner set out in paragraph (1) above, the authority under which such instrument is signed or a certified copy thereof.
- (3) In the case of an instrument signed by an officer or agent of a corporation, there shall also be deposited, in manner set out in paragraph (1) above, the authority under which such instrument is signed, or a notorially certified copy thereof, or such other authorities or documents as shall be specified in the notice of the relevant meeting or in the notes to any instruments of proxy issued by the Company in connection with the relevant meeting.

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- (4) In the event of the documents required by the foregoing paragraphs not being so deposited, the person named in the instrument of proxy shall not be entitled to vote in respect thereof.
 - (5) No instrument of proxy shall be valid except for the meeting or meetings mentioned therein and any adjournment thereof.

75. Intervening death of principal etc. not to revoke proxy

A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal, or revocation of the proxy or the authority under which the same was executed or (until entered in the Register) the transfer of the share in respect of which the vote is given, provided no intimation in writing of the death, insanity, revocation or transfer shall have been received at the Office (or at such other place at which the instrument of proxy was duly deposited) six hours at least before the time fixed for holding the meeting or adjourned meeting (or, in the case of a poll, before the time appointed for the taking of the poll) at which the vote is given or shall have been received by the Secretary or the chairman of the meeting on the day and at the place, but before the start, of the meeting or adjourned meeting or poll.

76. Written resolutions

- (1) A resolution in writing signed or approved in writing by all the members for the time being entitled to receive notice of and attend and vote at general meetings or at a meeting of any class of members of the Company shall be as effective as if the same had been passed at a general meeting of the Company or at such class meeting (as the case may be), duly convened and held, and, where relevant, as a special resolution so passed, and may consist of several documents in the like form each signed or approved by one or more persons. In the case of a corporation the resolution may be signed or approved on its behalf by a Director or the Secretary thereof or by its duly appointed attorney or duly authorised representative.
- (2) Where the Company has only one member and that member takes any decision that may be taken by the Company in general meeting and that has effect as if agreed by the Company in general meeting, that one member shall (unless that decision is taken by way of a written resolution) provide the Company with a written record of that decision within 7 days after the decision is made.

77. Conference meetings

- (1) A general meeting or a meeting of any class of members of the Company may consist of a conference between members some or all of whom are in different places provided that each member who participates is able:
 - (a) to hear each of the other participating members addressing the meeting; and
 - (b) if he so wishes, to address all of the other participating members simultaneously,whether directly, by conference telephone or by any other form of communications equipment (whether or not such equipment is available when this Article is adopted) or by a combination of those methods.
- (2) A quorum is deemed to be present if those conditions are satisfied in respect of at least the number of members required to form a quorum.
- (3) A meeting held in this way is deemed to take place at the place where the largest group of participating members is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates.
- (4) A resolution put to the vote of a meeting held in this way shall be decided by each member indicating to the chairman (in such manner as the chairman may direct) whether the member

votes in favour of or against the resolution or abstains.

- (5) References in this Article to members shall include their duly appointed proxies and, in the case of corporate members, their duly authorised representatives.

DIRECTORS

78. Number of Directors

Unless otherwise determined by an ordinary resolution of the Company, the number of Directors shall not be less than two and there shall be no maximum number of Directors. The names of the first directors shall be determined in writing by the founder member of the Company.

79. Directors need not be members

A Director need not be a member of the Company but shall be entitled to receive notice of and to attend and speak at all general meetings of the Company and at all separate meetings of the holders of any class of shares of the Company.

80. Remuneration of Directors and expenses

- (1) The ordinary remuneration of the Directors shall from time to time be determined by the Company in general meeting and such remuneration shall be divided among them in such proportion and manner as they may agree or, failing agreement, equally.
- (2) The Directors shall also be paid out of the funds of the Company all their travelling, hotel and other expenses properly incurred by them in and about the discharge of their duties, including their expenses of travelling to and from meetings of the Directors, or committee meetings, or general meetings (subject always to the provisions of any agreement between the Company and any Director).

81. Special remuneration

The Directors may grant special remuneration to any Director who, being called upon, shall perform any special or extra services to or at the request of the Company. Such special remuneration may be made payable to such Director in addition to or in substitution for his ordinary remuneration (if any) as a Director, and may, without prejudice to the provisions of Article 88, be made payable by a lump sum or by way of salary, or commission on the dividends or profits of the Company or of any other company in which the Company is interested or other participation in any such profits or otherwise, or by any or all or partly by one and partly by another or other of those modes.

APPOINTMENT AND REMOVAL OF DIRECTORS

82. Appointment and removal of Directors by the Company

The first Directors of the Company shall be appointed in writing by the founder member of the Company or by ordinary resolution of the Company. Thereafter, the Company may by ordinary resolution elect any person to be a Director, either to fill a casual vacancy or by way of an addition to their number, but so that the total number of Directors shall not at any time exceed

any maximum number fixed by or in accordance with these Articles. The Company may by ordinary resolution remove any Director before the expiration of his period of office and may (subject to these Articles) by ordinary resolution appoint another person in his place.

83. The Directors' power to appoint additional Directors

The Directors may, at any time, and from time to time, appoint any person to be a Director, either to fill a casual vacancy or by way of addition to their number but so that the total number of Directors shall not exceed the maximum number (if any) fixed by or in accordance with these Articles.

DISQUALIFICATION OF DIRECTORS

84. Vacation of office of Director

The office of a Director shall ipso facto be vacated:

- (a) if he ceases to be a Director by virtue of any provision of the Statutes or he is convicted of an indictable offence or he becomes prohibited by law from being a Director; or
- (b) if he becomes bankrupt or a receiving order is made against him or he makes any arrangement or composition with his creditors generally; or
- (c) if he is, or may be, suffering from mental disorder and an order is made by a court claiming jurisdiction in that behalf (whether in Hong Kong or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person by whatever name called to exercise powers with respect to his property or affairs; or
- (d) if he shall for more than six months have been absent without special leave of absence from the Directors from meetings of the Directors held during that period, and they pass a resolution that he has by reason of such absence vacated office; or
- (e) if he serves on the Company notice of his wish to resign, in which event he shall ipso facto vacate office on the service of such notice on the Company or such later time as is specified in such notice; or
- (f) if he is removed in the manner provided in Article 82; or
- (g) if he is removed by ordinary resolution of the Company in accordance with the Statutes.

ALTERNATE DIRECTORS

85. Power to appoint alternate Directors

- (1) Each Director (other than an alternate Director) shall have the power to appoint any other Director, any director of any holding company of the Company or of any other subsidiary of that holding company or any other person who is willing to act, to be an alternate Director, in his place, at any meeting of the Directors at which he is unable to be present, and at his discretion to remove such alternate Director.

- (2) On such appointment being made the alternate Director shall (except as regards the power to appoint an alternate) be subject in all respects to the provisions, terms and conditions of these Articles existing with reference to the other Directors of the Company, and each alternate Director, whilst acting in the place of an absent Director, shall be entitled to exercise and discharge all the powers and duties of the Director he represents, but shall look to such Director solely for his remuneration as alternate Director.
- (3) Any Director of the Company who is appointed an alternate Director shall be entitled to vote at a meeting of the Directors on behalf of the Director so appointing him as distinct from the vote to which he is entitled in his own capacity as a Director, and shall also be considered as two Directors for the purpose of making a quorum of Directors.
- (4) Any person appointed as an alternate Director shall vacate his office as such alternate Director if and when the Director by whom he has been appointed vacates his office as Director or removes him by notice to the Company or upon the happening of any event which, if he were a Director, would cause him to vacate such office.
- (5) Every instrument appointing or removing an alternate Director shall be in writing signed by the appointor (or in any other manner approved by the Directors) and shall be effective upon delivery at the Office or at a meeting of the Directors.
- (6) Save as otherwise provided in these Articles, an alternate Director shall be deemed to be the agent of the Director who has appointed him and the appointing Director shall be vicariously liable for any acts, defaults or torts committed by his alternate Director while acting in the capacity of alternate Director.

POWERS OF DIRECTORS

86. General powers of Directors to manage Company's business

- (1) The business of the Company shall be managed by the Directors who may exercise all the powers of the Company to the extent that the same are not required by the Statutes or these Articles to be exercised by the Company in general meeting. Any exercise of such powers by the Directors shall be in accordance with the provisions of the Statutes and these Articles. No alteration of these Articles shall invalidate any prior act of the Directors which would have been valid if the same had not been passed or made.
- (2) The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Directors by any other Article or by any resolution of the Company in general meeting.

87. Power to act notwithstanding vacancy

The continuing Directors or the sole continuing Director at any time may act notwithstanding any vacancy in their body; provided always that if the Directors shall at any time be reduced in number to less than the minimum number fixed by or in accordance with these Articles, it shall be lawful for him or them to act as Director(s) for the purpose of filling up vacancies in their body or convening general meetings of the Company or of the holders of any class of shares in the Company, but not for any other purpose. If there shall be no Director able or willing to act, then any two members, or one member if the Company has only one member, may summon a general meeting for the purpose of appointing Directors.

88. Pensions, etc.

- (1) The Directors may procure the establishment and maintenance of or participate in, or contribute to any non-contributory or contributory pension or superannuation fund, scheme or arrangement or life assurance scheme or arrangement for the benefit of, and pay, provide for or procure the grant of donations, gratuities, pensions, allowances, benefits or emoluments to, any persons who are or shall have been at any time Directors of the Company or in the employment or service of the Company or of any company which is or was a subsidiary of or associated with the Company or of the predecessors in business of the Company or any such subsidiary or associated company or the wives, widows, families, relatives or dependants of any such persons.
- (2) The Directors may also procure the establishment and subsidy of or subscription to and support of any institutions, associations, clubs, funds or trusts calculated to be for the benefit of any such persons as aforesaid or otherwise to advance the interests and well-being of the Company or of any such other company as aforesaid, or its members, and may make or procure payments for or towards the insurance of any such persons as aforesaid and subscriptions or guarantees for charitable or benevolent objects or for any exhibition or for any public, general or useful object.
- (3) Without prejudice to the generality of the foregoing paragraphs of this Article, the Directors may exercise any of the powers conferred by the Statutes to make provision for the benefit of any such persons as aforesaid in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the Company or any of its subsidiaries.
- (4) The Directors may procure any of the matters aforesaid to be done by the Company either alone or in conjunction with any other company.

BORROWING POWERS

89. Power to borrow money

Subject as hereinafter provided, the Directors may exercise all the powers of the Company to borrow money, and to mortgage or charge the whole or any part of its undertaking, property and assets (both present and future) and uncalled capital and (subject, to the extent applicable, to the provisions of the Statutes) to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

DIRECTORS INTERESTS, ETC.

90. Power of Directors to hold offices of profit and to contract with Company

- (1) A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract (being a contract of significance in relation to the Company's business) with the Company shall, if his interest in such contract or proposed contract is material, declare the nature of his interest at a meeting of the Directors in accordance with the provisions of the Statutes applicable thereto. In relation to any such matter a Director may notwithstanding his interest vote and be taken into account for the purposes of a quorum and may retain for his own absolute use and benefit all profits and advantages accruing to him.

- (2) No Director or intending Director shall be disqualified by his office from contracting with the Company, either with regard to his tenure of any office or position in the management, administration or conduct of the business of the Company or as vendor, purchaser or otherwise, nor (subject to the interest of the Director being duly declared) shall any 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 relationship thereby established.
- (3) Any Director may act by himself or his firm in a professional capacity for the Company, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director, provided that nothing herein contained shall authorise a Director or his firm to act as Auditors of the Company.
- (4) Any Director may continue to be or become a member or director of, or hold any other office or place of profit under, any other company in which the Company may be interested, and no such Director shall be accountable for any dividend, remuneration, superannuation payment or other benefits received by him as a member or director of, or holder of any other office or place of profit under, any such other company. The Directors may exercise the voting powers conferred by the shares in any company held or owned by the Company or exercisable by them as directors of such other company in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them directors or officers of such company, or voting or providing for the payment of remuneration, superannuation payments or other benefits to the directors or officers of such company).
- (5) The Company may by ordinary resolution suspend or relax the provisions of this Article to any extent or ratify any transaction not duly authorised by reason of a contravention of this Article.

PROCEEDINGS OF DIRECTORS

91. Board meetings, quorum and voting

The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit and may determine the quorum necessary for the transaction of business. Until otherwise determined by the Directors, a majority of the Directors, (or one if the Company has only one Director), shall be a quorum. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes, the chairman shall have a second or casting vote.

92. Notice of meetings

A Director may at any time, and, on the request of any Director, the Secretary shall, call a meeting of the Directors. Notice of meetings of the Directors shall be given to all Directors and to any alternate Directors appointed by them.

93. Chairman or Deputy-Chairman to preside

The Chairman, or failing him any Deputy-Chairman (the senior in office taking precedence, if more than one be present), shall, if present and willing, preside at all meetings of the Directors, but if no such Chairman or Deputy-Chairman be appointed, or if he be not present within five minutes after the time fixed for holding the meeting or is unwilling to act as chairman of such meeting, the Directors present shall choose one of their number to act as chairman of such meeting and the Director so chosen shall preside at such meeting accordingly

94. Competence of board meetings

A meeting of the Directors at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions for the time being vested in or exercisable by the Directors generally,

95. Power to appoint Committees

The Directors may from time to time appoint committees consisting of such member or members of their body as they think fit, and may delegate any of their powers to any such committee, and from time to time revoke any such delegation and discharge any such committee wholly or in part. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may from time to time be imposed upon it by the Directors.

96. Procedure at Committee meetings

Subject to Article 95, committees may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present and, in the case of an equality of votes, the chairman of a meeting shall have a second or casting vote.

97. Resolutions in writing and conference meetings

(1) A resolution in writing signed or approved in writing by all the Directors entitled to notice of a meeting of the Directors or by all the members of a committee for the time being shall be as valid and effectual as if it had been passed at a meeting of the Directors or, as the case may be, such committee duly called and constituted. Such resolution may be contained in one document or in several documents in like form, each signed or approved by one or more of the said Directors or the said members of the committee concerned. For the purpose of this Article the signature or approval of an alternate director (if any) shall suffice in place of the signature of the Director appointing him.

(2) (a) a meeting of the Directors or of a committee of the Directors may consist of a conference between Directors or members of the committee some or all of whom are in different places provided that each Director, or as the case may be, member of the committee who participates is able:

- (i) to hear each of the other participating Directors or members of the committee addressing the meeting; and
- (ii) if he so wishes, to address all of the other participating Directors or members of the committee simultaneously,

whether directly, by conference telephone or by any other form of communications equipment (whether or not such equipment is available when this Article is adopted) or by a combination of those methods.

(b) a quorum is deemed to be present if those conditions are satisfied in respect of at least the number of Directors or members of the committee required to form a quorum; and

(c) a meeting held in this way is deemed to take place at the place where the largest group of participating Directors or, as the case may be, members of the committee is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates.

- (3) Where the Company has only one Director and that Director takes any decision that may be taken in a meeting of the Directors and that has effect as if agreed in a meeting of the Directors, that one Director shall (unless that decision is taken by way of a written resolution) provide the Company with a written record of that decision within 7 days after the decision is made.

98. Validity of acts of Directors so appointed

All acts bona fide 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 or had vacated office or were not entitled to vote, be as valid as if every such person had been duly appointed and qualified to be a Director and had continued to be a Director and had been entitled to vote.

99. Minutes

The Directors shall cause minutes to be made in books provided for the purpose:

- (a) of all appointments of officers made by the Directors;
- (b) of the names of all the Directors present at each meeting of the Directors and of any committee of Directors; and
- (c) of all resolutions and proceedings of all meetings of the Company and of any class of members, and of the Directors and of any committee of Directors

and any such minutes as aforesaid, if purporting to be signed by the chairman of the meeting at which such appointments were made or such Directors were present or such resolutions were passed or proceedings held (as the case may be), or by the chairman of the next succeeding meeting of the Company or Directors or committee (as the case may be), shall be sufficient evidence without any further proof of the facts therein stated.

CHAIRMAN, DEPUTY-CHAIRMAN, MANAGING DIRECTOR, ETC.

100. Appointment

The Directors may from time to time appoint one or more of their number to any office or employment under the Company (including, but without limitation, that of Chairman, Deputy-Chairman, Managing Director or Joint Managing Director) for such period and on such terms as they think fit, and may also permit any person appointed to be a Director to continue in any office or employment held by him before he was so appointed. The Directors may also from time to time (without prejudice to any claim for damages for breach of any agreement between him or them and the Company) remove him or them from office and appoint another or others in his place or their places.

101. Remuneration of Director so appointed

The remuneration and other terms and conditions of appointment of a Director appointed to any office or employment under the Company pursuant to the last preceding Article shall from time to time (without prejudice to the provisions of any agreement between him and the Company) be fixed by the Directors, and may (without prejudice to the provisions of Article 88) be by way

of fixed salary or commission on the dividends or profits or turnover of the Company or of any other company in which the Company is interested or other participation in any such profits or otherwise or by any or all or partly by one and partly by another or others of those modes.

102. Powers and duties of Directors so appointed

The Directors may, from time to time, entrust to and confer upon a Director appointed to any office or employment pursuant to Article 100 such of the powers exercisable under these Articles by the Directors as they may think fit, and may confer such powers for such time, and to be exercised for such objects and purposes, and upon such terms and conditions, and with such restrictions, as they may consider expedient, and may confer such powers collaterally with, or to the exclusion of, and in substitution for, all or any of the powers of the Directors in that behalf; and may from time to time revoke, withdraw, alter or vary all or any of such powers.

LOCAL MANAGEMENT

103. Power to appoint local managers

The Directors may, from time to time, provide for the management and transaction of the affairs of the Company in or from any specified locality, whether in Hong Kong or elsewhere, in such manner as they think fit, and the provisions contained in the two next following Articles shall be without prejudice to the general powers conferred by this Article.

104. Power to appoint attorney

The Directors may, at any time, and from time to time, by power of attorney under the Seal, appoint any person to be the attorney of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as the Directors may from time to time think fit, and such appointment may (if the Directors think fit) be made in favour of any body corporate, or of the members, directors, nominees or managers of any body corporate or unincorporate, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Directors, and any such power of attorney may contain such powers for the protection or convenience of persons dealing with such attorney as the Directors may think fit.

105. Power to sub-delegate

Any such delegate or attorney as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities or discretions for the time being vested in him.

SECRETARY

106. Appointment of Secretary

The Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may (without prejudice to any claim for damages for breach of any contract between him and the Company) be removed by them. A sole Director shall not be the Secretary of the Company. The Company shall not have as Secretary a body corporate the sole Director of which is the sole Director of the Company. The first Secretary is the person named as the Secretary in the incorporation form submitted in respect of the Company pursuant to Section 14A.

107. Dual capacity

A provision of the Statutes or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Secretary.

108. Assistant Secretary

The Directors may, at any time and from time to time, appoint any person to be Assistant Secretary and anything required or authorised to be done by or to the Secretary may be done by or to any Assistant Secretary so appointed; and any Assistant Secretary may (without prejudice to any claim for damages for breach of any contract between him and the Company) be removed by the Directors.

SEAL

109. Seal

- (1) The Directors shall provide for the safe custody of the Seal and the Company may exercise the powers conferred by the Statutes with regard to having an official seal for use in any territory outside Hong Kong, and such powers shall be vested in the Directors. Whenever in these Articles reference is made to the Seal the reference shall, when and so far as may be applicable, be deemed to include any such official seal as aforesaid.
- (2) The Seal shall not be affixed to any instrument, except by the general or special authority of a resolution of the Directors, or of a committee of the Directors authorised in that behalf. The Directors may from time to time make such regulations as they think fit (subject to the provisions of these Articles) determining the persons and the number of such persons who shall sign every instrument to which the Seal is affixed. Until otherwise so determined, every such instrument shall be signed by any one Director or the Secretary or any one or more persons authorised for the purpose by the Directors, and, in favour of any purchaser or person bona fide dealing with the Company, the signatures of such persons shall be conclusive evidence of the fact that the Seal has been properly affixed.
- (3) Every certificate of shares, debentures, debenture stock or representing any other form of security of the Company (other than letters of allotment, receipts for securities or certificates of deposit) shall be issued under the Seal or under any official seal kept by the Company pursuant to section 73(A) of the Ordinance.
- (4) Each certificate to which the Seal shall be affixed shall bear the autographic signature of at least one Director or the Secretary or any one or more other persons authorised for the purpose by the Directors, provided that the Directors may by resolution determine (either generally or in any particular case or cases) that such signatures shall be dispensed with, or shall be affixed by means of some method or system of mechanical signature.
- (5) Each certificate to which such official seal as is referred to in paragraph(3) of this Article shall be affixed need not bear any signatures.

AUTHENTICATION OF DOCUMENTS

110. Any Director or the Secretary or any person appointed by the Directors for the purpose shall have power to authenticate any documents affecting the constitution of the Company and any resolutions passed by the Company or the Directors or any committee, and any books, records, documents and accounts relating to the business of the Company, and to certify copies thereof or extracts therefrom as true copies or extracts; and where any books, records, documents or accounts are elsewhere than at the Office the local manager or other officer of the Company having the custody thereof shall be deemed to be a person appointed by the Directors as aforesaid. A document purporting to be a copy of a resolution, or an extract from the minutes of a meeting, of the Company or of the Directors or any committee which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that any minute so extracted is a true and accurate record of proceedings at a duly constituted meeting.

DIVIDENDS

111. **Application of profits in payment of dividends**
- Subject to the provisions of the Statutes and of these Articles and to any rights, privileges or restrictions for the time being attached to any shares in the capital of the Company having preferential or special rights in regard to dividend, the profits of the Company which it shall from time to time be determined to distribute by way of dividend shall be applied in payment of dividends upon the shares of the Company in proportion to the amounts paid up thereon respectively otherwise than in advance of calls, provided that if any share be issued upon terms providing that it shall rank for dividend as from or after a particular date, or be entitled to dividends declared or paid after a particular date, such share shall rank for or be entitled to dividend accordingly.
112. **Declaration of dividends**
- Subject to the provisions of the Statutes the Company may, from time to time, by ordinary resolution, declare a dividend to be paid to the members, according to their rights and interests in the profits, and may fix the time for payment of such dividend.
113. **No larger dividend than recommended by Directors**
- No larger dividend shall be declared than is recommended by the Directors, but the Company may by ordinary resolution declare a smaller dividend.
114. **Fixed and interim dividends**
- (1) Subject to the provisions of the Statutes, if and to the extent that the Directors think fit and the position of the Company in their opinion justifies such payment, the Directors may declare and pay dividends on shares carrying an entitlement to fixed dividends in accordance with the rights attached thereto and may also from time to time declare and pay interim dividends on shares of any class of such amounts and on such dates and in respect of such periods as they think fit.
 - (2) Provided that the Directors act bona fide, they shall not incur any responsibility to the holders of shares conferring a preference for any damage that they may suffer by reason of the payment

of a dividend on any shares not ranking *pari passu* or in priority thereto in respect of dividends.

115. Unclaimed dividends

All unclaimed dividends may be invested or otherwise made use of by the Directors as they shall think fit, until the same be claimed and so that the Company shall not thereby be constituted as a trustee in respect thereof and any dividend unclaimed after a period of six years from the date for payment of such dividend shall be forfeited and shall revert to the Company.

116. No interest payable on dividends etc.

No dividend or other moneys payable on or in respect of a share in the capital of the Company shall bear interest against the Company.

117. Power to satisfy dividend in specie, fractional certificates and cash adjustments

With the sanction of an ordinary resolution of the Company and upon the recommendation of the Directors any dividend may be paid and satisfied, either wholly or in part, by the distribution of specific assets, and in particular of paid-up shares or debentures of any other company, or partly in one way and partly in another or others, and where any difficulty arises in regard to the distribution, the Directors may settle the same as they think expedient, and in particular they may issue fractional certificates, and may fix the value for distribution of such specific assets or any part thereof, and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees upon such trusts for the persons entitled to the dividend as may seem expedient to the Directors.

118. Deduction of debts due to Company

The Directors may deduct from any dividend or other moneys payable in respect of any shares held by a member, either alone or jointly with any other member, all such sums of money (if any) as may be presently due and payable by him, either alone or jointly with any other person, to the Company in relation to shares of the Company.

119. Moneys payable by cheque

Any moneys payable in respect of any share (whether by way of return of capital, dividend, interest or otherwise) may (unless otherwise directed by the member or other person entitled thereto) be paid by cheque or warrant sent through the post to the registered address of such member or person entitled thereto, or, in the case of joint holders, to the registered address of that one whose name stands first in the Register in respect of the joint holding, and (unless otherwise directed as aforesaid) every cheque or warrant so sent shall be made payable to the order of the person to whom it is sent, and the Company shall not be responsible for any loss in transmission, and payment of the cheque or warrant shall be a good discharge to the Company.

RESERVES

120. Power to provide for depreciation and carry profits to reserve

The Directors may, before recommending any dividend, write off such sums as they think proper for depreciation, and carry forward in the revenue accounts any profits as they think should not be divided, and may also set aside out of profits of the Company such sum or sums as they think proper as a reserve or reserves, which shall at the discretion of the Directors be applicable for meeting contingencies, for the

gradual liquidation of any debt or liability of the Company, or for repairing, maintaining or adding to the property of the Company, or for such other purposes as the Directors shall, in their absolute discretion, think fit, and pending any such application may, at the discretion of the Directors, either be employed in the business of the Company, or be invested in such investments (other than shares in the Company) as the Directors may from time to time think fit.

121. Reserves

The Directors may establish such reserve accounts and may divide the Company's reserves into such special funds as they may think fit. The Directors may also carry forward any profits which they may think prudent not to divide without placing the same to reserves.

CAPITALISATION OF RESERVES, ETC.

122. Capitalisation of reserves

- (1) The Company may at any time and from time to time, upon the recommendation of the Directors, by ordinary resolution resolve that any sum not required for the payment or provision of any fixed preferential dividend and standing, at the time the ordinary resolution is passed or, if such resolution is conditional, at the time it becomes unconditional, to the credit of any reserve accounts of the Company (including Share Premium Account and Capital Redemption Reserve) or to the credit of profit and loss account (whether or not the same be available for distribution) be capitalised, and that such sum be appropriated as capital to and amongst the holders of ordinary shares in the capital of the Company in proportion to the nominal amount of the ordinary shares held by them respectively at the time the ordinary resolution is passed or, if such resolution is conditional, at the time it becomes unconditional or at such other time as may be stipulated in such resolution, and that the Directors shall in accordance with such resolution apply such sum in paying up in full or in part any unissued shares or debentures of the Company on behalf of such holders of ordinary shares in the capital of the Company, and appropriate such shares or debentures to and distribute the same credited as fully or partly paid up amongst such holders of ordinary shares in the capital of the Company in the proportions aforesaid in satisfaction of their shares and interests in the said capitalised sum, or shall apply such sum or any part thereof on behalf of such holders of ordinary shares in the capital of the Company in paying up the whole or part of any amounts which shall for the time being be unpaid in respect of any issued shares in the Company held by them respectively, or otherwise deal with such sum as directed by such resolution; provided that:
 - (a) any sum standing to the credit of any Share Premium Account or Capital Redemption Reserve may only be applied in paying up unissued shares to be allotted as fully paid up; and
 - (b) any, sum not available for distribution in accordance with the Statutes may only be applied in paying up in full or in part unissued shares to be allotted as fully or partly paid up.
- (2) Where any difficulty arises in respect of any such distribution, the Directors may settle the same as they think expedient, and in particular they may make such provisions as they think proper for the case of shares or debentures becoming distributable in fractions (including, but without limitation, provisions for the issue of fractional certificates, for the sale and distribution of the proceeds of sale of shares or debentures representing such fractions, and provisions whereby the benefit of fractional entitlements accrue to the Company rather than the members concerned) and further the Directors may fix the value for distribution of any fully paid-up shares or debentures, make cash payment to any shareholders on the footing of the value so fixed in order to adjust rights, and vest any shares or debentures in trustees upon such trusts for the persons entitled to

share in the distribution as may seem just and expedient to the Directors. When deemed requisite, a proper contract for the allotment and acceptance of any shares or debentures to be distributed as aforesaid shall be executed and (if necessary) filed in accordance with any applicable provisions of the Statutes, and the Directors may appoint any person to sign such contract on behalf of the persons entitled to share in the distribution, and such appointment shall be effective, and the contract may provide for the acceptance by such persons of the shares or debentures to be allotted to them respectively in satisfaction of their claims in respect of the sum so distributed, and any such contract shall be effective and binding on all such persons.

ACCOUNTS

123. Directors to keep proper accounting records

The Directors shall cause proper accounting records of the Company to be kept and the provisions of the Statutes in this regard shall be complied with.

124. Where accounting records to be kept

The accounting records shall be kept at the Office, or, subject to section 121(3) of the Ordinance, at such other place as the Directors shall think fit, and shall always be open to the inspection of the Directors.

125. Inspection of records

The Directors shall, from time to time, determine whether in any particular case, or class of cases, or generally, and at what times, and places, and under what conditions or regulations, the accounting records of the Company, or any of them, shall be open to the inspection of the members, and no member, not being a Director, shall have any right of inspecting any account, book or document of the Company, except as conferred by law or authorised by the Directors or by any ordinary resolution of the Company, nor shall any such member be entitled to require or receive any information concerning the business, trading or customers of the Company, or any trade secret or secret process used by the Company.

126. Balance sheet and profit and loss accounts.

- (1) The Directors shall, from time to time, in accordance with the Statutes, cause to be prepared and to be laid before the annual general meeting of the Company such profit and loss accounts, balance sheets, group accounts (if any), reports of the Directors and of the Auditors and other documents (if any) as are required by the Statutes. Each balance sheet shall be signed on behalf of the Directors by two of their number, or one (if the Company has only one Director).
- (2) A copy of the said balance sheet, accounts, reports and other documents (if any) shall, not less than 21 days before the meeting, be delivered or sent by post to the registered address of every member and debenture holder of the Company, or in the case of a joint holding to that member or debenture holder (as the case may be) whose name stands first in the appropriate Register in respect of the joint holding. The Auditors' report shall be read at the meeting. No accidental non-compliance with the provisions of this Article shall invalidate the proceedings at the meeting.

AUDIT

127. Provisions of Statutes regarding Auditors

- (1) The provisions of the Statutes as to the appointment, powers, rights, remuneration and duties of the Auditors shall be complied with and, subject to the provisions of the Statutes, all acts done by any person acting as an auditor of the Company shall, as regards all persons dealing in good faith with the Company, be valid, notwithstanding that there was some defect in his appointment or that he was at the time of his appointment, or subsequently became, disqualified.
- (2) An auditor of the Company shall be entitled to attend any general meeting and to receive all notices of and other communications relating to any general meeting which any member is entitled to receive and to be heard at any general meeting on any part of the business of the meeting which concerns him as Auditor.

NOTICES

128. Notices to be in writing

Any notice to be given to or by any person pursuant to these Articles shall be in writing except that a notice calling a meeting of the Directors need not be in writing.

129. Service of notices

A notice or other document may be served by the Company upon any member either personally or by facsimile transmission or telex, or by sending it by mail, postage prepaid (and, in any case where the registered address of a member is outside Hong Kong, by prepaid airmail), addressed to such member at his registered address. Any such facsimile transmission shall be deemed duly served only if it is confirmed by telex or by mail as aforesaid served within seven days of such transmission.

130. Registered address of member

Each member shall, from time to time, notify in writing to the Company some place which shall be deemed his registered address for the purposes of the last preceding Article.

131. Notice to joint holders

All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the Register in respect of such share, and notice so given shall be sufficient notice to all the holders of such share.

132. Service on Company

Any summons, notice, order or other document required to be sent to or served upon the Company, or upon any officer of the Company, may be sent or served by facsimile transmission or telex, or by leaving the same or sending it by mail, postage prepaid (and, if posted outside Hong Kong, by prepaid airmail), addressed to the Company or to such officer at the Office.

133. Proof of postage to be sufficient proof of service

- (1) Any notice or other document, if sent by facsimile transmission or telex, shall be deemed to have been served on the day on which such facsimile transmission or telex was transmitted, provided (in the case of a facsimile transmission) it is confirmed as provided in Article 129 and (in the case of a telex) the answerback is received.
- (2) Any notice or other document, if sent by mail, postage prepaid, to a registered address in Hong Kong, shall be deemed to have been served on the day following that on which the letter, envelope, or wrapper containing the same is put into the post, or, if sent by prepaid airmail, shall be deemed to have been served on the fifth day following that on which the letter, envelope or wrapper containing the same was put into the post. In proving such service it shall be sufficient to prove that the letter, envelope or wrapper containing the notice or document was properly addressed and put into the post as prepaid mail or prepaid airmail (as the case may be).

134. Members present at meeting deemed to have received due notice

Any member present, either personally or by proxy, at any meeting of the Company or class of members 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.

135. Successors in title to be bound by notices to predecessors

Every person who, by operation of law, transfer or any other means whatsoever, shall become entitled to any shares shall be bound by every notice in respect of such shares which previously to his name and address being entered in the Register shall be duly given to the person from whom he derives his title to such shares.

136. Service of notice to be sufficient notwithstanding death of member served

Any notice or document served upon or sent to, or left at the registered address or notified facsimile transmission or telex number of; any member in pursuance of these Articles, shall, notwithstanding that such member be then deceased 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 held by such member, whether held solely or jointly with other persons, until some other person be registered instead of him as the holder or joint holder of such share, and such service shall, for all purposes of these Articles, be deemed a sufficient service of such notice or document on his executors, administrators or assigns, and all persons (if any) jointly interested with him in such share.

137. Signature on notices

The signature on any notice to be given by the Company may be written or printed.

WINDING UP

138. Directors' power to present winding-up petition

The Directors shall have power in the name and on behalf of the Company to present a petition to the Court for the Company to be wound up.

139. Rule for division of assets in liquidation

If the Company shall be wound up, the surplus assets remaining after payment of all creditors shall be divided among the members in proportion to the capital which at the commencement of the winding up is paid up, or ought to have been paid up, on the shares held by them respectively and, if such surplus assets shall be insufficient to repay the whole of the paid-up capital, they shall be distributed so that, as nearly as may be, the losses shall be borne by the members in proportion to the capital paid up, or which ought to have been paid up, at the commencement of the winding up on the shares held by them respectively. But this Article is to be subject to the rights attached to any shares which may be issued on special terms or conditions.

140. Powers to distribute in specie

If the Company shall be wound up the Liquidator (whether voluntary or official) may, with the sanction of a special resolution of the Company, divide among the members in specie any part of the assets of the Company, or vest any part of the assets of the Company in trustees upon such trusts for the benefit of the members or any of them as the resolution shall provide. Any such resolution may provide for and sanction a distribution of any specific assets amongst different classes of members otherwise than in accordance with their existing rights.

141. Members abroad to give address for service

In the event of a winding up of the Company every member of the Company who is not for the time being in Hong Kong shall be bound, within 14 days after the passing of an effective resolution to wind up the Company voluntarily, or within the like period after the making of an order for the winding up of the Company, to serve notice on the Company appointing some person resident in Hong Kong upon whom all summonses, notices, processes, orders and judgements in relation to or under the winding up of the Company may be served, and in default of such nomination the Liquidator of the Company shall be at liberty on behalf of such member to appoint some such person, and service upon any such appointee shall be deemed to be a good personal service on such member for all purposes, and where the Liquidator makes any such appointment he shall, with all convenient speed, give notice thereof to such member by advertisement in any leading Hong Kong daily newspaper, or by a letter sent by registered or recorded delivery post and addressed to such member at his registered address, and such notice shall be deemed to be served on the day following that on which the advertisement appears or the letter is posted.

INDEMNITY AND INSURANCE

142. Indemnity of Directors and officers

- (1) Subject to the provisions of the Statutes, every Director, Auditor, Secretary or other officer of the Company shall be entitled to be indemnified by the Company against any liability incurred by him:
- (a) in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted; or
 - (b) in connection with any application under section 358 of the Ordinance in which relief is granted to him by the court.

- (2) The Company may purchase and maintain for any Director, Auditor, Secretary or other officer of the Company:
- (a) insurance against any liability to the Company, a related company or any other party in respect of any negligence, default, breach of duty of trust (save for fraud) of which he may be guilty in relation to the Company or a related company; and
 - (b) insurance against any liability incurred by him in defending any proceedings, whether civil or criminal, taken against him for any negligence, default, breach of duty or breach of trust (including fraud) of which he may be guilty in relation to the Company or a related company.

* * * * *

ARTICLES OF ASSOCIATION
(as amended by special resolution passed on 26 July 2020)

OF

SunPower Energy Corporation Limited

Incorporated on the 28th day of August 2014

CERTIFIED TRUE COPY

[Signature]
Name: Diana Xiaobing MA
Position: Director
Date: 27/07/2020

No. 2138594

[COPY]

COMPANIES REGISTRY
CERTIFICATE OF INCORPORATION

I hereby certify that

SunPower Energy Corporation Limited

is this day incorporated in Hong Kong under the Companies Ordinance (Chapter 622 of the Laws of Hong Kong), and that this company is a limited company.

Issued on 28 August 2014.

(Sd.) Ms. Ada L L CHUNG

Ms. Ada L L CHUNG
Registrar of Companies
Hong Kong Special Administrative Region

Note:

Registration of a company name with the Companies Registry does not confer any trade mark rights or any other intellectual property rights in respect of the company name or any part thereof.

CR
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Document Management
Section

Company No.: 2138594

THE COMPANIES ORDINANCE

(CHAPTER 622)

SPECIAL RESOLUTION

OF

SunPower Energy Corporation Limited

PASSED ON THE 26TH DAY OF JULY 2020

By resolutions in writing of the sole member of SunPower Energy Corporation Limited (the "**Company**") pursuant to article 8(c) of the articles of association of the Company and the Companies Ordinance (Cap. 622 of the Laws of Hong Kong) passed on 26 July 2020, the following resolution was duly passed as special resolutions of the Company:-

"**THAT** the Articles of Association of the Company be amended as follows:

1. **ARTICLE 5**

Article 5 is to be deleted in its entirety and is to be replaced by the following:

"5. The regulations in Schedule 2 to the Companies (Model Articles) Notice (Cap. 622H) shall apply to the Company save in so far as they are hereby specifically excluded or are inconsistent with the Articles herein contained. In particular, but without in any way limiting the generality of the foregoing, Articles 2(2), 11, 12, 16, 21, 22, 23, 26, 28, 33, 39, 41, 53, 56, 58, 63, 64 and 81 shall not apply or are modified as hereinafter appearing."

2. **ARTICLE 7**

Article 7 is to be deleted in its entirety and is to be replaced by the following:

"7. Subject to Article 7A, the directors may in their absolute discretion refuse to register a transfer of any share. If the directors refuse to register a transfer they shall within two months after the date on which the transfer was lodged with the Company, send to the transferee notice of the refusal."

3. **ARTICLES 7A AND 7B**

The following new Articles 7A and 7B are to be inserted immediately after Article 7 as follows:

"7A. Notwithstanding anything to the contrary contained in these Articles, the directors shall not decline to register any transfer of shares, or unreasonably delay, or suspend the registration of any transfer of shares, where such transfer is to a relevant person. A certificate by a relevant person or any officer of a relevant person certifying that any share which is being transferred was or has been mortgaged or charged shall be conclusive evidence of that fact.

7B. For the purpose of these Articles, a "**relevant person**" means:

- (a) any person to whom any share of the Company has been mortgaged or charged; or
 - (b) any nominee, agent and/or trustee of a person referred to in (a) above; or
 - (c) any person who acquires any interest in any share of the Company from any of the persons referred to in (a) or (b) above."
-

4. **ARTICLE 31**

The following new Article 31 is to be inserted immediately after Article 30 as follows:

"COMPANY ONLY BOUND BY ABSOLUTE INTERESTS

31. (a) Except as required by law, no person is to be recognized by the Company as holding any share on any trust.
- (b) Except as otherwise required by law or these Articles, the Company is not in any way to be bound by or recognize any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.
- (c) Paragraph (b) applies even though the Company has notice of the interest.
- (d) Paragraphs (a), (b), and (c) shall not apply to any share or any interest or right relating to any share that is registered in the name of, or held or purported to be held on trust by or for, or has been mortgaged or charged in favour of, any relevant person."

(Sd.) Jerry William Waters _____
For and on behalf of
Maxeon Solar Technologies, Ltd.
(formerly known as
Maxeon Solar Technologies, Pte. Ltd.)

THE COMPANIES ORDINANCE (Chapter 622)

Private Company Limited by Shares

ARTICLES OF ASSOCIATION

(as amended by special resolution passed on 26 July 2020)

OF

SunPower Energy Corporation Limited

PRELIMINARY

1. The name of the Company is
"SunPower Energy Corporation Limited"
2. The liability of the members is limited.
3. The liability of the members is limited to any amount unpaid on the shares held by the members.
4. The share capital and initial shareholding on the Company's formation are as follows:-

(a)	The total number of ordinary shares that the Company proposes to issue	1
(b)	The total amount of share capital to be subscribed by the Company's founder member(s)	HKD1.00
(c)	The amount to be paid up or to be regarded as paid up	HKD1.00
(d)	The amount to remain unpaid or to be regarded as remaining unpaid	NIL

5. The regulations in Schedule 2 to the Companies (Model Articles) Notice (Cap. 622H) shall apply to the Company save in so far as they are hereby specifically excluded or are in consistent with the Articles herein contained. In particular, but without in any way limiting the generality of the foregoing, Articles 2(2), 11, 12, 16, 21, 22, 23, 26, 28, 33, 39, 41, 53, 56, 58, 63, 64 and 81 shall not apply or are modified as hereinafter appearing.

GENERAL MANAGEMENT

6. The board of director(s) shall be entrusted with the general management of the business and the affairs of the Company, and shall have full power to do all such acts and things and enter into such contracts and engagements on behalf of the company as the director(s) may consider necessary or desirable and may also appoint and remove or suspend any officers, accountants, agents, servants and employees.

TRANSFER OF SHARES

7. Subject to Article 7A, the directors may in their absolute discretion refuse to register a transfer of any share. If the directors refuse to register a transfer they shall within two months after the date on which the transfer was lodged with the Company, send to the transferee notice of the refusal.
- 7A. Notwithstanding anything to the contrary contained in these Articles, the directors shall not decline to register any transfer of shares, or unreasonably delay, or suspend the registration of any transfer of shares, where such transfer is to a relevant person. A certificate by a relevant person or any officer of a relevant person certifying that any share which is being transferred was or has been mortgaged or charged shall be conclusive evidence of that fact.
- 7B. For the purpose of these Articles, a "relevant person" means:
- (a) any person to whom any share of the Company has been mortgaged or charged; or
 - (b) any nominee, agent and/or trustee of a person referred to in (a) above; or
 - (c) any person who acquires any interest in any share of the Company from any of the persons referred to in (a) or (b) above.

GENERAL MEETINGS

8. (a) The quorum for the transaction of business at any General Meeting shall be two members present in person or by proxy. Notwithstanding any provision herein, if the Company has only one member, the decision of that member shall be taken by way of written resolution(s).
- (b) Meetings may be held in Hong Kong or at such other place or places in the world as the majority of the members in value shall from time to time by resolution determine.
- (c) A resolution in writing signed by all of the members of the Company and annexed or attached to the General Meetings Minute Book shall be as valid and effective as a resolution passed at a meeting duly convened. The signature of any member may be given by his Attorney or Proxy. Any such resolution may be contained in one document or separate copies prepared and/or circulated for the purpose and signed by one or more members.
- (d) Where the Company has only one member and that member takes any decision that may be taken by the Company in General Meeting and that has effect as if agreed by the Company in General Meeting, he shall (unless that decision is taken by way of a resolution in writing duly signed by him) provide the Company with a written record of that decision within 7 days after the decision is made.

DIRECTORS

9. Unless and until otherwise determined by an ordinary resolution of the Company, the minimum number of director(s) shall be one and there shall be no maximum number of directors.
10. The first director(s) of the company is/are the person(s) named as the director(s) in the Incorporation Form delivered to the Registrar of Companies.
11. A director need not hold any shares in the Company and is not subject to rotation or retirement at the annual general meetings. A director who is not a member of the Company shall nevertheless be entitled to attend and speak at general meetings.
12. (a) No director or intended director shall be disqualified from his office by contracting with the Company either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company with any company or partnership of or in which any director shall be a member or otherwise interested be capable on that account of being avoided, nor shall any director so contracting or being such a member or so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason only of such director holding that office or of the fiduciary relationship thereby established. Provided always that each Director shall forthwith disclose the nature of his interest in any contract or arrangement in which he is interested as required by and subject to the provisions of the Ordinance.
(b) Provided such disclosure is made as aforesaid, a Director shall be entitled to vote in respect of any contract or arrangement in which he is interested and to be counted in the quorum present at the meeting at which such contract or arrangement is considered.

POWERS OF DIRECTORS

13. The directors, in addition to the powers and authorities expressly conferred upon them by these Articles, may exercise all such powers and do all such acts as may be exercised or done by the Company in General Meeting subject nevertheless to the provisions of the Companies Ordinance, (Chapter 622), to these Articles, and to any regulations from time to time made by the Company in General Meeting, provided that no regulation so made shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.
14. Without prejudice to the general powers conferred by the last preceding Article and the other powers conferred by these Articles, it is hereby expressly declared that the directors shall have the following powers, that is to say, power :-
 - (a) To pay the costs, charges and expenses preliminary and incidental to the promotion, formation, establishment and registration of the Company.
 - (b) To purchase or otherwise acquire for the Company or sell or otherwise dispose of any property, rights and privileges which the Company is authorised to acquire at such price and generally on such terms and conditions as they shall think fit.
 - (c) To engage, dismiss, and fix the salaries or emoluments of the employees of the Company.
 - (d) To institute, conduct, defend, compromise or abandon any legal proceedings by or against the Company or its officers, or otherwise concerning the affairs of the Company, and also to compound and allow time for payment or satisfaction of any debts due to, and of any claims or demands by or against the Company.

- (e) To refer any claims or demands by or against the Company to arbitration and observe and perform the awards.
- (f) To make and give receipts, releases, and other discharges for money payable to the Company, and for claims and demands of the Company.
- (g) To invest, lend or otherwise deal with any of the moneys or property of the Company in such manner as they think fit and to vary or realise any such investment from time to time.
- (h) To arrange for banking facilities, on behalf of the Company, and to pledge, mortgage or hypothecate any of the property of the Company, if required.
- (i) To open a current account with themselves for the Company and to advance any money to the Company with or without interest upon such terms and conditions as they shall think fit
- (j) To enter into all such negotiations and contracts, and rescind and vary all such contracts, and execute and do all such acts, deeds and things in the name and on behalf of the Company as they may consider expedient for, or in relation to, any of the matters aforesaid, or otherwise for the purpose of the Company.
- (k) To give to any director, officer or other person employed by the Company a commission on the profits of any particular business or transaction, and such commission shall be treated as part of the working expenses of the Company, and to pay commissions and make allowance (either by way of a share in the general profits of the Company or otherwise) to any persons introducing business to the Company or otherwise promoting or serving the interest thereof.
- (l) To sell, improve, manage, exchange, lease, let, mortgage or turn to account all or any part of the land, property, rights and privileges of the Company.
- (m) To employ, invest or otherwise deal with any Reserve Fund or Reserve Funds in such manner and for such purposes as the directors may think fit.
- (n) To execute, in the name and on behalf of the Company, in favour of any director or other person who may incur or be about to incur any personal liability for the benefit of the Company, such mortgages of the Company's property (present or future) as they think fit, and any mortgages may contain a power of sale and such other powers covenants and provisions as shall be agreed upon.
- (o) From time to time to provide for the management of the affairs of the Company abroad in such manner as they think fit, and in particular to appoint any persons to be the Attorneys or agents of the Company with such powers (including power to sub-delegate) and upon such terms as they think fit.
- (p) From time to time to make, vary or repeal rules and by-laws for the regulation of the business of the Company, its officers and servants.
- (q) To delegate any or all of the powers herein to any director or other person or persons as the directors may at any time think fit.

DIRECTORS' REMUNERATION

15. (a) The directors shall be paid out of the funds of the Company fees for their services, such sum (if any) as the Company may by ordinary resolution from time to time determine.

(b) The directors shall also be entitled to be paid their reasonable expenses incurred in consequence of their attendance at meetings of directors, committee meetings or general meetings or otherwise in or about the business of the Company.

16. The directors may award extra remuneration out of the funds of the Company (by way of salary, commission or otherwise as the directors may determine) to any director who performs services which in the opinion of the directors are outside the scope of the ordinary duties of a director.

BORROWING POWERS

17. (a) The directors may exercise all the powers of the Company without restriction or limitation to borrow money and to mortgage or charge all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company and to issue debentures, debenture stocks, bonds and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party. Debentures, debenture stocks, bonds and other securities of the Company may be made assignable free from any equities between the Company and the person to whom the same may be issued, and may be issued at a discount, premium or otherwise and with any special privileges as to redemption, surrender, drawings, allotment of shares, attending and voting at general meetings of the Company, appointment of directors and otherwise.

(b) The directors shall cause a proper register to be kept, in accordance with the provisions of the Ordinance, of all mortgages and charges affecting the property of the Company and shall duly comply with the requirements of the Ordinance in regard to the registration of mortgages and charges therein specified and otherwise. Where any uncalled capital of the Company is charged, all persons taking any subsequent charge thereon shall take the same subject to such prior charge, and shall not be entitled, by notice to the members or otherwise, to obtain priority over such prior charge.

APPOINTMENT AND REMOVAL OF DIRECTORS

18. The Company may, from time to time, by ordinary resolution appoint new Directors.
19. The Company may also by ordinary resolution remove any director notwithstanding anything in these Articles or in any agreement between him and the Company and may, appoint another person in his stead.
20. The directors shall have power, exercisable at any time and from time to time, to appoint any other person as a director, either to fill a casual vacancy or as an addition to the Board.
21. In the event that the quorum and minimum number of directors are fixed at two or more directors, the continuing directors may act notwithstanding any vacancy in their body, but if and so long as the number of directors 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 of directors to that number, or of summoning a general meeting of the Company, but for no other purpose. If there shall be no directors able or willing to act, then any two members may summon a general meeting (and if the Company has only one member, by way of a written resolution passed by that only member) for the purpose of appointing directors.

RESERVE DIRECTOR

22. If the Company has only one member and that member is also the sole director, the Company may in General Meeting, notwithstanding anything in these Articles, nominate a person (other than a body corporate) who has attained the age of 18 years as a reserve director of the Company to act in the place of the sole director in the event of his death. Any duly authorised officer of the Company is empowered to send the particulars of the nomination of the reserve director to the Registrar of Companies, pursuant to section 455 of the Ordinance.

ALTERNATE DIRECTORS

23. Any Director may at any time and from time to time appoint any person to be his alternate director and may at any time remove from office the alternate director so appointed by him and appoint another in his place. An alternate director shall not be entitled to receive any remuneration from the Company but shall otherwise be subject to the provisions of these Articles with regard to directors. An alternate director shall subject to his giving to the Company an address within Hong Kong at which notice may be served upon him be entitled to receive notices of all meetings of the directors and to attend and vote as a director at any meeting at which the director by whom he was appointed is not personally present and generally in the absence of such appointor to perform all the functions of his appointor as director. An alternate director shall ipso facto cease to be an alternate director if his appointor ceases for any reason to be a director. All appointments and removals of alternate directors shall be effected by notice in writing sent to or left with the Company and signed by the director making or revoking such appointment.

DIRECTORS' MEETINGS

24. (a) Meetings of the directors may be held in Hong Kong or in any other part of the world as may be convenient for the majority.

(b) Unless otherwise determined by the Company by Ordinary Resolution, the quorum for meeting of the directors shall be two. Notwithstanding any provision herein, if the Company has only one director, the decision of that director shall be taken by way of written resolution(s).

(c) The directors may participate in any Board Meeting by means of conference telephone or other communications equipment through which all other directors present at the Meeting can hear each other and such participation shall constitute attendance at Board Meeting as if those participating were present in person, provided always that the quorum was already present at the meeting. The directors may also, in urgent cases, pass a resolution by way of telephonic conference, provided always that a written resolution is subsequently signed by all the directors in accordance with (d) below.

(d) A resolution in writing, signed by majority of the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held, without the need for any agenda or notice. The signature of any director may be given by his alternate. Any such resolution may be contained in one document or separate copies prepared and/or circulated for the purpose and signed by one or more of the directors. A cable, telex, fax or e-mail message or other written electronic communication sent by a director or his alternate shall be deemed to be a document signed by him for the purposes of this Article.

THE SEAL AND CHEQUES

25. The Company may or may not have a common seal. However, if the directors shall decide to have one made for the Company, the common seal must be a metallic seal having the Company's name engraved on it in legible form and the director(s) shall provide for the safe custody thereof. The seal shall not be affixed to any instrument except by the authority of the directors or a committee authorised by the Board in that behalf, and every instrument to which the seal shall be affixed shall be signed by one director or some other person nominated by the directors for the purpose.
26. The Company may exercise all the powers of having official seals conferred by the Ordinance and such powers shall be vested in the directors.

27. All cheques, bills of exchange, promissory notes and other negotiable instruments issued or required to be signed, endorsed or accepted or otherwise negotiated by the Company shall be signed by the director(s) or such person or persons as the board of director(s) shall from time to time appoint.

COMPANY SECRETARY

28. (a) The directors shall appoint a secretary of the Company for such period, at such remuneration and upon such conditions as they may think fit, and any secretary so appointed may be removed by them. In the event that the secretary appointed is a corporation or other body, it may act and sign by the hand of any one or more of its directors or officers duly authorised. The First Secretary of the Company is the person named as the Company Secretary in the Incorporation Form delivered to the Registrar of Companies and is **GSL14 LIMITED**.

(b) Where the Company has only one director, that director shall not also be the Secretary of the Company.

(c) Where the Company has only one director, the Company shall not have as Secretary of the Company a body corporate the sole director of which is the sole director of the Company.

WINDING UP

29. If the Company shall be wound up and the assets available for distribution among the members as such shall be insufficient to repay the whole of the paid up Capital, such assets shall be distributed so that as near as may be the losses shall be borne by the members in proportion to the capital paid up or which ought to have been paid up at the commencement of the winding up on the shares held by them respectively and if in a winding up the assets available for distribution among the members shall be more than sufficient to repay the whole of the capital paid up at the commencement of the winding up the excess shall be distributed among the members in proportion to the capital at the commencement of the winding up paid up or which ought to have been paid up on the shares held by them respectively. But this Article is to be without prejudice to the rights of the holders of any shares issued upon special terms and conditions.

30. (a) If the Company shall be wound up whether voluntarily or otherwise the liquidators may with the sanction of a special resolution divide among the contributories in specie or kind any part of the assets of the Company and may with the like sanction vest any part of the assets of the Company in trustees upon such trusts for the benefit of the contributories or any of them as the liquidators with the like sanction think fit.

(b) If thought expedient any such division may be otherwise than in accordance with the legal rights of the contributories and in particular any class may be given preferential or special rights or may be excluded altogether or in part; but in case any division otherwise than in accordance with the legal rights of the contributories shall be determined on any contributory who would be prejudiced thereby shall have a right to dissent and ancillary rights as if such determination were a Special Resolution passed pursuant to the Ordinance.

(c) In case any of the shares to be divided as aforesaid consist of shares which involve a liability to calls or otherwise, any person entitled under such division to any of the said shares may, within ten days after the passing of the Special Resolution by notice in writing, direct the liquidator to sell his proportion and pay him the net proceeds, and the liquidator shall, if practicable, act accordingly.

COMPANY ONLY BOUND BY ABSOLUTE INTERESTS

31. (a) Except as required by law, no person is to be recognized by the Company as holding any share on any trust.

(b) Except as otherwise required by law or these Articles, the Company is not in any way to be bound by or recognize any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

(c) Paragraph (b) applies even though the Company has notice of the interest.

(d) Paragraphs (a), (b), and (c) shall not apply to any share or any interest or right relating to any share that is registered in the name of, or held or purported to be held on trust by or for, or has been mortgaged or charged in favour of, any relevant person."

.....

The name(s) and address(es) of the founder member(s) on the Company's formation are as follows:-

Name(s) and Address(es) of Founder Member(s)	Number of Share(s) Taken	Total Amount of Share Capital
GRL14 LIMITED OMC Chambers, Wickhams, Cay 1, Road Town, Tortola, British Virgin Islands. Corporation	1	HKD1.00
	1	HKD1.00

ARTICLES OF ASSOCIATION
(as amended by special resolutions passed on 26 July 2020 and 17 August 2022 respectively)

OF

SunPower Manufacturing Corporation Limited

Incorporated the 8th day of July 2015

CERTIFIED TRUE COPY

For and on behalf of
Dentons Secretarial Services (Hong Kong) Limited

Authorised Signature(s)

Dentons Secretarial Services (Hong Kong) Limited
Company Secretary

Date: 01/09/2022

No. 2260542

[COPY]

COMPANIES REGISTRY

CERTIFICATE OF INCORPORATION

I hereby certify that

SunPower Manufacturing Corporation Limited

is this day incorporated in Hong Kong under the Companies Ordinance (Chapter 622 of the Laws of Hong Kong), and that this company is a limited company.

Issued on 8 July 2015.

(Sd.) Ms. Ada L L CHUNG

Ms. Ada L L CHUNG
Registrar of Companies
Hong Kong Special Administrative Region

Note:

Registration of a company name with the Companies Registry does not confer any trade mark rights or any other intellectual property rights in respect of the company name or any part thereof.



Company No.: 2260542

THE COMPANIES ORDINANCE
(CHAPTER 622)

SPECIAL RESOLUTION
OF

SunPower Manufacturing Corporation Limited

PASSED ON THE 17TH DAY OF AUGUST 2022

By resolutions in writing of the sole shareholder of SunPower Manufacturing Corporation Limited (the "**Company**") pursuant to the articles of association of the Company passed on 17 August 2022, the following resolution was duly passed as a special resolutions of the Company:-

Amendments to the Memorandum and Articles of Association of the Company

1. **Calls** – The following Article 30A to be inserted immediately after Article 30:

"Notwithstanding anything contained in the Memorandum of Association or the Articles of Association of the Company, the restrictions set out in Article 30 shall not in apply respect of any share that has been mortgaged or otherwise provided as security to any relevant person."

2. **Forfeiture** - The following Article 33A to be inserted immediately after Article 33:

"Notwithstanding anything contained in the Memorandum of Association or the Articles of Association of the Company, any share that has been mortgaged or otherwise provided as security to any relevant person shall be exempt from the provisions of these Articles relating to forfeiture."

3. **Lien** - The following Article 38A to be inserted immediately after Article 38:

"Notwithstanding anything contained in the Memorandum of Association or the Articles of Association of the Company, the Company and/or its directors shall not be entitled to exercise any lien provided for in these Articles in respect of any share that has been mortgaged or otherwise provided as security to any relevant person."

Filing of Amendments

The company secretary of the Company be and is hereby authorised to file the amendment with the Hong Kong Companies Registry in accordance with the Companies Ordinance and to take any and all other actions which may be necessary or desirable to give effect to the aforementioned resolutions.

For and on behalf of
Maxeon Solar Technologies, Ltd.

(SD.) Jeffrey William Waters

Name: Jeffrey William Waters
Title: Director



Company No.: 2260542

THE COMPANIES ORDINANCE

(CHAPTER 622)

SPECIAL RESOLUTION

OF

SunPower Manufacturing Corporation Limited

PASSED ON THE 26TH DAY OF JULY 2020

By resolutions in writing of the sole member of SunPower Manufacturing Corporation Limited (the "**Company**") pursuant to article 67 of the articles of association of the Company and the Companies Ordinance (Cap. 622 of the Laws of Hong Kong) passed on 26 July 2020, the following resolution was duly passed as special resolutions of the Company:-

"**THAT** the Articles of Association of the Company be amended as follows:

1. **ARTICLE 2(1)**

The following paragraph is to be inserted immediately after the paragraph "**Register**":

"**relevant person**" means:

- (a) any person to whom any share of the Company has been mortgaged or charged; or
- (b) any nominee, agent and/or trustee of a person referred to in (a) above; or
- (c) any person who acquires any interest in any share of the Company from any of the persons referred to in (a) or (b) above;"

2. **ARTICLE 46(1)**

Article 46(1) is to be deleted in its entirety and is to be replaced by the following:

"(1) Subject to Article 46(6), the Directors may at any time at their absolute discretion decline to register any transfer of any share whether or not it is a fully paid share."

3. **ARTICLE 46(6)**

The following new Article 46(6) is to be inserted immediately after Article 46(5) as follows:

"(6) Notwithstanding anything to the contrary contained in these Articles, the Directors shall not decline to register any transfer of shares, or unreasonably delay, or suspend the registration of any transfer of shares, where such transfer is to a relevant person. A certificate by a relevant person or any officer of a relevant person certifying that any share which is being transferred was or has been mortgaged or charged shall be conclusive evidence of that fact."

4. **ARTICLE 38**

Article 38 be deleted in its entirety and be replaced by the following:

"38. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all monies outstanding in respect of such share, whether presently payable or not, and the Company shall also have a first and paramount lien on all shares (other than fully paid shares) standing registered in the name of a Member, whether singly or jointly

with any other person or persons, for all the debts and liabilities whether liquidated or not of such Member or his estate to the Company, whether the same shall have been incurred before or after notice to the Company of any interest of any person other than such Member, and whether the same shall have fallen due for payment or not, and notwithstanding that the same are joint debts or liabilities of such Member or his estate and any other person, whether a Member or not, and such lien shall extend to all dividends from time to time declared on such share and shall have priority over all debts, obligations, engagements and liabilities of such Member to or with any other person notwithstanding that any such last mentioned debt, obligation, engagement or liability was incurred or undertaken prior in date to any debt, obligation, engagement or liability to the Company and notwithstanding that the Company had full notice thereof. The Directors may at any time either generally or in any particular case waive any lien that has arisen, or declare any share to be wholly or in part exempt from the provisions of this Article."

(Sd.) Jerry William Waters _____
For and on behalf of
Maxeon Solar Technologies, Ltd.
(formerly known as
Maxeon Solar Technologies, Pte. Ltd.)

THE COMPANIES ORDINANCE (CHAPTER 622)

Private Company Limited by Shares

ARTICLES OF ASSOCIATION

(as amended by special resolutions passed on 26 July 2020 and 17 August 2022 respectively)

OF

SunPower Manufacturing Corporation Limited

- 1. Company Name**
The name of the company is SunPower Manufacturing Corporation Limited.
- 2. Members' Liabilities**
The liability of the members is limited.
- 3. Liabilities or Contributions of Members**
The liability of the members is limited to any amount unpaid on the shares held by the members.
- 4. Share Capital and Initial Shareholdings (on the company's formation)**

The share capital and initial shareholdings on the company's formation are as follows:-

Name of Founder Member	Number of Shares Taken	Total Amount of Share Capital
SunPower Corporation 77 Rio Robles, San Jose California 95134 USA	1,000 Ordinary shares	HKD1,000.00
Total:	1,000 Ordinary shares	HKD1,000.00

PRELIMINARY

1. The articles in the model articles for private companies limited by shares prescribed in Schedule 2 to the Companies (Model Articles) Notice (Chapter 622H of the Laws of Hong Kong) shall not apply to the Company.

INTERPRETATION

2. (1) In these Articles, save where the context otherwise requires:-

accounting reference period means the period by reference to which the financial year is to be determined pursuant to Section 368 of the Ordinance;

associated company means—

- (a) a subsidiary of the Company;
- (b) a holding company of the Company; or
- (c) a subsidiary of such a holding company;

Auditor means the auditor for the time being of the Company;

Board or **Directors** means the directors for the time being of the Company or the directors present at a duly convened meeting of directors at which a quorum is present;

Company means the above named Company;

company records means any register, index, agreement, memorandum, minutes or other documents required by the Ordinance to be kept by the Company, but does not include accounting records;

dividend includes bonuses, distributions in specie and in kind, capital distributions and capitalisation issues;

fully paid, in relation to a share, means the price at which the share was issued has been fully paid to the Company;

Members means the members for the time being of the Company;

month means calendar month;

Office means the registered office for the time being of the Company;

Ordinance means the Companies Ordinance (Cap. 622 of the Laws of Hong Kong) together with its subsidiary legislation, and includes every other ordinance incorporated therewith or substituted therefor;

paid up means paid or credited as paid;

Register means the register of members of the Company;

relevant person means:

- (a) any person to whom any share of the Company has been mortgaged or charged; or
- (b) any nominee, agent and/or trustee of a person referred to in (a) above; or
- (c) any person who acquires any interest in any share of the Company from any of the persons referred to in (a) or (b) above

Seal means the common seal of the Company or any official seal that the Company may have as permitted by the Ordinance;

Secretary means the secretary for the time being of the Company;

these Articles means the Articles of Association in their present form or as altered from time to time.

- (2) Unless the context otherwise requires, words or expression contained in these Articles shall bear the same meaning as in the Ordinance or any statutory modification thereof in force at the date at which these Articles become binding on the Company.

- (3) In these Articles, if not inconsistent with the subject or context, words importing the singular number only shall include the plural number and vice versa, and words importing any gender shall include all genders and vice versa.

- (4) Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form.

- (5) Any provision of these Articles that refers (in whatever words) to:-

- (a) the Members;

- (b) a majority of Members; or
- (c) a specified number or percentage of Members,

shall, unless the context otherwise requires, apply with necessary modifications where the Company has only one person as a Member.

- (6) Any provision of these Articles that refers (in whatever words) to

- (a) the Directors;
- (b) the Board;
- (c) a majority of the Directors; or
- (d) a specified number or percentage of the Directors,

shall, unless the context otherwise requires, apply with necessary modifications where the Company has only one Director.

PRIVATE COMPANY

- 3. The Company is a private company and accordingly—
 - (1) a Member's right to transfer shares of the Company is restricted in the manner hereinafter prescribed;
 - (2) the number of Members (excluding persons who are employees of the Company, and persons who were Members while being employees of the Company and who continue to be Members after ceasing to be such employees) shall be limited to 50 PROVIDED that where two or more persons hold one or more shares in the Company jointly they shall, for the purposes of this Article, be regarded as one Member; and
 - (3) any invitation to the public to subscribe for any shares or debentures of the Company is prohibited.

OFFICE

- 4. The Office shall be at such place in Hong Kong as the Directors shall from time to time appoint.

POWERS

- 5. The Company shall have all the capacity, rights, powers and privileges of a natural person of full age.

SHARES

- 6. (1) Subject to the provisions of Sections 140 and 141 of the Ordinance and save as provided by contract or these Articles to the contrary, the Directors may allot, grant rights to subscribe for, or otherwise deal with or dispose of shares to such persons, at such times, for such consideration and generally upon such terms and conditions as they think proper. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, any share may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise as the Company may from time to time by ordinary resolution determine.
 - (2) The Company may give such financial assistance for purposes of acquiring shares as is not prohibited by the Ordinance subject to the requirements of the Ordinance.
- 7. The Company may issue shares subject to different conditions in respect of the amount of calls to be paid and the time of payment of such calls.
- 8. If by the conditions of allotment of any shares the whole or part of the amount or issue price thereof shall be payable by instalments, every such instalment shall, when due, be paid to

the Company by the person who for the time being is the registered holder of the shares, or his legal personal representative.

9. (1) Subject to Division 4 of Part 5 of the Ordinance, the Company may issue shares which are to be redeemed or are liable to be redeemed at the option of the Company or the Member. The redemption of shares may be effected upon such terms and in such manner as the Company before or upon issue of the shares shall by ordinary resolution determine.
 - (2) Subject to Division 4 of Part 5 of the Ordinance, the Company may buy back its own shares (including redeemable shares).
 - (3) Subject to Division 4 of Part 5 of the Ordinance, the Company may make a payment in respect of the redemption or buy-back under Subdivision 6 of Division 4 of Part 5 of the Ordinance of its own shares otherwise than out of its distributable profits or the proceeds of a fresh issue of shares made for the purpose of the redemption or buy-back.
10. Subject to the provisions of these Articles, the Company shall not, except as required by law, be bound by or required in any way to recognise any contingent, future, partial or equitable interest in any share or in any fractional part of a share, or any other right in respect of any share, or any other claim to or in respect of any such share on the part of any person (even when having notice thereof) except an absolute right to the entirety thereof in the registered holder.
 11. The Company may in connection with the issue of any shares exercise all powers of paying interest out of capital and of paying commission and brokerage conferred or permitted by the Ordinance.
 12. Other than the founder member(s), no person shall become a Member until he has agreed to become a Member and his name shall have been entered into the Register.

MAXIMUM NUMBER OF SHARES

13. There is no limit on the number of shares of any class which the Company may issue.

ALTERATION OF SHARE CAPITAL

14. The Company may alter its share capital in any one or more of the following ways in accordance with the Ordinance:
 - (1) increase its share capital by allotting and issuing new shares in accordance with Division 2 of Part 4 of the Ordinance;
 - (2) increase its share capital without allotting and issuing new shares, if the funds or other assets for the increase are provided by the Members;
 - (3) capitalise its profits, with or without allotting and issuing new shares;
 - (4) allot and issue bonus shares with or without increasing its share capital;
 - (5) convert all or any of its shares into a larger or smaller number of shares; or
 - (6) cancel shares —
 - (a) that, at the date the resolution for cancellation is passed, have not been taken or agreed to be taken by any person; or
 - (b) that have been forfeited.

REDUCTION OF SHARE CAPITAL

15. The Company may reduce its share capital:
 - (1) by special resolution supported by a solvency statement in accordance with Subdivision 2 of Division 3 of Part 5 of the Ordinance; or
 - (2) by special resolution confirmed by the Court under Subdivision 3 of Division 3 of Part 5 of the Ordinance.
16. A reserve arising from the reduction of share capital in accordance with Article 15 is to be regarded for the purposes of Part 6 of the Ordinance as realised profit, which is subject to anything to the contrary in —
 - (1) an order of, or undertaking given to, the Court;
 - (2) the resolution for, or any other resolution relevant to, the reduction of share capital; or
 - (3) these Articles.

REDENOMINATION OF SHARE CAPITAL

17. The Company may by ordinary resolution convert its share capital or any class of shares from one currency to another currency on more than one occasion or at a specified time or in specified circumstances.

MODIFICATION OF RIGHTS

18. (1) All or any of the rights attached to any class of shares in the capital of the Company for the time being may, at any time, be altered or abrogated either with the consent in writing of the holders of not less than three-fourths of the issued shares of the class or with the sanction of a special resolution passed at a separate general meeting of the holders of shares of the class, and all the provisions contained in these Articles relating to general meetings shall apply with the necessary modifications to every such meeting, but so that the quorum thereof shall be a person or persons personally present and holding or representing by proxy one-third of the issued shares of the class.
 - (2) The foregoing provisions of this Article shall apply to the variation or abrogation of the rights attached to some only of the shares of any class as if each group of shares of the class differently treated formed a separate class, the rights whereof are to be varied.
19. The special rights conferred upon the holders of any shares or such class of shares shall not, unless otherwise expressly provided in the rights attaching to or the terms of issue of such shares, be deemed to be altered by the creation or issue of further shares ranking *pari passu* therewith.

JOINT HOLDERS OF SHARES

20. Where two or more persons are registered as the holders of any share they shall be deemed to hold the same as joint tenants with benefit of survivorship, subject to the following provisions:
 - (1) the Company shall not be bound to register more than three persons as the holders of any shares except in the case of the legal personal representative of a deceased Member;
 - (2) the joint holders of any shares shall be liable severally as well as jointly in respect of all payments which ought to be made in respect of such shares;

- (3) on the death of any one of such joint holders the survivor or survivors shall be the only person or persons recognised by the Company as having any title to such shares, but the Directors may require such evidence of death as they may deem fit;
- (4) any one of such joint holders may give effectual receipts for any dividend, return of capital or other payment in the share;
- (5) the Company shall treat the person whose name stands first in the Register as one of the joint holders of any shares as solely entitled to delivery of the certificate relating to such shares, or to receive notices from the Company, and to attend and vote at general meetings of the Company, and any notice given to such person shall be deemed notice to all the joint holders; but any of such joint holders may be appointed as a proxy of the persons entitled to vote on behalf of such joint holders, and as a proxy to attend and vote at general meetings of the Company. If more than one of such joint holders be present at any meeting personally or by proxy that one so present whose name stands first in the Register in respect of such shares shall alone be entitled to vote in respect thereof;
- (6) anything to be agreed or specified by the joint holders for the purposes of these Articles or the Ordinance shall be deemed to be specified or agreed by all joint holders upon the agreement or specification of the holder whose name appears first in the Register; and
- (7) unless the joint holders agree among themselves as to whose name will appear first in the Register, the Company shall be at liberty to decide the same at its sole and absolute discretion.

SHARE CERTIFICATES

21. Every person whose name is entered as a Member in the Register shall be entitled without payment to receive within two months after allotment or lodgement of an instrument of transfer duly stamped (or within such other period as the conditions of issue may provide) one certificate for all his shares of any particular class, or several certificates, each for one or more of his shares, upon payment of such fee, not exceeding five dollars or such smaller sum for every certificate after the first, as the Directors shall from time to time determine, provided that in the event of a Member transferring part of the shares represented by a certificate in his name a new certificate in respect of the balance thereof shall be issued in his name without payment and, in the case of joint holders, the Company shall not be bound to issue more than one certificate for all the shares of any particular class registered in their joint names.
22. If the Company has adopted a Seal, every share certificate can be either executed with its Seal in accordance with Article 116 or without the Seal in accordance with Article 119 as the Directors may decide. If the Company does not adopt a Seal, every share certificate shall be executed in accordance with Article 119. Each share certificate shall specify the number and class of shares, and, if required, the distinctive numbers thereof comprised therein, the amount paid up thereon and, if appropriate, whether such shares carry no voting rights. No certificate shall be issued in respect of more than one class of shares. If there shall be more than one class of shares then each certificate of every class shall state thereon that the share capital is divided into different classes.
23. If any share certificate shall be worn out, defaced, destroyed or lost, it may be renewed on such evidence being produced as the Directors shall require, and in case of wearing out or defacement, on delivery up of the old certificate, and in case of destruction or loss, on the execution of such indemnity (if any), as the Directors may from time to time require. In case of destruction or loss, the person to whom such renewed certificate is given shall also bear and pay to the Company all expenses incidental to the investigation by the Company of the evidence of such destruction or loss and of such indemnity.

CALLS ON SHARES

24. (1) The Directors may from time to time make such calls as they think fit upon the Members in respect of all monies unpaid on their shares but subject always to the terms of issue of such shares, and any such call may be made payable by instalments.
(2) Each Member shall, subject to receiving at least fourteen days' notice specifying the time or times and place for payment, pay to the person and at the time and place appointed by the Directors, the amount called on his shares and at the time or times and place so specified. The non-receipt of a notice of any call by, or the accidental omission to give notice of a call to, any of the Members shall not invalidate the call.
25. A call shall be deemed to have been made at the time when the resolution of the Directors authorising such call was passed. A call may be revoked, varied or postponed as the Directors may determine.
26. If any part of a sum called in respect of any shares or any instalment of a call be not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall be liable to pay interest on the outstanding part thereof at such rate as the Directors shall determine from the day appointed for the payment of such call or instalment to the time of discharge thereof in full; but the Directors may, if they shall think fit, waive the payment of such interest or any part thereof.
27. If, by the terms of the issue of any shares or otherwise, any amount is made payable upon allotment or at any fixed time, every such amount shall be payable as if it were a call duly made and payable on the date on which by the terms of the issue the same becomes payable; and all the provisions thereof with respect to the payment of calls and interest thereon, or to the forfeiture of shares for non-payment of calls, shall apply to every such amount and the shares in respect of which it is payable in the case of non-payment thereof.
28. The Directors may, if they shall think fit, receive from any Member willing to advance the same all or any part of the monies uncalled and unpaid upon any shares held by him; and upon all or any of the monies so paid in advance the Directors may (until the same would, but for such payment in advance, become presently payable) pay interest at such rate as may be agreed upon between the Member paying the monies in advance and the Directors. The Directors may also at any time repay the amount so advanced or any part thereof.
29. On the trial or hearing of any action for the recovery of any money due for any call, it shall be sufficient to prove that the name of the Member being sued is entered in the Register as the holder, or one of the holders, of the shares in respect of which such debt accrued; that the resolution making the call is duly recorded in the Minute Book; and that notice of such call was duly given to the Member being sued in pursuance of these Articles; and it shall not be necessary to prove the appointment of the Directors who made such call, nor any other matters whatsoever, but the proof of the matters aforesaid shall be conclusive evidence of the debt.
30. No Member shall, unless the Directors otherwise determine, be entitled to receive any dividend, or, subject to the Ordinance, to receive notice of or to be present or vote at any general meeting, either personally or (save as proxy for another Member) by proxy, or to exercise any privileges as a Member, or be reckoned in a quorum, until he shall have paid all calls or other sums for the time being due and payable on every share held by him, whether alone or jointly with any other person, together with interest and expenses (if any).
- 30A. Notwithstanding anything contained in the Memorandum of Association or the Articles of Association of the Company, the restrictions set out in Article 30 shall not in apply respect of any share that has been mortgaged or otherwise provided as security to any relevant person.

FORFEITURE

31. If any Member fails to pay in full any call or instalment of a call on the day appointed for payment thereof, the Directors may at any time thereafter, during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring him to pay so much of the call or instalment as is unpaid together with interest accrued and any expenses incurred by reason of such non-payment.
32. The notice shall name a further day (not being less than fourteen days from the date of the notice) on or before which such call or instalment or part thereof and all interest accrued and expenses incurred by reason of such non-payment are to be paid, and it shall also name the place where payment is to be made, such place being either the Office, or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call or instalment is payable will be liable to be forfeited.
33. If the requirements of any such notice as aforesaid be not complied with, any shares in respect of which such notice has been given may, at any time thereafter before the payment required by the notice had been made, be forfeited by a resolution of the Directors to that effect, and any such forfeiture shall extend to all dividends declared in respect of the shares so forfeited but not actually paid before such forfeiture. The Directors may so far as the law permits accept from any Member a surrender of his shares or any part thereof as a compromise of any dispute or in lieu of forfeiture on such terms as may be agreed upon between such Member and the Company and in such case references in these Articles to forfeiture shall include surrender.
- 33A. Notwithstanding anything contained in the Memorandum of Association or the Articles of Association of the Company, any share that has been mortgaged or otherwise provided as security to any relevant person shall be exempt from the provisions of these Articles relating to forfeiture.
34. Any shares so forfeited shall be deemed for the purposes of this Article to be the property of the Company, and may be sold, re-allotted or otherwise disposed of either subject to or discharged from all calls made or instalments due prior to the forfeiture, to any person, upon such terms and in such manner and at such time or times as the Directors think fit. For the purpose of giving effect to any such sale or other disposition the Directors may authorise some person to transfer the shares so sold or otherwise disposed of to the purchaser thereof or any other person becoming entitled thereto.
35. The Directors may, at any time before any shares so forfeited shall have been sold, re-allotted or otherwise disposed of, annul the forfeiture thereof upon such conditions as they think fit.
36. Any person whose shares have been forfeited shall thereupon cease to be the holder of any such shares but shall notwithstanding be and remain liable to pay to the Company all calls, instalments, interest and expenses owing upon or in respect of such shares at the time of the forfeiture together with interest thereon from the time of forfeiture until payment at such rate as the Directors shall think fit and without any deduction or allowance for the value of the shares at the time of forfeiture, and the Directors may enforce the payment of such monies or any part thereof and may waive payment of such interest wholly or in part.
37. When any shares have been forfeited an entry shall be made in the Register recording the forfeiture and the date thereof, and so soon as the shares so forfeited have been sold or otherwise disposed of an entry shall also be made of the manner and date of the sale or disposal thereof.

LIEN

38. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all monies outstanding in respect of such share, whether presently payable or not,

and the Company shall also have a first and paramount lien on all shares (other than fully paid shares) standing registered in the name of a Member, whether singly or jointly with any other person or persons, for all the debts and liabilities whether liquidated or not of such Member or his estate to the Company, whether the same shall have been incurred before or after notice to the Company of any interest of any person other than such Member, and whether the same shall have fallen due for payment or not, and notwithstanding that the same are joint debts or liabilities of such Member or his estate and any other person, whether a Member or not, and such lien shall extend to all dividends from time to time declared on such share and shall have priority over all debts, obligations, engagements and liabilities of such Member to or with any other person notwithstanding that any such last mentioned debt, obligation, engagement or liability was incurred or undertaken prior in date to any debt, obligation, engagement or liability to the Company and notwithstanding that the Company had full notice thereof. The Directors may at any time either generally or in any particular case waive any lien that has arisen, or declare any share to be wholly or in part exempt from the provisions of this Article.

- 38A. Notwithstanding anything contained in the Memorandum of Association or the Articles of Association of the Company, the Company and/or its directors shall not be entitled to exercise any lien provided for in these Articles in respect of any share that has been mortgaged or otherwise provided as security to any relevant person.
39. The Company may sell in such manner as the Directors think fit any share on which the Company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing stating and demanding payment of the sum presently payable and giving notice of intention to sell in default shall have been given to the holder for the time being of the share or the person entitled thereto by reason of his death, bankruptcy or winding up or otherwise by operation of law or court order.
40. The net proceeds of such sale after payment of the costs of such sale shall be applied in or towards payment or satisfaction of the debts or liabilities in respect whereof the lien existed so far as the same are presently payable and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the time of the sale. For giving effect to any such sale the Directors may authorise some person to transfer the shares so sold to the purchaser thereof.
41. A statutory declaration in writing that the declarant is a Director or the Secretary and that a share has been duly forfeited or surrendered or sold to satisfy a lien of the Company on a date stated in the declaration shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. Such declaration and the receipt of the Company for the consideration (if any) given for the share on the sale, re-allotment or disposal thereof together with the share certificate delivered to a purchaser or allottee thereof shall (subject to the execution of a transfer if the same be required) constitute a good title to the share and the person to whom the share is sold, re-allotted or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any) nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, surrender, sale, re-allotment or disposal of the share.

TRANSFER OF SHARES

42. (1) Save where the Company has only one Member, shares shall be transferable subject as hereinafter mentioned:
- (a) the person proposing to transfer shares ("**the transferor**") shall give notice in writing ("**transfer notice**") to the Directors that he proposes to transfer the shares. The transfer notice shall specify the sum that the transferor fixes as the fair value as well as other terms of transfer, and shall constitute the Directors as his agent for the sale of the shares in the manner hereinafter provided;

- (b) within fifteen days following the receipt of the transfer notice, the Directors shall notify all the other holders of the same class of shares of the proposed transfer by forwarding a copy of the transfer notice to such holders;
- (c) such holders of the same class of shares shall have fifteen days from the date of posting to them of such transfer notice to advise the Directors whether they wish to accept all or any of the offered shares at the price and upon the terms stated in the transfer notice, and in the event of competition such advice shall be deemed to relate (as nearly as may be) to such number of shares as is proportionate to their existing holding of shares in that class. If any difficulties arise in the apportionment of any such shares, the same shall be determined by the Directors as they think fit;
- (d) if not all of the shares referred to in the transfer notice are accepted by the holders of the same class of shares in a manner set out in sub-clause (c), the Directors shall thereupon offer such all or remaining shares to holders of shares in any other class at the same price and on the same terms as herein contained. The provisions of sub-clauses (b) and (c) shall be repeated with the necessary modifications with regard to holders of shares in any other class so that the Directors shall be required to notify such holders, as provided in sub-clause (b), within fifteen days of the expiration of the period in sub-clause (c);
- (e) where the shares comprised in the transfer notice have been offered to all holders of shares in accordance with the foregoing sub-clauses, and there is only one holder of shares in the Company who has signified his intention to accept the offered shares upon the terms stated in the transfer notice but at a different price, that person shall have the right to request the Auditor of the Company to determine a fair price for the shares on a "going concern" basis as at the date of the transfer notice, calculated as between a willing seller and a willing buyer at arm's length. In making any such determination the Auditor shall be deemed to be acting as experts and not as arbitrators and the expenses of the Auditor in making any such determination shall be borne by that person requesting such determination;
- (f) in the event that the price determined by the Auditor as the fair price for the shares is less than the price stated in the transfer notice, the transferor shall thereupon be obliged to re-offer the shares to all the Members at that price in the manner hereinbefore provided and the provisions of sub-clauses (b) to (d) shall apply with the necessary modifications in respect of any such offer;
- (g) if any Member signifies his intention to accept the offered shares at the price and upon the terms stated in the transfer notice, such Member shall pay the price thereof within sixty days from either the date of such acceptance or the date of the granting of all governmental approvals required to complete the purchase of such shares, whichever is the later. Upon payment of the price, the transferor shall forthwith execute a transfer and do all such things as he alone can do to transfer the shares to the aforesaid Member;
- (h) if the shares shall have been offered by the transferor to the Members in the manner hereinbefore provided and such Members shall not have advised the Directors of their intention to purchase all of the shares within the period aforesaid, then such Members shall be deemed to have declined to accept the shares not otherwise taken up as hereinbefore provided, and the transferor may then proceed to sell and transfer the balance of such shares to any person at a price not less than the price stated in the transfer notice forwarded to Members within one month after the expiration of the offer period pursuant to the provisions of the preceding sub-clauses (c) to (f), whichever is later;
- (i) notwithstanding the provisions of the preceding sub-clauses (a) to (h), the transferor may, with the prior consent of all other Members in writing obtained within one month before the date of sale or transfer, sell and transfer all or any

of his shares to any person at a price agreed upon between him and the transferee.

- (2) The instrument of transfer of any shares shall be in writing and shall be executed by or on behalf of the transferor and by or on behalf of the transferee. The transferor shall remain the holder of the shares concerned until the name of the transferee is entered in the Register in respect thereof.
43. Every instrument of transfer shall be lodged at the Office for registration accompanied by the certificate relating to the shares to be transferred and such other evidence as the Directors may require in relation thereto. All instruments of transfer which shall be registered shall be retained by the Company but, save where fraud is suspected, any instrument of transfer which the Directors may decline to register shall, on demand, be returned to the person depositing the same.
44. There shall be paid to the Company in respect of the registration of a transfer and of any Grant of Probate or Letters of Administration, Certificate of Marriage or Death, Power of Attorney or other document relating to or affecting the title to any share or the making of any entry in the Register affecting the title to any share such fee (if any) as the Directors may from time to time require or prescribe.
45. Subject to the provisions of Section 632 of the Ordinance, the Register may be closed at such times and for such periods as the Directors may from time to time determine and either generally or in respect of any class of shares provided always that such closure shall not be more than thirty days in any year. Any transfer made while the Register is closed shall, as between the Company and the person claiming under the transfer (but not otherwise), be considered as made immediately after the re-opening of the Register.
46. (1) Subject to Article 46(6), the Directors may at any time at their absolute discretion decline to register any transfer of any share whether or not it is a fully paid share.
(2) The Directors may also decline to register any transfer unless:
 - (a) the instrument of transfer is in respect of only one class of shares;
 - (b) in the case of a transfer to joint holders, the number of holders to whom the shares are to be transferred does not exceed three; and
 - (c) the shares concerned are free of any lien in favour of the Company.
- (3) If the Directors refuse to register a transfer they shall, within two months after the date on which the transfer was lodged with the Company, send to the transferor and transferee notice of the refusal.
- (4) Within twenty-eight days after the receipt of a request for provision of a statement of the reasons for the refusal to register a transfer by the Company from the transferor or the transferee, the Directors shall send such statement to the person who made such request, or register the transfer.
- (5) The registration of a transfer shall be conclusive evidence of the approval by the Directors of the transfer.
- (6) Notwithstanding anything to the contrary contained in these Articles, the Directors shall not decline to register any transfer of shares, or unreasonably delay, or suspend the registration of any transfer of shares, where such transfer is to a relevant person. A certificate by a relevant person or any officer of a relevant person certifying that any share which is being transferred was or has been mortgaged or charged shall be conclusive evidence of that fact.

TRANSMISSION OF SHARES

47. In case of the death of a Member, the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole holder, shall be the only persons recognised by the Company as having any title to his interest in the shares; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.
48. (1) Any committee of a lunatic Member, and any person becoming entitled to a share in consequence of the death, bankruptcy or liquidation of a Member may, upon such evidence being produced as may from time to time properly be required by the Directors that he sustains the character in respect of which he purports to act under this Article or of his title and that he is entitled to act, and subject as hereinafter provided, elect either to be registered himself as holder of the share or to have some person nominated by him registered as the transferee thereof, 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 that Member before his death or bankruptcy, as the case may be.
- (2) If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered he shall execute a transfer of the share in favour of that person. All the limitations, restrictions and provisions of these Articles relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the Member had not occurred and the notice or transfer were a transfer signed by the Member.
- (3) If the Directors refuse to register the person so becoming entitled as holder of the share or his nominee as the transferee thereof, they shall, within two months after the date on which the notice in writing was received by the Company, send to that person notice of the refusal.
- (4) Within twenty-eight days after the receipt of a request for provision of a statement of the reasons for the refusal to register a transmission by the Company from the person so becoming entitled, the Directors shall send such statement to the person who made such request, or register the transmission.
49. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he 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:

PROVIDED always that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within ninety days the Directors may thereafter withhold payment of all dividends or other monies payable in respect of the share until the requirements of the notice have been complied with.

GENERAL MEETINGS

50. (1) Save where the Company is a subsidiary of a public company at any time during the financial year, the Company must subject to the provisions of this Article 50, in respect of each financial year, hold a general meeting as its annual general meeting within nine months after the end of its accounting reference period (in addition to any other meetings held during the period), except where:
- (a) everything that is required to be done at the meeting is done by a written resolution and copies of the financial statements, directors' report and auditor's

report that are required to be laid or produced at the meeting are provided to each Member on or before the circulation date of the written resolution;

- (b) the Company has only one Member;
 - (c) the Company has dispensed with the holding of annual general meetings by a written resolution or a resolution at a general meeting passed by all Members; or
 - (d) the Company is a dormant company under Section 5(1) of the Ordinance.
- (2) If the Company is a subsidiary of a public company at any time during the financial year, the Company must, in respect of each financial year, hold an annual general meeting within six months after the end of its accounting reference period (in addition to any other meetings held during the period), except where any of the aforesaid (a) to (d) of Article 50(1) applies.
- (3) Subject to Article 50, the annual general meeting shall be held at such time and place as the Directors shall appoint.
- (4) In respect of the first accounting reference period of the Company which is longer than twelve months, the Company must hold its annual general meeting within the following period:
- (a) in the case of the Company not being a subsidiary of a public company at any time during the financial year, within nine months after the anniversary of the Company's incorporation or three months after the end of that accounting reference period, whichever is the later; or
 - (b) in the case of the Company being a subsidiary of a public company at any time during the financial year, within six months after the anniversary of the Company's incorporation or three months after the end of that accounting reference period, whichever is the later.
- (5) If the Company has by a Directors' resolution shortened its accounting reference period, the Company must hold its annual general meeting within the following period:
- (a) in the case of the Company not being a subsidiary of a public company at any time during the financial year, within nine months after the end of the shortened accounting reference period or three months after the date of the Directors' resolution, whichever is the later; or
 - (b) in case of the Company being subsidiary of a public company at any time during the financial year, within six months after the end of the shortened accounting reference period or three months after the date of the Directors' resolution, whichever is the later.
51. The Directors may, whenever they think fit, and shall, on requisition by Members in accordance with the Ordinance, proceed to convene a general meeting. The provisions of the Ordinance shall apply to any requisition and to any failure by the Directors to convene a general meeting when so requisitioned.

NOTICE OF GENERAL MEETINGS

52. An annual general meeting shall be called by twenty-one days' notice in writing at the least, and a general meeting of the Company other than an annual general meeting shall be called by fourteen days' notice in writing at the least. The notice shall:
- (1) specify the date and time of the meeting;
 - (2) specify the place of the meeting (and if the meeting is to be held in two or more places, the principal place of the meeting and the other place or places of the meeting);

- (3) state the general nature of the business to be dealt with at the meeting;
- (4) in case of a notice calling an annual general meeting, state that the meeting is an annual general meeting;
- (5) if a resolution (whether or not a special resolution) is intended to be moved at the meeting —
 - (a) include notice of the resolution; and
 - (b) (where the Company is not a wholly owned subsidiary) include or be accompanied by a statement containing the information and explanation, if any, that is reasonably necessary to indicate the purpose of the resolution.

The notice shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Company in general meeting, to such persons as are, under these Articles or the Ordinance, entitled to receive such notices from the Company:

PROVIDED that a meeting of the Company shall, notwithstanding that it is called by shorter notice than that specified in this Article, be deemed to have been duly called if it is so agreed:

- (1) in the case of an annual general meeting, by all the Members entitled to attend and vote thereat; and
 - (2) in the case of any other general meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding at least ninety-five per cent of the total voting right at the meeting of all the Members.
53. The accidental omission to give notice of a meeting or (in cases where an instrument of proxy is sent out with the notice) the accidental omission to send such instrument of proxy to, or the non-receipt of notice of a meeting or such instrument of proxy by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting.

PROCEEDINGS AT GENERAL MEETINGS

54. No business, save the election of a Chairperson of the meeting, shall be transacted at any general meeting, unless a quorum is present when the meeting proceeds to business. Save where the Company has only one Member, two Members present in person or by proxy shall be a quorum for all purposes. If the Company has only one Member, that Member present in person or by proxy shall be a quorum of a general meeting of the Company.
55. Meetings may be held in Hong Kong or at such other place or places in the world as the Directors may determine. A general meeting may be held at two or more places using any technology that enables the Members who are not together at the same place to listen, speak and vote at the meeting.
56. The Chairperson (if any) of the Board or, in his absence, a Deputy Chairperson (if any) shall preside as Chairperson at every general meeting. If there is no such Chairperson or Deputy Chairperson, or if at any meeting neither the Chairperson nor a Deputy Chairperson is present within fifteen minutes after the time appointed for holding the meeting, or if neither of them is willing to act as Chairperson, the Directors present shall choose one of their number to act, or if one Director only is present he shall preside as Chairperson if willing to act, if no Director is present, or if each of the Directors present declines to act as Chairperson, the persons present and entitled to vote shall elect one of their number to be Chairperson of the meeting. A proxy may be elected to be Chairperson of the meeting by a resolution of the Company passed at the meeting.
57. If within fifteen minutes from the time appointed for the meeting a quorum be not present, the meeting, if convened upon a requisition as specified in Article 51, shall be dissolved; but in any other case it shall stand adjourned to the same day in the next week at the same time

and place, or to such other day, time and place as the Chairperson of the meeting may determine. If at such adjourned meeting a quorum be not present within fifteen minutes from the time appointed for the meeting, the Members present in person or by proxy shall be a quorum.

58. The Chairperson of any general meeting at which a quorum is present may, with the consent of the meeting, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place or without specifying the time and place; but no business shall be transacted at any adjourned meeting other than business which might have been transacted at the meeting from which the adjournment took place, unless due notice thereof is given or such notice is waived in the manner prescribed by these Articles. When a meeting is adjourned for thirty days or more or without specifying the time and place, 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 adjourned meeting or the business to be transacted thereat. Where a meeting is adjourned without specifying the time and place, such time and place for the adjourned meeting shall be fixed by the Directors.

VOTING

59. (1) At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless, before or on the declaration of the result of the show of hands or on the withdrawal of any other demand for a poll, a poll is demanded by:
- (a) the Chairperson of the meeting;
 - (b) at least two Members present in person or by proxy and entitled to vote; or
 - (c) any Member or Members present in person or by proxy and representing in the aggregate not less than five per cent of the total voting rights of all Members having the right to attend and vote at the meeting.
- (2) If a Member appoints more than one proxy, the proxies so appointed shall not be entitled to vote on the resolution on a show of hands.
- (3) If, before or on the declaration of the result on a show of hands at the meeting, the Chairperson of the meeting knows from the proxies received by the Company that the result on a show of hands will be different from that on a poll, the Chairperson shall demand a poll.
- (4) Unless a poll is so demanded and the demand is not withdrawn, a declaration by the Chairperson that a resolution has, on a show of hands, been carried unanimously or by a particular majority or not carried by a particular majority or lost shall be final and conclusive evidence of the fact without proof of the number of the votes recorded for or against such resolution.
60. A demand for a poll may be withdrawn only with the approval of the meeting. If a poll be directed or demanded in the manner above mentioned it shall (subject to the provisions of Article 62) be taken at such time (being not later than seven days after the date of the demand) and in such manner as the Chairperson of the meeting may appoint. No notice need be given of a poll not taken immediately. The result of such poll shall be deemed for all purposes to be the resolution of the meeting at which the poll was so directed or demanded.
61. In the case of an equality of votes at any general meeting, whether upon a show of hands or on a poll, the Chairperson of the meeting shall be entitled to a second or casting vote.
62. A poll on any business may be demanded other than:
- (1) the election of a Chairperson of the meeting; or
 - (2) the adjournment of the meeting.

63. (1) No objection shall be made to the validity of any vote except at the meeting or poll at which such vote shall be tendered and every vote whether given personally or by proxy not disallowed at such meeting or poll shall be deemed valid for all purposes whatsoever of such meeting or poll.
- (2) In case of any dispute as to voting, the Chairperson shall determine the same, and such determination shall be final and conclusive.
64. Subject to any special rights or restrictions for the time being attaching to any special class of shares, on a show of hands every Member who is present in person or by proxy shall be entitled to one vote only, and, in the case of a poll, every Member present in person or by proxy shall be entitled to one vote for each share held by him.
65. On a poll, votes may be given either personally or by proxy and a Member entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.
66. A Member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, receiver, guardian or other person in the nature of a committee, receiver or guardian appointed by that court, and any such committee, receiver, guardian or other person may vote by proxy on a show of hands (except if more than one proxy are appointed) or on a poll. If any Member be a minor, he may vote on a show of hands or a poll by his guardian or one of his guardians who may give their votes personally or by proxy.

MEMBERS' WRITTEN RESOLUTION

67. Subject to the provisions of the Ordinance, a written resolution signed by all the Members entitled to vote on the resolution on the circulation date and at the time that the first copy of the resolution is sent (or, being corporations, by their duly authorised representatives), before the end of twenty-eight days beginning on the circulation date shall be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held. A written notice of confirmation of such written resolution sent by or on behalf of a Member shall be deemed to be his signature to such written resolution for the purposes of this Article. Such written resolution may be sent to each Member for signature in turn or may consist of several documents, each signed by one or more Members.
68. A resolution may be proposed as a written resolution by the Directors or a Member.
69. The Company must circulate the resolution proposed as written resolution by the Directors to all the Members at its own expense in hard copy form or in electronic form not more than twenty-one days after the proposed written resolution is made by the Directors.
70. A Member may request the Company to circulate a resolution that may properly be moved and proposed as a written resolution by a Member. A Member who proposes a resolution as written resolution may request the Company to circulate with the resolution a statement of not more than one thousand words on the subject matter of the resolution. Such request may be sent by a Member to the Company in hard copy form or in electronic form. Nonetheless, each Member may only request the Company to circulate one such statement with respect to the resolution. The Company must circulate the resolution proposed as written resolution and any statement mentioned aforesaid to all Members of the Company at its own expense, in hard copy form or in electronic form or by making them available on the Company's website, if any, not more than twenty-one days after receipt of such requests to do so, from Members of the Company representing not less than five per cent of the total voting rights of all the Members entitled to vote on the resolution. The Company or a person who claims to be aggrieved may apply to the Court and if the Court is satisfied that the rights are being abused or being used to secure needless publicity for defamatory matter, the Company shall not be bound to circulate a statement mentioned aforesaid.
71. Members shall signify their agreement to a resolution proposed as written resolution and send it back to the Company either in hard copy form or electronic form.

72. Where the Company has only one Member and that Member takes any decision that may be taken by the Company in general meeting and that has effect as if agreed by the Company in general meeting, the Member shall (unless that decision is taken by way of a written resolution agreed in accordance with Section 548 of the Ordinance) provide the Company with a written record of that decision within seven days after the decision is made.

PROXIES

73. (1) A proxy need not be a Member of the Company. A Member may appoint separate proxies to represent respectively the number of the shares held by the Member that is specified in their instruments of appointment.
- (2) An instrument appointing a proxy shall be in writing in any usual or common form or in any other form which the Directors may accept which must enable a Member, according to his intention, to instruct the proxy to vote in favour or against (or in default of instructions, to exercise the proxy's discretion in respect of) each resolution with business to be transacted at the meeting, and to confer authority to demand or concur in demanding a poll and to include power to act generally at the meeting for the person giving the proxy and any adjournment thereof. No instrument appointing a proxy shall be valid except for the meeting mentioned therein and any adjournment thereof. Subject thereto, the instrument appointing a proxy may be in hard copy form or in electronic form, if the Company so agrees.
74. The instrument appointing a proxy made in hard copy form or in electronic form, shall be executed in such manner as may be approved by or on behalf of the Company from time to time. Subject thereto, the instrument appointing a proxy shall be signed by the appointor, or his duly authorised attorney in writing or, if such appointor be a corporation, under its common seal or signed by such officer, attorney or other person duly authorised in that behalf or in any other manner authorised by its constitution.
75. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed, or a notarially certified copy of such power or authority, shall if in hard copy form, be deposited at the Office, or if in electronic form, be received at an electronic address specified by or on behalf of the Company for the purpose of receiving it in electronic form, in:
- (1) the notice convening the meeting; or
- (2) any instrument appointing a proxy issued by the Company in relation to the meeting; or
- (3) any invitation to appoint a proxy issued by the Company in relation to the meeting,
- at least forty-eight hours before the time fixed for holding the meeting at which the person named in such instrument proposes to vote or, in the case of a poll taken more than forty-eight hours after it was demanded, not less than twenty-four hours before the time appointed for taking the poll; otherwise the person so named shall not be entitled to vote in respect thereof except with the approval of the Chairperson of the meeting. In calculating the aforesaid periods, no account shall be taken of any part of a day that is a public holiday.
76. Any Member may by power of attorney appoint any person to be his attorney for the purpose of voting at any meeting, and such power may be a special power limited to any particular meeting or a general power extending to all meetings at which such Member is entitled to vote. Every such power shall be deposited at the Office at least forty-eight hours before being acted upon. Any reference in these Articles to a Member shall include reference to his attorney validly appointed in accordance with this Article.
77. (1) An instrument of proxy may be revoked by forwarding to the Office written notification of such revocation signed by or on behalf of the person who issued or authorised the issue of the instrument of proxy.

- (2) A vote given in accordance with the terms of an instrument of proxy or power of attorney shall be valid notwithstanding the previous death or insanity of the donor of the power of attorney or the Member appointing the proxy, or revocation of the proxy or power of attorney, or transfer of the shares in respect of which the vote is given, provided that no intimation in writing of the death, insanity, revocation or transfer shall have been received at the Office twenty-four hours at least before the time fixed for holding the meeting, or adjourned meeting, or the taking of the poll, at which the instrument of proxy is to be used.

CORPORATIONS ACTING BY REPRESENTATIVES

78. Any corporation which is a Member of the Company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members of the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member of the Company.

DIRECTORS

79. The first directors of the Company shall be nominated in writing by the founder member(s) of the Company.
80. Unless and until otherwise determined by an ordinary resolution of the Company, the Directors shall not be less than one in number, and there shall be no maximum number of Directors. Save where the Company is a member of a group of companies of which a listed company is a member, at least one of the Directors must be a natural person. If the Company is a member of a group of companies of which a listed company is a member, all the Directors must be natural persons.
81. A Director need not hold any shares in the Company. A Director who is not a Member of the Company shall nevertheless be entitled to attend and speak at general meetings.

DIRECTORS' REMUNERATION

82. The remuneration of the Directors shall from time to time be determined by the Company in general meeting. Such remuneration shall be deemed to accrue from day to day. The Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or in connection with the business of the Company.

POWERS OF DIRECTORS

83. Subject to the provisions of the Ordinance, these Articles and to any directions given by special resolution, the business and affairs of the Company shall be managed by the Directors, who may exercise all the powers of the Company. No alteration of these Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Directors by any other Article, and a meeting of the Directors at which a quorum is present may exercise all powers exercisable by the Directors.
84. The Directors may establish any local boards or agencies for managing any of the affairs of the Company, either in Hong Kong or elsewhere, and may appoint any persons to be members of such local boards, or any managers or agents for the Company, and may fix their remuneration, and may delegate to any local board, manager or agent any of the powers, authorities and discretions vested in the Directors, with power to sub-delegate, and may authorise the members of any local boards, or any of them, to fill any vacancies therein, and to act notwithstanding vacancies, and any such appointment and delegation may be made upon such terms and subject to such conditions as the Directors may think fit, and the Directors may remove any person so appointed, and may annul or vary any such delegation,

but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.

85. The Directors may from time to time and at any time by power of attorney or otherwise appoint any company, firm or person or any fluctuating body of persons, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (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 sub-delegate all or any of the powers, authorities and discretions vested in him.
86. Subject to and to the extent permitted by the Ordinance, the Company, or the Directors on behalf of the Company, may cause to be kept in any territory a Branch Register of Members resident in such territory, and the Directors may make and vary such regulations as they may think fit in respect of the keeping of any such Branch Register.
87. All cheques, promissory notes, drafts, bills of exchange, and other negotiable or transferable instruments, and all receipts for monies paid to the Company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the Directors shall from time to time by resolution determine.
88. The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company and to issue debentures including, subject to Sections 140 and 141 of the Ordinance, convertible debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

APPOINTMENT AND REMOVAL OF DIRECTORS

89. The Company may by ordinary resolution remove any Director notwithstanding anything in these Articles or in any agreement between him and the Company (but without prejudice to any right to damages for termination of such agreement not in accordance with the terms thereof), and may, if thought fit, by ordinary resolution, appoint another person in his stead, but any person so appointed shall hold office only so long as the Director in whose place he is appointed would have held the same if he had not been removed.
90. If and for so long as the Company has only one Member and that Member is the sole Director, the Company may in general meeting, notwithstanding anything in these Articles, nominate a person (other than a body corporate) who has attained the age of eighteen years as a reserve Director of the Company to act in the place of the sole Director in the event of his death.
91. The Company may, without prejudice to the powers of the Directors under Article 92, from time to time, by ordinary resolution appoint new Directors either to fill a casual vacancy or as an addition to the existing Directors, and change any minimum or maximum number of Directors specified in Article 80, or prescribe such minimum or maximum if there be none so specified.
92. The Directors shall have power, exercisable at any time and from time to time, to appoint any other person as a Director, either to fill a casual vacancy or as an addition to the Board.
93. The continuing Directors may act notwithstanding any vacancy in their body, but if and so long as the number of Directors 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 of Directors to that number, or of summoning a general meeting of the Company, but for no other purpose. If there shall be no Directors able or willing to act, then any Member may summon a general meeting or propose a resolution as written resolution for the purpose of appointing Directors.

94. Subject to the provisions of the Ordinance, the Company must not agree to grant a Director a service contract under which the Director undertakes personally to perform services, as Director or otherwise, for the Company or for a subsidiary of the Company or services that the Director undertakes personally to perform as Director or otherwise, are to be made available by a third party to the Company or to a subsidiary of the Company; and includes the terms of a person's appointment as Director under which the guaranteed term of employment of the Director with the Company exceeds or may exceed three years, except with the prescribed approval of the Members in accordance with Division 4 of Part 11 of the Ordinance. This Article applies to contract with a Director to act as Managing Director pursuant to Article 102.

In contravention of the above, such provision in the service contract shall be void to the extent of the contravention and the Company is entitled to terminate the service contract at any time by giving reasonable notice to the Director.

ALTERNATE DIRECTORS

95. Each Director may by written notification to the Company nominate any other person approved by a majority of his co-Directors to act as alternate Director in his place and, at his discretion, remove such alternate Director by written notification to the Company. The alternate Director shall (except as regards the power to appoint an alternate) be subject in all respects to the terms and conditions existing with reference to the other Directors of the Company; and each alternate Director, whilst acting as such, shall exercise and discharge all the functions, powers and duties of the Director he represents, but shall look to such Director solely for his remuneration as alternate Director. Every person acting as an alternate Director shall have one vote for each Director for whom he acts as alternate (in addition to his own vote if he is also a Director). The signature of an alternate Director to any written resolution of the Board or a committee of the Board shall, unless the notice of his appointment provides to the contrary, be as effective as the signature of his appointor. Any person appointed as an alternate Director shall vacate his office as such alternate Director as and when the Director by whom he has been appointed removes him or vacates office as Director. An alternate Director shall not be an agent of the Director who appoints him and the Director who appoints an alternate Director shall not be vicariously liable for any tort committed by the alternate Director appointed by him while acting in the capacity of alternate Director.

DISQUALIFICATION OF DIRECTORS

96. A person shall cease to be a Director:
- (1) if he becomes prohibited by law or court order from being a Director;
 - (2) if a receiving order or, in the case of a company, a winding up order is made against him or he makes any arrangement or composition with his creditors;
 - (3) if he becomes a lunatic or of unsound mind or all the other Directors shall unanimously resolve that he is physically or mentally incapable of performing the functions of Director;
 - (4) if he resigns his office by notice in writing to the Company given, by leaving it at the Office or by sending it to the Company in hard copy form or in electronic form, in accordance with Section 464(5) of the Ordinance;
 - (5) if he is removed by an ordinary resolution of the Company in accordance with the provisions of these Articles;
 - (6) if he shall have absented himself (such absence not being absence with leave or on the affairs of the Company) from meetings of the Directors for three months in succession and the Directors shall have resolved that his office shall be vacated; or
 - (7) if he is convicted of an arrestable offence.

DIRECTORS' INTERESTS

97. A Director may hold any other office or place of profit under the Company (other than the office of Auditor), and he or any firm of which he is a member may act in a professional capacity for the Company in conjunction with his office of Director, for such period and on such terms (as to remuneration and otherwise) as the Directors may determine. No Director or intending Director shall be disqualified by his office from contracting with the Company, nor shall any contract or arrangement entered into by or on behalf of the Company in which any Director or intending 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, remuneration or other benefits of such Director holding that office, or of any fiduciary relationship thereby established.
98. A Director who is in any way, whether directly or indirectly, interested in a transaction, arrangement or contract, or a proposed transaction, arrangement or contract with the Company that is significant in relation to the Company's business, and whose interest is material, shall declare the nature and extent of his interest in accordance with the provisions of the Ordinance. A general notice given to the Directors by a Director to the effect that he has an interest (as member, officer, employee or otherwise) in a body corporate or firm specified in the notice, or that he is connected with a person specified in the notice (other than a body corporate or firm), and is to be regarded as interested in any transaction, arrangement or contract that may, after the effective date of the notice, be entered into or made with that specified body corporate or firm or person, shall, for the purposes of this Article, be deemed to be a sufficient disclosure of interest in relation to any transaction, arrangement or contract. Within fifteen days after the day on which the Company receives a general notice, the Company must send a copy of such notice to the other Directors of the Company.
99. If and for so long as the Company has only one Member and the Company enters into a transaction, arrangement or contract (other than transaction, arrangement or contracts entered into in the ordinary course of the Company's business) with that Member and that Member is also a Director of the Company, the Company shall, unless the transaction, arrangement or contract is in writing, record the terms of the transaction, arrangement or contract in a written memorandum within seven days after the transaction, arrangement or contract is made and the memorandum shall be kept at the same place where the books containing the minutes of the meetings of the Directors are kept.
100. A Director may vote as a Director in regard to any transaction, arrangement or contract in which he is interested or upon any matter arising thereout, and if he shall so vote his vote shall be counted and he shall be taken into account in determining a quorum when any such transaction, arrangement or contract is under consideration.
101. A Director may hold office as a director in or as manager of any other company in which the Company is a member or is otherwise interested, and (subject to any agreement with the Company to the contrary) shall not be liable to account to the Company for any remuneration or other benefits receivable by him from such other company. The Board may exercise the voting power conferred by the shares in any company held or owned by the Company in such manner and in all respects as the Board thinks fit (including the exercise thereof in favour of any resolution appointing the Directors or any of them as directors of such company or voting or providing for the payment of remuneration to the directors of such company) and any Director of the Company may vote in favour of the exercise of such voting rights other than his own appointment or the arrangement of the terms thereof, in manner aforesaid.

MANAGING DIRECTORS AND OTHER APPOINTMENTS

102. The Directors may, from time to time, appoint one or more of their number to be Managing Director or Joint Managing Director of the Company, or to hold such office in the management, administration or conduct of the business of the Company as they may decide, and for such period and upon such terms and for such remuneration as the Directors shall

think fit, and the Directors may also, from time to time (subject to the provisions of any agreement between him or them and the Company) remove him or them from office, and appoint another or others in his or their place or places.

103. A Managing Director or a Joint Managing Director (subject to the provisions of any agreement between him as Managing Director or a Joint Managing Director and the Company) shall be subject to the same provisions as to resignation and removal as the other Directors of the Company, and shall immediately cease to be Managing Director or Joint Managing Director if he shall cease to hold the office of Director.
104. The Directors may, from time to time, entrust to and confer upon any Managing Director, Joint Managing Director or Director holding any other office in the management, administration or conduct of the business of the Company, such of the powers exercisable under these Articles by the Directors as they may think fit, and may confer such powers for such time, and to be exercised for such objects and purposes, and upon such terms and conditions and with such restrictions as they may consider expedient, and may confer such powers collaterally with, or to the exclusion of; and in substitution for, all or any of the powers of the Directors in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

PROCEEDINGS OF DIRECTORS

105. The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Save where the Company has only one Director, until otherwise determined by the Board, two Directors shall constitute a quorum. If the Company has only one Director, the quorum for a Board Meeting shall be one. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the Chairperson of the meeting shall have a second or casting vote. A Director or the Secretary may, at any time, summon a meeting of the Directors.
106. If the Company has only one Director and that Director takes any decision that may be taken in a meeting of the Directors and that has effect as if agreed in a meeting of the Directors, the sole Director shall (unless that decision is taken by way of a written resolution) provide the Company with a written record of that decision within seven days after the decision is made.
107. Notice of a meeting of Directors shall be deemed to be duly given to a Director if it is given to him personally in writing or by word of mouth or sent to him at his last known address or any other address given by him to the Company for this purpose. A Director may consent to short notice of and may waive notice of any meeting and any such waiver may be retrospective.
108. The Directors may elect a Chairperson of the Board and determine the period for which he is to hold office; but if no such Chairperson be elected, or if at any meeting the Chairperson be not present within fifteen minutes after the time appointed for holding the same, the Directors present shall choose one of their number to be Chairperson of such meeting.
109. (1) A written resolution signed by a simple majority of the Directors for the time being shall be as effective for all purposes as a resolution of the Directors passed at a meeting duly convened, held and constituted. A written notification of confirmation of such written resolution sent by a Director shall be deemed to be his signature to such written resolution for the purposes of this Article. Such written resolution may be sent to each Director for signature in turn or may consist of several documents, each signed by one or more Directors. The signature of a Director may be given by his Alternate.
(2) Any Director or member of a committee of Directors may participate in a meeting of the Directors or such committee by means of telephone or other audio or video communication device or means of communication whereby all persons attending or participating in the meeting are able to hear each other. The person or persons

participating in the meeting in the aforesaid manner shall be deemed for all purposes to be present in person at such meeting.

110. A meeting of the Directors at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the Directors generally.
111. The Directors may, from time to time, appoint committees consisting of such persons as they think fit, and may delegate any of their powers to any such committee and, from time to time, revoke any such delegation and discharge any such committee wholly or in part. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may, from time to time, be imposed upon it by the Directors. Any such committee shall be properly constituted even if it consists of one person.
112. The meetings and proceedings of any such committee consisting of two or more members shall be governed with the necessary modifications by the provisions of these Articles regulating the meetings and proceedings of the Directors insofar as the same are not superseded by any regulations made by the Directors under the last preceding Article.
113. All acts done in good faith by any meeting of the Directors or of a committee of Directors, or by any persons acting as Directors, shall, notwithstanding that there was some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, or had vacated office, be as valid as if every such person had been duly appointed and was qualified and continued to be a Director.

COMPANY RECORDS

114. The Company must adequately record for future reference the information required to be contained in any company records.
115. The Directors shall ensure that the Company keeps the following records for at least ten years from the date of the resolution, meeting or decision, as the case may be:
 - (1) minutes of all proceedings of general meetings and meetings of the Directors and committees;
 - (2) copies of all resolutions of Members passed otherwise than at general meetings;
 - (3) copies of all resolutions of Directors passed otherwise than at meetings of Directors;
 - (4) copies of all resolutions of committees passed otherwise than at meetings of committees;
 - (5) all written records provided to the Company by a sole Member in accordance with Article 72; and
 - (6) all written records provided to the Company by a sole Director in accordance with Article 106.

Any such minutes of any general meeting or any meeting of the Directors, or any committee, or of the Company, if purporting to be signed by the Chairperson of such meeting, or by the Chairperson of the next meeting, are evidence of the proceedings at the meeting.

SEAL

116. The Directors may procure a common seal to be made for the Company, and shall provide for the safe custody thereof. Unless otherwise determined by the Directors, if the Company has a common seal, the Seal shall not be affixed to any document except by the authority of a resolution of the Directors or a committee of the Directors and every document to which the Seal shall be affixed shall be signed by one Director or some other person appointed by the Directors for the purpose.

117. If the Company has a common seal, the Company may exercise all the powers of having official seals conferred by the Ordinance and such powers shall be vested in the Directors.

EXECUTION OF DOCUMENTS

118. If the Company has a common seal and chooses to execute a document under the Seal, the Seal must be affixed in accordance with Article 116.
119. Whether or not the Company has a Seal, in the event that a document is executed in the manner as set out below and expressed to be executed by the Company, the document shall have effect as if it has been executed by the Company under its common seal:
- (1) where the Company has only one Director, by that sole Director; or
 - (2) where the Company has two or more Directors,
 - (a) by the two Directors or any two of the Directors; or
 - (b) any of the Directors and the Secretary of the Company.
120. The Company may execute a document as a deed by:
- (1) executing it in accordance with Articles 116 or 119;
 - (2) having it expressed (in whatever words) to be executed by the Company as a deed; and
 - (3) delivering it as a deed.

SECRETARY

121. The Company shall have a secretary. The Secretary may be appointed by the Directors for such term, at such remuneration and upon such conditions as the Directors may think fit and the Secretary so appointed may at any time be removed from office by the Directors. A Director may be the Secretary except where the Company has only one Director:
- (1) that sole Director cannot also be the Secretary of the Company; and
 - (2) the Company cannot have as its Secretary a body corporate the sole director of which is the sole Director of the Company.
122. A provision of the Ordinance, Companies (Winding up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Secretary.

DIVIDENDS AND RESERVES

123. (1) The Company may by ordinary resolution declare dividends but no such dividend shall exceed the amount recommended by the Directors.
- (2) No distribution (as defined in Section 290 of the Ordinance) shall be made save in accordance with the provisions of Part 6 of the Ordinance.
124. The Directors may, if they think fit, from time to time, pay to the Members such interim dividends as appear to the Directors to be justified by the profits of the Company. If at any time the share capital of the Company is divided into different classes the Directors may pay such interim dividends in respect of those shares in the capital of the Company which confer on the holders thereof deferred or non-preferred rights as well as in respect of those shares which confer on the holders thereof preferential or special rights in regard to dividend, and

provided that the Directors act in good faith, they shall not incur any responsibility to the holders of shares conferring a preference for any damage that they may suffer by reason of the payment of an interim dividend on any shares having deferred or non-preferred rights. The Directors may also pay at half-yearly or at other suitable intervals to be settled by them any dividend which may be payable at a fixed rate if they are of the opinion that the profits justify the payment.

125. The Directors may, before recommending any dividend, set aside out of the profits of the Company such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied, and pending such application may, at their like discretion, either be employed in the business of the Company or be invested in such investments (other than shares of the Company) as the Directors may from time to time think fit. The Directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.
126. No dividend shall be payable except out of the profits available for distribution of the Company, and no dividend shall bear interest as against the Company.
127. The Directors may retain any dividend or other monies payable on or in respect of a share on which the Company has a lien, and may apply the same in or towards satisfaction of the debts and liabilities in respect of which the lien exists.
128. Any resolution declaring a dividend on shares of any class, whether a resolution of the Company in general meeting or a resolution of the Directors, may specify that the same shall be payable to the persons registered as the holders of such shares at the close of business on a particular date, notwithstanding that it may be a date prior to that on which the resolution is passed, and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights in respect of such dividend between the transferors and transferees of any such shares. The provisions of this Article shall apply with the necessary modifications to capitalisations to be effected in pursuance of these Articles.
129. Unless and to the extent that the rights attached to any shares or the terms of issue thereof otherwise provide, all dividends shall (as regards any shares not fully paid throughout the period in respect of which the dividend is paid) be apportioned and paid pro rata according to the amounts paid on the shares during any portion or portions of the period in respect of which the dividend is paid. For the purposes of this Article no amount paid on a share in advance of calls shall be treated as paid on the share.
130. Unless otherwise directed, any dividend or other monies payable in cash on or in respect of a share may be paid by cheque or warrant sent through the post to the registered address of the Member or person entitled, or, in the case of joint holders, to the registered address of that one whose name stands first on the Register in respect of joint holding, or addressed to such person at such address as the holder or joint holders shall direct. The Company shall not be liable or responsible for any cheque or warrant lost in transmission nor for any dividend or other monies lost to the Member or person entitled thereto by the forged endorsement of any cheque or warrant. Payment of the cheque or warrant by the banker on whom it is drawn shall be a good discharge to the Company.
131. The Directors may, with the sanction of the Company in general meeting, distribute in specie or in kind among the Members in satisfaction in whole or in part of any dividend any of the assets of the Company, and in particular any shares or securities of other companies to which the Company is entitled.
132. All dividends unclaimed for one year after having been declared may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed, and all dividends unclaimed for two years after having been declared may be forfeited by the Directors and shall revert to the Company. The payment into a separate account of any monies payable in respect of a share shall not constitute the Company a trustee in respect thereof for any person.

CAPITALISATION OF RESERVES, ETC.

133. The Company in general meeting may upon the recommendation of the Directors resolve to capitalise any part of the amount for the time being standing to the credit of any of the Company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sums be set free for distribution amongst the Members who would have been entitled thereto if distributed by way of dividend and in the same proportions, on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such Members respectively or paying up in full unissued shares or debentures or other obligations of the Company to be allotted and distributed credited as fully paid up to and amongst such Members in the proportions aforesaid, or partly in one way and partly in the other, and the Directors shall give effect to such resolution.
134. Whenever such a resolution as aforesaid shall have been passed the Directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto.
135. For the purpose of giving effect to any resolution under Articles 131 and 133, the Directors may settle any difficulty which may arise in regard to the distribution as they think expedient, and in particular may issue fractional certificates, and may fix the value for distribution of any specific assets, and may determine that cash payments shall be made to any Members upon the footing of the value so fixed or that fractions of such value as the Directors may determine may be disregarded in order to adjust the rights of all parties, and may vest any such cash or specific assets in trustees upon such trusts for the persons entitled to the dividend or capitalised fund as may seem expedient to the Directors.

FINANCIAL STATEMENTS AND AUDITOR

136. (1) The Directors shall cause proper accounting records to show and explain the Company's transactions; to disclose with reasonable accuracy at any time the financial position and financial performance; and to enable the Directors to ensure the financial statements comply with the Ordinance.
- (2) The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Company or any of them shall be open to the inspection of Members not being Directors, and no Member (not being a Director) shall have any right of inspecting any accounting records of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting or pursuant to a court order.
137. The Directors shall from time to time, in accordance with the provisions of the Ordinance, cause to be prepared and to be laid before the Company in general meeting, or be sent to Members under Section 430 of the Ordinance such financial statements, consolidated financial statements (if any) and reports as are required by the Ordinance.
138. A copy of any financial statements which is to be laid before the Company in general meeting, together with a copy of the directors' report and a copy of the auditors' report, shall, not less than twenty-one days before the date of the meeting, be sent to every Member of, and every holder of debentures of, the Company and to all persons other than Members or holders of debentures of the Company, being persons entitled to receive notices of general meetings of the Company:
- PROVIDED that this Article shall not require a copy of those documents to be sent to any person of whose address the Company is not aware nor to more than one of the joint holders of any shares or debentures.
139. Auditor shall be appointed and its duties regulated in the manner provided by the Ordinance.

140. If by virtue of Section 612(2) of the Ordinance, the Company is not required to hold an annual general meeting in respect of a financial year, save where the Company has only one Member, the deeming reappointment of Auditor of the Company under Section 403(1) of the Ordinance shall not be applied to the Company and actual re-appointment of Auditor of the Company by the Members shall be required.

NOTICES

141. Any notice or other document may be served or delivered by the Company upon any Member by any of the following means subject to and to such extent permitted by and in accordance with the Ordinance:
- (1) personally;
 - (2) by sending it through the post in a properly prepaid letter, envelope or wrapper addressed to a Member at his registered address as appearing in the Register or specified for the purpose, or regarded under a provision of the Ordinance as having been so specified for the purpose;
 - (3) by hand to such address as aforesaid;
 - (4) by transmitting it by electronic means to an address specified for the purpose by a Member generally or specifically, or regarded under a provision of the Ordinance as having been so specified for the purpose; or
 - (5) by making it available on the Company's website (if any), provided that, in each case, a Member has agreed, generally or specifically, to the Company communicating with such Member in such manner and the agreement has not been revoked.

The signature to any notice to be given by the Company may be written or printed.

142. Each Member shall, from time to time, notify in writing to the Company some place which shall be deemed his registered address within the meaning of the last preceding Article.
143. Any notice or document given or issued by or on behalf of the Company;
- (1) If sent by post shall be deemed to have been received on the second business day after the day on which the envelope or wrapper containing the same is put in the post. In proving such service it shall be sufficient to prove that the envelope or wrapper containing the notice or document was properly addressed and put in the post as prepaid mail or prepaid airmail (as the case may be);
 - (2) if not sent by post but delivered or left at the address referred to in Article 142 by the Company, shall be deemed to have been received on the day it was so delivered or left;
 - (3) if sent by electronic means, shall be deemed to have been received at the time when the notice or document is transmitted electronically provided that no notification that the electronic communication has not reached its recipient has been received by the sender, except that any failure in transmission beyond the sender's control shall not invalidate the effectiveness of the notice or document being served; and
 - (4) if made available on the Company's website, shall be deemed to have been served on the day on which the notice or document is published on the Company's website to which the entitled person may have access.
144. A Member may, within twenty-eight days after the date of receiving from the Company a notice or document, otherwise than in hard copy form, request the Company to send or supply to the Member the notice or document in hard copy form. The Company must, upon receiving such request from a Member, in accordance with the Ordinance, send or supply to such Member such notice or document in hard copy form, free of charge.

145. A notice or document may be given by the Company to the persons entitled to a share in consequence of the death or bankruptcy of a Member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, within Hong Kong supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.
146. Notice of every general meeting shall be given in any manner hereinbefore authorised to:
- (1) every Member;
 - (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;
 - (3) every Director; and
 - (4) the Auditor.
- No other person shall be entitled to receive notices of general meetings.
147. Any summons, notice, order or other document required to be sent to or served upon the Company, or upon any officer of the Company, may be sent or served by leaving the same or sending it through the post in a prepaid letter, envelope or wrapper, addressed to the Company or to such officer at the Office.
148. The Directors may from time to time specify the form and manner in which a notice, proxy or agreement to written resolution or other documents may be given to the Company by electronic means, including one or more addresses for the receipt of communications by electronic means generally or specifically, and may prescribe such procedures as they think fit for verifying the authenticity or integrity of any such communication. A notice may be given to the Company by electronic means only if it is given in accordance with the requirements specified by the Directors.
149. Subject to any special provisions contained in these Articles or in the Ordinance, all notices required to be given by advertisement shall be advertised in at least one daily Chinese and one daily English newspaper in Hong Kong.
150. In reckoning the period for any notice given under these Articles, the day on which notice is served, or deemed to be served and the day for which such notice is given shall be excluded.

COMPANY AMALGAMATION

151. The Company may amalgamate with one or more of its wholly owned subsidiaries in a vertical amalgamation or the Company may amalgamate with another wholly owned subsidiary or subsidiaries of its holding company in a horizontal amalgamation in accordance with the provisions of the Ordinance.
152. For the purpose of Article 151, the Directors are authorised to make written statements or take such other steps as may be required by the Ordinance in relation to the amalgamation of companies.

WINDING UP

153. If the Company shall be wound up, the surplus assets remaining after payment to all creditors shall be divided among the Members in proportion to the capital which at the commencement of the winding up is paid up on the shares held by them respectively, and if such surplus assets shall be insufficient to repay the whole of the paid up capital, they shall be distributed so that, as nearly as may be, the losses shall be borne by the Members in proportion to the capital paid up at the commencement of the winding up on the shares held by them

respectively. This Article is, however, to be subject to the rights of any shares which may be issued on special terms or conditions.

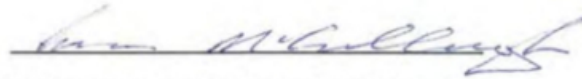
154. If the Company shall be wound up the liquidator may, with the sanction of a special resolution of the Company and any other sanction required by the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), divide amongst the Members in specie or in kind 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 of different classes of Members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories 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.

INDEMNITY AND INSURANCE

155. Every Director or former Director may be indemnified out of the Company's assets against any liability incurred by him to a person other than the Company or an associated company of the Company in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or associated company (as the case may be).
156. The indemnity provided under Article 155 does not cover:
- (1) any liability of the Director to pay:
 - (a) a fine imposed in criminal proceedings; or
 - (b) a sum payable by way of a penalty in respect of non-compliance with any requirement of a regulatory nature; or
 - (2) any liability incurred by the Director:
 - (a) in defending criminal proceedings in which the Director is convicted;
 - (b) in defending civil proceedings brought by the Company, or an associated company of the Company, in which judgment is given against the Director;
 - (c) in defending civil proceedings brought on behalf of the Company by a Member or of an associated company of the Company, in which judgment is given against the Director;
 - (d) in defending civil proceedings brought on behalf of an associated company of the Company by a member of the associated company or by a member of an associated company of the associated company, in which judgment is given against the Director; or
 - (e) in connection with an application for relief under Sections 903 or 904 of the Ordinance in which the court refuses to grant the Director relief.
157. A reference in Article 156(2) to a conviction, judgment or refusal of relief is a reference to the final decision in the proceedings.
158. For the purposes of Article 157, a conviction, judgment or refusal of relief:
- (1) if not appealed against, becomes final at the end of the period for bringing an appeal; or
 - (2) if appealed against, becomes final when the appeal, or any further appeal, is disposed of.

159. For the purposes of Article 158(2), an appeal is disposed of if:
- (1) it is determined, and the period for bringing any further appeal has ended; or
 - (2) it is abandoned or otherwise ceases to have effect.
160. Every Secretary, former Secretary, officer, former officer, Auditor, former Auditor and agent of the Company may be indemnified out of the assets of the Company against any liability incurred by him in relation to the Company or associated companies in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under Section 358 of the predecessor Ordinance as in force from time to time before the commencement date of the Ordinance or Sections 903 or 904 of the Ordinance in which relief is granted to him by the Court.
161. The Directors may decide to purchase and maintain insurance, at the expense of the Company, for a Director, a former Director, a Secretary, a former Secretary, an officer, a former officer, an Auditor, a former Auditor and an agent of the Company or of an associated company, against— (a) any liability to any person in connection with any negligence, default, breach of duty or breach of trust (except for fraud) in relation to the Company or associated company (as the case may be); or (b) any liability incurred in defending any proceedings (whether civil or criminal) for any negligence, default, breach of duty or breach of trust (including fraud) in relation to the Company or associated company (as the case may be).
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BYE LAWS
of
Maxeon Rooster HoldCo, Ltd



Conyers Corporate Services (Bermuda) Limited
Secretary



Adopted: 3 July 2020
Updated as of August 12, 2022

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INTERPRETATION

1. DEFINITIONS

1.1. In these Bye-laws, the following words and expressions shall, where not inconsistent with the context, have the following meanings, respectively:

"Act"		the Companies Act 1981;
"Alternate Director"		an alternate director appointed in accordance with these Bye-laws;
"Auditor"		includes an individual, company or partnership;
"Board"		the board of directors (including, for the avoidance of doubt, a sole director) appointed or elected pursuant to these Bye-laws and acting by resolution in accordance with the Act and these Bye-laws or the directors present at a meeting of directors at which there is a quorum;
"Company"		the company for which these Bye-laws are approved and confirmed;
"Director"		a director of the Company and shall include an Alternate Director;
"Member"		the person registered in the Register of Members as the holder of shares in the Company and, when two or more persons are so registered as joint holders of shares, means the person whose name stands first in the Register of Members as one of such joint holders or all of such persons, as the context so requires;
"notice"		written notice as further provided in these Bye-laws unless otherwise specifically stated;
"Officer"		any person appointed by the Board to hold an office in the Company;
"Preferred Shares"	Non-Voting	The preferred non-voting shares of the Company of a par value of US\$0.01 each, which may be issued in classes, series and/or sub-series and having the rights and being subject to the restrictions set out in these Bye-laws with respect to such shares;
"Register of Directors and		the register of directors and officers referred to in

Officers"	these Bye-laws;
"Register of Members"	the register of members referred to in these Bye-laws;
"Resident Representative"	any person appointed to act as resident representative and includes any deputy or assistant resident representative;
"Secretary"	the person appointed to perform any or all of the duties of secretary of the Company and includes any deputy or assistant secretary and any person appointed by the Board to perform any of the duties of the Secretary;
"Share"	means the Voting Common Shares and the Preferred Non-Voting Shares;
"Treasury Share"	a share of the Company that was or is treated as having been acquired and held by the Company and has been held continuously by the Company since It was so acquired and has not been cancelled; and
Voting Common Shares	The Voting Common Shares of the Company of a par value of US\$0.01 each, which may be issued in classes, series and/or sub-series and having the rights and being subject to the restrictions set out in these Bye-laws with respect to such shares.

1.2. In these Bye-laws, where not inconsistent with the context:

- (a) words denoting the plural number include the singular number and *vice versa*;
- (b) words denoting the masculine gender include the feminine and neuter genders;
- (c) words importing persons include companies, associations or bodies of persons whether corporate or not;
- (d) the words:-
 - (i) "may" shall be construed as permissive; and
 - (ii) "shall" shall be construed as imperative;

- (e) a reference to a statutory provision shall be deemed to include any amendment or re-enactment thereof;
 - (f) the word "corporation" means a corporation whether or not a company within the meaning of the Act; and
 - (g) unless otherwise provided herein, words or expressions defined in the Act shall bear the same meaning in these Bye-laws.
- 1.3. In these Bye-laws expressions referring to writing or its cognates shall, unless the contrary intention appears, include facsimile, printing, lithography, photography, electronic mail and other modes of representing words in visible form.
- 1.4. Headings used in these Bye-laws are for convenience only and are not to be used or relied upon in the construction hereof.

SHARES

2. POWER TO ISSUE SHARES

- 2.1. Subject to these Bye-laws and to any resolution of the Members to the contrary, and without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, the Board shall have the power to issue any unissued shares on such terms and conditions as it may determine and any shares or class or series or sub-series of shares may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise as the Company may by resolution of the Members prescribe.
- 2.2. Subject to the Act, any preference shares may be issued or converted into shares that (at a determinable date or at the option of the Company or the holder) are liable to be redeemed on such terms and in such manner as may be determined by the Board (before the issue or conversion).

3. POWER OF THE COMPANY TO PURCHASE ITS SHARES

- 3.1. Subject to the terms of these Bye-laws, the Company may purchase its own shares for cancellation or acquire them as Treasury Shares in accordance with the Act on such terms as the Board shall think fit.
- 3.2. Subject to the terms of these Bye-laws, the Board may exercise all the powers of the Company to purchase or acquire all or any part of its own shares in accordance with the Act.

4. RIGHTS ATTACHING TO SHARES

- 4.1. The capital of the Company shall be divided into shares with the rights and restrictions contained in these Bye-laws as follows:

- (a) Voting Common Shares, the holder of which shall, subject to the provisions of these Bye-laws:
 - (i) be entitled to one vote per Voting Common Share; and
 - (ii) be entitled to such dividends or other distributions as the Directors may from time to time declare with respect to such Voting Common Shares; and
 - (iii) in the event of a winding-up or dissolution of the Company, whether voluntary or involuntary or for the purpose of a reorganisation or otherwise or upon any distribution of capital, be entitled, *pari passu* with the holders of Preferred Non-Voting Shares, to an amount equal to the par value of such Shares and thereafter, subject to the provisions of these Bye-laws, to share, *pari passu* and *pro rata* with the Preferred Non-Voting Shares in the surplus assets (if any) of the Company; and
 - (b) Preferred Non-Voting Shares, the holders of which shall, subject to the provisions of these Bye-laws:
 - (I) not be entitled to any votes in respect of such Preferred Non-Voting Shares, other than as may be provided for by Bermuda law;
 - (ii) be entitled to a fixed cumulative dividend with respect to such Preferred Non-Voting Shares, at a dividend rate to be determined by the Directors upon issuance of such Preferred Non-Voting Shares, together with such other dividends or distributions as the Directors may from time to time declare;
 - (iii) in the event of a winding-up or dissolution of the Company, whether voluntary or involuntary or for the purpose of a reorganisation or otherwise or upon any distribution of capital, be entitled, *pari passu* with the holders of Voting Common Shares, to an amount equal to the par value of such Shares and thereafter, subject to the provisions of these Bye-laws, to share, *pari passu* and *pro rata* with the Voting Common Shares in the surplus assets (if any) of the Company; and
 - (iv) not be subject to redemption or repurchase of such Non-Voting Shares, whether at the option of the Company or the holder.
- 4.2. All the rights attaching to a Treasury Share shall be suspended and shall not be exercised by the Company while it holds such Treasury Share and, except where required by the Act, all Treasury Shares shall be excluded from the calculation of any percentage or fraction of the share capital, or shares, of the Company.

5. CALLS ON SHARES

-) 5.1. The Board may make such calls as *it* thinks fit upon the Members in respect of any moneys (whether in respect of nominal value or premium) unpaid on the shares allotted to or held by

such Members and, if a call is not paid on or before the day appointed for payment thereof, the Member may at the discretion of the Board be liable to pay the Company interest on the amount of such call at such rate as the Board may determine, from the date when such call was payable up to the actual date of payment. The Board may differentiate between the holders as to the amount of calls to be paid and the times of payment of such calls.

- 5.2. The joint holders of a share shall be jointly and severally liable to pay all calls and any interest, costs and expenses in respect thereof.
- 5.3. The Company may accept from any Member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up.

6. FORFEITURE OF SHARES

- 6.1. If any Member fails to pay, on the day appointed for payment thereof, any call in respect of any share allotted to or held by such Member, the Board may, at any time thereafter during such time as the call remains unpaid, direct the Secretary to forward such Member a notice in writing in the form, or as near thereto as circumstances admit, of the following:

Notice of Liability to Forfeiture for Non-Payment of Call

[Name of Company] (the "Company")

You have failed to pay the call of [amount of call] made on [date], in respect of the [number] share(s) [number in figures] standing in your name in the Register of Members of the Company, on [date], the day appointed for payment of such call. You are hereby notified that unless you pay such call together with interest thereon at the rate of [] per annum computed from the said [date] at the registered office of the Company the share(s) will be liable to be forfeited.

Dated this [date]

[Signature of Secretary] By Order of the Board

- 6.2. If the requirements of such notice are not complied with, any such share may at any time thereafter before the payment of such call and the interest due in respect thereof be forfeited by a resolution of the Board to that effect, and such share shall thereupon become the property of the Company and may be disposed of as the Board shall determine. Without limiting the generality of the foregoing, the disposal may take place by sale, repurchase, redemption or any other method of disposal permitted by and consistent with these Bye-laws and the Act.

- 6.3. A Member whose share or shares have been so forfeited shall, notwithstanding such forfeiture, be liable to pay to the Company all calls owing on such share or shares at the time of the

forfeiture, together with all interest due thereon and any costs and expenses incurred by the Company in connection therewith.

- 6.4. The Board may accept the surrender of any shares which it is in a position to forfeit on such terms and conditions as may be agreed. Subject to those terms and conditions, a surrendered share shall be treated as if it had been forfeited.

7. SHARE CERTIFICATES

- 7.1. Every Member shall be entitled to a certificate under the common seal (or a facsimile thereof) of the Company or bearing the signature (or a facsimile thereof) of a Director or the Secretary or a person expressly authorised to sign specifying the number and, where appropriate, the class of shares held by such Member and whether the same are fully paid up and, if not, specifying the amount paid on such shares. The Board may by resolution determine, either generally or in a particular case, that any or all signatures on certificates may be printed thereon or affixed by mechanical means.
- 7.2. The Company shall be under no obligation to complete and deliver a share certificate unless specifically called upon to do so by the person to whom the shares have been allotted.
- 7.3. If any share certificate shall be proved to the satisfaction of the Board to have been worn out, lost, mislaid, or destroyed the Board may cause a new certificate to be issued and request an indemnity for the lost certificate if it sees fit.

8. FRACTIONAL SHARES

The Company may issue its shares in fractional denominations and deal with such fractions to the same extent as its whole shares and shares in fractional denominations shall have in proportion to the respective fractions represented thereby all of the rights of whole shares including (but without limiting the generality of the foregoing) the right to vote, to receive dividends and distributions and to participate in a winding-up.

REGISTRATION OF SHARES

9. REGISTER OF MEMBERS

- 9.1. The Board shall cause to be kept in one or more books a Register of Members and shall enter therein the particulars required by the Act.
- 9.2. The Register of Members shall be open to inspection without charge at the registered office of the Company on every business day, subject to such reasonable restrictions as the Board may impose, so that not less than two hours in each business day be allowed for inspection. The Register of Members may, after notice has been given in accordance with the Act, be closed for any time or times not exceeding in the whole thirty days in each year.

10. REGISTERED HOLDER ABSOLUTE OWNER

The Company shall be entitled to treat the registered holder of any share as the absolute owner thereof and accordingly shall not be bound to recognise any equitable claim or other claim to, or interest in, such share on the part of any other person.

11. TRANSFER OF REGISTERED SHARES

- 11.1. An instrument of transfer shall be in writing in the form of the following, or as near thereto as circumstances admit, or in such other form as the Board may accept:

Transfer of a Share or Shares

[Name of Company] (the "Company")

FOR VALUE RECEIVED[amount] , I, [name of transferor] hereby sell, assign and transfer unto [transferee] of [address] , [number] shares of the Company.

DATED this [date]

Signed by:

In the presence of:

Transferor

Witness

Signed by:

In the presence of:

Transferee

Witness

- 11.2. Such instrument of transfer shall be signed by (or in the case of a party that is a corporation, on behalf of) the transferor and transferee, provided that, in the case of a fully paid share, the Board may accept the instrument signed by or on behalf of the transferor alone. The transferor shall be deemed to remain the holder of such share until the same has been registered as having been transferred to the transferee in the Register of Members.
- 11.3. The Board may refuse to recognise any instrument of transfer unless it is accompanied by the certificate in respect of the shares to which it relates and by such other evidence as the Board may reasonably require showing the right of the transferor to make the transfer.
- 11.4. The joint holders of any share may transfer such share to one or more of such joint holders, and the surviving holder or holders of any share previously held by them jointly with a deceased Member *may* transfer any such share to the executors or administrators of such deceased Member.

- 11.5. The Board may in its absolute discretion and without assigning any reason therefor refuse to register the transfer of a share. The Board shall refuse to register a transfer unless all applicable consents, authorisations and permissions of any governmental body or agency in Bermuda have been obtained. If the Board refuses to register a transfer of any share the Secretary shall, within three months after the date on which the transfer was lodged with the Company, send to the transferor and transferee notice of the refusal.
- 11.6. Notwithstanding anything contained in these Bye-laws, the Board shall promptly register any transfer of shares and may not suspend registration thereof where such transfer:
- 11.6.1 is in accordance with the terms of any security, to the bank or institution to which such shares have been mortgaged, assigned or charged by way of security whether for its own account or as agent or trustee for a group of banks or institutions or otherwise, or to any nominee or any transferee of such bank or institution (a "Secured Institution"); or
- 11.6.2 is delivered to the Company for registration by a Secured Institution or its nominee in order to perfect its security over the shares, in accordance with the terms of the security; or
- 11.6.3 is executed by a Secured Institution pursuant to the power of sale or other power under and in accordance with the terms of such security." And renumbering subsequent bye-laws.

12. TRANSMISSION OF REGISTERED SHARES

- 12.1. In the case of the death of a Member, the survivor or survivors where the deceased Member was a joint holder, and the legal personal representatives of the deceased Member where the deceased Member was a sole holder, shall be the only persons recognised by the Company as having any title to the deceased Member's interest in the shares. Nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by such deceased Member with other persons. Subject to the Act, for the purpose of this Bye-law, legal personal representative means the executor or administrator of a deceased Member or such other person as the Board may, in its absolute discretion, decide as being properly authorised to deal with the shares of a deceased Member.
- 12.2. Any person becoming entitled to a share in consequence of the death or bankruptcy of any Member may be registered as a Member upon such evidence as the Board may deem sufficient or may elect to nominate some person to be registered as a transferee of such share, and in such case the person becoming entitled shall execute in favour of such nominee an instrument of transfer in writing in the form, or as near thereto as circumstances admit, of the following:

Transfer by a Person Becoming Entitled on Death/Bankruptcy of a Member

[Name of Company] (the "Company")

I/We, having become entitled in consequence of the [death/bankruptcy] of [name and address of deceased/bankrupt Member] to [number] share(s) standing in the Register of Members of the Company in the name of the

said [name of deceased/bankrupt Member] instead of being registered myself/ourselves, elect to have [name of transferee] (the "Transferee") registered as a transferee of such share(s) and I/we do hereby accordingly transfer the said share(s) to the Transferee to hold the same unto the Transferee, his or her executors, administrators and assigns, subject to the conditions on which the same were held at the time of the execution hereof; and the Transferee does hereby agree to take the said share(s) subject to the same conditions.

DATED this [date]

Signed by:

In the presence of:

Transferor

Witness

Signed by:

In the presence of:

Transferor

Witness

- 12.3. On the presentation of the foregoing materials to the Board, accompanied by such evidence as the Board may require to prove the title of the transferor, the transferee shall be registered as a Member. Notwithstanding the foregoing, the Board shall, in any case, have the same right to decline or suspend registration as it would have had in the case of a transfer of the share by that Member before such Member's death or bankruptcy, as the case may be.
- 12.4. Where two or more persons are registered as joint holders of a share or shares, then in the event of the death of any joint holder or holders the remaining joint holder or holders shall be absolutely entitled to such share or shares and the Company shall recognise no claim in respect of the estate of any joint holder except in the case of the last survivor of such joint holders.

ALTERATION OF SHARE CAPITAL

13. POWER TO ALTER CAPITAL

- 13.1. The Company may if authorised by resolution of the Members increase, divide, consolidate, subdivide, change the currency denomination of, diminish or otherwise alter or reduce its share capital in any manner permitted by the Act.
- 13.2. Where, on any alteration or reduction of share capital, fractions of shares or some other difficulty would arise. the Board may deal with or resolve the same in such manner as it thinks fit.

14. VARIATION OF RIGHTS ATTACHING TO SHARES

If, at any time, the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound-up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class or with the sanction of a resolution passed by a majority of the votes cast at a separate general meeting of the holders of the shares of the class at which meeting the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class. The rights conferred upon the holders of the shares of any class or series issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class or series, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.

DIVIDENDS AND CAPITALISATION

15. DIVIDENDS

- 15.1. The Board may, subject to these Bye-laws and in accordance with the Act, declare a dividend to be paid to the Members, in proportion to the number of shares held by them, and such dividend may be paid in cash or wholly or partly in specie in which case the Board may fix the value for distribution in specie of any assets. No unpaid dividend shall bear interest as against the Company.
- 15.2. The Board may fix any date as the record date for determining the Members entitled to receive any dividend.

15.3. The Company may pay dividends in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

15.4. The Board may declare and make such other distributions (in cash or in specie) to the Members as may be lawfully made out of the assets of the Company. No unpaid distribution shall bear interest as against the Company.

16. POWER TO SET ASIDE PROFITS

The Board may, before declaring a dividend, set aside out of the surplus or profits of the Company, such amount as it thinks proper as a reserve to be used to meet contingencies or for equalising dividends or for any other purpose.

17. METHOD OF PAYMENT

17.1. Any dividend, interest, or other moneys payable in cash in respect of the shares may be paid by cheque or bank draft sent through the post directed to the Member at such Member's address in the Register of Members, or to such person and to such address as the Member may direct in writing, or by transfer to such account as the Member may direct in writing.

17.2. In the case of joint holders of shares, any dividend, interest or other moneys payable in cash in respect of shares may be paid by cheque or bank draft Sent through the post directed to the address of the holder first named in the Register of Members, or to such person and to such address as the joint holders may direct in writing, or by transfer to such account as the joint holders may direct in writing. If two or more persons are registered as joint holders of any shares any one can give an effectual receipt for any dividend paid in respect of such shares.

17.3. The Board may deduct from the dividends or distributions payable to any Member all moneys due from such Member to the Company on account of calls or otherwise.

18. CAPITALISATION

18.1. The Board may capitalise any amount for the time being standing to the credit of any of the Company's share premium or other reserve accounts or to the credit of the profit and loss account or otherwise available for distribution by applying such amount in paying up unissued shares to be allotted as fully paid bonus shares pro rata to the Members.

18.2. The Board may capitalise any amount for the time being standing to the credit of a reserve account or amounts otherwise available for dividend or distribution by applying such amounts in paying up in full, partly or nil paid shares of those Members who would have been entitled to such amounts if they were distributed by way of dividend or distribution.

MEETINGS OF MEMBERS

19. ANNUAL GENERAL MEETINGS

Subject to an election made by the Company in accordance with the Act to dispense with the holding of annual general meetings, an annual general meeting shall be held in each year (other than the year of incorporation) at such time and place as the president or the chairman of the Company (if any) or any two Directors or any Director and the Secretary or the Board shall appoint.

20. SPECIAL GENERAL MEETINGS

The president or the chairman of the Company (if any) or any two Directors or any Director and the Secretary or the Board may convene a special general meeting whenever in their judgment such a meeting is necessary.

21. REQUISITIONED GENERAL MEETINGS

The Board shall, on the requisition of Members holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up share capital of the Company as at the date of the deposit carries the right to vote at general meetings, forthwith proceed to convene a special general meeting and the provisions of the Act shall apply.

22. NOTICE

- 22.1. At least five days' notice of an annual general meeting shall be given to each Member entitled to attend and vote thereat, stating the date, place and time at which the meeting is to be held, that the election of Directors will take place thereat, and as far as practicable, the other business to be conducted at the meeting.
- 22.2. At least five days' notice of a special general meeting shall be given to each Member entitled to attend and vote thereat, stating the date, time, place and the general nature of the business to be considered at the meeting.
- 22.3. The Board may fix any date as the record date for determining the Members entitled to receive notice of and to vote at any general meeting.
- 22.4. A general meeting shall, notwithstanding that it is called on shorter notice than that specified in these Bye-laws, be deemed to have been properly called if it is so agreed by (i) all the Members entitled to attend and vote thereat in the case of an annual general meeting; and (ii) by a majority in number of the Members having the right to attend and vote at the meeting, being a majority together holding not less than 95% in nominal value of the shares giving a right to attend and vote thereat in the case of a special general meeting.
- 22.5. The accidental omission to give notice of a general meeting to, or the non-receipt of a notice of a general meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

23. GIVING NOTICE AND ACCESS

- 23.1. A notice may be given by the Company to a Member:
- (a) by delivering it to such Member in person, in which case the notice shall be deemed to have been served upon such delivery; or
 - (b) by sending it by post to such Member's address in the Register of Members, in which case the notice shall be deemed to have been served seven days after the date on which it is deposited, with postage prepaid, in the mail; or
 - (c) by sending it by courier to such Member's address in the Register of Members, in which case the notice shall be deemed to have been served two days after the date on which it is deposited, with courier fees paid, with the courier service; or

- (d) by transmitting it by electronic means (including facsimile and electronic mail, but not telephone) in accordance with such directions as may be given by such Member to the Company for such purpose, in which case the notice shall be deemed to have been served at the time that it would in the ordinary course be transmitted; or
 - (e) by delivering it in accordance with the provisions of the Act pertaining to delivery of electronic records by publication on a website, in which case the notice shall be deemed to have been served at the time when the requirements of the Act in that regard have been met.
- 23.2. Any notice required to be given to a Member shall, with respect to any shares held jointly by two or more persons, be given to whichever of such persons is named first in the Register of Members and notice so given shall be sufficient notice to all the holders of such shares.
- 23.3. In proving service under paragraphs 23.1(b), (c) and (d), it shall be sufficient to prove that the notice was properly addressed and prepaid, if posted or sent by courier, and the time when it was posted, deposited with the courier, or transmitted by electronic means.

24. POSTPONEMENT OF GENERAL MEETING

The Secretary may postpone any general meeting called in accordance with these Bye-laws (other than a meeting requisitioned under these Bye-laws) provided that notice of postponement is given to the Members before the time for such meeting. Fresh notice of the date, time and place for the postponed meeting shall be given to each Member in accordance with these Bye-laws.

25. ELECTRONIC PARTICIPATION IN MEETINGS

Members may participate in any general meeting by such telephonic, electronic or other communication facilities or means as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

26. QUORUM AT GENERAL MEETINGS

- 26.1. At any general meeting two or more persons present in person and representing in person or by proxy in excess of 50% of the total issued voting shares in the Company throughout the meeting shall form a quorum for the transaction of business, provided that if the Company shall at any time have only one Member, one Member present in person or by proxy shall form a quorum for the transaction of business at any general meeting held during such time.
- 26.2. If within half an hour from the time appointed for the meeting a quorum is not present, then, in the case of a meeting convened on a requisition, the meeting shall be deemed cancelled and, in any other case, the meeting shall stand adjourned to the same day one week later, at the same time and place or to such other day, time or place as the Secretary may determine. Unless the meeting is adjourned to a specific date, time and place announced at the meeting being adjourned, fresh notice of the resumption of the meeting shall be given to each Member entitled to attend and vote thereat in accordance with these Bye-laws.

27. CHAIRMAN TO PRESIDE AT GENERAL MEETINGS

Unless otherwise agreed by a majority of those attending and entitled to vote thereat, the chairman or the president of the Company, if there be one, shall act as chairman of the meeting at all general meetings at which such person is present. In their absence a chairman of the meeting shall be appointed or elected by those present at the meeting and entitled to vote.

28. VOTING ON RESOLUTIONS

- 28.1. Subject to the Act and these Bye-laws, any question proposed for the consideration of the Members at any general meeting shall be decided by the affirmative votes of a majority of the votes cast in accordance with these Bye-laws and in the case of an equality of votes the resolution shall fail.
- 28.2. No Member shall be entitled to vote at a general meeting unless such Member has paid all the calls on all shares held by such Member.
- 28.3. At any general meeting a resolution put to the vote of the meeting shall, in the first instance, be voted upon by a show of hands and, subject to any rights or restrictions for the time being lawfully attached to any class of shares and subject to these Bye-laws, every Member present in person and every person holding a valid proxy at such meeting shall be entitled to one vote and shall cast such vote by raising his hand.
- 28.4. In the event that a Member participates in a general meeting by telephone, electronic or other communication facilities or means, the chairman of the meeting shall direct the manner in which such Member may cast his vote on a show of hands.
- 28.5. At any general meeting if an amendment is proposed to any resolution under consideration and the chairman of the meeting rules on whether or not the proposed amendment is out of order, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.
- 28.6. At any general meeting a declaration by the chairman of the meeting that a question proposed for consideration has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in a book containing the minutes of the proceedings of the Company shall, subject to these Bye-laws, be conclusive evidence of that fact.

29. POWER TO DEMAND A VOTE ON A POLL

- 29.1. Notwithstanding the foregoing, a poll may be demanded by any of the following persons:
 - (a) the chairman of such meeting; or
 - (b) at least three Members present in person or represented by proxy; or
 - (c) any Member or Members present in person or represented by proxy and holding between them not less than one-tenth of the total voting rights of all the Members having the right to vote at such meeting; or
 - (d) any Member or Members present in person or represented by proxy holding shares in the Company conferring the right to vote at such meeting, being shares on which an

aggregate sum has been paid up equal to not less than one-tenth of the total amount paid up on all such shares conferring such right.

- 29.2. Where a poll is demanded, subject to any rights or restrictions for the time being lawfully attached to any class of shares, every person present at such meeting shall have one vote for each share of which such person is the holder or for which such person holds a proxy and such vote shall be counted by ballot as described herein, or in the case of a general meeting at which one or more Members are present by telephone, electronic or other communication facilities or means, in such manner as the chairman of the meeting may direct and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded and shall replace any previous resolution upon the same matter Which has been the subject of a show of hands. A person entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.
- 29.3. A poll demanded for the purpose of electing a chairman of the meeting or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and in such manner during such meeting as the chairman (or acting chairman) of the meeting may direct. Any business other than that upon which a poll has been demanded may be conducted pending the taking of the poll.
- 29.4. Where a vote is taken by poll, each person physically present and entitled to vote shall be furnished with a ballot paper on which such person shall record his vote in such manner as shall be determined at the meeting having regard to the nature of the question on which the vote is taken, and each ballot paper shall be signed or initialled or otherwise marked so as to identify the voter and the registered holder in the case of a proxy. Each person present by telephone, electronic or other communication facilities or means shall cast his vote in such manner as the chairman of the meeting shall direct. At the conclusion of the poll, the ballot papers and votes cast in accordance with such directions shall be examined and counted by a committee of not less than two Members or proxy holders appointed by the chairman of the meeting for the purpose and the result of the poll shall be declared by the chairman of the meeting.

30. VOTING BY JOINT HOLDERS OF SHARES

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 other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register of Members.

31. INSTRUMENT OF PROXY

- 31.1. An instrument appointing a proxy shall be in writing in substantially the following form or such other form as the chairman of the meeting shall accept:

Proxy

[Name of Company] (the "Company")

I/We, [insert names here] , being a Member of the Company with [number] shares, HEREBY APPOINT [name] of [address] or failing him, [name] of [address] to be my/our proxy to vote for me/us at the meeting

of the Members to be held on [date] and at any adjournment thereof.
[Any restrictions on voting to be inserted here.]

Signed this [date]

Member(s)

- 31.2. The instrument appointing a proxy must be received by the Company at the registered office or at such other place or in such manner as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting at which the person named in the instrument appointing a proxy proposes to vote, and an instrument appointing a proxy which is not received in the manner so prescribed shall be invalid.
- 31.3. A Member who is the holder of two or more shares may appoint more than one proxy to represent him and vote on his behalf in respect of different shares.
- 31.4. The decision of the chairman of any general meeting as to the validity of any appointment of a proxy shall be final.
- 31.5. Subject to bye-law 31.4, any Member may irrevocably appoint a proxy and in such case: (i) such appointment shall be irrevocable in accordance with the terms of the instrument of appointment; (ii) the Company shall be given notice of the appointment, such notice to include the name, address, telephone number and electronic mail address of the proxy, and the Company shall give to such proxy notice of all meetings of shareholders of the Company; (iii) such proxy shall be the only person entitled to vote the relevant Shares at any meeting at which such proxy is present; and (iv) the Company shall be obliged to recognise the proxy until such time as such proxy shall notify the Company in writing that the appointment of such proxy is no longer in force.

32. REPRESENTATION OF CORPORATE MEMBER

- 32.1. A corporation which is a Member may, by written instrument, authorise such person or persons as it thinks fit to act as its representative at any meeting and any 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, and that Member shall be deemed to be present in person at any such meeting attended by its authorised representative or representatives.
- 32.2. Notwithstanding the foregoing, the chairman of the meeting may accept such assurances as he thinks fit as to the right of any person to attend and vote at general meetings on behalf of a corporation which is a Member.

33. ADJOURNMENT OF GENERAL MEETING

The chairman of a general meeting may, with the consent of the Members at any general meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting. Unless the meeting is adjourned to a specific date, place and time announced at the meeting being adjourned, fresh notice of the date, place and time for the resumption of the adjourned meeting shall be given to each Member entitled to attend and vote thereat in accordance with these Bye-laws.

34. WRITTEN RESOLUTIONS

- 34.1. Subject to these Bye-laws, anything which may be done by resolution of the Company in general meeting or by resolution of a meeting of any class of the Members may be done without a meeting by written resolution in accordance with this Bye-law.
- 34.2. Notice of a written resolution shall be given, and a copy of the resolution shall be circulated to all Members who would be entitled to attend a meeting and vote thereon. The accidental omission to give notice to, or the non-receipt of a notice by, any Member does not invalidate the passing of a resolution.
- 34.3. A written resolution is passed when it is signed by (or in the case of a Member that is a corporation, on behalf of) the Members who at the date that the notice is given represent such majority of votes as would be required if the resolution was voted on at a meeting of Members at which all Members entitled to attend and vote thereat were present and voting.
- 34.4. A resolution in writing may be signed in any number of counterparts.
- 34.5. A resolution in writing made in accordance with this Bye-law is as valid as if it had been passed by the Company in general meeting or by a meeting of the relevant class of Members, as the case may be, and any reference in any Bye-law to a meeting at which a resolution is passed or to Members voting in favour of a resolution shall be construed accordingly.
- 34.6. A resolution in writing made in accordance with this Bye-law shall constitute minutes for the purposes of the Act.
- 34.7. This Bye-law shall not apply to:
- (a) a resolution passed to remove an Auditor from office before the expiration of his term of office; or
 - (b) a resolution passed for the purpose of removing a Director before the expiration of his term of office.
- 34.8. For the purposes of this Bye-law, the effective date of the resolution is the date when the resolution is signed by (or in the case of a Member that is a corporation, on behalf of) the last Member whose signature results in the necessary voting majority being achieved and any reference in any Bye-law to the date of passing of a resolution is, in relation to a resolution made in accordance with this Bye-law, a reference to such date.

35. DIRECTORS ATTENDANCE AT GENERAL MEETINGS

The Directors shall be entitled to receive notice of, attend and be heard at any general meeting.

DIRECTORS AND OFFICERS

36. ELECTION OF DIRECTORS

- 36.1. The Board shall be elected or appointed in the first place at the statutory meeting of the Company and thereafter, except in the case of a casual vacancy, at the annual general meeting or at any special general meeting called for that purpose.

36.2. At any general meeting the Members may authorise the Board to fill any vacancy in their number left unfilled at a general meeting.

37. NUMBER OF DIRECTORS

The Board shall consist of not less than one Director or such number in excess thereof as the Members may determine.

38. TERM OF OFFICE OF DIRECTORS

Directors shall hold office for such term as the Members may determine or, in the absence of such determination, until the next annual general meeting or until their successors are elected or appointed or their office is otherwise vacated.

39. ALTERNATE DIRECTORS

39.1. At any general meeting, the Members may elect a person or persons to act as a Director in the alternative to any one or more Directors or may authorise the Board to appoint such Alternate Directors.

39.2. Unless the Members otherwise resolve, any Director may appoint a person or persons to act as a Director in the alternative to himself by notice deposited with the Secretary.

39.3. Any person elected or appointed pursuant to this Bye-law shall have all the rights and powers of the Director or Directors for whom such person is elected or appointed in the alternative, provided that such person shall not be counted more than once in determining whether or not a quorum is present.

39.4. An Alternate Director shall be entitled to receive notice of all Board meetings and to attend and vote at any such meeting at which a Director for whom such Alternate Director was appointed in the alternative is not personally present and generally to perform at such meeting all the functions of such Director for whom such Alternate Director was appointed.

39.5. An Alternate Director's office shall terminate -

(a) in the case of an alternate elected by the Members:

- (i) on the occurrence in relation to the Alternate Director of any event which, if it occurred in relation to the Director for whom he was elected to act, would result in the termination of that Director; or
- (ii) if the Director for whom he was elected in the alternative ceases for any reason to be a Director, provided that the alternate removed in these circumstances may be re-appointed by the Board as an alternate to the person appointed to fill the vacancy; and

(b) in the case of an alternate appointed by a Director:

- (i) on the occurrence in relation to the Alternate Director of any event which, if it occurred in relation to his appointer, would result in the termination of the appointer's directorship; or

-
- (ii) when the Alternate Director's appointer revokes the appointment by notice to the Company in writing specifying when the appointment is to terminate; or
 - (iii) if the Alternate Director's appointer ceases for any reason to be a Director.

40. REMOVAL OF DIRECTORS

- 40.1. Subject to any provision to the contrary in these Bye-laws, the Members entitled to vote for the election of Directors may, at any special general meeting convened and held in accordance with these Bye-laws, remove a Director provided that the notice of any such meeting convened for the purpose of removing a Director shall contain a statement of the intention so to do and be served on such Director not less than 14 days before the meeting and at such meeting the Director shall be entitled to be heard on the motion for such Director's removal.
- 40.2. If a Director is removed from the Board under this Bye-law the Members may fill the vacancy at the meeting at which such Director is removed. In the absence of such election or appointment, the Board may fill the vacancy.

41. VACANCY IN THE OFFICE OF DIRECTOR

- 41.1. The office of Director shall be vacated if the Director:
 - (a) is removed from office pursuant to these Bye-laws or is prohibited from being a Director by law;
 - (b) is or becomes bankrupt, or makes any arrangement or composition with his creditors generally;
 - (c) is or becomes of unsound mind or dies; or
 - (d) resigns his office by notice to the Company.
- 41.2. The Board shall have the power to appoint any person as a Director to fill a vacancy on the Board occurring as a result of the death, disability, disqualification or resignation of any Director and to appoint an Alternate Director to any Director so appointed.

42. REMUNERATION OF DIRECTORS

The remuneration (if any) of the Directors shall be determined by the Company in general meeting and shall be deemed to accrue from day to day. The Directors may also be paid all travel, hotel and other expenses properly incurred by them (or in the case of a director that is a corporation, by its representative or representatives) in attending and returning from Board meetings, meetings of any committee appointed by the Board or general meetings, or in connection with the business of the Company or their duties as Directors generally.

43. DEFECT IN APPOINTMENT

All acts done in good faith by the Board, any Director, a member of a committee appointed by the Board, any person to whom the Board may have delegated any of its powers, or any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director or person acting as aforesaid, or that he was, or any of

them were, disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director or act in the relevant capacity.

44. DIRECTORS TO MANAGE BUSINESS

The business of the Company shall be managed and conducted by the Board. In managing the business of the Company, the Board may exercise all such powers of the Company as are not, by the Act or by these Bye-laws, required to be exercised by the Company in general meeting.

45. POWERS OF THE BOARD OF DIRECTORS

The Board may:

- (a) appoint, suspend, or remove any manager, secretary, clerk, agent or employee of the Company and may fix their remuneration and determine their duties;
- (b) exercise all the powers of the Company to borrow money and to mortgage or charge or otherwise grant a security interest in its undertaking, property and uncalled capital, or any part thereof, and may issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or any third party;
- (c) appoint one or more Directors to the office of managing director or chief executive officer of the Company, who shall, subject to the control of the Board, supervise and administer all of the general business and affairs of the Company;
- (d) appoint a person to act as manager of the Company's day-to-day business and may entrust to and confer upon such manager such powers and duties as it deems appropriate for the transaction or conduct of such business;
- (e) by power of attorney, appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Board, to be an attorney of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board) and for such period and subject to such conditions as it 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 Board may think fit and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions so vested in the attorney;
- (f) procure that the Company pays all expenses incurred in promoting and incorporating the Company;
- (g) delegate any of its powers (including the power to sub-delegate) to a committee of one or more persons appointed by the Board which may consist partly or entirely of non-Directors, provided that every such committee shall conform to such directions as the Board shall impose on them and provided further that the meetings and proceedings of any such committee shall be governed by the provisions of these Bye-laws regulating the meetings and proceedings of the Board, so far as the same are applicable and are not superseded by directions imposed by the Board;

- (h) delegate any of its powers (including the power to sub-delegate) to any person on such terms and in such manner as the Board may see fit;
- (i) present any petition and make any application in connection with the liquidation or reorganisation of the Company;
- 0) in connection with the issue of any share, pay such commission and brokerage as may be permitted by law; and
- (k) authorise any company, firm, person or body of persons to act on behalf of the Company for any specific purpose and in connection therewith to execute any deed, agreement, document or instrument on behalf of the Company.

46. REGISTER OF DIRECTORS AND OFFICERS

The Board shall cause to be kept in one or more books at the registered office of the Company a Register of Directors and Officers and shall enter therein the particulars required by the Act

47. APPOINTMENT OF OFFICERS

The Board may appoint such Officers (who may or may not be Directors) as the Board may determine for such terms as the Board deems fit.

48. APPOINTMENT OF SECRETARY

The Secretary shall be appointed by the Board from time to time for such term as the Board deems fit.

49. DUTIES OF OFFICERS

The Officers shall have such powers and perform such duties in the management, business and affairs of the Company as may be delegated to them by the Board from time to time.

50. REMUNERATION OF OFFICERS

The Officers shall receive such remuneration as the Board may determine.

51. CONFLICTS OF INTEREST

- 51.1. Any Director, or any Director's firm, partner or any company with whom any Director is associated, may act in any capacity for, be employed by or render services to the Company on such terms, including with respect to remuneration, as may be agreed between the parties. Nothing herein contained shall authorise a Director or a Director's firm, partner or company to act as Auditor to the Company.
- 51.2. A Director who is directly or indirectly interested in a contract or proposed contract with the Company (an "Interested Director") shall declare the nature of such interest as required by the Act.

51.3. An Interested Director who has complied with the requirements of the foregoing Bye-law may:

- (a) vote in respect of such contract or proposed contract; and/or
- (b) be counted in the quorum for the meeting at which the contract or proposed contract is to be voted on,

and no such contract or proposed contract shall be void or voidable by reason only that the Interested Director voted on it or was counted in the quorum of the relevant meeting and the Interested Director shall not be liable to account to the Company for any profit realised thereby.

52. INDEMNIFICATION AND EXCULPATION OF DIRECTORS AND OFFICERS

- 52.1. The Directors, Resident Representative, Secretary and other Officers (such term to include any person appointed to any committee by the Board) acting in relation to any of the affairs of the Company or any subsidiary thereof and the liquidator or trustees (if any) acting in relation to any of the affairs of the Company or any subsidiary thereof and every one of them (whether for the time being or formerly), and their heirs, executors and administrators (each of which an "indemnified party"), shall be indemnified and secured harmless out of the assets of the Company from and against all actions, costs, charges, losses, damages and expenses which they or any of them, their heirs, executors or administrators, shall or may incur or sustain by or by reason of any act done, concurred in or omitted in or about the execution of their duty, or supposed duty, or in their respective offices or trusts, and no indemnified party shall be answerable for the acts, receipts, neglects or defaults of the others of them or for joining in any receipts for the sake of conformity, or for any bankers or other persons with whom any moneys or effects belonging to the Company shall or may be lodged or deposited for safe custody, or for insufficiency or deficiency of any security upon which any moneys of or belonging to the Company shall be placed out on or invested, or for any other loss, misfortune or damage which may happen in the execution of their respective offices or trusts, or in relation thereto, PROVIDED THAT this indemnity shall not extend to any matter in respect of any fraud or dishonesty in relation to the Company which may attach to any of the indemnified parties. Each Member agrees to waive any claim or right of action such Member might have, whether individually or by or in the right of the Company, against any Director or Officer on account of any action taken by such Director or Officer, or the failure of such Director or Officer to take any action in the performance of his duties with or for the Company or any subsidiary thereof, PROVIDED THAT such waiver shall not extend to any matter in respect of any fraud or dishonesty in relation to the Company which may attach to such Director or Officer.
- 52.2. The Company may purchase and maintain insurance for the benefit of any Director or Officer against any liability incurred by him under the Act in his capacity as a Director or Officer or indemnifying such Director or Officer in respect of any loss arising or liability attaching to him by virtue of any rule of law in respect of any negligence, default, breach of duty or breach of trust of which the Director or Officer may be guilty in relation to the Company or any subsidiary thereof.
- 52.3. The Company may advance moneys to a Director or Officer for the costs, charges and expenses incurred by the Director or Officer in defending any civil or criminal proceedings

against him, on condition that the Director or Officer shall repay the advance if any allegation of fraud or dishonesty in relation to the Company is proved against him.

MEETINGS OF THE BOARD OF DIRECTORS

53. BOARD MEETINGS

The Board may meet for the transaction of business, adjourn and otherwise regulate its meetings as it sees fit. A resolution put to the vote at a Board meeting shall be carried by the affirmative votes of a majority of the votes cast and in the case of an equality of votes the resolution shall fail.

54. NOTICE OF BOARD MEETINGS

A Director may, and the Secretary on the requisition of a Director shall, at any time summon a Board meeting. Notice of a Board meeting shall be deemed to be duly given to a Director if it is given to such Director verbally (including in person or by telephone) or otherwise communicated or sent to such Director by post, electronic means or other mode of representing words in a visible form at such Director's last known address or in accordance with any other instructions given by such Director to the Company for this purpose.

55. ELECTRONIC PARTICIPATION IN MEETINGS

Directors may participate in any meeting by such telephonic, electronic or other communication facilities or means as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

56. REPRESENTATION OF CORPORATE DIRECTOR

56.1. A Director which is a corporation may, by written instrument, authorise such person or persons as it thinks fit to act as its representative at any meeting and any 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 Director, and that Director shall be deemed to be present in person at any such meeting attended by its authorised representative or representatives.

56.2. Notwithstanding the foregoing, the chairman of the meeting may accept such assurances as he thinks fit as to the right of any person to attend and vote at Board meetings on behalf of a corporation which is a Director.

57. QUORUM AT BOARD MEETINGS

The quorum necessary for the transaction of business at a Board meeting shall be two Directors, provided that if there is only one Director for the time being in office the quorum shall be one.

58. BOARD TO CONTINUE IN THE EVENT OF VACANCY

The Board may act notwithstanding any vacancy in its number but, if and so long as its number is reduced below the number fixed by these Bye-laws as the quorum necessary for the transaction of business at Board meetings, the continuing Directors or Director may act for the purpose of (i) summoning a general meeting; or (ii) preserving the assets of the Company.

59. CHAIRMAN TO PRESIDE

59.1. Unless otherwise agreed by a majority of the Directors attending, the chairman or the president of the Company, if there be one, shall act as chairman of the meeting at all Board meetings at which such person is present. In their absence a chairman of the meeting shall be appointed or elected by the Directors present at the meeting.

60. WRITTEN RESOLUTIONS

A resolution signed by (or in the case of a Director that is a corporation, on behalf of) all the Directors, which may be in counterparts, shall be as valid as if it had been passed at a Board meeting duly called and constituted, such resolution to be effective on the date on which the resolution is signed by (or in the case of a Director that is a corporation, on behalf of) the last Director. For the purposes of this Bye-law only, "the Directors" shall not include an Alternate Director.

61. VALIDITY OF PRIOR ACTS OF THE BOARD

No regulation or alteration to these Bye-laws made by the Company in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation or alteration had not been made.

CORPORATE RECORDS

62. MINUTES

The Board shall cause minutes to be duly entered in books provided for the purpose:

- (a) of all elections and appointments of Officers;
- (b) of the names of the Directors present at each Board meeting and of any committee appointed by the Board; and
- (c) of all resolutions and proceedings of general meetings of the Members, Board meetings, meetings of managers and meetings of committees appointed by the Board.

63. PLACE WHERE CORPORATE RECORDS KEPT

Minutes prepared in accordance with the Act and these Bye-laws shall be kept by the Secretary at the registered office of the Company.

64. FORM AND USE OF SEAL

- 64.1. The Company may adopt a seal in such form as the Board may determine. The Board may adopt one or more duplicate seals for use in or outside Bermuda.
- 64.2. A seal may, but need not, be affixed to any deed, instrument or document, and if the seal is to be affixed thereto, it shall be attested by the signature of (i) any Director, or (ii) any Officer, or (iii) the Secretary, or (iv) any person authorised by the Board for that purpose.
- 64.3. A Resident Representative may, but need not, affix the seal of the Company to certify the authenticity of any copies of documents.

ACCOUNTS

65. RECORDS OF ACCOUNT

- 65.1. The Board shall cause to be kept proper records of account with respect to all transactions of the Company and in particular with respect to:
- (a) all amounts of money received and expended by the Company and the matters in respect of which the receipt and expenditure relates;
 - (b) all sales and purchases of goods by the Company; and
 - (c) all assets and liabilities of the Company.
- 65.2. Such records of account shall be kept at the registered office of the Company or, subject to the Act, at such other place as the Board thinks fit and shall be available for inspection by the Directors during normal business hours.
- 65.3. Such records of account shall be retained for a minimum period of five years from the date on which they are prepared.

66. FINANCIAL YEAR END

The financial year end of the Company may be determined by resolution of the Board and failing such resolution shall be 31st December in each year.

AUDITS

67. ANNUAL AUDIT

Subject to any rights to waive laying of accounts or appointment of an Auditor pursuant to the Act, the accounts of the Company shall be audited at least once in every year.

68. APPOINTMENT OF AUDITOR

- 68.1. Subject to the Act, the Members shall appoint an auditor to the Company to hold office for such term as the Members deem fit or until a successor is appointed.

68.2. The Auditor may be a Member but no Director, Officer or employee of the Company shall, during his continuance in office, be eligible to act as an Auditor of the Company.

69. REMUNERATION OF AUDITOR

69.1. The remuneration of an Auditor appointed by the Members shall be fixed by the Company in general meeting or in such manner as the Members may determine.

69.2. The remuneration of an Auditor appointed by the Board to fill a casual vacancy in accordance with these Bye-laws shall be fixed by the Board.

70. DUTIES OF AUDITOR

70.1. The financial statements provided for by these Bye-laws shall be audited by the Auditor in accordance with generally accepted auditing standards. The Auditor shall make a written report thereon in accordance with generally accepted auditing standards.

70.2. The generally accepted auditing standards referred to in this Bye-law may be those of a country or jurisdiction other than Bermuda or such other generally accepted auditing standards as may be provided for in the Act. If so, the financial statements and the report of the Auditor shall identify the generally accepted auditing standards used.

71. ACCESS TO RECORDS

The Auditor shall at all reasonable times have access to all books kept by the Company and to all accounts and vouchers relating thereto, and the Auditor may call on the Directors or Officers for any information in their possession relating to the books or affairs of the Company.

72. FINANCIAL STATEMENTS AND THE AUDITOR'S REPORT

72.1. Subject to the following bye-law, the financial statements and/or the auditor's report as required by the Act shall

- (a) be laid before the Members at the annual general meeting; or
- (b) be received, accepted, adopted, approved or otherwise acknowledged by the Members by written resolution passed in accordance with these Bye-laws; or
- (c) in circumstances where the Company has elected to dispense with the holding of an annual general meeting, be made available to the Members in accordance with the Act in such manner as the Board shall determine.

72.2. If all Members and Directors shall agree, either in writing or at a meeting, that in respect of a particular interval no financial statements and/or auditor's report thereon need be made available to the Members, and/or that no auditor shall be appointed then there shall be no obligation on the Company to do so.

73. VACANCY IN THE OFFICE OF AUDITOR

The Board may fill any casual vacancy in the office of the auditor.

VOLUNTARY WINDING-UP AND DISSOLUTION

74. WINDING-UP

If the Company shall be wound up the liquidator may, with the sanction of a resolution of the Members, divide amongst the Members in specie or in 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 Members. The liquidator may, with the like sanction, vest the whole or any part of such assets in the trustees upon such trusts for the benefit of the Members as the liquidator shall think fit, but so that no Member shall be compelled to accept any shares or other securities or assets whereon there is any liability.

CHANGES TO CONSTITUTION

75. CHANGES TO BYE-LAWS

No Bye-law may be rescinded, altered or amended and no new Bye-law may be made save in accordance with the Act and until the same has been approved by a resolution of the Board and by a resolution of the Members.

76. CHANGES TO THE MEMORANDUM OF ASSOCIATION

No alteration or amendment to the Memorandum of Association may be made save in accordance with the Act and until same has been approved by a resolution of the Board and by a resolution of the Members.

77. DISCONTINUANCE

The Board may exercise all the powers of the Company to discontinue the Company to a jurisdiction outside Bermuda pursuant to the Act.

**AMENDED AND RESTATED
PARTNERSHIP AGREEMENT
OF
SUNPOWER BERMUDA HOLDINGS**

THIS AMENDED AND RESTATED PARTNERSHIP AGREEMENT (this "Agreement") of SunPower Bermuda Holdings, a Bermuda exempted general partnership (the "Partnership"), is made and entered into on September 21, 2009 ("Effective Date"), by and between SunPower Corporation, Systems, a Delaware corporation ("SPBK"), and SunPower Corporation, a Delaware corporation ("SPSV") (SPBK and SPSV are individually referred to as a "Partner" and together referred to as the "Partners").

RECITALS

WHEREAS, the Partners established the Partnership as a Bermuda exempted general partnership with separate legal personality on October 30, 2008; and

WHEREAS, the Partners desire to amend and restate this Agreement to reflect additional capital contributions made by them to the Partnership;

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein and intending to be legally bound hereby, the Partners agree as follows:

**SECTION 1
FORMATION**

Section 1.1 Formation. The Partners hereby form an exempted general partnership pursuant to the provisions of the Partnership Act 1902, as amended, of Bermuda and the Exempted Partnerships Act 1992, as amended, of Bermuda (the "Acts"). Each Partner shall be liable for the debts, liabilities and obligations of the Partnership. The rights and liabilities of the Partners shall be as provided in the Acts, except as otherwise expressly provided herein.

Section 1.2 Legal Personality. The Partnership has elected to be formed with legal personality pursuant to the provisions of the Acts and any one Partner is authorised to execute any declarations and make any filings with respect to the election of legal personality as may be required on behalf of all of the Partners and the Partnership.

Section 1.3 Name. The name of the Partnership is "SunPower Bermuda Holdings" or such other name that complies with applicable law as the Board of Directors may select from time to time. All Partnership business shall be conducted in the name of the Partnership.

Section 1.4 Registered Office. The Partnership shall maintain its principal place of business and registered office at Clarendon House, 2 Church Street, Hamilton HM 11, Bermuda, or at such other place as the Board of Directors may designate from time to time.

Section 1.5 Resident Representative. Codan Services Limited shall be the resident representative of the Partnership as required by the Acts.

SECTION 2 PURPOSE AND TERM

Section 2.1 Purpose. The purpose of the Partnership is to acquire and invest in shares of any entities, corporations, companies, partnerships or other institutions and to manage and dispose of such investments, and to engage in any other business or activity that now or hereafter may be necessary, incidental, proper, advisable or convenient to accomplish the foregoing purpose (including obtaining financing) and that is not forbidden by the law of the jurisdiction in which the Partnership engages in that business.

Section 2.2 Term. The term of the Partnership shall commence on the date on which the certificate of exempted partnership of the Partnership is registered under the Acts and shall continue in full force and effect until terminated in accordance with the Acts or dissolved and terminated in accordance with the provisions of this Agreement.

SECTION 3 CAPITAL ACCOUNTS

Section 3.1 Capital Accounts. A separate capital account shall be maintained for each Partner to which (a) shall be credited for each such Partner (i) the fair market value of its capital contributions, and (ii) its share of all partnership income as allocated to it under this Agreement, and (b) shall be debited with (i) its share of all costs, expenses and losses of the Partnership as allocated to it under this Agreement, and (ii) the amount of any distributions made to it.

Section 3.2 Partnership Interests. Each Partner's percentage ownership interest in the Partnership ("Partnership Interest") shall be as reflected in Schedule A, which shall be amended from time to time to reflect contributions to the Partnership and distributions by the Partnership to the Partners other than in proportion to their Partnership Interests as in effect at the time of such distribution or contribution.

Section 3.3 New Partners. Each partner admitted to the Partnership after the date hereof shall contribute to the Partnership such capital as it shall agree and as shall have been agreed by unanimous consent of all Partners to be accepted by the Partnership. The capital to be accepted and agreed to be contributed by the new partner may consist of cash, property and/or the beneficial interest in property. Each partner admitted to the Partnership after the date hereof shall receive a Partnership Interest in accordance with Section 3.2 hereof.

Section 3.4 Return of Capital. A Partner is not entitled to the return of any part of its capital account nor to be paid interest with respect to either its capital account or its capital contributions. An unrepaid capital contribution is not a liability of the Partnership or of any Partner. A Partner is not required to contribute nor to lend any cash or property to the Partnership to enable the Partnership to return any Partner's capital contributions.

Section 3.5 Written Consent for Additional Contributions or Distributions. The prior written consent of all Partners of the Partnership shall be required in the case of additional contributions of additional money or property to the Partnership or a distribution by the Partnership to the Partners other than in proportion to their Partnership Interests as in effect at the time of distribution.

SECTION 4 ALLOCATION AND DISTRIBUTIONS

Section 4.1 Allocation of Income and Gain. All income and gain of the Partnership shall be allocated and credited among the Partners in proportion to their respective Partnership Interests.

Section 4.2 Allocation of Costs, Expenses and Losses. All costs, expenses and losses of the Partnership shall be allocated and charged among the Partners in proportion to their respective Partnership Interests.

Section 4.3 Distributions. The Board of Directors, in its sole discretion, shall determine the amount and date of any distribution to be made to the Partners. All distributions, whether in cash or other property, shall be made to the Partners in proportion to their respective Partnership Interests.

SECTION 5 MANAGEMENT

Section 5.1 Board of Directors. The business and affairs of the Partnership shall be managed by a management committee (hereinafter referred to as the "Board of Directors" or the "Board") composed of individual managers (hereinafter referred to as "Directors") appointed in accordance with this Section 5. The Board of Directors shall manage the affairs of the Partnership and shall have the right and authority to take all actions that the Board of Directors deems necessary, useful or appropriate for the day-to-day management and conduct of the Partnership's business. The Board of Directors may exercise all powers of the Partnership and do all such lawful things as are not by statute or this Agreement directed or required to be done by the Partners. The Board of Directors shall be entitled to delegate such powers as provided herein to individuals appointed as officers in accordance with Section 6 hereof.

Section 5.2 Election and Term. The Board of Directors shall be comprised of three (3) Directors. Two (2) of the directors shall be appointed by SPSV, and one (1) shall be appointed by SPBK. Each Director shall serve from the effective date of his or her election to the Board of Directors until his or her death, removal or resignation, after which such Director shall be re-elected or replaced by the Partner that appointed him or her, or such Partner's successor in interest.

Section 5.3 Resignation and Vacancies. Any Director may resign at any time by giving notice to the Board of Directors or the president in writing or by electronic transmission. Any such resignation shall take effect on the date of the receipt of the notice or at any later time specified in the notice. Acceptance of the resignation shall not be necessary to make it effective. Vacancies resulting from the resignation of a Director shall be filled by the Partner that

appointed the resigning Director, or such Partner's successor in interest.

Section 5.4 Removal and Vacancies. Any Director may be removed and replaced by the Partner who appointed him or her.

Section 5.5 Meetings of Directors. Meetings of the Board of Directors may be held at such time and at such place as the Board may from time to time determine and no notice need be given as to any meeting. At each meeting of the Board of Directors, the presence of not less than a majority of the whole Board shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum is not present at any meeting of Directors, the Directors present may adjourn the meeting, without notice other than announcement at the meeting, until a quorum is present. Any member of the Board of Directors may participate in a meeting of the Directors by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by means of such equipment shall constitute presence in person at such meeting.

Section 5.6 Action by Written Consent. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if all members of the Board consent to the action in writing or by electronic transmission.

SECTION 6 OFFICERS

Section 6.1 Officers. The Board of Directors shall be entitled to delegate such functions as specified in this Section 6 to individuals who shall be termed officers of the Partnership and who shall consist of a president and a secretary, and may consist of a treasurer, one or more vice presidents, and such assistant secretaries, assistant treasurers and other officers as the Board of Directors shall determine. The same person may hold any two or more offices. The Board of Directors may choose not to fill any office for any period as it may deem advisable. Any such delegation by the Board of Directors to the officers shall be in accordance with this Section 6.

Section 6.2 Election and Term of Office. The officers of the Partnership, if any, shall be elected at a meeting or by written consent of the Board of Directors in accordance with Section 5 hereof. Each officer shall hold office until such officer's successor is elected and qualified or until such officer's death, resignation or removal. The Board of Directors may remove an officer at any time, either with or without cause, and may fill a vacancy in any office.

Section 6.3 President. If appointed, the president shall be the chief executive officer of the Partnership and shall preside at all meetings of the Board of Directors. The president shall have the overall supervision of the business of the Partnership and shall direct the affairs and policies of the Partnership, subject to such policies and directions as the Board of Directors may provide. The president shall have authority to designate the duties and powers of other officers and delegate special powers and duties to specified officers, so long as such designation is not inconsistent with applicable law, this Agreement or action of the Board of Directors. The

president shall also have power to execute, and shall execute, deeds, mortgages, bonds, contracts and other instruments of the Partnership except where required or permitted by law or this Agreement to be otherwise executed. The president in general shall have all other powers and shall perform all other duties incident to the chief executive office or as the Board of Directors may from time to time assign to the president.

Section 6.4 Vice President. If a vice president is appointed, then in the absence of the president, at the president's request or in the event of the president's inability or refusal to act, the vice presidents in order of their rank as fixed by the Board of Directors or, if not ranked, the vice president designated by the Board of Directors or the president, shall perform all duties of the president, and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties, not inconsistent with applicable laws, this Agreement, or action of the Board of Directors, as the Board of Directors or the president may from time to time assign to them.

Section 6.5 Secretary. If appointed, the secretary shall: (a) keep the minutes of the meetings of the Board of Directors; (b) have charge of the records of the Partnership; and (c) in general, perform all duties incident to the office of secretary and such other duties as the Board of Directors or president may from time to time assign to the secretary. The secretary may delegate such details of the performance of duties of the secretary's office as may be appropriate in the exercise of reasonable care to one or more persons in his or her stead, but shall not thereby be relieved of responsibility for the performance of such duties.

Section 6.6 Treasurer. If appointed, the treasurer shall: (a) be responsible to the Board of Directors for the receipt, custody and disbursement of all funds of the Partnership; (b) receive and give receipts for monies due and payable to the Partnership from any source and deposit all such monies in the name of the Partnership in such banks, trust companies or other depositories as shall from time to time be selected; (c) disburse the funds of the Partnership as ordered by the Board of Directors or the president or as otherwise required in the conduct of the business of the Partnership; (d) render to the president or the Board of Directors, upon request, an account of all his or her transactions as treasurer and on the financial condition of the Partnership; and (e) in general, perform all duties incident to the office of treasurer and such other duties as the Board of Directors or the president may from time to time may assign to the treasurer. The treasurer may delegate such details of the performance of duties of such office as may be appropriate in the exercise of reasonable care to one or more persons in his or her stead, but shall not thereby be relieved of responsibility for the performance of such duties.

SECTION 7 ADMISSION AND REPLACEMENT OF PARTNERS; ASSIGNMENT OF PARTNER'S INTERESTS

Section 7.1 Notwithstanding any other provision in this Agreement, the admission of a new partner or the replacement of a Partner can take place only with the prior written consent of all of the Partners as set forth in this Section 7.

Section 7.2 Admission or replacement of a partner within the meaning of this section,

includes inter alia, the admission of a partner, the replacement of a Partner, by any means, other than a legal merger, the encumbrance on all or part of any Partnership Interests, the assignment by a Partner of all or part of its Partnership Interest, and any change in relative or absolute rights of the Partner.

Section 7.3 Each and every admission and/or replacement also requires the express prior written consent of each and every resigning Partner.

Section 7.4 The admission, replacement or assignment of Partners' interests shall take place pursuant to a written agreement between all then current Partners and the new partner. The agreement shall include, inter alia, the date per which the admission, replacement, or assignment takes effect, a statement from the new partner, if any, by which it accepts to be bound to the provisions of this Agreement (taking account of amendments thereof made at the occasion of its admission or substitution, if any), as well as the initial capital contribution to be made by the new partner, if any.

Section 7.5 The admission of the new partner(s) and/or the assignment and/or replacement of the substitute Partner(s) shall become effective upon the execution of the agreement described in Section 7.4 hereof.

SECTION 8 ACCOUNTS

8 The Partners waive and agree to waive pursuant to section 16 of the Exempted Partnerships Act 1992 financial statements and auditors reports thereon as stipulated by section 15 of the Exempted Partnerships Act 1992, subject to the discretion of the majority of Partners to procure such financial statements and any audit as they deem fit.

SECTION 9 DISSOLUTION, LIQUIDATION AND TERMINATION

Section 9.1 Dissolution. The Partnership shall dissolve and its business and affairs shall be wound up on the first to occur of the following:

- 9.1.1 The written consent of all of the Partners;
- 9.1.2 On the bankruptcy, dissolution, liquidation or withdrawal of all of the Partners; or
- 9.1.3 Any other event causing dissolution as described in the Acts;

unless, within 90 days of such event, the remaining Partners elect to reconstitute the Partnership and carry on the business of the Partnership.

Section 9.2 Liquidation. On dissolution of the Partnership, a liquidator shall be appointed by the Board of Directors. Upon dissolution, the authority of each Partner to bind the

Partnership, and the other rights and obligations of the Partners, continue notwithstanding the dissolution so far as may be necessary to wind up the affairs of the Partnership, and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise. The liquidator shall proceed diligently to wind up the affairs of the Partnership and make final distributions as provided herein. The costs of liquidation shall be borne as a Partnership expense. The steps to be accomplished by the liquidator are as follows:

- 9.2.1 The liquidator shall pay from Partnership funds all of the debts and liabilities of the Partnership or otherwise make adequate provision therefor (including, without limitation, the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine); and
- 9.2.2 All remaining assets of the Partnership shall be distributed to the Partners as follows:
 - (a) The liquidator may sell any or all Partnership property, including to Partners, and any resulting gain or loss from each sale shall be computed and allocated to the capital account of each partner in proportion to such Partner's Partnership Interest;
 - (b) With respect to all Partnership property that has not been sold, the fair market value of that property shall be determined and the capital accounts of the Partners shall be adjusted to reflect the manner in which the unrealized income, gain, loss and deduction inherent in that property (that has not been reflected in the capital accounts previously) would be allocated among the Partners if there were a disposition of that property for the fair market value of that property on the date of its distribution; and
 - (c) Partnership property shall be distributed to the partners in accordance with the positive capital account balances of the Partners, as determined after taking into account all capital account adjustments for the financial year of the Partnership during which the liquidation of the Partnership occurs (other than those made by reason of this Section 9.2.2); and those distributions shall be made by the end of the financial year of the Partnership during which the liquidation of the Partnership occurs (or, if later, 90 days after the date of liquidation).

Section 9.3 Termination. On completion of the distribution of Partnership assets as provided herein, the Partnership is terminated, and the Partners (or such other person or persons as the Acts may require or permit) shall cause a notice of dissolution to be filed in accordance with the Acts and shall take such other actions as may be necessary to terminate the Partnership.

**SECTION 10
GENERAL PROVISIONS**

Section 10.1 General. Any amendment or supplement to this Agreement shall only be effective if in writing and if the same shall be consented to and approved by the Partners.

Section 10.2 Undertaking. Each of the Partners hereby undertakes that it will not, without the previous consent in writing of all the other Partners, assign, mortgage or charge its share or interest in the Partnership or any part of such share or interest or make any other person a partner with it therein.

Section 10.3 Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of Bermuda. The courts located within Bermuda shall have exclusive jurisdiction to adjudicate any disputes arising out of or in connection with this Agreement. Each of the parties to this Agreement hereby (a) submits to the jurisdiction of the courts of Bermuda, in any action or proceeding in Bermuda arising out of or relating to this Agreement, (b) agrees that all claims in respect of any such action or proceeding may be heard and determined in such courts, (c) waives the defense of an inconvenient forum to the maintenance of any such action or proceeding and any right of jurisdiction in such action or proceeding on account of the place of residence or domicile of such party, and (d) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 10.4 Counterparts. The Partners may execute this Agreement in one or more counterparts, which shall, in the aggregate, be signed by all Partners; each counterpart shall be deemed an original instrument as against the Partner who has signed it.

Section 10.5 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the rest of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

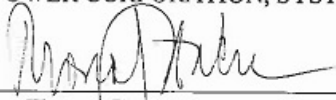
Section 10.6 Entire Agreement. This instrument contains the entire agreement of the Partners and supersedes all other agreements, oral or written.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Partnership Agreement effective as of the Effective Date.


GENERAL PARTNER:

SUNPOWER CORPORATION, SYSTEMS

By: 
Name: Thomas H. Werner
Title: Chief Executive Officer

GENERAL PARTNER:

SUNPOWER CORPORATION

By: 
Name: Thomas H. Werner
Title: Chief Executive Officer

SCHEDULE A

Capital Accounts

Name and Address of Partner	Capital Account	Percentage of Total Capital
SunPower Corporation, Systems 3939 North First Street San Jose, CA 95134	US\$15,964,797.14	10%
SunPower Corporation 3939 North First Street San Jose, CA 95134	US\$143,683,174.20	90%

THE COMPANIES LAW (2002 Revision)

COMPANY LIMITED BY SHARES

**MEMORANDUM & ARTICLES
OF
ASSOCIATION
OF
SunPower Technology Ltd.**

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THE COMPANIES LAW (2002 Revision)

COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION

OF

SunPower Technology Ltd.



1. The name of the Company is **SunPower Technology Ltd.**
2. The Registered Office of the Company will be situated at the offices of **Close Brothers (Cayman) Limited, Harbour Place, 103 South Church Street, P.O. Box 1034GT, Grand Cayman, Cayman Islands** or at such other location as the Directors may from time to time determine.
3. The objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by any law as provided by Section 7(4) of The Companies Law (2002 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 (2002 Revision).
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 (2001 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 (2001 Revision), or to carry on the business of Company Management without being licensed in that behalf under the provisions of the Companies Management Law (2001 Revision).
6. The Company will not trade in the Cayman Islands with any person, firm or corporation 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 capital of the Company is **US\$50,000** divided into **50,000** shares of a nominal or par value of **US\$1.00** each provided always that subject to the provisions of The Companies Law (2002 Revision) and the Articles of Association the Company shall have power to redeem or purchase any of its shares and to sub-divide or consolidate the said shares or any of them and to issue all or any part of its capital whether original, redeemed, 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. The Company may exercise the power contained in Section 226 of The Companies Law (2002 Revision) to deregister in the Cayman Islands and be registered by way of continuation in some other jurisdiction.

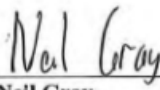
The undersigned, whose name, address and description is subscribed, is desirous of being formed into a Company in pursuance of this Memorandum of Association, and agrees to take the number of shares in the capital of the Company set opposite his name.

**NAME, ADDRESS AND DESCRIPTION
OF SUBSCRIBER**

**NUMBER OF SHARES TAKEN BY
SUBSCRIBER**

Neil Gray
Chartered Accountant
P.O. Box 1034GT
Grand Cayman

ONE SHARE



Neil Gray

DATED this 21st May, 2003



Witness to the above signature:
Ian Goddard
P.O. Box 1034GT
Grand Cayman

I, **D. EVADNE EBANKS Asst.**, Registrar of Companies, in and for the Cayman Islands, **DO HEREBY CERTIFY** that this is a true copy of the Memorandum of Association of **SunPower Technology Ltd.**

DATED this 21st May, 2003



ASSISTANT REGISTRAR OF COMPANIES



THE COMPANIES LAW (2002 Revision)

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION OF SunPower Technology Ltd.



TABLE A

The Regulations contained or incorporated in Table 'A' in the First Schedule of the Companies Law (2002 Revision) shall not apply to this Company and the following Articles shall comprise the Articles of Association of the Company:

INTERPRETATION

1. In these Articles:

"**Companies Law**" means the Companies Law (2002 Revision) of the Cayman Islands and any statutory amendment or re-enactment thereof. Where any provision of the Companies Law is referred to, the reference is to that provision as amended by any law for the time being in force;

"**Directors**" and "**Board of Directors**" means the Directors of the Company for the time being, or as the case may be, the Directors assembled as a Board or as a committee thereof;

"**Member**" means a person whose name is entered in the register of members as the holder of a share or shares and includes each subscriber of the Memorandum pending the issue to him of the subscriber share or shares;

"**Memorandum of Association**" means the Memorandum of Association of the Company, as amended and re-stated from time to time;

"**Ordinary Resolution**" means a resolution:

- (a) passed by a simple majority of such Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the Company and where a poll is taken regard shall be had 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 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" means paid up as to the par value and any premium payable in respect of the issue of any shares and includes credited as paid up;

"Register of Members" means the register to be kept by the Company in accordance with Section 40 of the Companies Law;

"Seal" means the Common Seal of the Company including any facsimile thereof;

"share" means any share in the capital of the Company, including a fraction of any share;

"signed" includes a signature or representation of a signature affixed by mechanical means;

"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 two-thirds of such Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the Company of which notice specifying the intention to propose the resolution as a Special Resolution has been duly given and where a poll is taken regard shall be had 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 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.
2. In these Articles, save where the context requires otherwise:
- (a) words importing the singular number shall include the plural number and vice versa;
 - (b) words importing the masculine gender only shall include the feminine gender;
 - (c) words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
 - (d) "may" shall be construed as permissive and "shall" shall be construed as imperative;
 - (e) a reference to a dollar or dollars (or \$) is a reference to dollars of the United States; and
 - (f) references to a statutory enactment shall include reference to any amendment or re-enactment thereof for the time being in force.
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.

PRELIMINARY

4. The business of the Company may be commenced as soon after incorporation as the Directors see fit, notwithstanding that part only of the shares may have been allotted or issued.

5. 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 may in addition establish and maintain such other offices and places of business and agencies in such places as the Directors may from time to time determine.

SHARES

6. Subject as otherwise provided in these Articles, all shares in the capital of the Company 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.
7. The Company may in so far as may be permitted by law, pay a commission to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any shares. Such commissions may be satisfied by the payment of cash or the lodgement of fully or partly paid-up shares or partly in one way and partly in the other. The Company may also on any issue of shares pay such brokerage as may be lawful.

VARIATION OF RIGHTS ATTACHING TO SHARES

8. 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 be varied or abrogated with the consent in writing of the holders of two-thirds of the issued shares of that class, or with the sanction of a resolution passed by at least a two-thirds majority of the holders of shares of the class present in person or by proxy at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these Articles relating to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be at least one person holding or representing by proxy at least one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.
9. 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 further shares ranking *pari passu* therewith or the redemption or purchase of shares of any class by the Company.

CERTIFICATES

10. Every person whose name is entered as a member in the Register of Members shall, without payment, be entitled to a certificate in the form determined by the Directors. Such certificate may be under the Seal. All certificates shall specify the share or shares held by that person and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the Company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.
11. If a share certificate is defaced, lost or destroyed it may be renewed on such terms, if any, as to evidence and indemnity as the Directors think fit.

FRACTIONAL SHARES

12. The Directors may issue fractions of a share of any class of shares, and, if so issued, a fraction of a share (calculated to three decimal points) shall be subject to and carry the corresponding fraction of liabilities (whether with respect to any unpaid amount thereon, contribution, calls or otherwise), limitations, preferences, privileges, qualifications, restrictions, rights (including, without limitation, voting and participation rights) and other attributes of a whole share of the same class of shares. If more than one fraction of a share of the same class is issued to or acquired by the same Member such fractions shall be accumulated. For the avoidance of doubt, in these Articles the expression "share" shall include a fraction of a share.

LIEN

13. The Company shall have a first priority lien and charge on every share (not being a fully paid up share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first priority lien and charge on all shares (other than fully paid up shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the Company, but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien, if any, on a share shall extend to all dividends payable thereon.
14. The Company may sell, in such manner as the Directors think fit, any shares on which the Company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of 14 days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the persons entitled thereto by reason of his death or bankruptcy.
15. For giving effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

16. The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale.

CALLS ON SHARES

17. The Directors may from time to time make calls upon the Members in respect of any moneys unpaid on their shares, and each Member shall (subject to receiving at least 14 days notice specifying the time or times of payment) pay to the Company at the time or times so specified the amount called on his shares.
18. The joint holders of a share shall be jointly and severally liable to pay calls in respect thereof.
19. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of eight per cent per annum from the day appointed for the payment thereof to the time of the actual payment, but the Directors shall be at liberty to waive payment of that interest wholly or in part.
20. The provisions of these Articles as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.
21. The Directors may make arrangements on the issue of shares for a difference between the Members, or the particular shares, in the amount of calls to be paid and in the times of payment.
22. The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding without the sanction of an Ordinary Resolution, eight per cent. per annum) as may be agreed upon between the Member paying the sum in advance and the Directors.

FORFEITURE OF SHARES

23. If a Member fails to pay any call or instalment of a call on the day appointed for payment thereof, the Directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
24. The notice shall name a further day (not earlier than the expiration of 14 days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

25. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by notice has been made, be forfeited by a resolution of the Directors to that effect.
26. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.
27. A person whose shares have been forfeited shall cease to be a Member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Company all moneys which at the date of forfeiture were payable by him to the Company in respect of the shares, but his liability shall cease if and when the Company receives payment in full of the fully paid up amount of the shares.
28. A statutory declaration in writing that the declarant is a Director of the Company, and that a share in the Company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The Company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.
29. The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which by the terms of issue of a share becomes due and payable, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

TRANSFER OF SHARES

30. The instrument of transfer of any share shall be in any usual or common form or such other form as the Directors may approve and executed by or on behalf of the transferor and if in respect of a nil or partly paid up share or if so required by the Directors shall also be executed on behalf of the transferee and shall be accompanied by the certificate of the shares to which it relates and such other 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.
31. The Directors may in their absolute discretion decline to register any transfer of shares without assigning any reason therefor. If the Directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.
32. The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine, provided always that such registration shall not be suspended for more than 45 days in any year.

33. All instruments of transfer which shall be registered shall be retained by the Company, but any instrument of transfer which the Directors may decline to register shall (except in any case of fraud) be returned to the person depositing the same.

TRANSMISSION OF SHARES

34. 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 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 the share.
35. 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 properly 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 person 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.
36. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he 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.

ALTERATION OF CAPITAL

37. The Company may from time to time by Ordinary Resolution increase the share capital by such sum, to be divided into shares of such classes and amount, as the resolution shall prescribe.
38. The Company may by Ordinary Resolution:
- (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
 - (b) convert all or any of its paid up shares into stock and reconvert that stock into paid up shares of any denomination;
 - (c) 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;
 - (d) 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.
39. The Company may by Special Resolution reduce its share capital and any capital redemption reserve in any manner authorised by law.

REDEMPTION AND PURCHASE OF OWN SHARES

40. Subject to the provisions of the Companies Law, the Company may:
- (a) issue shares on terms that they are to be redeemed or are liable to be redeemed at the option of the Company or the Member on such terms and in such manner as the Directors may, before the issue of such shares, determine;
 - (b) purchase its own shares (including any redeemable shares) on such terms and in such manner as the Directors may determine and agree with the Member; and
 - (c) make a payment in respect of the redemption or purchase of its own shares otherwise than out of profits or the proceeds of a fresh issue of shares.
41. Any share in respect of which notice of redemption has been given 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 redemption in the notice of redemption.
42. The redemption or purchase of any share shall not be deemed to give rise to the redemption or purchase of any other share.
43. The Directors may when making payments in respect of redemption or purchase of shares, if authorised by the terms of issue of the shares being redeemed or purchased or with the agreement of the holder of such shares, make such payment either in cash or in specie.

CLOSING REGISTER OF MEMBERS OR FIXING RECORD DATE

44. 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 those Members that are entitled to receive payment of any dividend, 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 but not to exceed in any case 40 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 such register shall be so closed for at least 10 days immediately preceding such meeting and the record date for such determination shall be the date of the closure of the Register of Members.
45. 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 and for the purpose of determining those Members that are entitled to receive payment of any dividend the Directors may, at or within 90 days prior to the date of declaration of such dividend fix a subsequent date as the record date for such determination.

46. 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 or those Members that are entitled to receive payment of a dividend, the date on which notice of the meeting is posted or the date on which the resolution of the Directors declaring such dividend is adopted, as the case may be, 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 section, such determination shall apply to any adjournment thereof.

GENERAL MEETINGS

47. The Directors may, whenever they think fit, convene a general meeting of the Company.
48. General meetings shall also 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 meetings may be convened by the Directors, and all reasonable expenses incurred by the requisitionists as a result of the failure of the Directors shall be reimbursed to them by the Company.
49. If at any time there are no Directors of the Company, any two Members (or if there is only one Member then that Member) entitled to vote at general meetings of the Company may convene a general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.

NOTICE OF GENERAL MEETINGS

50. At least seven days notice counting from the date service is deemed to take place as provided in these Articles specifying the place, the day and the hour of the meeting and, in case of special business, the general nature of that business, shall be given in manner hereinafter provided or in such other manner (if any) as may be prescribed by the Company by Ordinary Resolution to such persons as are, under these Articles, entitled to receive such notices from the Company, but with the consent of all the Members entitled to receive notice of some particular meeting and attend and vote thereat, that meeting may be convened by such shorter notice or without notice and in such manner as those Members may think fit.
51. The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by any Member shall not invalidate the proceedings at any meeting.

PROCEEDINGS AT GENERAL MEETINGS

52. All business carried out at a general meeting shall be deemed special with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets, and ordinary report of the Directors and the Company's auditors, and the appointment and removal of Directors and the fixing of the remuneration of the Company's auditors. No special business shall be transacted at any general meeting without the consent of all Members entitled to receive notice of that meeting unless notice of such special business has been given in the notice convening that meeting.
53. 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. Save as otherwise provided by these Articles, one or more Members holding at least a majority of the paid up voting share capital of the Company present in person or by proxy shall be a quorum.
54. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the Member or Members present and entitled to vote shall be a quorum.
55. The chairman, if any, of the Board of Directors shall preside as chairman at every general meeting of the Company.
56. If there is no such chairman, or if at any 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.
57. The chairman may with the consent of any 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 10 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.
58. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by one or more Members present in person or by proxy entitled to vote and who together hold not less than 10 per cent of the paid up voting share capital of the Company, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.
59. If a poll is duly demanded it 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.
60. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

61. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

VOTES OF MEMBERS

62. Subject to any rights and restrictions for the time being attached to any class or classes of shares, on a show of hands every Member present in person and every person representing a Member by proxy shall at a general meeting of the Company have one vote and on a poll every Member and every person representing a Member by proxy shall have one vote for each share of which he or the person represented by proxy is the holder.
63. 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.
64. A Member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or 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 on a poll, vote by proxy.
65. No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
66. On a poll votes may be given either personally or by proxy.
67. 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 of the Company.
68. An instrument appointing a proxy may be in any usual or common form or such other form as the Directors may approve.
69. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
70. A resolution in writing signed 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.

CORPORATIONS ACTING BY REPRESENTATIVES AT MEETINGS

71. Any corporation which is a Member or a Director may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members 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 he represents as that corporation could exercise if it were an individual Member or Director.

DIRECTORS

72. The name of the first Director(s) shall either be determined in writing by a majority (or in the case of a sole subscriber that subscriber) of, or elected at a meeting of, the subscribers of the Memorandum of Association.
73. The Company may by Ordinary Resolution appoint any person to be a Director.
74. Subject to the provisions of these Articles, a Director shall hold office until such time as he is removed from office by the Company by Ordinary Resolution.
75. The Company may by Ordinary Resolution from time to time fix the maximum and minimum number of Directors to be appointed but unless such number is fixed as aforesaid the number of Directors shall be unlimited.
76. The remuneration of the Directors shall from time to time be determined by the Company by Ordinary Resolution.
77. The shareholding qualification for Directors may be fixed by the Company by Ordinary Resolution and unless and until so fixed no share qualification shall be required.
78. The Directors shall have power at any time and from time to time to appoint a person as Director, either as a result of a casual vacancy or as an additional Director, subject to the maximum number (if any) imposed by the Company by Ordinary Resolution.

ALTERNATE DIRECTOR

79. Any Director may in writing appoint another person to be his alternate to act in his place at any meeting of the Directors at which he 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 him is not personally present and where he is a Director to have a separate vote on behalf of the Director he is representing in addition to his own vote. A Director may at any time in writing revoke the appointment of an alternate appointed by him. Such alternate shall not be an officer of the Company and shall be deemed to be the agent of the Director appointing him. The remuneration of such alternate shall be payable out of the remuneration of the Director appointing him and the proportion thereof shall be agreed between them.

80. Any Director may appoint any person, 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.

POWERS AND DUTIES OF DIRECTORS

81. Subject to the provisions of the Companies Law, these Articles and to any resolutions made in a general meeting, the business of the Company shall be managed 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.
82. The Directors may from time to time appoint any person, whether or not a director of the Company to hold such office in the Company as the Directors may think necessary for the administration of the Company, including without prejudice to the foregoing generality, the office of President, one or more Vice-Presidents, Treasurer, Assistant Treasurer, Manager or Controller, and for such term and at such remuneration (whether by way of salary or commission or participation in profits or partly in one way and partly in another), and with such powers and duties as the Directors may think fit. 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 determine 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.
83. The Directors may appoint the Company Secretary (and if need be an Assistant Secretary or Assistant Secretaries) who shall hold office for such term, at such remuneration and upon such conditions and with such powers as they think fit. Any Secretary or Assistant Secretary so appointed by the Directors may be removed by the Directors.
84. 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 in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.
85. 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, 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 him.

86. 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 and the provisions contained in the three next following paragraphs shall be without prejudice to the general powers conferred by this paragraph.
87. The Directors from time to time and at any time may establish any committees, local boards or agencies for managing any of the affairs of the company and may appoint any persons to be members of such committees or local boards and may appoint any managers or agents of the Company and may fix the remuneration of any of the aforesaid.
88. The Directors from time to time and at any time may delegate to any such committee, local board, manager or agent any of the powers, authorities and discretions for the time being vested in the Directors and may authorise the members for the time being of any such local board, or any of them to fill up any vacancies therein and to act notwithstanding vacancies and any such appointment or delegation may be made on such terms and subject to such conditions as the Directors may think fit and the Directors may at any time remove any person so appointed and may annul or vary any such delegation, but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.
89. Any such delegates as aforesaid may be authorised by the Directors to subdelegate all or any of the powers, authorities, and discretion for the time being vested to them.

BORROWING POWERS OF DIRECTORS

90. 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, to issue debentures, debenture stock and other securities whenever money is borrowed or as security for any debt, liability or obligation of the Company or of any third party.

THE SEAL

91. The Seal of the Company shall not be affixed to any instrument except by the authority of a resolution of the Board of Directors provided always that such authority may be given prior to or after the affixing of the Seal and if given after may be in general form confirming a number of affixings of the Seal. The Seal shall be affixed in the presence of a Director or the Secretary (or an Assistant Secretary) of the Company or in the presence of any one or more persons as the Directors may appoint for the purpose and every person as aforesaid shall sign every instrument to which the Seal of the Company is so affixed in their presence.
92. The Company may maintain a facsimile of its Seal in such countries or places as the Directors may appoint and such facsimile Seal shall not be affixed to any instrument except by the authority of a resolution of the Board of Directors provided always that such authority may be given prior to or after the affixing of such facsimile Seal and if given after may be in general form confirming a number of affixings of such facsimile Seal. The facsimile Seal shall be affixed in the presence of such person or persons as the Directors shall for this purpose appoint and such person or persons as aforesaid shall sign every instrument to which the facsimile Seal of the Company is so affixed in their presence and such affixing of the facsimile Seal and signing as aforesaid shall have the same meaning and effect as if the Company Seal had been affixed in the presence of and the instrument signed by a Director or the Secretary (or an Assistant Secretary) of the Company or in the presence of any one or more persons as the Directors may appoint for the purpose.

93. Notwithstanding the foregoing, the Secretary or any Assistant Secretary shall have the authority to affix the Seal, or the facsimile Seal, to any instrument for the purposes of attesting authenticity of the matter contained therein but which does not create any obligation binding on the Company.

DISQUALIFICATION OF DIRECTORS

94. The office of Director shall be vacated, if the Director:
- (a) becomes bankrupt or makes any arrangement or composition with his creditors;
 - (b) is found to be or becomes of unsound mind; or
 - (c) resigns his office by notice in writing to the Company.

PROCEEDINGS OF DIRECTORS

95. The Directors may meet together (either within or without the Cayman Islands) for the despatch of business, adjourn, and otherwise regulate their meetings and proceedings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A Director may, and the Secretary or Assistant Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
96. 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.
97. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed, if there be more than two Directors shall be two, and if there be two or less Directors shall be one. 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.
98. 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 his interest at a meeting of the Directors. A general notice given to the Directors by any Director to the effect that he is a member of any specified company or firm and is to be regarded as interested in any contract which may thereafter be made with 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 he may be interested therein and if he does so his vote shall be counted and he 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.
99. A Director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with his office of Director for such period and on such terms (as to remuneration and otherwise) as the Directors may determine and no Director or intending

Director shall be disqualified by his office from contracting with the Company either with regard to his 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 his interest, may be counted in the quorum present at any meeting whereat he 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 he may vote on any such appointment or arrangement.

100. Any Director may act by himself or his firm in a professional capacity for the Company, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director; provided that nothing herein contained shall authorise a Director or his firm to act as auditor to the Company.
101. The Directors shall cause minutes to be made in books or loose-leaf folders provided for the purpose of recording:
 - (a) all appointments of officers made by the Directors;
 - (b) the names of the Directors present at each meeting of the Directors and of any committee of the Directors;
 - (c) all resolutions and proceedings at all meetings of the Company, and of the Directors and of committees of Directors.
102. When the chairman of a meeting of the Directors signs the minutes of such meeting the same shall be deemed to have been duly held notwithstanding that all the Directors have not actually come together or that there may have been a technical defect in the proceedings.
103. A resolution signed 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.
104. 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 the Articles of the Company 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.
105. The Directors may elect a chairman of their meetings and determine the period for which he is to hold office but if no such chairman is elected, or if at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.
106. 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 same, the members present may choose one of their number to be chairman of the meeting.

107. 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.
108. 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.

DIVIDENDS

109. 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 the funds of the Company lawfully available therefor.
110. Subject to any rights and restrictions for the time being attached to any class or classes of shares, the Company by Ordinary Resolution may declare dividends, but no dividend shall exceed the amount recommended by the Directors.
111. The Directors may, before recommending or declaring any dividend, set aside out of the funds legally available for distribution such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors be applicable for meeting contingencies, or for equalising dividends or for any other purpose to which those funds be properly applied and pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than shares of the Company) as the Directors may from time to time think fit.
112. Any dividend may be paid by cheque or warrant sent through the post to the registered address of the Member or person entitled thereto, or in the case of joint holders, to any one of such joint holders at his registered address or to such person and such address as the Member or person entitled, or such joint holders as the case may be, may direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent or to the order of such other person as the Member or person entitled, or such joint holders as the case may be, may direct.
113. The Directors when paying dividends to the Members in accordance with the foregoing provisions may make such payment either in cash or in specie.
114. No dividend shall be paid otherwise than out of profits or, subject to the restrictions of the Companies Law, the share premium account.
115. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the Company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this Article as paid on the share.
116. If several persons are registered as joint holders of any share, any of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.

117. No dividend shall bear interest against the Company.

ACCOUNTS AND AUDIT

118. 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.
119. The books of account shall be kept at the registered office of the Company, or at such other place or places as the Directors think fit, and shall always be open to the inspection of the Directors.
120. The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors, and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by law or authorised by the Directors or by the Company by Ordinary Resolution.
121. The accounts relating to the Company's affairs shall be audited in such manner and with such financial year end as may be determined from time to time by the Company by Ordinary Resolution or failing any such determination by the Directors or failing any determination as aforesaid shall not be audited.

CAPITALISATION OF PROFITS

122. Subject to the Companies Law, the Board may, with the authority of an Ordinary Resolution:
- (a) resolve to capitalise an amount standing to the credit of reserves (including a share premium account, capital redemption reserve and profit and loss account), whether or not available for distribution;
 - (b) 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:
 - (i) paying up the amounts (if any) for the time being unpaid on shares held by them respectively, or
 - (ii) 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, the 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;
 - (c) make any arrangements it thinks fit to resolve a difficulty arising in the distribution of a capitalised reserve and in particular, without limitation, where shares or debentures become distributable in fractions the Board may deal with the fractions as it thinks fit;

- (d) authorise a person to enter (on behalf of all the Members concerned) an agreement with the Company providing for either:
- (i) the allotment to the members respectively, credited as fully paid, of shares or debentures to which they may be entitled on the capitalisation, or
 - (ii) 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,
- an agreement made under the authority being effective and binding on all those Members; and
- (e) generally do all acts and things required to give effect to the resolution.

SHARE PREMIUM ACCOUNT

123. The Board of 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.
124. There shall be debited to any share premium account on the redemption or purchase of a share the difference between the nominal value of such share and the redemption or purchase price provided always that at the discretion of the Board of 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.

NOTICES

125. 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 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.
126. Notices posted to addresses outside the Cayman Islands shall be forwarded by prepaid airmail.
127. 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.
128. 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 and if served by courier, shall be deemed to have been served five days after the time when the letter containing the same is delivered to the courier (in proving such service it shall be sufficient to prove that the letter containing the notice or document was properly addressed and duly posted or delivered to the courier), or, (b) facsimile, shall be deemed to have been served upon confirmation of receipt or (c) recognised delivery service, shall be deemed to have been served 48 hours after the time when the letter containing the same is delivered to the courier service and in proving such

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.

129. 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 his 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 him) in the share.
130. Notice of every general meeting shall be given to:
- (a) all Members who have supplied to the Company an address for the giving of notices to them; and
 - (b) 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.

No other person shall be entitled to receive notices of general meetings.

INDEMNITY

131. Every Director (including for the purposes of this Article any Alternate Director appointed pursuant to the provisions of these Articles), Managing Director, agent, Secretary, Assistant Secretary, or other officer for the time being and from time to time of the Company (but not including the Company's auditor) 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 him 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 him 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.
132. No such Director, Alternate Director, Managing Director, agent, Secretary, Assistant Secretary or other officer of the Company (but not including the Company's auditor) shall be liable (i) for the acts, receipts, neglects, defaults or omissions of any other such director or officer or agent of the Company or (ii) by reason of his having joined in any receipt for money not received by him personally or (iii) for any loss on account of defect of title to any property of the Company or (iv) on account of the insufficiency of any security in or upon which any money of the Company shall be invested or (v) for any loss incurred through any bank, broker or other agent or (vi) for any loss occasioned by any negligence, default, breach of duty, breach of trust, error of judgement or oversight on his part or (vii) 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.

NON-RECOGNITION OF TRUSTS

133. 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.

WINDING UP

134. If the Company shall be wound up the liquidator may, with the sanction of an Ordinary Resolution of the Company divide amongst the Members 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 Members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories 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.

AMENDMENT OF ARTICLES OF ASSOCIATION

135. Subject to the Companies Law and the rights attaching to the various classes of shares, the Company may at any time and from time to time by Special Resolution alter or amend these Articles in whole or in part.

REGISTRATION BY WAY OF CONTINUATION

136. The Company may by Special Resolution resolve to be registered by way of continuation in a jurisdiction outside the Cayman Islands or such other jurisdiction in which it is for the time being incorporated, registered or existing. In furtherance of a resolution adopted pursuant to this Article, the Directors may cause an application to be made to the Registrar of Companies to deregister the Company in the Cayman Islands or such other jurisdiction in which it is for the time being incorporated, registered or existing and may cause all such further steps as they consider appropriate to be taken to effect the transfer by way of continuation of the Company.

Neil Gray

Neil Gray
Chartered Accountant
P.O. Box 1034GT
Grand Cayman

Ian Goddard

Witness to the above signature:
Ian Goddard
P.O. Box 1034GT
Grand Cayman

DATED this 21st May, 2003

I, **D. EVADNE EBANKS Asst.**, Registrar of Companies, in and for the Cayman Islands, **DO HEREBY CERTIFY** that this is a true copy of the Articles of Association of **SunPower Technology Ltd.**

DATED this 21st May, 2003

[Signature]

ASSISTANT REGISTRAR OF COMPANIES



THE COMPANIES LAW (2002 Revision)
COMPANY LIMITED BY SHARES

**MEMORANDUM & ARTICLES
OF
ASSOCIATION
OF**

SunPower Philippines Manufacturing Ltd.

Updated as of August 17, 2022

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REGISTERED AND FILED
AS NO: 125924 THIS 22ND DAY
OF MAY, 2003
ASST. REGISTRAR OF COMPANIES
CAYMAN ISLANDS

THE COMPANIES LAW (2002 Revision)

COMPANY LIMITED BY SHARES

**MEMORANDUM OF ASSOCIATION
OF**

SunPower Philippines Manufacturing Ltd.

1. The name of the Company is **SunPower Philippines Manufacturing Ltd.**.
2. The Registered Office of the Company will be situated at the offices of **Close Brothers (Cayman) Limited, Harbour Place, 103 South Church Street, P.O. Box 1034GT, Grand Cayman, Cayman Islands** or at such other location as the Directors may from time to time determine.
3. The objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by any law as provided by Section 7(4) of The Companies Law (2002 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 (2002 Revision).
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 (2001 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 (2001 Revision), or to carry on the business of Company Management without being licensed in that behalf under the provisions of the Companies Management Law (2001 Revision).
6. The Company will not trade in the Cayman Islands with any person, firm or corporation 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 capital of the Company is **US\$50,000** divided into **50,000** shares of a nominal or par value of **US\$1.00** each provided always that subject to the provisions of The Companies Law (2002 Revision) and the Articles of Association the Company shall have power to redeem or purchase any of its shares and to sub-divide or consolidate the said shares or any of them and to issue all or any part of its capital whether original, redeemed, 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. The Company may exercise the power contained in Section 226 of The Companies Law (2002 Revision) to deregister in the Cayman Islands and be registered by way of continuation in some other jurisdiction.

The undersigned, whose name, address and description is subscribed, is desirous of being formed into a Company in pursuance of this Memorandum of Association, and agrees to take the number of shares in the capital of the Company set opposite his name.

**NAME, ADDRESS AND DESCRIPTION
OF SUBSCRIBER**

**NUMBER OF SHARES TAKEN BY
SUBSCRIBER**

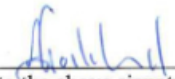
Neil Gray
Chartered Accountant
P.O. Box 1034GT
Grand Cayman

ONE SHARE



Neil Gray

DATED this 21st May, 2003



Witness to the above signature:
Ian Goddard
P.O. Box 1034GT
Grand Cayman

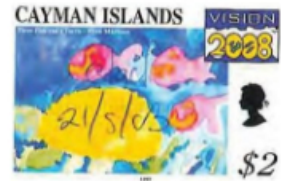
I, **D. EVADNE EBANKS Asst.**, Registrar of Companies, in and for the Cayman Islands, **DO HEREBY CERTIFY** that this is a true copy of the Memorandum of Association of **SunPower Philippines Manufacturing Ltd..**

DATED this 21st May, 2003



ASSISTANT REGISTRAR OF COMPANIES





THE COMPANIES LAW (2002 Revision)

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION, OF



SunPower Philippines Manufacturing Ltd.

TABLE A

The Regulations contained or incorporated in Table 'A' in the First Schedule of the Companies Law (2002 Revision) shall not apply to this Company and the following Articles shall comprise the Articles of Association of the Company:

INTERPRETATION

1. In these Articles:

"**Companies Law**" means the Companies Law (2002 Revision) of the Cayman Islands and any statutory amendment or re-enactment thereof. Where any provision of the Companies Law is referred to, the reference is to that provision as amended by any law for the time being in force;

"**Directors**" and "**Board of Directors**" means the Directors of the Company for the time being, or as the case may be, the Directors assembled as a Board or as a committee thereof;

"**Equitable Share Mortgage**" means the equitable mortgage over the shares in the Company dated 17 August 2022 and entered into by the Mortgagor and the Mortgagee, as the same may be amended and restated from time to time;

"**Member**" means a person whose name is entered in the register of members as the holder of a share or shares and includes each subscriber of the Memorandum pending the issue to him of the subscriber share or shares;

"**Memorandum of Association**" means the Memorandum of Association of the Company, as amended and re-stated from time to time;

"**Mortgaged Shares**" means the shares in the Company the subject of the Security Interest created by the Equitable Share Mortgage;

"**Mortgagee**" means DB Trustees (Hong Kong) Limited;

"Mortgagor" means SunPower Technology Limited, a Cayman Islands exempted company, as the sole Member of the Company;

"Ordinary Resolution" means a resolution:

- (a) passed by a simple majority of such Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the Company and where a poll is taken regard shall be had 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 Members 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" means paid up as to the par value and any premium payable in respect of the issue of any shares and includes credited as paid up;

"Register of Members" means the register to be kept by the Company in accordance with Section 40 of the Companies Law;

"Seal" means the Common Seal of the Company including any facsimile thereof;

"Security Interest" means any mortgage, charge, pledge, lien, encumbrance or other third party right or interest (whether legal or equitable) of whatsoever nature granted by a Member over its shares in the Company in writing by the Member or on behalf of the Member, including, without limitation, the mortgage created by the Equitable Share Mortgage;

"share" means any share in the capital of the Company, including a fraction of any share;

"signed" includes a signature or representation of a signature affixed by mechanical means;

"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 two-thirds of such Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting of the Company of which notice specifying the intention to propose the resolution as a Special Resolution has been duly given and where a poll is taken regard shall be had 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 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.

2. In these Articles, save where the context requires otherwise:

- (a) words importing the singular number shall include the plural number and vice versa;
- (b) words importing the masculine gender only shall include the feminine gender;

- (c) words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
 - (d) "may" shall be construed as permissive and "shall" shall be construed as imperative;
 - (e) a reference to a dollar or dollars (or \$) is a reference to dollars of the United States; and
 - (f) references to a statutory enactment shall include reference to any amendment or re-enactment thereof for the time being in force.
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.

PRELIMINARY

4. The business of the Company may be commenced as soon after incorporation as the Directors see fit, notwithstanding that part only of the shares may have been allotted or issued.
5. 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 may in addition establish and maintain such other offices and places of business and agencies in such places as the Directors may from time to time determine.

SHARES

6. Subject as otherwise provided in these Articles, and subject to the Security Interest created by the Equitable Share Mortgage, all shares in the capital of the Company 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.
7. The Company may in so far as may be permitted by law, pay a commission to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any shares. Such commissions may be satisfied by the payment of cash or the lodgement of fully or partly paid-up shares or partly in one way and partly in the other. The Company may also on any issue of shares pay such brokerage as may be lawful.

VARIATION OF RIGHTS ATTACHING TO SHARES

8. 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 be varied or abrogated with the consent in writing of the holders of two-thirds of the issued shares of that class, or with the sanction of a resolution passed by at least a two-thirds majority of the holders of shares of the class present in person or by proxy at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these Articles relating to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be at least one person holding or representing by proxy at least one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.
9. 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 further shares ranking pari passu therewith or the redemption or purchase of shares of any class by the Company.

CERTIFICATES

10. Every person whose name is entered as a member in the Register of Members shall, without payment, be entitled to a certificate in the form determined by the Directors. Such certificate may be under the Seal. All certificates shall specify the share or shares held by that person and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the Company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.
11. If a share certificate is defaced, lost or destroyed it may be renewed on such terms, if any, as to evidence and indemnity as the Directors think fit.

FRACTIONAL SHARES

12. The Directors may issue fractions of a share of any class of shares, and, if so issued, a fraction of a share (calculated to three decimal points) shall be subject to and carry the corresponding fraction of liabilities (whether with respect to any unpaid amount thereon, contribution, calls or otherwise), limitations, preferences, privileges, qualifications, restrictions, rights (including, without limitation, voting and participation rights) and other attributes of a whole share of the same class of shares. If more than one fraction of a share of the same class is issued to or acquired by the same Member such fractions shall be accumulated. For the avoidance of doubt, in these Articles the expression "share" shall include a fraction of a share.

LIEN

13. The Company shall have a first priority lien and charge on every share (not being a fully paid up share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first priority lien and charge on all shares (other than fully paid up shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the Company, but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien, if any, on a share shall extend to all dividends payable thereon.
- 13A. Notwithstanding the preceding sentences, the Company shall at no time have any liens or charges of any nature whatsoever on any Mortgaged Shares, save for the Security Interest granted under the Equitable Share Mortgage.
14. The Company may sell, in such manner as the Directors think fit, any shares on which the Company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable nor until the expiration of 14 days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the persons entitled thereto by reason of his death or bankruptcy.
15. For giving effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

16. The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale.

CALLS ON SHARES

17. The Directors may from time to time make calls upon the Members in respect of any moneys unpaid on their shares, and each Member shall (subject to receiving at least 14 days' notice specifying the time or times of payment) pay to the Company at the time or times so specified the amount called on his shares.
18. The joint holders of a share shall be jointly and severally liable to pay calls in respect thereof.
19. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of eight per cent per annum from the day appointed for the payment thereof to the time of the actual payment, but the Directors shall be at liberty to waive payment of that interest wholly or in part.
20. The provisions of these Articles as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.
21. The Directors may make arrangements on the issue of shares for a difference between the Members, or the particular shares, in the amount of calls to be paid and in the times of payment.
22. The Directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding without the sanction of an Ordinary Resolution, eight per cent. per annum) as may be agreed upon between the Member paying the sum in advance and the Directors.

FORFEITURE OF SHARES

23. If a Member fails to pay any call or instalment of a call on the day appointed for payment thereof, the Directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
24. The notice shall name a further day (not earlier than the expiration of 14 days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.
25. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by notice has been made, be forfeited by a resolution of the Directors to that effect.
26. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.

27. A person whose shares have been forfeited shall cease to be a Member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the Company all moneys which at the date of forfeiture were payable by him to the Company in respect of the shares, but his liability shall cease if and when the Company receives payment in full of the fully paid up amount of the shares.
28. A statutory declaration in writing that the declarant is a Director of the Company, and that a share in the Company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The Company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.
29. The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which by the terms of issue of a share becomes due and payable, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

TRANSFER OF SHARES

30. The instrument of transfer of any share shall be in any usual or common form or such other form as the Directors may approve and executed by or on behalf of the transferor and if in respect of a nil or partly paid up share or if so required by the Directors shall also be executed on behalf of the transferee and shall be accompanied by the certificate of the shares to which it relates and such other 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.
- 30A. Notwithstanding any other provision of these Articles, the Board shall:
 - (a) promptly register any transfer of Mortgaged Shares which is made pursuant to the terms of the Equitable Share Mortgage;
 - (b) not register a transfer of any Mortgaged Shares (other than a transfer of Mortgaged Shares made pursuant to (a) above) without the prior written consent of the Mortgagee; and
 - (c) not suspend or unreasonably delay registration of any transfer of Mortgaged Shares made pursuant to (a) above.
31. The Directors may in their absolute discretion decline to register any transfer of shares without assigning any reason therefor. If the Directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.
32. The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine, provided always that such registration shall not be suspended for more than 45 days in any year.

33. All instruments of transfer which shall be registered shall be retained by the Company, but any instrument of transfer which the Directors may decline to register shall (except in any case of fraud) be returned to the person depositing the same.

TRANSMISSION OF SHARES

34. 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 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 the share.
35. 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 properly 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 person 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.
36. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he 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.

ALTERATION OF CAPITAL

37. The Company may from time to time by Ordinary Resolution increase the share capital by such sum, to be divided into shares of such classes and amount, as the resolution shall prescribe.
38. The Company may by Ordinary Resolution:
- (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
 - (b) convert all or any of its paid-up shares into stock and reconvert that stock into paid-up shares of any denomination;
 - (c) 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;
 - (d) 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.
39. The Company may by Special Resolution reduce its share capital and any capital redemption reserve in any manner authorised by law.

REDEMPTION AND PURCHASE OF OWN SHARES

40. Subject to the provisions of the Companies Law, the Company may:
- (a) issue shares on terms that they are to be redeemed or are liable to be redeemed at the option of the Company or the Member on such terms and in such manner as the Directors may, before the issue of such shares, determine;
 - (b) purchase its own shares (including any redeemable shares) on such terms and in such manner as the Directors may determine and agree with the Member; and
 - (c) make a payment in respect of the redemption or purchase of its own shares otherwise than out of profits or the proceeds of a fresh issue of shares.
41. Any share in respect of which notice of redemption has been given 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 redemption in the notice of redemption.
42. The redemption or purchase of any share shall not be deemed to give rise to the redemption or purchase of any other share.
43. The Directors may when making payments in respect of redemption or purchase of shares, if authorised by the terms of issue of the shares being redeemed or purchased or with the agreement of the holder of such shares, make such payment either in cash or in specie.

CLOSING REGISTER OF MEMBERS OR FIXING RECORD DATE

44. 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 those Members that are entitled to receive payment of any dividend, 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 but not to exceed in any case 40 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 such register shall be so closed for at least 10 days immediately preceding such meeting and the record date for such determination shall be the date of the closure of the Register of Members.
45. 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 and for the purpose of determining those Members that are entitled to receive payment of any dividend the Directors may, at or within 90 days prior to the date of declaration of such dividend fix a subsequent date as the record date for such determination.

46. 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 or those Members that are entitled to receive payment of a dividend, the date on which notice of the meeting is posted or the date on which the resolution of the Directors declaring such dividend is adopted, as the case may be, 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 section, such determination shall apply to any adjournment thereof.

GENERAL MEETINGS

47. The Directors may, whenever they think fit, convene a general meeting of the Company.
48. General meetings shall also 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 meetings may be convened by the Directors, and all reasonable expenses incurred by the requisitionists as a result of the failure of the Directors shall be reimbursed to them by the Company.
49. If at any time there are no Directors of the Company, any two Members (or if there is only one Member then that Member) entitled to vote at general meetings of the Company may convene a general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.

NOTICE OF GENERAL MEETINGS

50. At least seven days notice counting from the date service is deemed to take place as provided in these Articles specifying the place, the day and the hour of the meeting and, in case of special business, the general nature of that business, shall be given in manner hereinafter provided or in such other manner (if any) as may be prescribed by the Company by Ordinary Resolution to such persons as are, under these Articles, entitled to receive such notices from the Company, but with the consent of all the Members entitled to receive notice of some particular meeting and attend and vote thereat, that meeting may be convened by such shorter notice or without notice and in such manner as those Members may think fit.
51. The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by any Member shall not invalidate the proceedings at any meeting.

PROCEEDINGS AT GENERAL MEETINGS

52. All business carried out at a general meeting shall be deemed special with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets, and ordinary report of the Directors and the Company's auditors, and the appointment and removal of Directors and the fixing of the remuneration of the Company's auditors. No special business shall be transacted at any general meeting without the consent of all Members entitled to receive notice of that meeting unless notice of such special business has been given in the notice convening that meeting.
53. 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. Save as otherwise provided by these Articles, one or more Members holding at least a majority of the paid up voting share capital of the Company present in person or by proxy shall be a quorum.
54. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the Member or Members present and entitled to vote shall be a quorum.
55. The chairman, if any, of the Board of Directors shall preside as chairman at every general meeting of the Company.
56. If there is no such chairman, or if at any 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.
57. The chairman may with the consent of any 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 10 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.
58. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by one or more Members present in person or by proxy entitled to vote and who together hold not less than 10 per cent of the paid up voting share capital of the Company, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.
59. If a poll is duly demanded it 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.
60. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

61. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

VOTES OF MEMBERS

62. Subject to any rights and restrictions for the time being attached to any class or classes of shares, on a show of hands every Member present in person and every person representing a Member by proxy shall at a general meeting of the Company have one vote and on a poll every Member and every person representing a Member by proxy shall have one vote for each share of which he or the person represented by proxy is the holder.
63. 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.
64. A Member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or 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 on a poll, vote by proxy.
65. No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
66. On a poll votes may be given either personally or by proxy.
67. 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 of the Company.
68. An instrument appointing a proxy may be in any usual or common form or such other form as the Directors may approve.
- 68A. Notwithstanding anything contained in these Articles, any instrument irrevocably appointing the Mortgagee as a proxy for the purposes of implementing the Equitable Share Mortgage following enforcement of the Security Interest granted to the Mortgagee thereunder (the "Mortgagee Proxy"), shall not require the approval of the Directors as to its form. The instrument appointing the Mortgagee Proxy shall be deemed to confer authority to vote the Shares which are subject to the Equitable Share Mortgage at all general meetings of Members and to requisition and convene a meeting or meetings of Members for the purpose of appointing or confirming the appointment of new directors of the Company and/or such other matters necessary or desirable for the purpose of enforcing the Equitable Share Mortgage.
69. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
70. A resolution in writing signed 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.

CORPORATIONS ACTING BY REPRESENTATIVES AT MEETINGS

71. Any corporation which is a Member or a Director may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members 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 he represents as that corporation could exercise if it were an individual Member or Director.

DIRECTORS

72. The name of the first Director(s) shall either be determined in writing by a majority (or in the case of a sole subscriber that subscriber) of, or elected at a meeting of, the subscribers of the Memorandum of Association.
73. The Company may by Ordinary Resolution appoint any person to be a Director.
74. Subject to the provisions of these Articles, a Director shall hold office until such time as he is removed from office by the Company by Ordinary Resolution.
75. The Company may by Ordinary Resolution from time to time fix the maximum and minimum number of Directors to be appointed but unless such number is fixed as aforesaid the number of Directors shall be unlimited.
76. The remuneration of the Directors shall from time to time be determined by the Company by Ordinary Resolution.
77. The shareholding qualification for Directors may be fixed by the Company by Ordinary Resolution and unless and until so fixed no share qualification shall be required.
78. The Directors shall have power at any time and from time to time to appoint a person as Director, either as a result of a casual vacancy or as an additional Director, subject to the maximum number (if any) imposed by the Company by Ordinary Resolution.

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ALTERNATE DIRECTOR

79. Any Director may in writing appoint another person to be his alternate to act in his place at any meeting of the Directors at which he 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 him is not personally present and where he is a Director to have a separate vote on behalf of the Director he is representing in addition to his own vote. A Director may at any time in writing revoke the appointment of an alternate appointed by him. Such alternate shall not be an officer of the Company and shall be deemed to be the agent of the Director appointing him. The remuneration of such alternate shall be payable out of the remuneration of the Director appointing him and the proportion thereof shall be agreed between them.

80. Any Director may appoint any person, 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.

POWERS AND DUTIES OF DIRECTORS

81. Subject to the provisions of the Companies Law, these Articles and to any resolutions made in a general meeting, the business of the Company shall be managed 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.
82. The Directors may from time to time appoint any person, whether or not a director of the Company to hold such office in the Company as the Directors may think necessary for the administration of the Company, including without prejudice to the foregoing generality, the office of President, one or more Vice-Presidents, Treasurer, Assistant Treasurer, Manager or Controller, and for such term and at such remuneration (whether by way of salary or commission or participation in profits or partly in one way and partly in another), and with such powers and duties as the Directors may think fit. 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 determine 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.
83. The Directors may appoint the Company Secretary (and if need be an Assistant Secretary or Assistant Secretaries) who shall hold office for such term, at such remuneration and upon such conditions and with such powers as they think fit. Any Secretary or Assistant Secretary so appointed by the directors may be removed by the Directors.
84. 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 in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.
85. 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, 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 him.

86. 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 and the provisions contained in the three next following paragraphs shall be without prejudice to the general powers conferred by this paragraph.
87. The Directors from time to time and at any time may establish any committees, local boards or agencies for managing any of the affairs of the company and may appoint any persons to be members of such committees or local boards and may appoint any managers or agents of the Company and may fix the remuneration of any of the aforesaid.
88. The Directors from time to time and at any time may delegate to any such committee, local board, manager or agent any of the powers, authorities and discretions for the time being vested in the Directors and may authorise the members for the time being of any such local board, or any of them to fill up any vacancies therein and to act notwithstanding vacancies and any such appointment or delegation may be made on such terms and subject to such conditions as the Directors may think fit and the Directors may at any time remove any person so appointed and may annul or vary any such delegation, but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.
89. Any such delegates as aforesaid may be authorised by the Directors to subdelegate all or any of the powers, authorities, and discretion for the time being vested to them.

BORROWING POWERS OF DIRECTORS

90. 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, to issue debentures, debenture stock and other securities whenever money is borrowed or as security for any debt, liability or obligation of the Company or of any third party.

THESEAL

91. The Seal of the Company shall not be affixed to any instrument except by the authority of a resolution of the Board of Directors provided always that such authority may be given prior to or after the affixing of the Seal and if given after may be in general form confirming a number of affixings of the Seal. The Seal shall be affixed in the presence of a Director or the Secretary (or an Assistant Secretary) of the Company or in the presence of any one or more persons as the Directors may appoint for the purpose and every person as aforesaid shall sign every instrument to which the Seal of the Company is so affixed in their presence.
92. The Company may maintain a facsimile of its Seal in such countries or places as the Directors may appoint and such facsimile Seal shall not be affixed to any instrument except by the authority of a resolution of the Board of Directors provided always that such authority may be given prior to or after the affixing of such facsimile Seal and if given after may be in general form confirming a number of affixings of such facsimile Seal. The facsimile Seal shall be affixed in the presence of such person or persons as the Directors shall for this purpose appoint and such person or persons as aforesaid shall sign every instrument to which the facsimile Seal of the Company is so affixed in their presence and such affixing of the facsimile Seal and signing as aforesaid shall have the same meaning and effect as if the Company Seal had been affixed in the presence of and the instrument signed by a Director or the Secretary (or an Assistant Secretary) of the Company or in the presence of any one or more persons as the Directors may appoint for the purpose.

93. Notwithstanding the foregoing, the Secretary or any Assistant Secretary shall have the authority to affix the Seal, or the facsimile Seal, to any instrument for the purposes of attesting authenticity of the matter contained therein but which does not create any obligation binding on the Company.

DISQUALIFICATION OF DIRECTORS

94. The office of Director shall be vacated, if the Director:
- (a) becomes bankrupt or makes any arrangement or composition with his creditors;
 - (b) is found to be or becomes of unsound mind; or
 - (c) resigns his office by notice in writing to the Company.

PROCEEDINGS OF DIRECTORS

95. The Directors may meet together (either within or without the Cayman Islands) for the dispatch of business, adjourn, and otherwise regulate their meetings and proceedings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A Director may, and the Secretary or Assistant Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
96. 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.
97. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed, if there be more than two Directors shall be two, and if there be two or less Directors shall be one. 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.
98. 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 his interest at a meeting of the Directors. A general notice given to the Directors by any Director to the effect that he is a member of any specified company or firm and is to be regarded as interested in any contract which may thereafter be made with 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 he may be interested therein and if he does so his vote shall be counted and he 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.
99. A Director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with his office of Director for such period and on such terms (as to remuneration and otherwise) as the Directors may determine and no Director or intending

Director shall be disqualified by his office from contracting with the Company either with regard to his 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 his interest, may be counted in the quorum present at any meeting whereat he 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 he may vote on any such appointment or arrangement.

100. Any Director may act by himself or his firm in a professional capacity for the Company, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director; provided that nothing herein contained shall authorise a Director or his firm to act as auditor to the Company.
101. The Directors shall cause minutes to be made in books or loose-leaf folders provided for the purpose of recording:
 - (a) all appointments of officers made by the Directors;
 - (b) the names of the Directors present at each meeting of the Directors and of any committee of the Directors;
 - (c) all resolutions and proceedings at all meetings of the Company, and of the Directors and of committees of Directors.
102. When the chairman of a meeting of the Directors signs the minutes of such meeting the same shall be deemed to have been duly held notwithstanding that all the Directors have not actually come together or that there may have been a technical defect in the proceedings.
103. A resolution signed 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.
104. 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 the Articles of the Company 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.
105. The Directors may elect a chairman of their meetings and determine the period for which he is to hold office but if no such chairman is elected, or if at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.
106. 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 same, the members present may choose one of their number to be chairman of the meeting.

107. 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.
108. 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.

DIVIDENDS

109. 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 the funds of the Company lawfully available therefor.
110. Subject to any rights and restrictions for the time being attached to any class or classes of shares, the Company by Ordinary Resolution may declare dividends, but no dividend shall exceed the amount recommended by the Directors.
111. The Directors may, before recommending or declaring any dividend, set aside out of the funds legally available for distribution such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors be applicable for meeting contingencies, or for equalising dividends or for any other purpose to which those funds be properly applied and pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than shares of the Company) as the Directors may from time to time think fit.
112. Any dividend may be paid by cheque or warrant sent through the post to the registered address of the Member or person entitled thereto, or in the case of joint holders, to any one of such joint holders at his registered address or to such person and such address as the Member or person entitled, or such joint holders as the case may be, may direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent or to the order of such other person as the Member or person entitled, or such joint holders as the case may be, may direct.
113. The Directors when paying dividends to the Members in accordance with the foregoing provisions may make such payment either in cash or in specie.
114. No dividend shall be paid otherwise than out of profits or, subject to the restrictions of the Companies Law, the share premium account.
115. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the Company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this Article as paid on the share.
116. If several persons are registered as joint holders of any share, any of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.
117. No dividend shall bear interest against the Company.

ACCOUNTS AND AUDIT

118. 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.
119. The books of account shall be kept at the registered office of the Company, or at such other place or places as the Directors think fit, and shall always be open to the inspection of the Directors.
120. The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors, and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by law or authorised by the Directors or by the Company by Ordinary Resolution.
121. The accounts relating to the Company's affairs shall be audited in such manner and with such financial year end as may be determined from time to time by the Company by Ordinary Resolution or failing any such determination by the Directors or failing any determination as aforesaid shall not be audited.

CAPITALISATION OF PROFITS

122. Subject to the Companies Law, the Board may, with the authority of an Ordinary Resolution:
 - (a) resolve to capitalise an amount standing to the credit of reserves (including a share premium account, capital redemption reserve and profit and loss account), whether or not available for distribution;
 - (b) 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:
 - (i) paying up the amounts (if any) for the time being unpaid on shares held by them respectively, or
 - (ii) 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, the 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;
 - (c) make any arrangements it thinks fit to resolve a difficulty arising in the distribution of a capitalised reserve and in particular, without limitation, where shares or debentures become distributable in fractions the Board may deal with the fractions as it thinks fit;

- (d) authorise a person to enter (on behalf of all the Members concerned) an agreement with the Company providing for either:
 - (i) the allotment to the members respectively, credited as fully paid, of shares or debentures to which they may be entitled on the capitalisation, or
 - (ii) 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,an agreement made under the authority being effective and binding on all those Members; and
- (e) generally do all acts and things required to give effect to the resolution.

SHARE PREMIUM ACCOUNT

- 123. The Board of 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.
- 124. There shall be debited to any share premium account on the redemption or purchase of a share the difference between the nominal value of such share and the redemption or purchase price provided always that at the discretion of the Board of 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.

NOTICES

- 125. 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 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.
- 126. Notices posted to addresses outside the Cayman Islands shall be forwarded by prepaid airmail.
- 127. 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.
- 128. 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 and if served by courier, shall be deemed to have been served five days after the time when the letter containing the same is delivered to the courier (in proving such service it shall be sufficient to prove that the letter containing the notice or document was properly addressed and duly posted or delivered to the courier), or, (b) facsimile, shall be deemed to have been served upon confirmation of receipt or (c) recognised delivery service, shall be deemed to have been served 48 hours after the time when the letter containing the same is delivered to the courier service and in proving such

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.

129. 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 his 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 him) in the share.
130. Notice of every general meeting shall be given to:
- (a) all Members who have supplied to the Company an address for the giving of notices to them; and
 - (b) 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.

No other person shall be entitled to receive notices of general meetings.

INDEMNITY

131. Every Director (including for the purposes of this Article any Alternate Director appointed pursuant to the provisions of these Articles), Managing Director, agent, Secretary, Assistant Secretary, or other officer for the time being and from time to time of the Company (but not including the Company's auditor) 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 him 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 him 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.
132. No such Director, Alternate Director, Managing Director, agent, Secretary, Assistant Secretary or other officer of the Company (but not including the Company's auditor) shall be liable (i) for the acts, receipts, neglects, defaults or omissions of any other such director or officer or agent of the Company or (ii) by reason of his having joined in any receipt for money not received by him personally or (iii) for any loss on account of defect of title to any property of the Company or (iv) on account of the insufficiency of any security in or upon which any money of the Company shall be invested or (v) for any loss incurred through any bank, broker or other agent or (vi) for any loss occasioned by any negligence, default, breach of duty, breach of trust, error of judgement or oversight on his part or (vii) 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.

NON-RECOGNITION OF TRUSTS

133. Except as required by law and save for the Security Interest created by the Equitable Share Mortgage, 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.

WINDING UP

134. If the Company shall be wound up the liquidator may, with the sanction of an Ordinary Resolution of the Company divide amongst the Members 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 Members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories 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.

AMENDMENT OF ARTICLES OF ASSOCIATION

135. Subject to the Companies Law and the rights attaching to the various classes of shares, the Company may at any time and from time to time by Special Resolution alter or amend these Articles in whole or in part.

REGISTRATION BY WAY OF CONTINUATION

136. The Company may by Special Resolution resolve to be registered by way of continuation in a jurisdiction outside the Cayman Islands or such other jurisdiction in which it is for the time being incorporated, registered or existing. In furtherance of a resolution adopted pursuant to this Article, the Directors may cause an application to be made to the Registrar of Companies to deregister the Company in the Cayman Islands or such other jurisdiction in which it is for the time being incorporated, registered or existing and may cause all such further steps as they consider appropriate to be taken to effect the transfer by way of continuation of the Company.

Neil Gray

Neil Gray
Chartered Accountant
P.O. Box 1034GT
Grand Cayman

Ian Goddard

Witness to the above signature:
Ian Goddard
P.O. Box 1034GT
Grand Cayman

DATED this 21st May, 2003

I, **D. EVADNE EBANKS Asst.**, Registrar of Companies, in and for the Cayman Islands, **DO HEREBY CERTIFY** that this is a true copy of the Articles of Association of **SunPower Philippines Manufacturing Ltd..**

DATED this 21st May, 2003

[Handwritten Signature]

ASSISTANT-REGISTRAR OF COMPANIES



CONYERS

Limited Liability Company Agreement

ADOPTED BY SUNPOWER CORPORATION, SYSTEMS

DATE:

Conyers Dill & Pearman Limited
Barristers & Attorneys
Clarendon House, Hamilton Bermuda
conyers.com

Legal – 16882290.1

LIMITED LIABILITY COMPANY AGREEMENT dated _____, adopted by SunPower Corporation, Systems (the “**INITIAL MEMBER**”)

WHEREAS the Initial Member wishes to form a limited liability company under the Act.

NOW THEREFORE, the Initial Member hereby agrees to and adopts the following:

1. DEFINITIONS

In this Agreement unless the context otherwise requires the following words and expressions shall have the following meanings:

“ Act ”	means the Limited Liability Company Act 2016, as amended from time to time;
“ Agent ”	means Conyers Corporate Services (Bermuda) Limited;
“ Certificate of Formation ”	means the certificate of formation filed in connection with the formation of the LLC as contemplated by this Agreement;
“ Indemnitee ”	means any Member, Manager or Officer;
“ LLC ”	means the limited liability company formed hereby;
“ Manager ”	means either (i) such person(s), whether or not a Member, appointed by the Members as manager of the LLC or (ii) if no person has been so appointed, the Members;
“ Members ”	means the members of the LLC;
“ Officer ”	means an officer appointed by the Manager pursuant to this Agreement;
“ Registrar ”	means the Bermuda Registrar of Companies.

2. FORMATION

The Initial Member by the filing of the Certificate of Formation with the Registrar forms the LLC under and pursuant to the provisions of the Act and hereby agrees to be admitted as the sole initial member of the LLC as set forth herein.

3. NAME

The name of the LLC is “Rooster Bermuda DRE, LLC”.

4. AUTHORISED PERSON

The Agent, as an "authorised person" within the meaning of the Act, has executed, delivered and filed the Certificate of Formation with the Registrar. Upon the filing of the Certificate of Formation with the Registrar, the Agent's powers as an "authorised person" ceased, and the Initial Member thereupon became the designated "authorised person" and shall continue as a designated "authorised person" within the meaning of the Act. Any Member or any manager of the LLC or any other person authorised on behalf of the LLC may execute, deliver and file any other certificates (and any amendments, corrections and/or restatements thereof) with the Registrar and any similar documents necessary or desirable for the LLC to qualify to do business in any jurisdiction in which the LLC may desire to conduct business.

5. PURPOSE, POWERS AND AUTHORITY

The LLC is formed for the purpose of engaging in any lawful business, purpose or activity for which limited liability companies may be formed under the Act and shall have the capacity, rights and powers of a natural person and authority to engage in any and all activities necessary or incidental to or in furtherance of the foregoing purpose.

6. REGISTERED OFFICE OR RESIDENT REPRESENTATIVE

The initial registered office of the LLC is Clarendon House, 2 Church Street, Hamilton, Bermuda.

7. TERM

The existence of the LLC as a separate legal entity shall commence on the filing with the Registrar of the Certificate of Formation and shall continue until cancellation of the Certificate of Formation as provided in the Act.

8. MEMBERS

- (a) The name, percentage interest and capital contribution of each Member shall be as set out in [Schedule 1](#), which schedule shall be updated from time to time to reflect any changes in such details made in accordance with this Agreement.
- (b) Subject to the next following sentence, the LLC shall have only one class and group of members. If authorised by the Members, the LLC may create additional classes or groups of members with such rights, powers and duties as shall be determined by the Members or by any person authorised by the Members to make such determination.
- (c) Any matter to be decided by a vote of the Members shall be determined by a simple majority of votes in accordance with the Act.
- (d) Subject to Section 46(9) of the Act, the length of notice of any meeting of the Members shall be reasonable in all the circumstances (provided that not more than 5 days' notice shall in any circumstances be required) and may be waived by any Member prospectively or retrospectively. Notice of a meeting of the Members shall be deemed to

be duly given to a Member if it is given to such Member verbally (including in person or by telephone) or otherwise communicated or sent to such Member by post, electronic means or other mode of representing words in a visible form at such Member's last known address or in accordance with any other instructions given by such Member to the LLC for this purpose. The Manager may establish record dates for determining the Members entitled to receive notice of and vote at any meeting of the Members. The accidental omission to give notice of a meeting of the Members to, or the non-receipt of a notice of a meeting of the Members by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

9. MANAGEMENT OF THE LLC

- (a) **Power and Authority of Manager.** The business and affairs of the LLC shall be managed by the Manager, each of whom (if more than one) shall have the power and authority, on behalf of the LLC, to take any action of any kind whatsoever not inconsistent with the provisions of this Agreement (including, without limitation, the power and authority to delegate and to authorise sub-delegation) and to do anything and everything whatsoever such person deems necessary or appropriate to carry on the business and purpose of the LLC. A person appointed as manager of the LLC may resign at any time by written notice delivered to the LLC.
- (b) **Appointment of Manager.** The appointment of a manager shall be effective upon entry of such person in the register of managers required to be maintained pursuant to the Act.
- (c) **Manager May Appoint Officers.** The Manager may appoint one or more Officers of the LLC with such titles as may be designated by the Manager to act in the name of the LLC with such rights, duties, power and authority as may be delegated to any such Officer by the Manager. Each Officer may act pursuant to his or her delegated authority until such Officer is removed by the Manager. Any action taken by an Officer pursuant to the authority delegated to such Officer shall constitute the act of, and be binding upon, the LLC.
- (d) **Proceedings of Manager.** The Manager may regulate its proceedings as it sees fit.

10. WINDING UP

The LLC shall be wound up upon the earliest to occur of:

- (a) a resolution of the Members to wind up the LLC voluntarily;
- (b) a determination by the Manager to wind up the LLC voluntarily;
- (c) any other event or circumstance giving rise to the winding up of the LLC under Section 151 of the Act, unless the LLC's existence is continued pursuant to the Act;
- (d) the winding up or dissolution of the Manager; and

(e) the LLC having neither a Member nor a Manager.

11. INITIAL CAPITAL CONTRIBUTIONS

The Initial Member has made a capital contribution to the LLC in the amount set forth on [Schedule 1](#) hereto and in the books and records of the LLC. The capital account of each Member shall be in an amount equal to its initial capital contribution, adjusted from time to time for additional contributions, withdrawals, allocations of profits, losses, appreciation and depreciation and other appropriate items.

12. ADDITIONAL CONTRIBUTIONS

The Members shall not have any obligation to make additional capital contributions to the LLC.

13. DISTRIBUTIONS

Distributions shall be made to the Members in accordance with the Act and at the times and in the amounts determined by the Manager. The Manager may establish record dates with respect to allocations and/or distributions by the LLC.

14. ADMISSION OF ADDITIONAL MEMBERS

One or more additional Members may be admitted to the LLC with the consent of the Manager (without the consent of any other Member(s)). Such admission shall be effective upon entry of the additional Member(s) in the register of members required to be maintained pursuant to the Act.

15. ASSIGNMENT OF LLC INTEREST

Any Member may assign such Member's LLC interest (whether or not represented by a certificate of LLC interest), in whole or in part, with the consent of the Manager. When any Member assigns the whole of such Member's LLC interest the assignee(s) of such LLC interest shall, upon entry in the register of members, become a Member (or Members) without the consent of any Member(s).

16. RESIGNATION OF MEMBERS

Any Member may resign from the LLC at any time. Following such resignation, such former Member shall be entitled to receive the fair value of such former Member's interest in accordance with the Act.

17. CERTIFICATES

The LLC may issue certificates to evidence ownership of interests in the LLC.

18. ACQUISITION OF LLC INTERESTS BY LLC

The LLC may acquire by purchase, redemption or otherwise any LLC interest or other interest of a Member or Manager and, if the Manager so determines, such interest may remain outstanding.

19. LIABILITY OF MANAGER AND MEMBERS

The debts, obligations and liabilities of the LLC, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the LLC. The Manager and Members shall not have any personal liability for the debts, obligations or liabilities of the LLC solely by reason of being a manager or member of the LLC. No Manager or Member shall have any liability to the LLC or to another Member or Manager or any other person that is a party to or otherwise bound by this Agreement, except in respect of such person's fraud or dishonesty.

20. DUTIES

To the extent that, at law or in equity, a Member, Manager or other person has any duties (including fiduciary duties) to the LLC or to another Member, Manager or other person that is a party to or is otherwise bound by or entitled to enforce this Agreement, all such duties shall be eliminated, save that such first mentioned Member, Manager or other person shall have only a duty to act honestly and in good faith.

21. INDEMNIFICATION

The LLC shall indemnify and hold harmless each Indemnitee from and against:

- (i) any and all threatened, pending or completed actions, suits or proceedings, whether civil, criminal, administrative or investigative to which such Indemnitee was or is a party or is threatened to be made a party by reason of the fact that the Indemnitee is or was a Manager, Member or Officer and
- (ii) any and all expenses (including, without limitation, attorneys' fees), judgments, fines and amounts paid or to be paid in settlement, provided that the foregoing shall not extend to the fraud or dishonesty of the Indemnitee. Expenses (including, without limitation, attorneys' fees), losses and liabilities incurred by an Indemnitee in defending or investigating any such civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the LLC as they are incurred by the Indemnitee, provided that the foregoing shall not extend to the fraud or dishonesty of the Indemnitee.

22. CONVERSION

The LLC may, in accordance with the Act, convert to a company or to an exempted limited partnership which has elected to have legal personality following approval of the Manager.

23. FINANCIAL STATEMENTS

The LLC shall not be required to cause financial statements and an auditor's report in respect thereof to be prepared in accordance with Section 51 of the Act.

24. TAX MATTERS

The LLC shall be treated, and the Members and Manager shall take all necessary actions for the LLC to be treated, for U.S. federal income tax purposes as a disregarded entity within the meaning of U.S. Treasury Regulations Section 301.7701-3(b)(ii).

25. HEADINGS

The descriptive headings contained in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

26. GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the laws of Bermuda.

27. AMENDMENTS

Unless, and only to the extent, otherwise required under the Act, this Agreement may not be amended, except by written instrument executed by the Members.

28. EFFECTIVE DATE

This Agreement shall be effective as of the time of the filing of the Certificate of Formation with the Bermuda Registrar of Companies.

[Signature on next page]

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement as of the date and year first written above.

SUNPOWER CORPORATION, SYSTEMS

as the Initial Member

By:  _____

Name: Shawn Fitzgerald

Title: Director

Schedule 1

Members

Member Name	Percentage Interest	Capital Contribution
SUNPOWER CORPORATION, SYSTEMS	100%	



RC DE SA 10450/2005
 CH-270 - 3019558 - 7
 11465 22.07.2009 004
 756 660 00000094411 00000-5

STATUTS DE
SunPower Systems Sàrl

SunPower Systems Sàrl
avec siège à Genève, Canton de Genève

I. Raison sociale, siège et but

Article 1 – Raison sociale

Sous la raison sociale SunPower Systems Sàrl est constituée une société à responsabilité limitée conformément aux articles 772 ss. du Code des Obligations ("CO").

Article 2 – Siège

Le siège de la société est à Genève, Canton de Genève.

Article 3 – But

La société a pour la vente, la planification, la fabrication et la construction de produits solaires ou de systèmes analogues.

Elle peut :

- Exercer toute activité financière, commerciale ou industrielle, se rapportant directement ou indirectement à son but ;
- Créer des succursales ou des filiales en Suisse ou à l'étranger ;

ARTICLES OF
ASSOCIATION OF
SunPower Systems Sàrl

SunPower Systems Sàrl
with seat in Genève, Canton of Geneva

I. Name, domicile and purpose of the company

Article 1 – Name

A limited liability company is formed under the name SunPower Systems Sàrl in accordance with articles 772 et seq. of the Swiss Code of Obligations ("CO").

Article 2 – Seat

The seat of the company is in Geneva, Canton of Geneva.

Article 3 – Purpose

The purpose of the company is the sale, the planning, the fabrication and the construction of solar products and similar systems.

It may:

- Exercise any financial, commercial and industrial activity in direct or indirect relation with its object;
- Create any branches or subsidiaries in Switzerland or overseas;



- Détenir des participations dans toute société qui ont une relation directe ou indirecte avec son but ;
- Accorder des prêts ou des garanties aux actionnaires ou à des tiers, si cela est dans l'intérêt de la société.

La société ne peut prendre aucune participation dans l'immobilier.

La société peut également poursuivre toutes les affaires se rattachant directement ou indirectement au but ci-dessus énoncé ou apte à le favoriser.

II. Capital

Article 4

Le capital social est de cent mille francs (CHF 100'000.-).

Il est divisé en 100 parts sociales de CHF 1'000.- chacune.

III. Parts sociales

Article 5 – Registre des parts sociales

Les gérants tiennent un registre des parts sociales.

Le registre des parts sociales doit mentionner :

1. Le nom et l'adresse des associés, ainsi que leur date de naissance ;
2. Le nombre, la valeur nominale et les éventuelles catégories des parts sociales détenues par chaque associé ;

- Own holdings in any companies which have a direct or indirect relationship with its object;
- Grant loans or guarantees to shareholders or to third parties, if this is in the company's interest.

The company cannot take any participation in real estates.

The company may also carry out all activities which are directly or indirectly linked to the purpose of the company as set out above or which may favour it.

II. Capital

Article 4

The capital amounts to one hundred thousand Swiss Francs (CHF 100,000).

It is divided into 100 quotas with a nominal value of CHF 1,000 each.

III. Quotas

Article 5 – Register of quotas

The managers hold a register of the company's quotas.

The register of the quotas shall mention:

1. The name and address of all quotaholders, as well as their date of birth;
2. The number, nominal value and possible categories of quotas held by each quotaholder;



3. Le nom et l'adresse des créanciers gagistes ainsi que leur date de naissance.

Les associés qui ne sont pas autorisés à exercer le droit de vote et les droits qui y sont attachés sont désignés comme étant des associés sans droit de vote.

Les associés communiquent aux gérants toutes modifications des faits inscrits sur le registre des parts sociales.

Chaque associé a le droit de consulter le registre des parts sociales.

Article 6 – Cession

La cession de parts sociales et l'obligation de céder des parts sociales doivent revêtir la forme écrite.

Le contrat de cession doit renvoyer aux dispositions statutaires relatives au droit de préemption des associés.

La cession de parts sociales ne requiert pas l'approbation de l'assemblée des associés.

Article 7 – Modes particuliers d'acquisition

Lorsque des parts sociales sont acquises par succession, par partage successoral, en vertu du régime matrimonial ou dans une procédure d'exécution forcée, l'ensemble des droits et obligations qui y sont attachés passent à l'acquéreur sans l'approbation de l'assemblée des associés.

Pour pouvoir exercer son droit de vote et les droits qui y sont attachés, l'acquéreur doit toutefois être reconnu en tant qu'associé avec droit de vote par l'assemblée des associés.

3. The name and address of the creditors holding pledges, as well as their date of birth.

The quotaholders who are not authorized to exercise their voting right and the rights attached to their quotas are mentioned as being quotaholders without voting right.

The quotaholders communicate to the managers each modification to the details mentioned in the register of quotas.

Each quotaholder is entitled to consult the register of quotas.

Article 6 – Assignment

The transfer of quotas and the obligation to transfer quotas have to be made in written form.

The transfer agreement of quotas has to refer to the articles of association dealing with the pre-emptive right of the quotaholders.

The transfer of quotas has not to be approved by the quotaholders' meeting.

Article 7 – Specific modes of acquisition

Whenever quotas are acquired by way of succession, estate partition, dissolution of matrimonial regime or in the context of debt collection proceedings, all rights and obligations attached to the quotas are automatically transferred to the transferee without the approval of the quotaholders' meeting.

In order to be entitled to exercise its voting right and the rights thereto attached, the transferee has to be nonetheless accepted by the quotaholders' meeting as a



L'assemblée des associés ne peut lui refuser la reconnaissance que si la société lui propose de lui reprendre ses parts sociales à leur valeur réelle au moment de la requête. L'offre peut être faite pour le propre compte de la société, pour le compte d'autres associés ou pour celui de tiers. Si l'acquéreur ne rejette pas l'offre de reprise de la société dans le délai d'un mois après qu'il a eu connaissance de la valeur réelle, l'offre est réputée acceptée.

La reconnaissance d'un associé avec droits de vote est réputée accordée si l'assemblée des associés ne la refuse pas dans les six mois suivant le dépôt de la demande.

Article 8 – Droit de gage

La constitution d'un droit de gage sur une part sociale requiert l'approbation de l'assemblée des associés.

Celle-ci ne peut refuser son approbation que pour de justes motifs.

IV. Droits et devoirs des associés

Article 9 – Devoir de fidélité et interdiction de faire concurrence

Les associés sont tenus à la sauvegarde du secret des affaires.

Les associés s'abstiennent de tout ce qui porte préjudice aux intérêts de la société. Ils ne peuvent en particulier gérer des affaires qui leur procureraient un avantage particulier et qui seraient préjudiciables au but de la société.

quotaholder with voting right.

The quotaholders' meeting may only refuse its acceptance if the company offers to the transferee to acquire its quotas at their fair market value at the moment of the request of acceptance by the transferee. The offer may be made on behalf of the company, on behalf of other quotaholders or on behalf of third parties. If the transferee does not reject the acquisition offer from the company within a deadline of one month after it has been informed of the fair market value, the offer is considered as accepted.

The acceptance of the capacity as quotaholder with voting right is considered as granted if the quotaholders' meeting does not refuse it within a deadline of six months following the deposit of the request.

Article 8 – Security

The formation of a security on quotas requires the approval by the quotaholders' meeting.

The quotaholders' meeting may only refuse its approval for just cause.

IV. Rights and obligation of the quotaholders

Article 9 - Duty of loyalty and prohibition to compete

The quotaholders must keep the businesses of the company confidential and secret.

The quotaholders must abstain from doing anything which may be detrimental to the interest of the company. In particular, they may not carry any business which would procure them specific advantages and



Les associés ne peuvent exercer d'activités qui font concurrence à la société.

Les associés peuvent, moyennant l'approbation écrite de tous les autres associés, exercer des activités qui violent le devoir de fidélité ou l'interdiction de faire concurrence.

Article 10 – Droits de préemption, procédure

Chaque associé dispose d'un droit de préemption sur les parts sociales des autres associés qu'il peut exercer aux conditions suivantes.

Lorsqu'un associé vend des parts sociales et qu'il déclenche ainsi un cas de préemption au sens de la loi, il est tenu de l'annoncer aux autres associés et aux gérants par courrier recommandé dans un délai de 30 jours dès le cas de préemption.

Les titulaires du droit de préemption peuvent l'exercer dans un délai de 60 jours à compter de la réception de la communication du cas de préemption. Le droit s'exerce par un envoi recommandé aux gérants.

Le droit de préemption doit toujours s'exercer sur l'ensemble des parts sociales qui sont objet du cas de préemption. Lorsque plusieurs titulaires exercent leur droit de préemption, les parts sociales sont attribuées aux associés proportionnellement à leur participation au capital social.

A l'expiration du délai d'exercice du droit de préemption, les gérants doivent porter l'exercice du droit à la connaissance des

which would be detrimental to the purpose of the company.

The quotaholders may not carry any business competing with the company.

The quotaholders may, subject to the written agreement from all other quotaholders, do business which would violate their duty of loyalty or the prohibition to compete.

Article 10 - Pre-emption right, procedure

Each quotaholder has a pre-emption right on the quotas held by other quotaholders, which is subject to following conditions.

Whenever a quotaholder sells, transfers or assigns quotas and thus triggers the pre-emption right as set out by Swiss law, it must so notify the other quotaholders and managers by way of registered mail within a deadline of 30 days as from the date when the pre-emption right is triggered.

The holders of a pre-emption right are entitled to exercise it within a deadline of 60 days as from receipt of the notification. The pre-emption right is exercised by sending a registered mail to the managers of the company.

The pre-emption right must always be exercised on all quotas which are subject to the pre-emption right. Whenever several holders exercise their pre-emption rights, the quotas are attributed to the quotaholders pro rata their participation to the share capital.

When the deadline set to exercise the pre-emption rights expires, the managers have to notify the



associés dans les 10 jours par courrier recommandé. Lorsque le droit de préemption a été exercé, les parts sociales doivent être cédées aux associés qui l'ont fait valoir dans un délai de 60 jours à compter de l'expiration du délai d'exercice du droit de préemption, contre paiement intégral du prix de vente.

**Article 11 – Droit de préemption;
détermination de la valeur réelle**

Le droit de préemption sur les parts sociales doit s'exercer à la valeur réelle des parts sociales au moment de la survenance du cas de préemption.

Si les intéressés ne peuvent s'entendre sur la valeur réelle dans les 30 jours à compter de la communication des gérants relative à l'exercice du droit de préemption, ils doivent faire part de leur prix aux gérants par écrit. A défaut d'accord, la valeur réelle est déterminée de manière définitive et contraignante pour tous les intéressés par un arbitre expert-réviseur agréé.

Si les intéressés ne trouvent pas d'accord sur la désignation de l'arbitre expert-réviseur agréé, celui-ci est désigné définitivement et sans appel par le président du Tribunal cantonal au siège de la société.

Avant de déterminer définitivement la valeur réelle, l'arbitre doit soumettre sa proposition et l'ensemble des annexes ainsi que les principes d'évaluation qu'il a retenus à tous les intéressés pour prise de position unique. Les intéressés doivent prendre position par écrit.

quotaholders of the exercise of the pre-emption rights within 10 days by way of registered mail. When the pre-emption right has been exercised, the quotas have to be transferred to the quotaholders who have exercised their pre-emption right within a deadline of 60 days as from the expiration of the deadline related to the exercise of the pre-emption right, against payment of the entire purchase price.

**Article 11 – Pre-emption right;
fair market value**

The pre-emption right on quotas has to be exercised at the fair market value of the quotas when the situation triggering the exercise of the pre-emption rights occurs.

If the interested parties may not agree on the fair market value within 30 days as from the notification to the managers, they have to notify the managers in writing of their proposed purchase price. Failing an agreement, the fair market value is decided in a final and binding way for all interested parties by an agreed arbitrator-auditor.

If the interested parties may not agree on the designation of the agreed auditor, the latter is finally designated by the President of the Cantonal Court at the seat of the company.

Before finally appraising the fair market value of the quotas, the arbitrator has to submit its proposal, all annexes, as well as the valuation principles that he has used to all interested parties for taking position once only. The interested parties have to communicate their position in writing.



Les frais de la procédure d'évaluation sont pris en charge par les intéressés, proportionnellement à la différence entre leur proposition écrite au sens de l'alinéa 2 et le résultat de l'expertise.

The costs of the appraisal procedure are paid by the interested parties, pro rata the difference between their written proposal as per the second paragraph and the final result of the appraisal.

Si le président du Tribunal cantonal n'accepte pas le mandat relatif à la désignation d'un arbitre expert-réviseur agréé, la valeur réelle est fixée par le tribunal ordinaire, respectivement un tribunal arbitral.

If the President of the Cantonal Court does not accept the mandate to designate an agreed arbitrator-auditor, the fair market value is determined by the ordinary competent Court or by an arbitral tribunal.

Article 12 – Remise du rapport de gestion

Article 12 – Delivery of the auditors' report

Le rapport de gestion et le rapport de révision doivent être remis aux associés au plus tard 20 jours avant l'assemblée ordinaire des associés.

The business report and the auditors' report must be delivered to the quotaholders at least 20 days before the quotaholders' meeting.

Les associés reçoivent le rapport de gestion après l'assemblée des associés dans la forme approuvée par cette dernière.

The quotaholders receive the business report after the quotaholders' meeting, in the form approved by the latter.

V. Organisation de la société

V. Organization of the company

A. Assemblée générale

A. Quotaholders' meeting

Article 13 – Attributions

Article 13 - Powers

L'assemblée des associés est l'organe suprême de la société.

The supreme body of the company shall be the quotaholders' meeting.

L'assemblée générale a le droit intransmissible:

It shall have the inalienable right to:

1. de modifier les statuts ;
2. de nommer et révoquer les gérants ;
3. de nommer et révoquer les membres de l'organe de révision ;

1. to amend the articles of association;
2. to appoint and revoke the managers;
3. to appoint and revoke the auditors;



- | | |
|---|---|
| 4. d'approuver le rapport annuel et les comptes de groupe, si la société est soumise à l'obligation d'établir des comptes de groupe ; | 4. to approve the annual report and the group balance sheet, if the company is submitted to the obligation to issue group balance sheet; |
| 5. d'approuver les comptes annuels et de déterminer l'emploi du bénéfice résultant du bilan, ainsi que de fixer les dividendes; | 5. to approve the annual balance sheet and to decide upon the use of net profits, as well as to determine the dividends; |
| 6. de déterminer l'indemnité des gérants ; | 6. to fix the indemnity granted to the managers; |
| 7. de donner décharge aux gérants ; | 7. to grant discharge to the managers; |
| 8. d'approuver la constitution d'un droit de gage sur une part sociale ; | 8. to approve the formation of a security on a quota; |
| 9. d'autoriser les gérants à acquérir pour la société des parts sociales propres, ou d'approuver une telle acquisition ; | 9. to authorize the managers to acquire quota on behalf of the company, or to approve such acquisition; |
| 10. de décider de requérir du juge l'exclusion d'un associé pour de justes motifs ; | 10. to decide to request the judge to exclude a quotaholder for just cause; |
| 11. de dissoudre la société ; | 11. to dissolve the company; |
| 12. de prendre les décisions sur les objets que la loi ou les statuts lui réservent ou que les gérants lui soumettent. | 12. to take any resolution on matters that Swiss law or the articles of association reserve to the quotaholders' meeting or that the managers submit to it. |

Article 14 – Convocation

L'assemblée ordinaire des associés a lieu chaque année dans les six mois qui suivent la clôture de l'exercice annuel. Les assemblées extraordinaires des associés sont convoquées aussi souvent qu'il est nécessaire.

L'assemblée des associés est convoquée par les gérants et, au besoin, par l'organe de révision ou par le juge. Les liquidateurs ont également le droit de la convoquer.

Article 14 – Calling of the quotaholders' meeting

The annual quotaholders' meeting shall be held within 6 months after the closing of the business year. Extraordinary quotaholders' meetings shall be called whenever needed.

Quotaholders' meetings shall be called by the managers and, in case of need, by the auditors or by the judge. Liquidators are also entitled to call a



Un ou plusieurs associés représentant ensemble au moins 10 pour-cent du capital social peuvent aussi requérir la convocation d'une assemblée des associés. La convocation doit être requise par simple courrier ou par courriel en indiquant les objets de discussion et les propositions.

L'assemblée des associés est convoquée 20 jours au moins avant la date de la réunion par écrit ou par courriel. L'article 16 demeure réservé.

Article 15 – Objet des délibérations

Sont mentionnés dans la convocation de l'assemblée des associés les objets portés à l'ordre du jour, ainsi que les propositions des gérants et d'éventuelles propositions des associés.

Aucune décision ne peut être prise sur des objets qui n'ont pas été dûment portés à l'ordre du jour, à l'exception des propositions de convoquer une assemblée des associés extraordinaire et, le cas échéant, de désigner un organe de révision.

Il n'est pas nécessaire d'annoncer à l'avance les propositions entrant dans le cadre des objets portés à l'ordre du jour ni les délibérations qui ne doivent pas être suivies d'un vote.

Article 16 – Décisions à des conditions facilitées

L'assemblée des associés peut être tenue sans observer les formes prévues pour sa convocation avec l'accord de tous les associés (assemblée universelle).

quotaholders' meeting.

One or more quotaholder(s) representing together at least 10% of the share capital may also request the calling of a quotaholders' meeting. The calling has to be made by post mail or e-mail and indicate the items to be discussed and the proposal.

The quotaholders' meeting is called at least 20 days before the meeting by post mail or by email. Article 16 is reserved.

Article 15 – Object of the deliberations

The invitation to the quotaholders' meeting shall mention the agenda, as well as the proposals from the managers and possibly from the quotaholders.

No resolution may be taken with respect to items which have not been duly mentioned on the agenda, to the exception of proposals to call an extraordinary quotaholders' meeting and, to the fullest necessary extent, to appoint auditors.

No prior invitation is required for proposals related to matters included in the agenda which do not resolve in taking resolutions.

Article 16 – Universal meeting

Subject to the agreement of all quotaholders, the quotaholders' meeting may be held without complying with the formalities related to the calling of a quotaholders' meeting (universal meeting).



Aussi longtemps que les associés ou leur représentant sont présents, cette assemblée a le droit de délibérer et de statuer valablement sur tous les objets qui sont du ressort de l'assemblée des associés.

Les décisions de l'assemblée des associés peuvent aussi être prises par écrit, à moins qu'une discussion ne soit requise par un associé.

Article 17 – Présidence et procès-verbal

Le président des gérants dirige l'assemblée des associés. Il désigne le secrétaire et les scrutateurs, qui ne doivent pas être associés.

Le procès-verbal mentionne :

1. le nombre et la valeur nominale des parts sociales représentées par les associés ;
2. les décisions et le résultat des élections ;
3. les demandes de renseignements et les réponses données ;
4. les déclarations dont les associés demandent l'inscription ;

Le procès-verbal est signé par le président et par le secrétaire de l'assemblée.

Les gérants remettent une copie du procès-verbal à chaque associé.

Article 18 – Représentation

Chaque associé peut représenter lui-même ses parts sociales à l'assemblée des associés ou les faire représenter par une des personnes suivantes :

1. un autre associé ;

As long as all quotaholders or their proxy holders are present, such meeting is entitled to deliberate and to take valid resolutions on all items which fall within the competence of the quotaholders' meeting.

The resolutions of the quotaholders' meeting may also be taken in writing, unless a discussion is required by one quotaholder.

Article 17 – Chairperson and minutes

The quotaholders' meeting is chaired by the chairman. He appoints the secretary and the scrutiners, who do not need to be quotaholders.

The minutes include:

1. the number and nominal value of the quotas represented by the quotaholders;
2. the resolutions and the results of the elections;
3. the information requests and the given answers;
4. the statements that the quotaholders request to be mentioned in the minutes;

The minutes are signed by the chairman and by the secretary of the meeting.

The managers deliver a copy of the minutes to each quotaholder.

Article 18 – Representation

Each quotaholder may represent his own quotas at the quotaholders' meeting or have one of the following persons represent them:

1. another quotaholder;



2. son époux, son partenaire enregistré ou son concubin ;
3. des personnes faisant ménage commun avec lui ; ou
4. un descendant.

Le représentant doit faire preuve de ses pouvoirs par écrit.

Article 19 – Droit de vote

Le droit de vote de chaque associé se détermine en fonction de la valeur nominale des parts sociales qu'il détient.

Chaque associé a droit à une voix au moins.

Article 20 – Décision

L'assemblée des associés prend ses décisions et procède aux élections à la majorité absolue des voix représentées, sous réserve des dispositions contraires de la loi ou des alinéas 3 et 4 du présent article.

Le président de l'assemblée des associés a voix prépondérante.

Une décision de l'assemblée des associés recueillant au moins les deux tiers des voix représentées et la majorité absolue du capital social pour lequel le droit de vote peut être exercé est nécessaire pour :

1. modifier le but social ;
2. rendre plus difficile, exclure ou faciliter le transfert de parts sociales ;
3. approuver la cession de parts sociales ou reconnaître un acquéreur en tant qu'associé ayant

2. his spouse, his registered partner or person living with him;
3. persons in the same household; or
4. a descendant.

The proxy holder has to evidence his powers in writing.

Article 19 – Voting rights

The voting right of each quotaholder is based on the nominal value of all quotas held by such quotaholder.

Each quotaholder must at least have one vote.

Article 20 – Resolutions

The quotaholders' meeting takes its resolutions and proceeds to elections with the absolute majority of the represented votes, subject to contrary legal provisions or if set out in paragraph 3 and 4 of these articles.

The chairman of the quotaholders' meeting has a casting vote.

A resolution of the quotaholders' meeting reaching at least two third of the represented votes and the absolute majority of the share capital for which voting rights may be exercised is necessary in order:

1. to amend the purpose clause;
2. to make more difficult, exclude or facilitate the transfer of quotas;
3. to approve the transfer of quotas or accept a transferee as quotaholder with voting rights;



le droit de vote

- | | |
|---|--|
| 4. augmenter le capital social ; | 4. to increase the share capital; |
| 5. limiter ou supprimer le droit de souscription préférentiel ; | 5. to limit or exclude preferential subscription rights; |
| 6. décider de requérir du juge l'exclusion d'un associé pour juste motifs ; | 6. to resolve to request from the judge the exclusion of a quotaholder for just cause; |
| 7. transférer le siège de la société ; | 7. to transfer the seat of the company; |
| 8. dissoudre la société. | 8. to dissolve the company. |

L'introduction de parts sociales à droit de vote privilégié requiert le consentement de tous les associés.

The introduction of quotas with voting privileges requires the consent of all quotaholders.

Les dispositions statutaires qui prévoient, pour certaines décisions, une plus forte majorité que celle prévue par la loi ne peuvent être adoptées qu'à la majorité prévue.

The articles of association which set out, for certain resolutions, a greater majority than that as set out by law may only be adopted with such greater majority.

B. Gestion

B. Management

Article 21 – Election et révocation des gérants

Article 21 – Appointment and revocation of managers

La gestion de la société est assurée par un ou plusieurs membres (gérants).

One or several managers may manage the company.

Les gérants sont élus par l'assemblée des associés pour une durée d'une année. Une réélection est possible.

The managers are appointed by the quotaholders' meeting for a duration of 1 year. A re-election is possible.

Seules des personnes physiques peuvent être désignées comme gérant. Elles n'ont pas besoin d'être associées.

Only private individuals may be appointed as managers. They do not need to be quotaholders.

L'assemblée des associés peut révoquer à tout moment un gérant qu'elle a nommé.

The quotaholders' meeting may revoke at any time a manager that it has appointed.

Article 22 – Organisation

Article 22 – Organization

Si la société a plusieurs gérants, l'assemblée des associés règle la présidence. Pour le surplus, les gérants

If the company has several managers, the quotaholders' meeting designates a chairman. For all further matters, the



s'organisent librement.

Article 23 – Attributions des gérants

Les gérants sont compétents pour toutes les affaires qui ne sont pas attribuées à l'assemblée des associés par la loi ou les statuts.

Ils ont les attributions intransmissibles et inaliénables suivantes :

1. exercer la haute direction de la société et établir les instructions nécessaires ;
2. décider de l'organisation de la société dans le cadre de la loi et des statuts ;
3. fixer les principes de la comptabilité et du contrôle financier ainsi que le plan financier, pour autant que celui-ci soit nécessaire à la gestion de la société ;
4. exercer la surveillance sur les personnes chargées de parties de la gestion, pour s'assurer notamment qu'elles observent la loi, les statuts, les règlements et les instructions données ;
5. établir le rapport de gestion (comptes annuels, rapport annuel et, le cas échéant, comptes de groupe) ;
6. préparer l'assemblée des associés et exécuter ses décisions ;
7. informer le juge en cas de surendettement.

Les gérants ont le droit de nommer des directeurs, des fondés de procuration et

managers may freely set out their organization.

Article 23 – Duties of the managers

The managers are empowered to act in all matters that are not attributed to the quotaholders' meeting by law or by the articles of incorporation.

They have the following non delegable and inalienable duties:

1. to exercise the ultimate direction of the company and to give the necessary instructions;
2. to resolve on the organization of the company in compliance with law and the articles of association;
3. to determine the structuring of the Accounting system, the financial control and, to the extent necessary for the management of the company, the financial planning;
4. to exercise the ultimate supervision of the persons entrusted with part of the management of the company, in order to ensure their compliance with law, articles of association, regulations and given instructions;
5. to issue the management report (annual balance sheet, annual report and, if necessary, the group annual balance sheet);
6. to prepare the quotaholders' meeting and implement its resolutions;
7. to inform the judge in case of over-indebtedness.

The managers are entitled to appoint directors and proxy holders.



des mandataires commerciaux.

Le président des gérants ou le gérant unique a les attributions suivantes :

1. convoquer et diriger l'assemblée des associés ;
2. faire toutes les communications aux associés ;
3. s'assurer du dépôt des réquisitions nécessaires à l'office du registre du commerce.

Article 24 – Décision

Si la société a plusieurs gérants, ceux-ci prennent leurs décisions à la majorité des voix émises.

Le président a voix prépondérante.

Article 25 – Devoirs de diligence et de fidélité

Les gérants ainsi que les tiers chargés de la gestion exercent leurs attributions avec toute la diligence nécessaire.

Ils veillent fidèlement aux intérêts de la société et sont tenus à la sauvegarde du secret des affaires.

Ils s'abstiennent de tout ce qui porte préjudice à la société. Ils ne peuvent en particulier gérer des affaires qui leur procureraient un avantage particulier et qui seraient préjudiciables au but de la société.

The chairman of the managers or the sole manager has the following duties:

1. to call and chair the quotaholders' meeting;
2. to make all communications to the quotaholders;
3. to ensure the filing of the necessary applications with the register of commerce.

Article 24 – Resolutions

When the company has several managers, the latter take their resolutions at the majority of the expressed votes.

The chairman has a casting vote.

Article 25 – Duty of care and duty of loyalty

The managers as well as third parties managing the company exercise their tasks with the outmost duty of care.

They shall take care with loyalty of the interests of the company and must keep the businesses of the company confidential and secret.

They abstain from doing anything which could be detrimental to the company. In particular, they are not entitled to manage businesses which would procure them a particular advantage and which would be detrimental to the purpose of the company.



Article 26 – Libération de l'interdiction de faire concurrence

Les gérants ainsi que les tiers chargés de la gestion peuvent faire concurrence à la société à la condition que tous les associés donnent leur approbation par écrit.

Article 27 – Egalité de traitement

Les gérants ainsi que les tiers chargés de la gestion traitent de la même manière les associés qui se trouvent dans la même situation.

Article 28 – Représentation

L'assemblée des associés détermine le mode de représentation des gérants.

Un gérant au moins doit avoir qualité pour représenter la société.

La société doit pouvoir être représentée par une personne domiciliée en Suisse. Un gérant ou un directeur doit satisfaire à cette exigence.

Les gérants peuvent régler les détails de la représentation de la société par les directeurs, les fondés de procuration et les mandataires commerciaux par voie de règlement.

C. Organe de révision

Article 29 – Révision

L'assemblée des associés élit un organe de révision.

Elle peut renoncer à l'élection d'un organe de révision lorsque :

Article 26 – Release from the prohibition to compete

The managers as well as third parties managing the company may only compete with the company if all quotaholders so agree in writing.

Article 27 – Equal treatment

The managers as well as third parties managing the company have the obligation to treat equally quotaholders being in the same situation.

Article 28 – Representation

The quotaholders' meeting sets out the representation powers of the managers.

One of the managers at least shall be able to represent the company.

The company must be able to be represented at least by a person with domicile in Switzerland. One manager or one director has to comply with such a requirement.

The managers may set out the details of the representation powers by the directors or by the proxy holders in specific organizational regulations.

C. Auditors

Article 29 – Audit

The quotaholders' meeting appoints the auditors of the company.

It may be released from the obligation to appoint auditors when:



1. la société n'est pas assujettie au contrôle ordinaire ;
2. l'ensemble des associés y consent ; et
3. l'effectif de la société ne dépasse pas 10 emplois à plein temps en moyenne annuelle.

Lorsque les associés ont renoncé au contrôle restreint, cette renonciation est également valable les années qui suivent. Chaque associé a toutefois le droit d'exiger un contrôle restreint et l'élection d'un organe de révision au plus tard 10 jours avant l'assemblée des associés. Dans ce cas, l'assemblée des associés ne peut prendre les décisions conformément à l'art. 13 al. 2 ch. 4 et 5 qu'une fois que le rapport de révision est disponible.

Article 30 – Exigences relatives à l'organe de révision

Sont éligibles comme organe de révision une ou plusieurs personnes physiques ou morales ainsi que les sociétés de personnes.

L'organe de révision doit avoir en Suisse son domicile, son siège ou une succursale inscrite au registre du commerce. Lorsque la société a plusieurs organes de révision, l'un au moins doit satisfaire à cette exigence.

Lorsque la société est tenue de soumettre ses comptes annuels au contrôle ordinaire d'un organe de révision en vertu de :

1. l'art. 727 al. 1 ch. 2 ou ch. 3 en relation avec l'art. 818 al. 1 CO;
2. l'art. 727 al. 2 CO en relation avec l'art. 818 al. 1 CO ;

1. the company is not subject to an ordinary audit;
2. all the quotaholders consent to it, and
3. the headcount of the company does not exceed 10 full time employees on an annual average.

Whenever the quotaholders have waived the limited audit, this waiver is also effective for the following years. Each quotaholder is however entitled to require a limited audit or the appointment of auditors at the latest 10 days before the quotaholders' meeting. In this case, the quotaholders' meeting may take the resolution of article 13 para. 2 nr. 4 and nr. 5 only once the auditors' report is available.

Article 30 – Requirements related to auditors

One or several private individuals or legal entities may be appointed as auditors.

The auditors must have their domicile, seat or a branch registered in the register of commerce in Switzerland. When the company has several auditors, at least one of the auditors has to comply with such requirements.

Whenever the company must appoint auditors for an ordinary audit in compliance with:

1. article 727 para. 1 nr. 2 or nr. 3 in relation with article 818 para. 1 CO;
2. article 727 para. 2 CO in relation with article 818 para.1 CO;



3. l'art. 818 al. 2 CO, ou

4. l'art. 825a al. 4 CO,

l'assemblée des associés élit un expert-réviseur agréé au sens de la loi fédérale sur la surveillance des réviseurs du 16 décembre 2005 comme organe de révision.

Lorsque la société est tenue de soumettre ses comptes annuels au contrôle restreint d'un organe de révision, l'assemblée des associés élit un réviseur agréé au sens de la loi fédérale sur la surveillance des réviseurs du 16 décembre 2005 comme organe de révision. La renonciation à l'élection d'un organe de révision en vertu de l'art. 29 demeure réservée.

L'organe de révision doit être indépendant au sens de l'art. 728, respectivement de l'art. 729 CO.

L'organe de révision est élu pour une durée d'un exercice. Son mandat prend fin avec l'approbation des derniers comptes annuels. Il peut être reconduit dans ses fonctions. L'assemblée des associés peut, en tout temps, révoquer l'organe de révision avec effet immédiat.

VI. Etablissement des comptes

Article 31 – Exercice social

L'exercice social commence le 1^{er} janvier et finit le 31 décembre de chaque année.

Article 32 – Comptes annuels

Les comptes annuels se composent du compte de profits et pertes, du bilan et de l'annexe.

Ils sont établis conformément aux règles du Code des obligations, en particulier

3. article 818 para. 2 CO, or

4. article 825a para. 4 CO,

the quotaholders' meeting appoints as auditors a certified expert – auditor licensed within the meaning of the Federal Act on the supervision of auditors dated 16 December 2005.

Whenever the company must appoint auditors for a limited audit, the quotaholders' meeting appoints as auditors a licensed auditor within the meaning of the Federal law on the control of auditors dated 16 December 2005. The quotaholders' meeting may renounce to appoint auditors in accordance with article 29 of the articles of association.

The auditors must be independent in accordance with article 728, respectively art. 729 CO.

The auditors are appointed for a duration of one fiscal year. Their mandate ends with the approval of the last annual financial statements. They may be re-elected. The quotaholders' meeting may, at any time, revoke the auditors with immediate effect.

VI. Annual accounts

Article 31 – Business year

The business year of the company begins on 1st January and ends on 31 December of each year.

Article 32 - Annual accounts

The annual accounts include the profit and loss statements, the balance sheet and the exhibits.

They are issued in compliance with the Swiss Code of Obligations, in particular



aux articles 662a ss et 958 ss CO, ainsi qu'en respect des principes généraux régissant l'établissement régulier des comptes.

Article 33 – Réserves et attribution des dividendes

Le dividende ne peut être fixé qu'après que les affectations aux réserves légales et statutaires ont été opérées conformément à la loi et aux statuts.

L'assemblée des associés peut disposer du bénéfice résultant du bilan à sa guise dans le cadre des exigences légales.

Des dividendes ne peuvent être prélevés que sur le bénéfice résultant du bilan et sur les réserves constituées à cet effet.

Les dividendes sont fixés proportionnellement à la valeur nominale des parts sociales de chaque associé.

VII. Sortie

Article 34

Chaque associé a le droit de sortir de la société aux conditions suivantes:

1. il respecte un délai de congé de 3 mois pour la fin d'un exercice social ;
2. la société dispose, au moment de la reprise, de fonds propres disponibles à concurrence des moyens nécessaires pour acquérir les parts sociales de l'associé sortant à leur valeur réelle ; et
3. la société ne franchit pas la limite maximale de 35 % de parts sociales propres lors de la reprise.

with articles 662a et seq and 958 et seq CO, as well as in compliance with generally admitted accounting principles.

Article 33 – Reserves and allocation of profits

The quotaholders' meeting may resolve on the allocation of profits after the allocations to legal and statutory reserves have been made in accordance with the law and the articles of association.

The quotaholders' meeting may resolve on the allocation of profits resulting from the balance sheet within the framework of the legal requirements.

Dividends may only be paid out of profits shown in the balance sheet and reserves set out for this purpose.

Profits are fixed pro rata the nominal value of all quotas held by each quotaholder.

VII. Exit of a quotaholder

Article 34

Any quotaholder is entitled to leave the company under the following conditions:

1. he complies with a notification period of 3 months for the end of fiscal year;
2. the company disposes, when the quotas shall be repurchased, of freely available earnings corresponding to the fair market value of the quotas of the leaving quotaholder, and
3. the company does not reach the maximum threshold of 35% of own quotas upon the repurchase of the quotas held by the leaving



Les moyens nécessaires doivent couvrir à la fois la reprise des parts sociales et la constitution des réserves correspondantes conformément aux CO (art. 659a al. 2 en relation avec l'art. 783 al. 4 CO).

Cette disposition ne peut être modifiée ou abrogée qu'avec le consentement de tous les associés.

Chaque associé peut requérir du juge l'autorisation de sortir de la société pour de justes motifs.

VIII. Dissolution et liquidation

Article 35

L'assemblée des associés peut décider de dissoudre la société. La décision doit faire l'objet d'un acte authentique.

La liquidation a lieu par les soins des gérants, à moins que l'assemblée des associés ne désigne d'autres liquidateurs. La liquidation s'opère conformément aux articles 742 ss CO en relation avec l'art. 821a et l'art. 826 CO.

Après paiement des dettes, l'actif de la société dissoute est réparti entre les associés au prorata de leurs versements.

IX. Communications et publications

Article 36

Les communications de la société aux associés s'opèrent par simple courrier ou par courriel.

quotaholder.

The available earnings of the company must cover both the fair market value of the quotas to be acquired and the constitution of the corresponding reserves in compliance with article 659a para. 2 in relation with article 783 para. 4 CO.

This provision may only be amended or cancelled with the consent of all quotaholders.

Each quotaholder may request the judge the authorization to leave the company for just causes.

VIII. Dissolution and liquidation

Article 35

The quotaholders' meeting may resolve to dissolve the company. Such a resolution has to be made by way of notarial deed.

The liquidation is performed by the managers, unless the quotaholders' meeting appoints other liquidators. The liquidation is made in compliance with articles 742 et seq. CO in relation with articles 821a and 826 CO.

After payment of all liabilities, the assets of the dissolved company is split among quotaholders, pro rata their payments.

IX. Communications and publications

Article 36

Communications from the company to the quotaholders are made by post mail or by email.



L'organe de publication de la société est la Feuille Officielle Suisse du Commerce (FOSC).

Publications are made in the Swiss Official Gazette of Commerce (SOGC).

Statuts signés ne varietur pour demeurer annexés à la minute du procès-verbal de la société **SunPower Systems Sàrl**, reçu ce jour par Me Michel Gampert, notaire à Genève, soussigné.

Genève, le six juillet deux mille neuf

MAXEON SOLAR TECHNOLOGIES, LTD.,

THE GUARANTORS PARTY HERETO,

and

DEUTSCHE BANK TRUST COMPANY AMERICAS

as Trustee

and

DB TRUSTEES (HONG KONG) LIMITED

as Collateral Trustee

and

RIZAL COMMERCIAL BANKING CORPORATION – TRUST AND INVESTMENT GROUP

as Philippine Supplemental Collateral Trustee

INDENTURE

Dated as of [●], 2024

Adjustable-Rate Convertible Second Lien Senior Secured Notes due [2028]

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CONVERTIBLE SECOND LIEN SENIOR SECURED NOTES INDENTURE, dated as of [●], 2024, among Maxeon Solar Technologies, Ltd. (Company Registration No: 201934268H), a company incorporated in Singapore, as issuer (the “**Company**”), the guarantors listed on the signature pages hereof (each, a “**Guarantor**” and collectively, the “**Guarantors**”), Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee (the “**Trustee**”), DB Trustees (Hong Kong) Limited as the collateral trustee (in such capacity, and including any successor collateral trustee or additional collateral trustee, the Philippine Supplemental Collateral Trustee (as defined below) or Supplemental Collateral Trustee (as defined herein) pursuant to the applicable provisions of this Indenture, and thereafter, the “**Collateral Trustee**”) and Rizal Commercial Banking Corporation – Trust and Investment Group as collateral trustee with respect to the Philippine Collateral (as defined below) (in such capacity and solely with respect to the Philippine Collateral, the “**Philippine Supplemental Collateral Trustee**”).

Each party to this Indenture (as defined below) agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below) of the Company’s Adjustable-Rate Convertible Second Lien Senior Secured Notes due [2028] (the “**Notes**”).

Article 1. DEFINITIONS; RULES OF CONSTRUCTION

Section 1.01. DEFINITIONS.

“**2020 Convertible Bonds Indenture**” means an indenture dated July 17, 2020 between the Company and Deutsche Bank Trust Company Americas, as trustee, in relation to \$200.0 million initial aggregate principal amount of 6.50% Green Convertible Senior Notes due 2025 (the “**2020 Notes**”).

“**Additional Notes**” means additional Notes in aggregate principal amount of up to US\$[16,300,000], which, for the avoidance of doubt, have the same terms and conditions of the relevant tranche of initial Tranche B Notes issued pursuant to **Section 2.03(A)** (including the benefit of the Subsidiary Guarantees and the Collateral) in all respects except for the issue date, issue price, the date of the first payment of interest and, to the extent not fungible with the initial Tranche B Notes for U.S. federal income tax purposes, CUSIP and ISIN numbers. For the avoidance of doubt, the Additional Notes may be issued in the form of Tranche B Notes.

“**Affiliate**” has the meaning set forth in Rule 144 as in effect on the Issue Date.

“**Amended 2029 First Lien Notes**” means \$[●] million Variable-Rate First Lien Senior Secured Convertible Notes due 2029 of the Company, which is evidenced by an amendment of the Company’s \$207 million 7.50% Convertible First Lien Senior Secured Notes due 2027 pursuant to the Amended 2029 First Lien Notes Indenture, and any additional notes which may be issued pursuant to and in accordance with the terms of the Amended 2029 First Lien Notes Indenture, as may be further amended and supplemented from time to time.

“**Amended 2029 First Lien Notes Collateral Trustee**” means DB Trustees (Hong Kong) Limited, as the collateral trustee for the Amended 2029 First Lien Notes, and/or any successor collateral trustee, additional collateral trustee, or supplemental collateral trustee appointed pursuant to the terms of the Amended 2029 First Lien Notes Indenture.

“**Amended 2029 First Lien Notes Indenture**” means the indenture entered into among the Company, the Guarantors named therein, Deutsche Bank Trust Company Americas, as trustee, DB Trustees (Hong Kong) Limited, as the collateral trustee, and Rizal Commercial Banking Corporation—Trust and Investment Group, as Philippine Supplemental Collateral Trustee, as amended and supplemented by a supplemental indenture dated [●], 2024, in relation to the Amended 2029 First Lien Notes, as may be further amended and supplemented from time to time.

“**Amended 2029 First Lien Notes Philippine Supplemental Collateral Trustee**” means Rizal Commercial Banking Corporation – Trust and Investment Group as collateral trustee with respect to the Philippine Collateral (as defined in the Amended 2029 First Lien Notes Indenture), in such capacity and solely with respect to such collateral.

“**Amended 2029 First Lien Notes Trustee**” means Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee for the Amended 2029 First Lien Notes or its successors or assignees appointed pursuant to the terms of the Amended 2029 First Lien Notes Indenture.

“**Appropriated Instruments Holders**” means the Notes Secured Parties (or their Affiliates) in their capacity as holders of any Charged Property as a result of an Appropriation of such Charged Property.

“**Appropriation**” means the appropriation (or similar process) of the shares or financial securities issued by the Company or any of the Company’s Subsidiaries by the Collateral Trustee (or any receiver or delegate) which is effected (to the extent permitted and subject to any requirements under the relevant Notes Security Document and applicable law) by enforcement of the security interest created under any Notes Security Document (including, in respect of French Security Documents, pursuant to a *pacte comissoire* or a foreclosure (*attribution judiciaire*)).

“**Attribution Parties**” means, with respect to a holder of the Notes, collectively, the following persons and entities: (i) any direct or indirect Affiliates of the holder, (ii) any person acting or who could be deemed to be acting as a “group” (within the meaning of Section 13(d)(3) of the Exchange Act) together with such holder or any Attribution Parties and (iii) any other persons whose beneficial ownership of the Company’s Ordinary Shares would or could be aggregated with the holder’s and/or any other Attribution Parties for purposes of Section 13(d) of the Exchange Act.

“**Authorized Denomination**” means, with respect to a Note, a principal amount thereof equal to \$1,000 or any integral multiple of \$1.00 in excess thereof.

“**Average Life**” means, at any date of determination with respect to any Indebtedness, the quotient obtained by dividing (1) the sum of the products of (a) the number of years from such date of determination to the dates of each successive scheduled principal payment of such Indebtedness and (b) the amount of such principal payment by (2) the sum of all such principal payments.

“**Bankruptcy Law**” means title 11 of the United States Code or any similar U.S. federal or state or non-U.S. law for the relief of debtors.

“**Board of Directors**” means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

“**Business Day**” means any day other than a Saturday, a Sunday, or any day on which banking institutions in The City of New York, Hong Kong or Singapore (or in any other place in which payments on the Notes are to be made) are authorized by law or governmental regulation to close.

“**Capital Expenditures**” means with respect to the Company and the Subsidiaries for any period, the aggregate amount, without duplication, of (a) all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as a capital lease) that would, in accordance with U.S. GAAP, be included as additions to property, plant and equipment, (b) other capital expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as capital leases) that are reported in the Company’s consolidated statement of cash flows for such period and (c) other capital expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized as capital leases, including, without limitation, any capitalized bonus payment).

“**Capital Stock**” of any Person means any and all shares of, interests in, rights to purchase, warrants or options for, participations in, or other equivalents of, in each case however designated, the equity of such Person, but excluding any debt securities convertible into or exchangeable for such equity.

“**Change in Tax Law**” means any change or amendment in the laws, rules or regulations of a Relevant Taxing Jurisdiction, or any change in an official written interpretation, administration or application of such laws, rules or regulations by any legislative body, court, governmental taxing authority or regulatory or administrative authority of such Relevant Taxing Jurisdiction (including the enactment of any legislation and the publication of any judicial decision or regulatory or administrative interpretation or determination) affecting taxation, which change or amendment (A) had not been publicly announced before; and (B) becomes effective on or after the Issue Date (or, if the Relevant Taxing Jurisdiction was not a Relevant Taxing Jurisdiction on such date, the date on which such Relevant Taxing Jurisdiction became a Relevant Taxing Jurisdiction).

“**Charged Property**” means all of the assets which from time to time are, or are expressed to be, the subject of any security interest created under a French Security Document.

“**Close of Business**” means 5:00 p.m., New York City time.

“**Collateral**” means, other than the Excluded Assets, all of the property and assets now owned or at any time hereafter acquired by the Company and Restricted Subsidiaries or in which the Company or any Restricted Subsidiary now has or at any time in the future may acquire any right, title or interest wherever located, upon which a Lien is granted or purported to be granted by the Company or the relevant Restricted Subsidiary as security for all or any part of the Obligations in accordance with the terms of this Indenture, the relevant Notes Security Documents and the Intercreditor Agreement.

“**Collections**” means (i) all cash net proceeds (including all cash net proceeds received in the form of checks, credit card slips or receipts, notes, instruments, and other items of payment) from Sales Contracts of the Company Indenture Parties (including cash net proceeds from any Receivable Financing permitted under the Priority Lien Debt Documents to the extent such Receivable Financing is entered into with respect to any Sales Contract) but not including any revenue from any Sales Contract which constitutes Receivable Financing Assets) and (ii) all net cash proceeds from dispositions permitted under the Priority Lien Debt Documents.

“**Company**” means the Person named as such in the first paragraph of this Indenture and, subject to **Article 6**, its successors and assigns.

“**Company Indenture Parties**” means, collectively, the Company and each Guarantor and each of them is a “**Company Indenture Party**”.

“**Company Order**” means a written request or order signed on behalf of the Company by one (1) of its Officers and delivered to the Trustee.

“**Conversion Commencement Date**” means [July 2, 2024].

“**Conversion Date**” means, with respect to a Note, the first Business Day on or after the Conversion Commencement Date on which the requirements set forth in **Section 5.02(A)** to convert such Note are satisfied.

“**Conversion Price**” means, as of any time, an amount equal to (A) one thousand dollars (\$1,000) *divided by* (B) the Conversion Rate in effect at such time.

“**Conversion Rate**” means:

(a) with respect to Tranche A Notes, initially 2530.0057 Ordinary Shares per \$1,000 principal amount of Notes; and

(b) with respect to Tranche B Notes, initially (A) the number of Ordinary Shares equal to (i) one thousand dollars (\$1,000) *divided by* (ii) the Initial Pricing VWAP, or (B) upon the occurrence of Forward Purchase Adjustment Event, the number of Ordinary Shares equal to (i) one thousand dollars (\$1,000) *divided by* (ii) the FPA VWAP, whichever is greater;

in each case of (a) and (b), provided, that the Conversion Rate is subject to adjustment pursuant to **Article 5**; *provided, further*, that whenever this Indenture refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date.

“**Conversion Share**” means any Ordinary Share issued or issuable upon conversion of any Note.

“**Daily Cash Amount**” means, with respect to any VWAP Trading Day, the lesser of (A) the applicable Daily Maximum Cash Amount; and (B) the Daily Conversion Value for such VWAP Trading Day.

“**Daily Conversion Value**” means, with respect to any VWAP Trading Day, one-thirtieth (1/30th) of the product of (A) the Conversion Rate on such VWAP Trading Day; and (B) the Daily VWAP per Ordinary Share on such VWAP Trading Day.

“**Daily Maximum Cash Amount**” means, with respect to the conversion of any Note, the quotient obtained by dividing (A) the Specified Dollar Amount applicable to such conversion by (B) thirty (30).

“**Daily Share Amount**” means, with respect to any VWAP Trading Day, the quotient obtained by dividing (A) the excess, if any, of the Daily Conversion Value for such VWAP Trading Day over the applicable Daily Maximum Cash Amount by (B) the Daily VWAP for such VWAP Trading Day. For the avoidance of doubt, the Daily Share Amount will be zero for such VWAP Trading Day if such Daily Conversion Value does not exceed such Daily Maximum Cash Amount.

“**Daily VWAP**” means, for any VWAP Trading Day, the per share volume-weighted average price of the Ordinary Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page identified by “MAXN” (or such other ticker symbol for such Ordinary Shares) appended by the suffix “<EQUITY> AQR” (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or, if such volume-weighted average price is unavailable, the market value of one Ordinary Share on such VWAP Trading Day, reasonably determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company. The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

“**Default**” means any event that is (or, after notice, passage of time or both, would be) an Event of Default.

“**Default Settlement Method**” means [Combination Settlement] with a Specified Dollar Amount of \$1,000 per \$1,000 principal amount of Notes; *provided, however*, that subject to **Section 5.03(A)(ii)**, the Company may, from time to time, change the Default Settlement Method by sending notice of the new Default Settlement Method to the Holders, the Trustee and the Conversion Agent.

“**Depository**” means The Depository Trust Company or its successor.

“**Depository Participant**” means any member of, or participant in, the Depository.

“**Depository Procedures**” means, with respect to any conversion, transfer, exchange or transaction involving a Global Note or any beneficial interest therein, the rules and procedures of the Depository applicable to such conversion, transfer, exchange or transaction.

“**DPA**” means Section 721 of Title VII of the Defense Production Act of 1950.

“**Enforcement Action**” means any action or decision taken in connection with the exercise of remedial rights of the Holders of the Notes and the Trustee and/or Collateral Trustee, representing the interests of the Holders of the Notes (including in respect of the Collateral pursuant to the Notes Security Documents) following the occurrence and during the continuation of an Event of Default in accordance with the terms of this Indenture, the Intercreditor Agreement and/or the relevant Notes Security Documents, as the case may be.

“**Environmental Law**” means any applicable law in any jurisdiction in which the Company or any Restricted Subsidiary conducts its business, which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

“**Equity Payment Conditions**” means, at the time of the relevant payment to a Holder, any necessary approval of the Company’s shareholders shall have been obtained for such issuance of Ordinary Shares.

“**Ex-Dividend Date**” means, with respect to an issuance, dividend or distribution on the Ordinary Shares, the first date on which Ordinary Shares trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Ordinary Shares under a separate ticker symbol or CUSIP number will not be considered “regular way” for this purpose.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended.

“**Excluded Accounts**” means a deposit or securities account (i) which is used for the sole purpose of (x) making payroll and other employee wage and benefit payments and accrued and unpaid employee compensation (including salaries, wages, benefits and expense reimbursements) and/or (y) making payments to applicable government authorities or bodies, including with respect to withholding, sales and other taxes or duties and utilities, (ii) is a zero balance account, (iii) constituting a custodian, trust, fiduciary or other escrow account established for the benefit of third parties in the ordinary course of business in connection with transactions permitted hereunder, (iv) the incurrence of a Lien in favor the Collateral Trustee over which is prohibited under applicable laws, rules or regulations; (v) the creation of any Lien on which would restrict the use of funds in the ordinary course of business any time prior to the time when such Lien becomes enforceable, or have a material adverse effect on the normal operations of the relevant Company Indenture Party in its ordinary course of business; (vi) which constitutes Receivable Financing Assets; (vii) the Company’s account that is pledged to secure the Indebtedness under the SCB Agreement; (viii) which, together with other accounts (other than those identified in clauses (i) through (vii)), collectively has average daily closing balances for any fiscal quarter of less than the equivalent of \$5,000,000 in the aggregate; and (ix) for as long as any Priority Lien Secured Obligations are still outstanding, which constitutes an “Excluded Account” under the Priority Lien Debt Documents.

“**Excluded Assets**” means:

(A) shares in SunPower Corporation Mexico, S. de R.L. de C.V. and dividends and other related rights in respect of such shares; and

(B) solely in respect to any property in the United States, the property and assets described in the definition of “Excluded Property,” as such term is defined in the [U.S. Security Agreement].

“**Final Discharge Date**” means the first date on which all Obligations have been fully and finally discharged in accordance with the terms of this Indenture, whether or not as the result of an enforcement, and the Notes Secured Parties (in that capacity) are under no further obligation to provide financial accommodation to the Company or any of the Guarantors under the Indenture Documents.

“**First Lien Notes**” means, collectively, the Amended 2029 First Lien Notes and the New 2029 First Lien Notes.

“**First Lien Notes Collateral Trustees**” means, collectively, the Amended 2029 First Lien Notes Collateral Trustee and the New 2029 First Lien Notes Collateral Trustee.

“**First Lien Notes Indentures**” means, collectively, the Amended 2029 First Lien Notes Indenture and the New 2029 First Lien Notes Indenture.

“**First Lien Notes Philippine Supplemental Collateral Trustee**” means, collectively, the Amended 2029 Philippine Supplemental Collateral Trustee and the New 2029 First Lien Notes Philippine Supplemental Collateral Trustee.

“**First Lien Notes Trustees**” means, collectively, the Amended 2029 First Lien Notes Trustee and the New 2029 First Lien Notes Trustee.

“**Forward Purchase Adjustment Event**” occurs, as soon as practicable after the FPA VWAP is known to the Company, if the Company has determined, in good faith, that the FPA VWAP is less than the Initial Pricing VWAP.

“**Forward Purchase Agreement**” means that certain forward purchase agreement to be entered into between the Company and Zhonghuan Singapore Investment and Development Pte. Ltd. (in such capacity, the “**Forward Purchaser**”), pursuant to which the Forward Purchaser agrees to purchase certain Ordinary Shares for an aggregate purchase price of \$[100,000,000] (the “**FPA Shares**”), subject to the terms and conditions therein (the “**Forward Purchase Investment**”). The closing of the issuance, sale and purchase of the FPA Shares pursuant to the terms and conditions of the Forward Purchase Agreement is hereinafter referred to as “**Forward Purchase Closing**.”

“**FPA VWAP**” means the average of the Daily VWAP for 10 consecutive Trading Days used in calculating the per share price that the Forward Purchaser will pay for each FPA Share at the Forward Purchase Closing, as determined pursuant to the terms and conditions of the Forward Purchase Agreement.

“**French Civil Code**” means the French *Code civil*.

“**French Security Documents**” means any Notes Security Document governed by the laws of France.

“**Fundamental Change**” means any of the following events:

(A) a “person” or “group” (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or their respective employee benefit plans), files a Schedule TO (or any successor schedule, form or report) or any report under the Exchange Act disclosing that such person or group has become the direct or indirect “beneficial owner” (as defined below) of Ordinary Shares representing more than fifty percent (50%) of the voting power of all of the Ordinary Shares; *provided, however*, that, for purposes of this **clause (A)**, no person or group will be deemed to be a beneficial owner of any securities tendered pursuant to a tender offer or exchange offer made by or on behalf of such person or group until such tendered securities are accepted for purchase or exchange in such offer;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company’s Wholly Owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) (other than changes solely resulting from a subdivision or combination of the Ordinary Shares or solely a change in the par value or nominal value of the Ordinary Shares) all of the Ordinary Shares are exchanged for, converted into, acquired for, or constitute solely the right to receive, other securities, cash or other property; *provided, however*, that any transaction described in **clause (B)(ii)** above pursuant to which the Persons that directly or indirectly “beneficially owned” (as defined below) all classes of the Company’s common equity immediately before such transaction directly or indirectly “beneficially own,” immediately after such transaction, more than fifty percent (50%) of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)**;

(C) the Company’s shareholders approve any plan or proposal for the liquidation or dissolution of the Company;

(D) at any time after Issue Date, the Ordinary Shares are not listed on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors); or

(E) the Investor or any of its Affiliates become the direct or indirect “beneficial owner” of Ordinary Shares representing more than the greater of (i) eighty-five percent (85%) of the voting power of all of the Ordinary Shares, and (ii) the Relevant Investor Ownership Percentage;

provided, however, that (i) a transaction or event described in **clause (A)** or **(B)** above will not constitute a Fundamental Change if at least ninety percent (90%) of the consideration received or to be received by the holders of Ordinary Shares (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of ordinary shares or shares of common stock or other corporate common equity listed on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors), or that will be so listed when issued or exchanged in connection with such transaction or event, and such transaction or event constitutes an Ordinary Share Change Event whose Reference Property consists of such consideration; or (ii) a transaction or event described in clause (A) above will not constitute a Fundamental Change ,if such a transaction or event occurs as a result of (w) the Investor’s beneficial ownership of any First Lien Notes or any of the Notes or the Ordinary Shares such First Lien Notes or Notes are convertible into, (x) the Investor’s exercise of its right to convert the any First Lien Notes or Notes beneficially owned by it pursuant to the terms of the First Lien Notes Indentures or the Indenture, (y) the receipt by the Investor of any Ordinary Shares issued by the Company in payment of interest due and payable on any First Lien Notes or the Notes pursuant to the terms of the First Lien Notes Indentures or the Indenture, as the case may be, (z) the receipt by the Investor of the FPA Shares at the Forward Purchase Closing, (aa) the receipt by the Investor of any Ordinary Shares in connection with any exercise under the Investor Warrant, and/or (bb) any other transaction entered into or action taken by the Investor pursuant to other agreements and/instruments existing on the Issue Date, through which the Investor acquires Capital Stock of the Company or options, warrants, convertible notes or other securities convertible or exercisable into Capital Stock of the Company (the events and/or transactions described in clauses (w) through (bb), collectively, the “**Relevant Investor Events**”).

For the purposes of this definition, any transaction or event described in both **clause (A)** and in **clause (B)** above (without regard to the proviso in **clause (B)**) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso).

For the purpose of this Indenture, whether a Person is a “**beneficial owner**” and whether shares are “**beneficially owned**” will be determined in accordance with Rule 13d-3 under the Exchange Act.

“**Fundamental Change Repurchase Date**” means the date fixed for the repurchase of any Notes by the Company pursuant to a Repurchase Upon Fundamental Change.

“**Fundamental Change Repurchase Notice**” means a notice (including a notice substantially in the form of the “Fundamental Change Repurchase Notice” set forth in **Exhibit A-1** or **Exhibit A-2**) containing the information, or otherwise complying with the requirements, set forth in **Section 4.02(F)(i)** and **Section 4.02(F)(ii)**.

“**Fundamental Change Repurchase Price**” means the cash price payable by the Company to repurchase any Note upon its Repurchase Upon Fundamental Change, calculated pursuant to **Section 4.02(D)**.

“**Global Note**” means a Note that is represented by a certificate substantially in the form set forth in **Exhibit A-1** or **Exhibit A-2**, registered in the name of the Depository or its nominee, duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee, as custodian for the Depository.

“**Global Note Legend**” means a legend substantially in the form set forth in **Exhibit B-2**.

“**Guaranteed Obligations**” shall have the meaning specified in **Section 12.01(A)(ii)**.

“**Guarantors**” means SunPower Corporation Limited, SunPower Energy Corporation Limited, SunPower Manufacturing Corporation Limited, Maxeon Rooster HoldCo, Ltd., Maxeon Solar Pte. Ltd., SunPower Bermuda Holdings, SunPower Technology Ltd., SunPower Philippines Manufacturing Ltd., Rooster Bermuda DRE, LLC, SunPower Systems Sàrl and any Person that hereafter provides a Guarantee hereunder pursuant to a joinder (or supplemental indenture) to this Indenture, and each of them is a “**Guarantor**.”

“**Hedging Agreement**” means any rate protection agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging agreement or agreement designed to protect a Person against fluctuations in interest rates, current exchange or commodity prices.

“**Holder**” means a person in whose name a Note is registered on the Registrar’s books.

“**Indebtedness**” means as to any Person, without duplication, whether or not contingent, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances or other financial products, (c) all obligations or liabilities of such Person to pay the deferred purchase price of assets (other than trade payables incurred in the ordinary course of business and repayable in accordance with customary trade practices), (d) all obligations of such Person owing under Hedging Agreements (which amount shall be calculated based on the amount that would be payable by such Person if the Hedging Agreement were terminated on the date of determination), (e) all obligations or liabilities of others secured by a Lien on the assets of such Person, irrespective of whether such obligation or liability is assumed; *provided* that the amount of such Indebtedness shall be the lesser of the (y) the fair market value of such asset at such date of determination and (z) the amount of such Indebtedness, (f) all finance leases that appear as a liability on such Person’s consolidated balance sheet (excluding the footnotes thereto), and any obligation of such Person guarantying or intended to guaranty (whether directly or indirectly) any obligation of any other Person that constitutes Indebtedness under clauses (a) through (f) above.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation; provided that:

(A) the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with the applicable accounting principles; and

(B) money borrowed and set aside at the time of the incurrence of any Indebtedness in order to prefund the payment of the interest on such Indebtedness shall not be deemed to be “Indebtedness” so long as such money is held to secure the payment of such interest.

“**Indenture**” means this Indenture, as amended or supplemented from time to time.

“**Indenture Documents**” means this Indenture, the Notes, the Intercreeitor Agreement, the Notes Security Documents, the Subsidiary Guarantees, and any other instrument or agreement entered into, now or in the future, by any Company Indenture Party or any of its Subsidiaries or the Collateral Trustee and/or Trustee in connection with the Indenture.

“**Initial Pricing VWAP**” means the average of the Daily VWAP for 10 consecutive Trading Days starting from [●], 2024.

“**Intellectual Property**” means any patents, trademarks, service marks, designs, business and trade names, copyrights, database rights, design rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered, and the benefit of all applications and rights to use such assets, of the Company and/or its Subsidiaries.

“**Interest Make-Whole Amount**” means, with respect to the conversion of any Tranche B Notes prior to the Forward Purchase Closing, at the Company’s option, for each \$1,000 principal amount of the Notes being converted:

(A) an amount in cash equal to the present value as of the applicable Conversion Date of all scheduled interest payments due on \$1,000 principal amount of the Notes on each Interest Payment Date through the Maturity Date (assuming (1) the then-applicable interest rate shall apply through the Maturity Date and (2) the maximum amount of PIK Interest is paid on each Interest Payment Date and interest payable for subsequent periods is payable on such PIK Interest), computed using a discount rate equal to the Treasury Rate as of such Conversion Date plus 50 basis points (the “**Interest Make-Whole Cash Amount**”); or

(B) a number of Ordinary Shares calculated by dividing (i) the Interest Make-Whole Cash Amount by (ii) the simple average of the Daily VWAP for the 10 consecutive Trading Days ending on, and including, the Trading Day immediately preceding such Conversion Date.

“**Interest Payment Date**” means, with respect to a Note, each [●] and [●] of each year, commencing on [●], 2024 (or commencing on such other date specified in the certificate representing such Note). For the avoidance of doubt, the Maturity Date is an Interest Payment Date.

“**Intercreeitor Agreement**” means the intercreditor agreement, dated on or about the Issue Date, made between, among others, [the Company, the Guarantors,] the Trustee, the Amended 2029 First Lien Notes Trustee, the New 2029 First Lien Notes Trustee, the Collateral Trustee, the Amended 2029 First Lien Notes Collateral Trustee and the New 2029 First Lien Notes Collateral Trustee, and the other parties named therein, as amended, restated or otherwise modified or varied from time to time.

“**Internal Revenue Code**” means the United States Internal Revenue Code of 1986, as amended.

“**Investor**” means Zhonghuan Singapore Investment and Development Pte. Ltd., and/or its Affiliates.

“**Investor Warrant**” means a warrant of the Company, dated [●], 2024, issued to the Investor.

“**Issue Date**” means [●], 2024.

“**Junior Lien Indebtedness**” means any Indebtedness of the Company or any Restricted Subsidiary secured by a Lien on all or any portion of the Collateral that has a priority that is contractually (or otherwise) junior in priority to the Lien on such Collateral that secure the Notes.

“**Last Reported Sale Price**” of the Ordinary Shares for any Trading Day means the closing sale price per Ordinary Share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per Ordinary Share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per Ordinary Share) on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed. If the Ordinary Shares are not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per Ordinary Share on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Ordinary Shares are not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per Ordinary Share on such Trading Day from each of at least three (3) nationally recognized independent investment banking firms selected by the Company. Neither the Trustee nor the Conversion Agent will have any duty to determine the Last Reported Sale Price.

“**Lien**” means any statutory or other lien, security interest, mortgage, pledge, charge, hypothecation, assignment for collateral purposes, encumbrance, option, purchase right, call right, easement, right-of-way, restriction (including zoning restrictions), defect, preferential arrangement, preference, priority, exception or material irregularity in title or similar charge or encumbrance, including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof; *provided* that in no event shall an operating lease be deemed to constitute a Lien.

“**Majority Holders**” means, at any applicable time, Holders owning more than 50.0% of the aggregate principal amount of the Notes then outstanding.

“**Make-Whole Event**” means (A) a Fundamental Change (determined after giving effect to the proviso immediately after **clause (D)** of the definition thereof, but without regard to the proviso to **clause (B)(ii)** of such definition) (an event referred to in this **clause (A)**, a “**Make-Whole Fundamental Change**”); or (B) the sending of a Redemption Notice pursuant to **Section 4.03(G)** in respect of a Provisional Redemption or a Tax Redemption; *provided, however*, that the sending of a Redemption Notice for a Provisional Redemption of less than all of the outstanding Notes will constitute a Make-Whole Event only with respect to the Notes called (or deemed to be called pursuant to **Section 4.03(K)**) for Provisional Redemption pursuant to such Redemption Notice and not with respect to any other Notes. For the avoidance of doubt, the sending of any Redemption Notice for a Tax Redemption will constitute a Make-Whole Event with respect to all outstanding Notes.

“**Make-Whole Event Conversion Period**” has the following meaning:

(A) in the case of a Make-Whole Event pursuant to **clause (A)** of the definition thereof, the period from, and including, the Make-Whole Event Effective Date of such Make-Whole Event to, and including, the thirty fifth (35th) Trading Day after such Make-Whole Event Effective Date (or, if such Make-Whole Event also constitutes a Fundamental Change, to, but excluding, the related Fundamental Change Repurchase Date); and

(B) in the case of a Make-Whole Event pursuant to **clause (B)** of the definition thereof, the period from, and including, the Redemption Notice Date for the related Redemption to, and including, the second (2nd) Business Day immediately before the related Redemption Date;

provided, however, that if the Conversion Date for the conversion of a Note that has been called (or deemed, pursuant to **Section 4.03(K)**, to be called) for Redemption occurs during the Make-Whole Event Conversion Period for both a Make-Whole Fundamental Change occurring pursuant to **clause (A)** of the definition of “Make-Whole Event” and a Make-Whole Event resulting from such Redemption pursuant to **clause (B)** of such definition, then, notwithstanding anything to the contrary in **Section 5.07**, solely for purposes of such conversion, (x) such Conversion Date will be deemed to occur solely during the Make-Whole Event Conversion Period for the Make-Whole Event with the earlier Make-Whole Event Effective Date; and (y) the Make-Whole Event with the later Make-Whole Event Effective Date will be deemed not to have occurred.

“**Make-Whole Event Effective Date**” means (A) with respect to a Make-Whole Event pursuant to **clause (A)** of the definition thereof, the date on which such Make-Whole Event occurs or becomes effective; and (B) with respect to a Make-Whole Event pursuant to **clause (B)** of the definition thereof, the applicable Redemption Notice Date.

“**Make-Whole Fundamental Change**” has the meaning set forth in the definition of Make-Whole Event.

“**Make-Whole Share Amount**” means, with respect to any Make-Whole Event Effective Date, a number of Ordinary Shares calculated in accordance with **clause (B)** of the definition of “Interest Make-Whole Amount” on the basis that all references to applicable Conversion Date therein should be replaced by references to such Make-Whole Event Effective Date, and for the avoidance of doubt, disregarding the limitation that any calculation shall only be made with respect to any conversion of Tranche B Notes prior to the Forward Purchase Closing.

“**Market Disruption Event**” means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Ordinary Shares are listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Ordinary Shares or in any options contracts or futures contracts relating to the Ordinary Shares.

“**Maturity Date**” means [●], [2028].

“**New 2029 First Lien Notes**” means \$[●] million [●]% First Lien Senior Secured Convertible Notes due 2029 issued by the Company pursuant to the New 2029 First Lien Notes Indenture, and any additional notes which may be issued pursuant to and in accordance with the terms of the New 2029 First Lien Notes Indenture, as may be further amended and supplemented from time to time.

“**New 2029 First Lien Notes Collateral Trustee**” means DB Trustees (Hong Kong) Limited, as the collateral trustee for the New 2029 First Lien Notes, and/or any successor collateral trustee, additional collateral trustee, and/or New 2029 First Lien Notes Philippine Supplemental Collateral Trustee, and/or any other supplemental collateral trustee appointed pursuant to the terms of New 2029 First Lien Notes Indenture.

“**New 2029 First Lien Notes Indenture**” means an indenture dated [[●], 2024] between the Company, the Guarantors named therein, DB Trustees (Hong Kong) Limited, as the collateral trustee, and Deutsche Bank Trust Company Americas, as trustee, in relation to the New 2029 First Lien Notes, as may be amended and supplemented from time to time.

“**New 2029 First Lien Notes Philippine Supplemental Collateral Trustee**” means Rizal Commercial Banking Corporation – Trust and Investment Group as collateral trustee with respect to the Philippine Collateral (as defined in the New 2029 First Lien Notes Indenture), in such capacity and solely with respect to such collateral.

“**New 2029 First Lien Notes Trustee**” means Deutsche Bank Trust Company Americas, a New York Banking Corporation, as trustee for New 2029 First Lien Notes or its successors or assignees appointed pursuant to the terms of New 2029 First Lien Notes Indenture.

“**Non-recourse Receivable Financing**” means Receivable Financing (i) under which none of the Company nor the Restricted Subsidiaries (other than pursuant to Standard Non-recourse Receivable Financing Undertakings) provides guarantee or recourse with respect to the Receivable Financing Assets, undertakes to repurchase any Receivable Financing Assets, subjects any of its properties or assets, directly or indirectly, contingently or otherwise, to the satisfaction of any obligation related to the Receivable Financing Assets or undertakes to maintain or preserve the financial condition or operating results of the entity that purchases or otherwise receives the Receivable Financing Assets and (ii) is not reflected as liability on the consolidated balance sheet of the Company.

“**Note Agent**” means any Registrar, Paying Agent or Conversion Agent.

“**Notes**” means (i) the Initial Notes, (ii) following the issuance of the Additional Notes pursuant to the terms of this Indenture, the Additional Notes, and (iii) the PIK Notes, treated as a single class. For the avoidance of doubt, Tranche A Notes and Tranche B Notes shall vote together on all matters as one class, and except as where expressly provided otherwise, shall be deemed to constitute a single class or series for all purposes under this Indenture.

“**Notes Secured Parties**” means, collectively, the Collateral Trustee (or any receiver and delegate appointed by the Collateral Trustee on any Notes Security Document), the Trustee and the Holders.

“**Notes Security Documents**” means all security and/or other collateral documents that create or purport to create a Lien in favor of the Collateral Trustee for the benefit of itself and of the Notes Secured Parties and entered into in connection with the Indenture and the Notes (including the [Post-Closing Security Documents]), as amended, restated, modified and/or supplemented in accordance with the provisions hereof.

“**Notes Security Property**” means:

(A) the security interest over the Collateral expressed to be granted in favour of the Collateral Trustee for the benefit of itself and of the Notes Secured Parties, which shall include Holders, the Trustee and the Collateral Trustee;

(B) all obligations expressed to be undertaken by any grantor of the security interest over the Collateral to pay amounts in respect of the Obligations to the Collateral Trustee for the benefit of itself and of the Notes Secured Parties, which shall include Holders, the Trustee and the Collateral Trustee; or

(C) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Collateral Trustee is required by the terms of the Indenture Documents to hold as trustee on trust for the Notes Secured Parties or as agent in favour of the Notes Secured Parties.

“**Obligations**” means (a) obligations of the Company and the other Company Indenture Parties from time to time to pay (and otherwise arising under or in respect of the due and punctual payment of) (i) principal, interest (including interest accruing during the pendency of any insolvency proceeding, regardless of whether allowed or allowable in such proceeding) and all other obligations under the Indenture Documents (including, without limitation, any applicable premium) of the Company and the other Company Indenture Parties under this Indenture, the Notes issued hereunder and the other Indenture Documents when and as due, whether at maturity, by acceleration, upon one or more dates set for redemption or otherwise, and (ii) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any insolvency proceeding, regardless of whether allowed or allowable in such proceeding), of the Company and the other Company Indenture Parties under this Indenture and the other Indenture Documents, and (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Company and the other Company Indenture Parties under or pursuant to this Indenture and the other Indenture Documents.

“**Observation Period**” means, with respect to any Note to be converted, (A) subject to **clause (B)** below, if the Conversion Date for such Note occurs on or before the thirty fifth (35th) Scheduled Trading Day immediately before the Maturity Date, the thirty (30) consecutive VWAP Trading Days beginning on, and including, the third (3rd) VWAP Trading Day immediately after such Conversion Date; (B) if such Conversion Date occurs on or after the date the Company has sent a Redemption Notice calling all or any Notes for Provisional Redemption or Tax Redemption pursuant to **Section 4.03(G)** and before the related Redemption Date, the thirty (30) consecutive VWAP Trading Days beginning on, and including, the thirty first (31st) Scheduled Trading Day immediately before such Redemption Date; and (C) subject to **clause (B)** above, if such Conversion Date occurs after the thirty fifth (35th) Scheduled Trading Day immediately before the Maturity Date, the thirty (30) consecutive VWAP Trading Days beginning on, and including, the thirty first (31st) Scheduled Trading Day immediately before the Maturity Date.

“**Officer**” means any member of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Group Treasurer, any Treasury Director, the Controller, the Secretary or any Vice-President of the Company.

“**Officer’s Certificate**” means a certificate that is signed on behalf of the Company by one (1) of its Officers and that meets the requirements of **Section 13.03**.

“**Open of Business**” means 9:00 a.m., New York City time.

“**Opinion of Counsel**” means an opinion, from legal counsel (including an employee of, or counsel to, the Company or any of its Subsidiaries) reasonably acceptable to the Trustee, and, when applicable, the Collateral Trustee, that meets the requirements of **Section 13.03**, subject to customary qualifications and exclusions.

“**Optional Exchange Date**” means the date fixed, pursuant to **Section 4.04(C)**, for the settlement of the exchange of any Notes by the Company pursuant to the Optional Exchange.

“**Optional Exchange Notice Date**” means, with respect to the Optional Exchange, the date on which the Company sends the Optional Exchange Notice for the Optional Exchange pursuant to **Section 4.04(E)**. For the avoidance of doubt, the Optional Exchange Date shall be no more than [five (5)] Scheduled Trading Days after the Optional Exchange Notice Date.

“**Optional Exchange Triggering Event**” means the receipt (including the receipt, termination or expiration, as applicable, of waivers, consents, approvals, waiting periods or agreements required under the applicable laws and regulations) or waiver by the Company and the Forward Purchaser, each in its sole discretion (as the case may be), of each of the regulatory and other authorizations set forth in Schedule III – Part 1 hereof.

“**Ordinary Shares**” means the ordinary shares of the Company, subject to **Section 5.09**.

“**Permitted Investment**” has the meaning given to it in the First Lien Notes Indentures.

“**Person**” or “**person**” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate “person” under this Indenture.

“**Philippine Collateral**” means the Collateral governed by a Philippine law governed all-asset omnibus security agreement dated [October 14, 2022], as may be amended or supplemented from time to time (the “**Philippine Security Document**”).

“**Physical Note**” means a Note (other than a Global Note) that is represented by a certificate substantially in the form set forth in **Exhibit A-1** or **Exhibit A-2**, registered in the name of the Holder of such Note and duly executed by the Company and authenticated by the Trustee.

“**Post-Closing Security Documents**” means the security documents and all other security and/or other collateral documents to be entered into in connection with the Indenture and the Notes listed on **Schedule 1.01** and each of the other agreements, instruments or documents entered into or to be entered into in connection with such security documents that create or purport to create a Lien in favor of the Collateral Trustee, on behalf of and for the benefit of the Notes Secured Parties, which shall include, among others, the Holders, the Trustee and the Collateral Trustee.

“**PP&E**” means, as of any date, the total consolidated property, plant and equipment of the Company and its Subsidiaries measured in accordance with U.S. GAAP as of the last date of the most recent fiscal quarter for which consolidated financial statements of the Company (which the Company will use its reasonable best efforts to compile in a timely manner) are available (which may be internal consolidated financial statements).

“**Priority Lien**” means a Lien granted by the Company Indenture Parties in favor of the Priority Lien Secured Parties at any time, upon any property of any Company Indenture Party to secure Priority Lien Secured Obligations.

“**Priority Lien Debt Documents**” means the definitive documents in respect of the Priority Lien Secured Obligations as determined in accordance with the Intercreditor Agreement, which, for the avoidance of doubt, shall initially include the First Lien Notes Indentures.

“**Priority Lien Secured Obligations**” means all obligations of and all other present and future liabilities and obligations at any time due, owing or incurred by the Company Indenture Parties and by each of them to any Priority Lien Secured Party under (or in connection with) the Priority Lien Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity (including any refinancing thereof).

“**Priority Lien Secured Parties**” means, collectively, the creditors of the Priority Lien Secured Obligations as determined in accordance with the Intercreditor Agreement.

“**Priority Lien Security Documents**” means all security and/or other collateral documents that create or purport to create a Lien in favor of the applicable First Lien Notes Collateral Trustees for the benefit of itself and of the relevant Priority Lien Secured Parties, and entered into in connection with the applicable First Lien Notes Indenture and the applicable series of First Lien Notes, as amended, restated, modified and/or supplemented in accordance with the provisions thereof.

“**Rate Adjustment Date**” means (A) [●], 2025, or (B) if the Forward Purchase Closing does not occur on or prior to [●], 2025, the Interest Payment Date immediately after the Forward Purchase Closing.

“**Receivable Financing**” means any financing transaction or series of financing transactions that have been or may be entered into by any of the Company and the Restricted Subsidiaries pursuant to which the Company or such Restricted Subsidiary, as the case may be, may sell, convey or otherwise transfer to another Person, or may grant a security interest in, any receivables, royalty, other revenue streams or interests therein (including without limitation, all security interests in goods financed thereby (including equipment and property), the proceeds of such receivables, and other assets which are customarily sold or in respect of which security interests are customarily granted in connection with securitization or factoring transactions involving such assets) for credit or liquidity management purposes (including discounting, securitization or factoring transactions) either (i) in the ordinary course of business or (ii) by way of selling securities that are, or are capable of being, listed on any stock exchange or in any securities market and are offered using an offering memorandum or similar offering document.

“**Receivable Financing Assets**” means assets that are underlying and are sold, conveyed or otherwise transferred or pledged in a Receivable Financing.

“**Redemption**” means a Provisional Redemption or a Tax Redemption.

“**Redemption Date**” means the date fixed, pursuant to **Section 4.03(E)**, for the settlement of the repurchase of any Notes by the Company pursuant to a Provisional Redemption or a Tax Redemption.

“**Redemption Notice Date**” means, with respect to a Provisional Redemption or a Tax Redemption, the date on which the Company sends the Redemption Notice for such Redemption pursuant to **Section 4.03(G)**.

“**Redemption Price**” means in the case of a Provisional Redemption or Tax Redemption, the cash price determined and payable by the Company to redeem any Note upon its Redemption, calculated pursuant to **Section 4.03(F)**.

“**Regular Record Date**” has the following meaning with respect to an Interest Payment Date: (A) if such Interest Payment Date occurs on [●], the immediately preceding [●]; and (B) if such Interest Payment Date occurs on [●], the immediately preceding [●].

“**Relevant Cash Interest Rate**” means 4.00% per annum.

“**Relevant Investor Ownership Percentage**” means, at any time of determination, a percentage equal to the sum of (A) (x) the voting power of all of the Ordinary Shares beneficially owned by the Investor or any of its Affiliates at such time, after giving effect to the Relevant Investor Events, divided by (y) the voting power of all of the outstanding Ordinary Shares of the Company, after giving effect to the Relevant Investor Events and assuming the settlement of the Optional Exchange in full (without giving any effect to **Section 4.05** hereof) and (B) five percent (5%).

“**Relevant PIK Interest Rate**” means 5.50% per annum.

“**Repurchase Upon Fundamental Change**” means the repurchase of any Note by the Company pursuant to **Section 4.02**.

“**Responsible Officer**” means (A) any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) having direct responsibility for the administration of this Indenture; and (B) with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of, and familiarity with, the particular subject.

“**Restricted Collateral Subsidiary**” means, SunPower Systems Sàrl, SunPower Philippines Manufacturing Ltd., SunPower Energy Solutions France SAS, or to the extent it is not a Guarantor, SunPower Malaysia Manufacturing Sdn Bhd, or any successor thereof.

“**Restricted Note Legend**” means a legend substantially in the form set forth in **Exhibit B-1**.

“**Restricted Payment**” has the meaning given to it in the First Lien Notes Indentures.

“**Restricted Share Legend**” means, with respect to any Conversion Share, a legend substantially to the effect that the offer and sale of such Conversion Share have not been registered under the Securities Act and that such Conversion Share cannot be sold or otherwise transferred except pursuant to a transaction that is registered under the Securities Act or that is exempt from, or not subject to, the registration requirements of the Securities Act.

“**Restricted Subsidiary**” means any Subsidiary of the Company other than an Unrestricted Subsidiary.

“**Rule 144**” means Rule 144 under the Securities Act (or any successor rule thereto), as the same may be amended from time to time.

“**Rule 144A**” means Rule 144A under the Securities Act (or any successor rule thereto), as the same may be amended from time to time. “**Sales Contract**” means contracts or agreements pursuant to which any Company Indenture Party provides services or goods to their respective customers.

“**Sale/Leaseback Transaction**” means an arrangement relating to property now owned or acquired after the Issue Date by the Company or any Restricted Subsidiary whereby the Company or such Restricted Subsidiary transfers such property to a Person and the Company or such Restricted Subsidiary contemporaneously lease it from such Person pursuant to a lease on reasonable market terms.

“**SCB Agreement**” means the revolving credit agreement dated February 15, 2018 between SunPower Malaysia Manufacturing Sdn. Bhd. and Standard Chartered Bank Malaysia Berhad, as amended or supplemented from time to time.

“**Scheduled Trading Day**” means any day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded. If the Ordinary Shares are not so listed or traded, then “Scheduled Trading Day” means a Business Day.

“**SDA**” means that certain Separation and Distribution Agreement dated November 8, 2019 by and between SunPower Corporation, a Delaware corporation, and the Company, as amended, restated, modified and/or supplemented from time to time.

“**SEC**” means the U.S. Securities and Exchange Commission.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Security**” means any Note or Conversion Share.

“**Secured Indebtedness**” means, with respect to any Person, any Indebtedness of such Person that is secured by any Lien on any of such Person’s property or assets or any of the property or assets of its Subsidiaries, whether owned on the date hereof or thereafter acquired.

“**Settlement Method**” means Cash Settlement, Physical Settlement or Combination Settlement.

“**Share Price**” has the following meaning for any Make-Whole Event: (A) if the holders of the Ordinary Shares receive only cash in consideration for their Ordinary Shares in such Make-Whole Event and such Make-Whole Event is pursuant to **clause (B)** of the definition of “Fundamental Change,” then the Share Price is the amount of cash paid per Ordinary Share in such Make-Whole Event; and (B) in all other cases, the Share Price is the average of the Last Reported Sale Prices per Ordinary Share for the five consecutive Trading Days ending on, and including, the Trading Day immediately before the Make-Whole Event Effective Date of such Make-Whole Event.

“**Significant Subsidiary**” has the meaning set forth in Article I, Rule 1-02(w) of Regulation S-X promulgated by the SEC (or any successor rule); *provided, however*, that if a Subsidiary that meets the criteria of clause (3) of such rule but not clause (1) or (2) thereof, in each case as such rule is in effect on the Issue Date, then such Subsidiary will not be deemed to be a Significant Subsidiary unless such Subsidiary’s income (or loss) from continuing operations before income taxes, exclusive of amounts attributable to any non-controlling interests, for the last completed fiscal year prior to the date of determination exceeds twenty five million dollars (\$25,000,000) (with such amount calculated pursuant to Rule 1-02(w) as in effect on the Issue Date). For the avoidance of doubt, a Subsidiary that satisfies the condition set forth in the proviso to the preceding sentence will not be deemed to be a “Significant Subsidiary” unless such Subsidiary also constitutes a “Significant Subsidiary” within the meaning set forth in Article I, Rule 1-02(w) of Regulation S-X promulgated by the SEC (or any successor rule).

“**Soulte**” means, in relation to any enforcement of any Notes Security Document occurring by way of Appropriation (including pursuant to a pacte comissoire or a foreclosure (attribution judiciaire) or any similar enforcement mechanism) or judicial foreclosure of any French Security Document, the amount by which the value of the Charged Property (as determined on the date of the relevant Appropriation by a valuation expert in accordance with the provisions of the relevant Notes Security Document) appropriated or foreclosed pursuant to that enforcement exceeds the amount of obligations secured by that security interest which is discharged as a result of that enforcement being carried out.

“**Special Interest**” means any interest that accrues on any Note pursuant to **Section 7.03**.

“**Specified Dollar Amount**” means, with respect to the conversion of a Note to which Combination Settlement applies, the maximum cash amount per \$1,000 principal amount of such Note deliverable upon such conversion (excluding cash in lieu of any fractional Ordinary Share).

“**Standard Non-recourse Receivable Financing Undertakings**” means representations, warranties, undertakings, covenants and indemnities entered into by the Company or any Restricted Subsidiary which the Company or such Restricted Subsidiary has determined in good faith to be customary for a seller or servicer of assets in Non-recourse Receivable Financings.

“**Stated Interest**” means (1) from (and including) the Issue Date to (but excluding) the Rate Adjustment Date, 9.50% per annum, and (2) on and from the Rate Adjustment Date, 8.00% per annum.

“**Stated Maturity**” means, (1) with respect to any Indebtedness, the date specified in such debt security as the fixed date on which the final installment of principal of such Indebtedness is due and payable as set forth in the documentation governing such Indebtedness and (2) with respect to any scheduled installment of principal of or interest on any Indebtedness, the date specified as the fixed date on which such installment is due and payable as set forth in the documentation governing such Indebtedness, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

“**Stock Transfer Agent**” means initially Computershare Trust Company, N.A., or any other stock transfer agent engaged by the Company from time to time.

“**Subsidiary**” means, with respect to any Person, (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than fifty percent (50%) of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or shareholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

“**Subsidiary Guarantee**” means the joint and several guarantee pursuant to **Article 12** hereof by a Guarantor of its Guaranteed Obligations.

“**Supermajority Holders**” means, at any applicable time, Holders owning more than 66 ²/₃ % of the aggregate principal amount of the Notes then outstanding.

“**Swiss Federal Tax Administration**” means the tax authorities referred to in article 34 of the Swiss Federal Act on Withholding Tax of 13 October 1965 (*Bundesgesetz über die Verrechnungssteuer*).

“**Swiss Withholding Tax**” means any taxes imposed under the Swiss Federal Act on Withholding Tax of 13 October 1965 (*Bundesgesetz über die Verrechnungssteuer*).

“**Tax**” means any tax, duty, levy, impost, assessment or other governmental charge (including penalties and interest and other similar liabilities related thereto).

“**Tax Redemption**” means the Redemption of any Note pursuant to **Section 4.03(C)(i)**.

“**Total Solarization Agreement**” means the Second Amended and Restated Initial Implementing Agreement, dated February 22, 2021, between the Company and TotalEnergies SE in relation to the supply of certain PV modules to TotalEnergies SE.

“**Trading Day**” means any day on which (A) trading in the Ordinary Shares generally occurs on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded; and (B) there is no Market Disruption Event. If the Ordinary Shares are not so listed or traded, then “Trading Day” means a Business Day.

“**Tranche A Notes**” means any Notes evidenced by a certificate substantially in the form set forth in **Exhibit A-1**, registered in the name of the Depositary or its nominee (in case of a Global Note), or the name of Holder of such Note (in case of a Physical Note), duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee (in case of a Global Note), as custodian for the Depositary, such Notes being subject to the provisions set forth in **Section 4.04**.

“**Tranche B Notes**” means any Notes evidenced by a certificate substantially in the form set forth in **Exhibit A-2**, registered in the name of the Depositary or its nominee (in case of a Global Note), or the name of Holder of such Note (in case of a Physical Note), duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee (in case of a Global Note), as custodian for the Depositary.

“**Transfer-Restricted Security**” means any Security that constitutes a “restricted security” (as defined in Rule 144); *provided, however*, that such Security will cease to be a Transfer- Restricted Security upon the earliest to occur of the following events:

(A) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to a registration statement that was effective under the Securities Act at the time of such sale or transfer;

(B) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to an available exemption (including Rule 144) from the registration and prospectus-delivery requirements of, or in a transaction not subject to, the Securities Act and, immediately after such sale or transfer, such Security ceases to constitute a “restricted security” (as defined in Rule 144); and

(C) such Security is eligible for resale, by a Person that is not an Affiliate of the Company and that has not been an Affiliate of the Company during the immediately preceding three (3) months, pursuant to Rule 144 without any limitations thereunder as to volume, manner of sale, availability of current public information or notice.

The Trustee is under no obligation to determine whether any Security is a Transfer- Restricted Security and may conclusively rely on an Officer’s Certificate with respect thereto.

“**Treasury Rate**” means, as of the applicable Conversion Date, as determined by the Company, the yield to maturity as of such Conversion Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to such Conversion Date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such Conversion Date to the Maturity Date; *provided*, however, that if the period from such Conversion Date to the Maturity Date is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used.

“**Trust Indenture Act**” means the U.S. Trust Indenture Act of 1939, as amended.

“**Trustee**” means the Person named as such in the first paragraph of this Indenture until a successor replaces it in accordance with the provisions of this Indenture and, thereafter, means such successor.

“**U.S. GAAP**” means the generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

“**Unsecured Indebtedness**” means, with respect to any Person, any Indebtedness of such Person that is not secured, in whole or in part, by a Lien.

“Unrestricted Subsidiary” means each of Maxeon Power, Inc., SunPower Energy Systems Southern Africa (Pty) Ltd, SunPower Technologies France SAS, SunPower Manufacturing de Vernejoul SAS, Maxeon Americas, Inc, any future Subsidiaries of the Company which is primarily engaged in projects and/or business which are initially primarily funded by Capital Expenditures duly approved by the Board of Directors (as designated from time to time by the Company through the delivery of written notices to the Trustee and the Holders) and their respective Subsidiaries; *provided, however*, that (A) prior to the Forward Purchase Closing, any Subsidiary of the Company may be designated as an “Unrestricted Subsidiary” under this Indenture only if and for so long as such Subsidiary is designated as an “Unrestricted Subsidiary” under each of the First Lien Notes Indentures (to the extent either of the First Lien Notes Indentures remains in force and effect) and any other Indebtedness of the Company and its Restricted Subsidiaries, to the extent the instrument governing such other Indebtedness provides for the designation of "Unrestricted Subsidiaries" similar to that provided for under this Indenture; or (B) on and from the Forward Purchase Closing, to the extent either of the First Lien Notes Indentures remains in force and effect, any Subsidiary of the Company may be designated as an “Unrestricted Subsidiary” under this Indenture only if and for so long as such Subsidiary is designated as an “Unrestricted Subsidiary” under such First Lien Notes Indenture.

“VWAP Market Disruption Event” means, with respect to any date, (A) the failure by the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed, or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, the principal other market on which the Ordinary Shares are then traded, to open for trading during its regular trading session on such date; or (B) the occurrence or existence, for more than one half hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Ordinary Shares or in any options contracts or futures contracts relating to the Ordinary Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m., New York City time, on such date.

“VWAP Trading Day” means a day on which (A) there is no VWAP Market Disruption Event; and (B) trading in the Ordinary Shares generally occurs on the principal U.S. national or regional securities exchange on which the Ordinary Shares are then listed or, if the Ordinary Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Ordinary Shares are then traded. If the Ordinary Shares are not so listed or traded, then “VWAP Trading Day” means a Business Day.

“Wholly Owned Subsidiary” of a Person means any Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares) are owned by such Person or one or more Wholly Owned Subsidiaries of such Person.

Term	Defined in Section
“Additional Amounts”	3.05(A)
“Additional Intercreditor Agreement”	14.02(A)
“Additional Shares”	5.07(A)
“Applicable Terrorism Law”	13.11
“Averaging Period”	2.05(D)(i)
“Bank Account Perfection Actions”	3.12(A)
“Business Combination Event”	6.01(B)
“Cash Settlement”	5.03(A)
“Combination Settlement”	5.03(A)
“Company Business Combination Event”	6.01(A)
“Confidential Information”	3.02(A)
“Conversion Agent”	2.06(A)
“Conversion Consideration”	5.03(B)(i)
“Default Interest”	2.05(B)
“Defaulted Amount”	2.05(B)
“Event of Default”	7.01(A)
“Excess Shares”	4.05(F)
“Exchange Cap”	4.05(F)
“Exchange Cap Limitation”	4.05(F)
“Executed Documentation”	13.01
“Expiration Date”	5.05(A)(v)
“Expiration Time”	5.05(A)(v)
“FATCA”	3.05(A)(iv)
“Freely Disposable Amount”	12.06(B)(i)
“Fundamental Change Notice”	4.02(E)
“Fundamental Change Repurchase Right”	4.02(A)
“Guarantor Business Combination Event”	6.01(B)
“holder of the Notes”	4.05(F)
“Initial Notes”	2.03(A)
“Italian Security Documents”	11.03(D)
“Maximum Percentage”	4.05(F)
“Optional Exchange”	4.04(A)
“Optional Exchange Consideration”	4.04(D)
“Ordinary Share Change Event”	5.09(A)
“Paying Agent”	2.06(A)
“Physical Settlement”	5.03(A)
“PIK Global Notes”	2.05(D)(i)
“PIK Interest”	2.05(D)(i)
“PIK Notes”	2.05(D)(i)
“PIK Physical Notes”	2.05(D)(i)
“PIK Payment”	2.05(D)(i)
“Pro Forma Outstanding Share Numbers”	4.05(F)
“Pro Forma Owned Shares”	4.05(F)
“Provisional Redemption”	4.03(B)
“Redemption Notice”	4.03(G)
“Reference Property”	5.09(A)
“Reference Property Unit”	5.09(A)

“Register”	2.06(B)
“Registrar”	2.06(A)
“Relevant Taxing Jurisdiction”	3.05(A)
“Reported Outstanding Share Number”	4.05(F)
“Reporting Event of Default”	7.03(A)
“Restricted Obligations”	12.06(B)(i)
“Specified Courts”	13.07
“Spin-Off”	5.05(A)(iii)(2)
“Spin-Off Valuation Period”	5.05(A)(iii)(2)
“Successor Corporation”	6.01(A)(i)
“Successor Guarantor”	6.01(B)(i)
“Successor Person”	5.09(A)
“Supplemental Collateral Trustee”	11.09(A)
“Swiss Guarantor”	12.06(B)(i)
“Tax Redemption Opt-Out Election”	4.03(C)(ii)
“Tax Redemption Opt-Out Election Notice”	4.03(C)(ii)(1)
“Tender/Exchange Offer Valuation Period”	5.05(A)(v)
“Transfer Taxes”	3.05(B)
“Underlying Issuer”	5.09(A)

Section 1.03. RULES OF CONSTRUCTION.

For purposes of this Indenture:

(A) “or” is not exclusive;

(B) “including” means “including without limitation”;

(C) “will” expresses a command;

(D) the “average” of a set of numerical values refers to the arithmetic average of such numerical values;

(E) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

(F) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;

(G) “herein,” “hereof” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision of this Indenture, unless the context requires otherwise;

(H) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;

(I) the exhibits, schedules and other attachments to this Indenture are deemed to form part of this Indenture; and

(J) the term “**interest**,” when used with respect to a Note, includes any Special Interest, unless the context requires otherwise.

Section 1.04. CONFLICT WITH TRUST INDENTURE ACT.

(A) If any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act that is required under such Act to be part of and govern this Indenture, the Trust Indenture Act provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the Trust Indenture Act provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be.

Article 2. THE NOTES

Section 2.01. FORM, DATING AND DENOMINATIONS.

The Initial Notes and the Trustee's certificate of authentication will be substantially in the form set forth in **Exhibit A-1** or **Exhibit A-2**, as applicable. Any Additional Notes and PIK Notes and the Trustee's certificate of authentication will be substantially in the form set forth in **Exhibit A-2**. The Notes will bear the legends required by **Section 2.09** and may bear notations, legends or endorsements required by law, stock exchange rule or usage or the Depositary. Each Note will be dated as of the date of its authentication.

Except to the extent otherwise provided in a Company Order delivered to the Trustee in connection with the issuance and authentication thereof, the Notes will be issued initially in the form of one or more Global Notes. Physical Notes may be exchanged for Global Notes, and Global Notes may be exchanged for Physical Notes, only as provided in **Section 2.10**.

The Notes will be issuable only in registered form without interest coupons and only in Authorized Denominations.

Each certificate representing a Note will bear a unique registration number that is not affixed to any other certificate representing another outstanding Note.

The terms contained in the Notes constitute part of this Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, agree to such terms and to be bound thereby; *provided, however*, that, to the extent that any provision of any Note conflicts with the provisions of this Indenture, the provisions of this Indenture will control for purposes of this Indenture and such Note.

Section 2.02. EXECUTION, AUTHENTICATION AND DELIVERY.

(A) *Due Execution by the Company.* At least one (1) duly authorized Officer will sign the Notes on behalf of the Company by manual, electronically or facsimile signature. A Note's validity will not be affected by the failure of any Officer whose signature is on any Note to hold, at the time such Note is authenticated, the same or any other office at the Company.

(B) Authentication by the Trustee and Delivery.

(i) No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

(ii) The Trustee will cause an authorized signatory of the Trustee (or a duly appointed authenticating agent) to manually or electronically sign the certificate of authentication of a Note only if (1) the Company delivers such Note to the Trustee; (2) such Note is executed by the Company in accordance with **Section 2.02(A)**; and (3) the Company delivers a Company Order to the Trustee that (a) requests the Trustee to authenticate such Note; and (b) sets forth the name of the Holder of such Note and the date as of which such Note is to be authenticated. If such Company Order also requests the Trustee to deliver such Physical Note to any Holder, then the Trustee will promptly electronically deliver such Note in accordance with such Company Order.

(iii) The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. A duly appointed authenticating agent may authenticate Notes whenever the Trustee may do so under this Indenture, and a Note authenticated as provided in this Indenture by such an agent will be deemed, for purposes of this Indenture, to be authenticated by the Trustee. Each duly appointed authenticating agent will have the same rights to deal with the Company as the Trustee would have if it were performing the duties that the authentication agent was validly appointed to undertake.

Section 2.03. INITIAL NOTES, ADDITIONAL NOTES AND PIK NOTES

(A) *Initial Notes.* On the Issue Date, there will be originally issued (i) [●] dollars (\$[●]) aggregate principal amount of Tranche A Notes and (ii) [●] dollars (\$[●]) aggregate principal amount of Tranche B Notes, subject to the provisions of this Indenture (including **Section 2.02**). Notes issued pursuant to this **Section 2.03(A)**, and any Notes issued in exchange therefor or in substitution thereof, are referred to in this Indenture as the “**Initial Notes.**”

(B) At any time and from time to time after the execution and delivery of this Indenture and in accordance with the terms of this Indenture, the Company may deliver (a) the Additional Notes executed by the Company to the Trustee for authentication, or (b) the PIK Notes executed by the Company to the Trustee for authentication, together with a written order of the Company in the form of an Officer’s Certificate for the authentication and delivery of such Additional Notes and PIK Notes, as the case may be, and the Trustee in accordance with such written order of the Company shall authenticate and deliver such Additional Notes and PIK Notes. The Additional Notes shall have the same terms and conditions of the initial Tranche B Notes issued pursuant to **Section 2.03(A)** (including the benefit of the Subsidiary Guarantees and the Collateral) in all respects except for the issue date, issue price and the date of the first payment of interest, and upon issuance, the Additional Notes shall be consolidated with and form a single class with the previously outstanding Notes and vote together as one class on all matters with respect to the Notes. For the avoidance of doubt, the Additional Notes may be issued only in the form of Tranche B Notes; *provided* that, if the Additional Notes are not fungible with the initial Tranche B Notes for U.S. federal income tax purposes, the Additional Notes will be assigned a separate CUSIP and ISIN number.

Section 2.04. METHOD OF PAYMENT.

(A) *Global Notes.* The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, cash, interest on, and any cash Conversion Consideration for, any Global Note to the Depository by wire transfer of immediately available funds no later than the time the same is due as provided in this Indenture.

(B) *Physical Notes.* The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, cash, interest on, and any cash Conversion Consideration for, any Physical Note no later than the time the same is due as provided in this Indenture by wire transfer of immediately available funds to an account of the Holder, as specified by the Holder.

(C) *PIK Notes.* At all times prior to the Rate Adjustment Date, PIK Interest on the Notes shall be payable: (i) with respect to Notes represented by one or more Global Notes registered in the name of, or held by, the Depository (or any successor depository) or its nominee on the relevant record date, by increasing the principal amount of the outstanding Global Notes, effective as of the applicable Interest Payment Date, by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) at the request of the Company to increase the principal amount of the outstanding Global Note and (ii) with respect to Physical Notes, if any, by issuing PIK Notes in certificated form, dated as of the applicable Interest Payment Date, in an aggregate principal amount equal to the amount of the PIK Interest for the applicable interest period (rounded up to the nearest whole dollar), and the Trustee will, upon receipt of a Company Order, authenticate and deliver such PIK Notes in certificated form for original issuance to the Holders on the relevant record date, as shown by the records of the register of holders. Following an increase in the principal amount of the outstanding Global Notes as a result of a PIK Payment, such Global Notes will bear interest on such increased principal amount from and after the Interest Payment Date in respect of which such PIK Payment was made. Any PIK Notes issued in certificated form will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. Any certificated PIK Notes will be issued with the description "PIK" on the face of such PIK Note. All Notes issued pursuant to a PIK Payment will mature on the same maturity date as the Notes issued on the Issue Date and will be governed by, and subject to the terms, provisions and conditions of, the Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date.

(D) *Payment of Interest in Ordinary Shares.* If the Company elects to pay interest on the Notes in Ordinary Shares in accordance with the terms of this Indenture, the Company shall notify the Holders, the Trustee and the Stock Transfer Agent in writing of whether it will make such interest payment in Ordinary Shares at least three Trading Days before the relevant Interest Payment Date. If the Company chooses to make such payment in Ordinary Shares, on the applicable Interest Payment Date, the Company shall either (x) if the Stock Transfer Agent is participating in The Depository Trust Company's Fast Automated Securities Transfer Program, credit the number of Ordinary Shares payable as an interest payment to such Holder's or its designee's balance account with the Depository through its Deposit/Withdrawal at Custodian system, or (y) if the Stock Transfer Agent is not participating in The Depository Trust Company's Fast Automated Securities Transfer Program, issue and dispatch by overnight courier to each Holder, a certificate, or a statement evidencing the Ordinary Shares in book-entry format, registered in the Company's share register in the name of such Holder or its designee for the number of Ordinary Shares to which such Holder is entitled in connection with such payment. If, after providing notice that it will pay an interest payment in Ordinary Shares, the Company becomes unable to deliver such Ordinary Shares on the relevant Interest Payment Date, the Company shall pay such interest payment in cash.

Section 2.05. ACCRUAL OF INTEREST; DEFAULTED AMOUNTS; WHEN PAYMENT DATE IS NOT A BUSINESS DAY.

(A) *Accrual of Interest.* Each Note will accrue interest at a rate per annum equal to the Stated Interest, plus any Special Interest that may accrue pursuant to **Section 7.03**. Stated Interest on each Note will (i) accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the date set forth in the certificate representing such Note as the date from, and including, which Stated Interest will begin to accrue in such circumstance) to, but excluding, the date of payment of such Stated Interest; and (ii) be, subject to **Sections 4.02(D), 4.03(F), 4.04(D)** and **5.02(D)** (but without duplication of any payment of interest), payable semi-annually in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such Note, to the Holder of such Note as of the Close of Business on the immediately preceding Regular Record Date. Stated Interest, and, if applicable, Special Interest, on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months.

(B) *Defaulted Amounts.* If the Company fails to pay any amount (a “**Defaulted Amount**”) payable on a Note on or before the due date therefor as provided in this Indenture, then, regardless of whether such failure constitutes an Event of Default, (i) such Defaulted Amount will forthwith cease to be payable to the Holder of such Note otherwise entitled to such payment; (ii) to the extent lawful, interest (“**Default Interest**”) will accrue on such Defaulted Amount at a rate per annum equal to the rate per annum at which Stated Interest accrues, from, and including, such due date to, but excluding, the date of payment of such Defaulted Amount and Default Interest; (iii) such Defaulted Amount and Default Interest will be paid on a payment date selected by the Company to the Holder of such Note as of the Close of Business on a special record date selected by the Company, *provided* that such special record date must be no more than fifteen (15), nor less than ten (10), calendar days before such payment date; and (iv) at least fifteen (15) calendar days before such special record date, the Company will send notice to the Trustee and the Holders that states such special record date, such payment date and the amount of such Defaulted Amount and Default Interest to be paid on such payment date.

(C) *Delay of Payment when Payment Date is Not a Business Day.* If the due date for a payment on a Note as provided in this Indenture is not a Business Day, then, notwithstanding anything to the contrary in this Indenture or the Notes, such payment may be made on the immediately following Business Day and no interest will accrue on such payment as a result of the related delay. Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a “**Business Day**.”

(D) *Issuance of PIK Notes; Notice of PIK Interest and Interest payable in Ordinary Shares.*

(i) From (and including) the Issue Date to (but excluding) the Rate Adjustment Date, on each Interest Payment Date, (x) an amount equal to the interest payable at the Relevant Cash Interest Rate as of such Interest Payment Date will be paid solely in cash, and (y) without duplication, an amount equal to the interest payable at the Relevant PIK Interest Rate as of such Interest Payment Date may be paid, at the Company's election, (a) in cash, (b) by (x) increasing the principal amount of the outstanding Notes or (y) if, and in the limited circumstances where, the Notes are no longer held in global form, by issuing Physical Notes (the "**PIK Notes**") (rounded up to the nearest \$1.00) under this Indenture, having the same terms and conditions as the Notes ("**PIK Interest**") (in each case, a "**PIK Payment**"), (c) if the Equity Payment Conditions are met, in Ordinary Shares; or (d) a combination of the forms of payment set forth in sub-clauses (a), (b) and (c) above. The value of Ordinary Shares issued to pay any interest on Physical Notes and Global Notes, if the Company elects to make payment of such interest in Ordinary Shares, will be the simple average of the Daily VWAP for the 10 consecutive Trading Days ending on, and including, the third Trading Day immediately preceding the relevant Interest Payment Date (the "**Averaging Period**") as set forth in an Officer's Certificate and delivered to the Trustee and Paying Agent. The Company may only elect to make payment of interest in Ordinary Shares if such Ordinary Shares are not subject to restrictions on transfer under the Securities Act, whether based on an effective registration statement covering such shares or on an applicable exemption from such registration requirement for resale thereof. On and from the Rate Adjustment Date, the interest payable on an Interest Payment Date will be payable solely in cash.

(ii) PIK Interest on the Notes, if elected to be paid, will be payable (x) with respect to Notes represented by one or more global notes registered in the name of, or held by, the Depository or its nominee on the relevant record date, by increasing the principal amount of the outstanding global Note by an amount equal to the amount of PIK Interest for the applicable interest period (rounded up to the nearest whole dollar) and (y) with respect to Notes represented by certificated notes, by issuing PIK Notes in certificated form in an aggregate principal amount equal to the amount of PIK Interest for the applicable period (rounded up to the nearest whole dollar), and the Trustee will, at the request of the Company, authenticate and deliver such PIK Notes for original issuance to the Holders on the relevant record date, as shown by the records of the register of Holders. Following an increase in the principal amount of the outstanding Global Notes as a result of a PIK Payment, such Global Notes will bear interest on such increased principal amount from and after the date of such PIK Payment. Any PIK Notes issued in certificated form will be dated as of the applicable Interest Payment Date and will bear interest from and after such date. Any certificated PIK Notes will be issued with the description "PIK" on the face of such PIK Note. All Notes issued pursuant to a PIK Payment will mature on the Maturity Date and will be governed by, and subject to the terms, provisions and conditions of this Indenture and shall have the same rights and benefits as the Notes issued on the Issue Date. The references to the "principal" or "principal amount" of all of the PIK Notes shall include any increase in the principal amount of the outstanding Notes as a result of any PIK Payment.

(iii) PIK Interest will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the Issue Date. The calculation of PIK Interest will be made by the Company or on behalf of the Company by such Person as the Company shall designate, and such calculation and the correctness thereof shall not be a duty or obligation of the Trustee. Notwithstanding anything in this Indenture to the contrary, the payment of accrued interest (including interest that would be PIK Interest when paid) in connection with any redemption of Notes as described in **Sections 4.02 or 4.03** shall be made solely in cash. PIK Interest on the Notes will be paid in denominations of \$1.00 and integral multiples of \$1.00 in excess thereof.

Section 2.06. REGISTRAR, PAYING AGENT AND CONVERSION AGENT.

(A) *Generally.* The Company will maintain (i) an office or agency in the continental United States where Notes may be presented for registration of transfer or for exchange (the “**Registrar**”); (ii) an office or agency in the continental United States where Notes may be presented for payment (the “**Paying Agent**”); and (iii) an office or agency in the continental United States where Notes may be presented for conversion (the “**Conversion Agent**”). If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, then the Trustee will act as such. For the avoidance of doubt, the Company or any of its Subsidiaries may act as Registrar, Paying Agent or Conversion Agent.

(B) *Duties of the Registrar.* The Registrar will keep a record (the “**Register**”) of the names and addresses of the Holders, the Notes held by each Holder and the transfer, exchange, repurchase, Redemption and conversion of Notes. Absent manifest error, the entries in the Register will be conclusive and the Company and the Trustee may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly.

(C) *Co-Agents; Company’s Right to Appoint Successor Registrars, Paying Agents and Conversion Agents.* The Company may appoint one or more co-Registrars, co-Paying Agents and co-Conversion Agents, each of whom will be deemed to be a Registrar, Paying Agent or Conversion Agent, as applicable, under this Indenture. Subject to **Section 2.06(A)**, the Company may change any Registrar, Paying Agent or Conversion Agent (including appointing itself or any of its Subsidiaries to act in such capacity) without notice to any Holder. The Company will notify the Trustee (and, upon request, any Holder) of the name and address of each Note Agent, if any, not a party to this Indenture and will enter into an appropriate agency agreement with each such Note Agent, which agreement will implement the provisions of this Indenture that relate to such Note Agent.

(D) *Initial Appointments.* The Company appoints the Trustee as the initial Paying Agent, the initial Registrar and the initial Conversion Agent.

Section 2.07. PAYING AGENT AND CONVERSION AGENT TO HOLD PROPERTY IN TRUST.

The Company will require each Paying Agent or Conversion Agent that is not the Trustee to agree in writing that such Note Agent will (A) hold in trust for the benefit of Holders or the Trustee all money and other property held by such Note Agent for payment or delivery due on the Notes; and (B) notify the Trustee of any default by the Company in making any such payment or delivery. The Company, at any time, may, and the Trustee, while any Default continues, may, require a Paying Agent or Conversion Agent to pay or deliver, as applicable, all money and other property held by it to the Trustee, after which payment or delivery, as applicable, such Note Agent (if not the Company or any of its Subsidiaries) will have no further liability for such money or property. If the Company or any of its Subsidiaries acts as Paying Agent or Conversion Agent, then (A) it will segregate and hold in a separate trust fund for the benefit of the Holders or the Trustee all money and other property held by it as Paying Agent or Conversion Agent; and (B) references in this Indenture or the Notes to the Paying Agent or Conversion Agent holding cash or other property, or to the delivery of cash or other property to the Paying Agent or Conversion Agent, in each case for payment or delivery to any Holders or the Trustee or with respect to the Notes, will be deemed to refer to cash or other property so segregated and held separately, or to the segregation and separate holding of such cash or other property, respectively. Upon the occurrence of any event pursuant to **Section 7.01(A)(x)** or **7.01(A)(xi)** with respect to the Company (or with respect to any Subsidiary of the Company acting as Paying Agent or Conversion Agent), the Trustee will serve as the Paying Agent or Conversion Agent, as applicable, for the Notes.

Section 2.08. HOLDER LISTS.

(A) If the Trustee is not the Registrar, the Company and any other obligor of the Notes will furnish to the Trustee, no later than seven (7) Business Days before each Interest Payment Date, and at such other times as the Trustee may request, a list, in such form and as of such date or time as the Trustee may reasonably require, of the names and addresses of the Holders.

(B) The Trustee shall preserve in as current a form as is reasonably practicable, all information as to the names and addresses of the Holders (1) contained in the most recent list furnished to it as provided in **Section 2.08(A)** and (2) received by it in the capacity of Paying Agent (if so acting).

(C) The Holders may communicate pursuant to Section 312(b) of the Trust Indenture Act with other Holders with respect to their rights under this Indenture or any or all series of the Notes.

(D) Each and every Holder, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any agent of either of them shall be held accountable by reason of any disclosure of information as to the names and addresses of the Holders in accordance with the provisions of this Section 2.08.

Section 2.09. LEGENDS.

(A) *Global Note Legend.* Each Global Note will bear the Global Note Legend (or any similar legend, not inconsistent with this Indenture, required by the Depository for such Global Note).

(B) [Reserved.]

(C) *Restricted Note Legend.* Subject to **Section 2.12**,

(i) each Note that is a Transfer-Restricted Security will bear the Restricted Note Legend; and

(ii) if a Note is issued in exchange for, in substitution of, or to effect a partial conversion of, another Note (such other Note being referred to as the “old Note” for purposes of this **Section 2.09(C)(ii)**), including pursuant to **Section 2.10(B)**, **2.10(C)**, **2.11** or **2.13**, then such Note will bear the Restricted Note Legend if such old Note bore the Restricted Note Legend at the time of such exchange or substitution, or on the related Conversion Date with respect to such conversion, as applicable; *provided, however*, that such Note need not bear the Restricted Note Legend if such Note does not constitute a Transfer-Restricted Security immediately after such exchange or substitution, or as of such Conversion Date, as applicable.

(D) *Other Legends.* A Note may bear any other legend or text, not inconsistent with this Indenture, as may be required by applicable law or by any securities exchange or automated quotation system on which such Note is traded or quoted.

(E) *Acknowledgment and Agreement by the Holders.* A Holder’s acceptance of any Note bearing any legend required by this **Section 2.09** will constitute such Holder’s acknowledgment of, and agreement to comply with, the restrictions set forth in such legend.

(F) Restricted Share Legend.

(i) Each Conversion Share will bear the Restricted Share Legend if the Note upon the conversion of which such Conversion Share was issued was (or would have been had it not been converted) a Transfer-Restricted Security at the time such Conversion Share was issued; *provided, however*, that such Conversion Share need not bear the Restricted Share Legend if the Company determines, in its reasonable discretion, that such Conversion Share need not bear the Restricted Share Legend.

(ii) Notwithstanding anything to the contrary in this **Section 2.09(F)**, a Conversion Share need not bear a Restricted Share Legend if such Conversion Share is issued in an uncertificated form that does not permit affixing legends thereto, *provided* the Company takes measures (including the assignment thereto of a “restricted” CUSIP number) that it reasonably deems appropriate to enforce the transfer restrictions referred to in the Restricted Share Legend.

Section 2.10. TRANSFERS AND EXCHANGES; CERTAIN TRANSFER RESTRICTIONS.

(A) Provisions Applicable to All Transfers and Exchanges.

(i) Subject to this **Section 2.10**, Physical Notes and beneficial interests in Global Notes may be transferred or exchanged from time to time and the Registrar will record each such transfer or exchange in the Register.

(ii) Each Note issued upon transfer or exchange of any other Note (such other Note being referred to as the “old Note” for purposes of this **Section 2.10(A)**) or portion thereof in accordance with this Indenture will be the valid obligation of the Company, evidencing the same indebtedness, and entitled to the same benefits under this Indenture, as such old Note or portion thereof, as applicable.

(iii) The Company, the Trustee and the Note Agents will not impose any service charge on any Holder for any transfer, exchange or conversion of Notes, but the Company, the Trustee, the Registrar and the Conversion Agent may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer, exchange or conversion of Notes, other than exchanges pursuant to **Section 2.11, 2.17 or 8.05** not involving any transfer.

(iv) Notwithstanding anything to the contrary in this Indenture or the Notes, a Note may not be transferred or exchanged in part unless the portion to be so transferred or exchanged is in an Authorized Denomination.

(v) The Trustee will have no obligation or duty to monitor, determine or inquire as to compliance with any transfer restrictions imposed under this Indenture or applicable law with respect to any Security, other than to require the delivery of such certificates or other documentation or evidence as expressly required by this Indenture and to examine the same to determine substantial compliance as to form with the requirements of this Indenture.

(vi) Each Note issued upon transfer of, or in exchange for, another Note will bear each legend, if any, required by **Section 2.09**.

(vii) Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Note, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second (2nd) Business Day after the date of such satisfaction.

(viii) For the avoidance of doubt, and subject to the terms of this Indenture, as used in this **Section 2.10**, an “exchange” of a Global Note or a Physical Note includes (x) an exchange effected for the sole purpose of removing any Restricted Note Legend affixed to such Global Note or Physical Note; and (y) if such Global Note or Physical Note is identified by a “restricted” CUSIP number, an exchange effected for the sole purpose of causing such Global Note or Physical Note to be identified by an “unrestricted” CUSIP number.

(B) *Transfers and Exchanges of Global Notes.*

(i) Subject to the immediately following sentence, no Global Note may be transferred or exchanged in whole except (x) by the Depositary to a nominee of the Depositary; (y) by a nominee of the Depositary to the Depositary or to another nominee of the Depositary; or (z) by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. No Global Note (or any portion thereof) may be transferred to, or exchanged for, a Physical Note; *provided, however*, that a Global Note will be exchanged, pursuant to customary procedures, for one or more Physical Notes if:

(1) (x) the Depositary notifies the Company or the Trustee that the Depositary is unwilling or unable to continue as depositary for such Global Note or (y) the Depositary ceases to be a “clearing agency” registered under Section 17A of the Exchange Act and, in each case, the Company fails to appoint a successor Depositary within ninety (90) days of such notice or cessation;

(2) an Event of Default has occurred and is continuing and the Company, the Trustee or the Registrar has received a written request from the Depositary, or from a holder of a beneficial interest in such Global Note, to exchange such Global Note or beneficial interest, as applicable, for one or more Physical Notes; or

(3) the Company, in its sole discretion, permits the exchange of any beneficial interest in such Global Note for one or more Physical Notes at the request of the owner of such beneficial interest.

(ii) Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Global Note (or any portion thereof):

(1) the Trustee will reflect any resulting decrease of the principal amount of such Global Note by notation on the “Schedule of Exchanges of Interests in the Global Note” forming part of such Global Note (and, if such notation results in such Global Note having a principal amount of zero, the Company may (but is not required to) instruct the Trustee to cancel such Global Note pursuant to Section 2.15);

(2) if required to effect such transfer or exchange, then the Trustee will reflect any resulting increase of the principal amount of any other Global Note by notation on the “Schedule of Exchanges of Interests in the Global Note” forming part of such other Global Note;

(3) if required to effect such transfer or exchange, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, a new Global Note bearing each legend, if any, required by Section 2.09; and

(4) if such Global Note (or such portion thereof), or any beneficial interest therein, is to be exchanged for one or more Physical Notes, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Global Note to be so exchanged; (y) are registered in such name(s) as the Depositary specifies (or as otherwise determined pursuant to customary procedures); and (z) bear each legend, if any, required by Section 2.09.

(iii) Each transfer or exchange of a beneficial interest in any Global Note will be made in accordance with the Depositary Procedures.

(C) Transfers and Exchanges of Physical Notes.

(i) Subject to this **Section 2.10**, a Holder of a Physical Note may (x) transfer such Physical Note (or any portion thereof in an Authorized Denomination) to one or more other Person(s); (y) exchange such Physical Note (or any portion thereof in an Authorized Denomination) for one or more other Physical Notes in Authorized Denominations having an aggregate principal amount equal to the aggregate principal amount of the Physical Note (or portion thereof) to be so exchanged; and (z) if then permitted by the Depositary Procedures, transfer such Physical Note (or any portion thereof in an Authorized Denomination) in exchange for a beneficial interest in one or more Global Notes; *provided, however*, that, to effect any such transfer or exchange, such Holder must:

(1) surrender such Physical Note to be transferred or exchanged to the office of the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Trustee or the Registrar; and

(2) deliver such certificates, documentation or evidence as may be required pursuant to Section 2.10(D).

(ii) Upon the satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Physical Note (such Physical Note being referred to as the “old Physical Note” for purposes of this **Section 2.10(C)(ii)**) of a Holder (or any portion of such old Physical Note in an Authorized Denomination):

(1) such old Physical Note will be promptly cancelled pursuant to Section 2.15;

(2) if such old Physical Note is to be so transferred or exchanged only in part, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with Section 2.02, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such old Physical Note not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by Section 2.09;

(3) in the case of a transfer:

(a) to the Depository or a nominee thereof that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Global Notes, the Trustee will reflect an increase of the principal amount of one or more existing Global Notes by notation on the “Schedule of Exchanges of Interests in the Global Note” forming part of such Global Note(s), which increase(s) are in Authorized Denominations and aggregate to the principal amount to be so transferred, and which Global Note(s) bear each legend, if any, required by **Section 2.09**; *provided, however*, that if such transfer cannot be so effected by notation on one or more existing Global Notes (whether because no Global Notes bearing each legend, if any, required by **Section 2.09** then exist, because any such increase will result in any Global Note having an aggregate principal amount exceeding the maximum aggregate principal amount permitted by the Depository or otherwise), then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Global Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; and (y) bear each legend, if any, required by **Section 2.09**; and

(b) to a transferee that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Physical Notes, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 2.09**; and

(4) in the case of an exchange, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so exchanged; (y) are registered in the name of the Person to whom such old Physical Note was registered; and (z) bear each legend, if any, required by **Section 2.09**.

(D) *Requirement to Deliver Documentation and Other Evidence.* If a Holder of any Note that is identified by a “restricted” CUSIP number or that bears a Restricted Note Legend or is a Transfer-Restricted Security requests to:

- (i) cause such Note to be identified by an “unrestricted” CUSIP number;
- (ii) remove such Restricted Note Legend; or
- (iii) register the transfer of such Note to the name of another Person,

then the Company, the Trustee and the Registrar may refuse to effect such identification, removal or transfer, as applicable, unless there is delivered to the Company, the Trustee and the Registrar such certificates or other documentation or evidence as the Company, the Trustee and the Registrar may reasonably require to determine that such identification, removal or transfer, as applicable, complies with the Securities Act and other applicable securities laws.

(E) *Transfers of Notes Subject to Redemption, Repurchase or Conversion.* Notwithstanding anything to the contrary in this Indenture or the Notes, the Company, the Trustee and the Registrar will not be required to register the transfer of or exchange any Note that (i) has been surrendered for conversion, except to the extent that any portion of such Note is not subject to conversion; (ii) is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn, pursuant to **Section 4.02(F)**, except to the extent that any portion of such Note is not subject to such notice or the Company fails to pay the applicable Fundamental Change Repurchase Price when due; or (iii) has been selected for Redemption pursuant to a Redemption Notice, except to the extent that any portion of such Note is not subject to Redemption or the Company fails to pay the applicable Redemption Price when due.

Section 2.11. EXCHANGE AND CANCELLATION OF NOTES TO BE CONVERTED OR TO BE REPURCHASED PURSUANT TO A REPURCHASE UPON FUNDAMENTAL CHANGE OR REDEMPTION.

(A) *Partial Conversions of Physical Notes and Partial Repurchases of Physical Notes Pursuant to a Repurchase Upon Fundamental Change or Redemption.* If only a portion of a Physical Note of a Holder is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, as soon as reasonably practicable after such Physical Note is surrendered for such conversion or repurchase, as applicable, the Company will cause such Physical Note to be exchanged, pursuant and subject to **Section 2.10(C)**, for (i) one or more Physical Notes that are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable, and deliver such Physical Note(s) to such Holder; and (ii) a Physical Note having a principal amount equal to the principal amount to be so converted or repurchased, as applicable, which Physical Note will be converted or repurchased, as applicable, pursuant to the terms of this Indenture; *provided, however*, that the Physical Note referred to in this **clause (ii)** need not be issued at any time after which such principal amount subject to such conversion or repurchase, as applicable, is deemed to cease to be outstanding pursuant to **Section 2.18**.

(B) *Cancellation of Notes that Are Converted and Notes that Are Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption.*

(i) *Physical Notes.* If a Physical Note (or any portion thereof that has not theretofore been exchanged pursuant to **Section 2.11(A)**) of a Holder is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the later of the time such Physical Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18** and the time such Physical Note is surrendered for such conversion or repurchase, as applicable, (1) such Physical Note will be cancelled pursuant to **Section 2.15**; and (2) in the case of a partial conversion or repurchase, as applicable, the Company will issue, execute and deliver to such Holder, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**.

(ii) *Global Notes*. If a Global Note (or any portion thereof) is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the time such Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18**, the Trustee will reflect a decrease of the principal amount of such Global Note in an amount equal to the principal amount of such Global Note to be so converted or repurchased, as applicable, by notation on the “Schedule of Exchanges of Interests in the Global Note” forming part of such Global Note (and, if the principal amount of such Global Note is zero following such notation, cancel such Global Note pursuant to **Section 2.15**).

Section 2.12. REMOVAL OF TRANSFER RESTRICTIONS.

Without limiting the generality of any other provision of this Indenture (including **Section 3.04**), the Restricted Note Legend affixed to any Note will be deemed, pursuant to this **Section 2.12** and the footnote to such Restricted Note Legend, to be removed therefrom upon the Company’s delivery to the Trustee of notice, signed on behalf of the Company by one (1) of its Officers, to such effect (and, for the avoidance of doubt, such notice need not be accompanied by an Officer’s Certificate or an Opinion of Counsel in order to be effective to cause such Restricted Note Legend to be deemed to be removed from such Note). If such Note bears a “restricted” CUSIP or ISIN number at the time of such delivery, then, upon such delivery, such Note will be deemed, pursuant to this **Section 2.12** and the footnotes to the CUSIP and ISIN numbers set forth on the face of the certificate representing such Note, to thereafter bear the “unrestricted” CUSIP and ISIN numbers identified in such footnotes; *provided, however*, that if such Note is a Global Note and the Depository thereof requires a mandatory exchange or other procedure to cause such Global Note to be identified by “unrestricted” CUSIP and ISIN numbers in the facilities of such Depository, then (i) the Company will effect such exchange or procedure as soon as reasonably practicable; and (ii) for purposes of **Section 3.04**, such Global Note will not be deemed to be identified by “unrestricted” CUSIP and ISIN numbers until such time as such exchange or procedure is effected.

Section 2.13. REPLACEMENT NOTES.

If a Holder of any Note claims that such Note has been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a replacement Note upon surrender to the Trustee of such mutilated Note, or upon delivery to the Trustee of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Trustee and the Company. In the case of a lost, destroyed or wrongfully taken Note, the Company and the Trustee may require the Holder thereof to provide such security or indemnity that is reasonably satisfactory to the Company and the Trustee to protect the Company and the Trustee from any loss that any of them may suffer if such Note is replaced.

Every replacement Note issued pursuant to this **Section 2.13** will be an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and ratably with all other Notes issued under this Indenture.

Section 2.14. REGISTERED HOLDERS; CERTAIN RIGHTS WITH RESPECT TO GLOBAL NOTES.

Only the Holder of a Note will have rights under this Indenture as the owner of such Note. Without limiting the generality of the foregoing, Depositary Participants will have no rights as such under this Indenture with respect to any Global Note held on their behalf by the Depositary or its nominee, or by the Trustee as its custodian, and the Company, the Trustee and the Note Agents, and their respective agents, may treat the Depositary as the absolute owner of such Global Note for all purposes whatsoever; *provided, however*, that (A) the Holder of any Global Note may grant proxies and otherwise authorize any Person, including Depositary Participants and Persons that hold interests in Notes through Depositary Participants, to take any action that such Holder is entitled to take with respect to such Global Note under this Indenture or the Notes; and (B) the Company and the Trustee, and their respective agents, may give effect to any written certification, proxy or other authorization furnished by the Depositary.

Section 2.15. CANCELLATION.

The Company may at any time deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent will forward to the Trustee each Note duly surrendered to them for transfer, exchange, payment or conversion. The Trustee will promptly cancel all Notes so surrendered to it in accordance with its customary procedures. Without limiting the generality of **Section 2.03(B)**, the Company may not originally issue new Notes to replace Notes that it has paid or that have been cancelled upon transfer, exchange, payment or conversion.

Section 2.16. NOTES HELD BY THE COMPANY OR ITS AFFILIATES.

In determining whether the holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company, by the Company's Subsidiaries, the Investor and its Affiliates or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or its Subsidiaries shall be disregarded and deemed not to be outstanding; *except* that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which the Trustee actually knows are so owned shall be so disregarded. Subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

Section 2.17. TEMPORARY NOTES.

Until definitive Notes are ready for delivery, the Company may issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. The Company will promptly prepare, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, definitive Notes in exchange for temporary Notes. Until so exchanged, each temporary Note will in all respects be entitled to the same benefits under this Indenture as definitive Notes.

Section 2.18. OUTSTANDING NOTES.

(A) *Generally.* The Notes that are outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and authenticated, excluding those Notes (or portions thereof) that have theretofore been (i) cancelled by the Trustee or delivered to the Trustee for cancellation in accordance with **Section 2.15**; (ii) assigned a principal amount of zero by notation on the “Schedule of Exchanges of Interests in the Global Note” forming part of any a Global Note representing such Note; (iii) paid in full (including upon conversion) in accordance with this Indenture; or (iv) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (B), (C) or (D)** of this **Section 2.18**. Subject to Section 2.16, the Notes do not cease to be outstanding because the Company or an Affiliate of the Company holds such Notes.

(B) *Replaced Notes.* If a Note is replaced pursuant to **Section 2.13**, then such Note will cease to be outstanding at the time of its replacement, unless the Trustee and the Company receive proof reasonably satisfactory to them that such Note is held by a “protected purchaser” under applicable law.

(C) *Maturing Notes and Notes Called for Redemption or Subject to Repurchase.* If, on a Redemption Date, a Fundamental Change Repurchase Date or the Maturity Date, the Paying Agent holds money sufficient to pay the aggregate Redemption Price, Fundamental Change Repurchase Price or principal amount, respectively, together, in each case, with the aggregate interest, in each case due on such date, then (unless there occurs a Default in the payment of any such amount) (i) the Notes (or portions thereof) to be redeemed or repurchased, or that mature, on such date will be deemed, as of such date, to cease to be outstanding, except to the extent provided in **Section 4.02(D), 4.03(F) or 5.02(D)**; and (ii) the rights of the Holders of such Notes (or such portions thereof), as such, will terminate with respect to such Notes (or such portions thereof), other than the right to receive the Redemption Price, Fundamental Change Repurchase Price or principal amount, as applicable, of, and accrued and unpaid interest on, such Notes (or such portions thereof), in each case as provided in this Indenture.

(D) *Notes to Be Converted.* At the Close of Business on the Conversion Date for any Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B) or Section 5.02(D)**, upon such conversion) be deemed to cease to be outstanding, except to the extent provided in **Section 5.02(D) or Section 5.08**.

(E) *Notes to Be Exchanged.* At the Close of Business on the Optional Exchange Date for the Tranche A Notes to be converted, such Tranche A Notes will (unless there occurs a Default in the delivery of the Optional Exchange Consideration or interest due, pursuant to **Section 5.03(B) or Section 5.02(D)**, upon such exchange) be deemed to cease to be outstanding, except to the extent provided in **Section 5.02(D)**.

(F) *Cessation of Accrual of Interest.* Except as provided in **Section 4.02(D), 4.03(F) or 5.02(D)**, interest will cease to accrue on each Note from, and including, the date that such Note is deemed, pursuant to this **Section 2.18**, to cease to be outstanding, unless there occurs a default in the payment or delivery of any cash or other property due on such Note.

Section 2.19. REPURCHASES BY THE COMPANY.

Without limiting the generality of **Section 2.15**, the Company may, from time to time, repurchase Notes in open market purchases or in negotiated transactions without delivering prior notice to Holders. The Company may, to the extent permitted by applicable law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company or the Company's Subsidiaries or through a private or public tender or exchange offer or through counterparties pursuant to private agreements, including cash-settled swaps or other derivatives, in each case, without prior notice to, or consent of, the Holders. The Company may, at its option and to the extent permitted by applicable law, reissue, resell or surrender to the Trustee for cancellation any Notes that the Company may repurchase, *provided* that, in the case of any reissuance or resale, the Notes do not constitute "restricted securities" (as defined in Rule 144) and are fungible for U.S. federal income tax purposes with the other Notes issued under this Indenture upon such reissuance or resale, as applicable. Any Notes that the Company may repurchase will be considered "outstanding" under this Indenture (except as provided in **Section 2.16**) unless and until such time the Company causes them to be surrendered to the Trustee for cancellation, and, upon receipt of a written order from the Company, the Trustee will cancel all Notes so surrendered.

Section 2.20. CUSIP AND ISIN NUMBERS.

Subject to **Section 2.12**, the Company may use one or more CUSIP or ISIN numbers to identify any of the Notes, and, if so, the Company and the Trustee will use such CUSIP or ISIN number(s) in notices to Holders; *provided, however*, that (i) the Trustee makes no representation as to the correctness or accuracy of any such CUSIP or ISIN number; and (ii) the effectiveness of any such notice will not be affected by any defect in, or omission of, any such CUSIP or ISIN number. The Company will promptly notify the Trustee, in writing, of any change in the CUSIP or ISIN number(s) identifying any Notes.

Article 3. COVENANTS

Section 3.01. PAYMENT ON NOTES.

(A) *Generally*. The Company will pay or cause to be paid (or as applicable by increasing the principal amount of the Notes or issuing PIK Notes, or issuing Ordinary Shares) all the principal of, the Fundamental Change Repurchase Price and Redemption Price for, interest on, and other amounts due with respect to, the Notes on the dates and in the manner set forth in this Indenture.

(B) *Deposit of Funds*. Before 10:00 A.M., New York City time, on each Redemption Date, Fundamental Change Repurchase Date or Interest Payment Date, and on the Maturity Date or any other date on which any cash amount is due on the Notes, the Company will deposit, or will cause there to be deposited, with the Paying Agent cash, in funds immediately available on such date, sufficient to pay the cash amount due on the applicable Notes on such date. All the funds provided to the Paying Agent must be in U.S. dollars. The Paying Agent will return to the Company, as soon as practicable, any money not required for such purpose. PIK Interest shall be considered paid on the date due if on such date, the Trustee has received delivery of a Company Order on or prior to the date the payment is due of (x) any PIK Notes to be authenticated and delivered or written direction as provided in **Section 2.05(D)**; or (y) any increased principal amount of the applicable Global Notes, in amount equal to all PIK Interest then due.

Section 3.02. EXCHANGE ACT REPORTS.

(A) *Generally.* The Company will send to the Trustee and the Collateral Trustee copies of all reports that the Company is required to file with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within fifteen (15) calendar days after the date that the Company is required to file the same (after giving effect to all applicable grace periods under the Exchange Act); *provided, however*, that the Company need not send to the Trustee and the Collateral Trustee any material or information for which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by the SEC or which the Company has redacted in accordance with the applicable rules and regulations of the SEC, or any correspondence with the SEC (such material or information, “**Confidential Information**”). Any report that the Company files with the SEC through the EDGAR system (or any successor thereto) will be deemed to be sent to the Trustee and the Collateral Trustee at the time such report is so filed via the EDGAR system (or such successor) and notice thereof has been provided to the Trustee and the Collateral Trustee. Upon the request of any Holder, the Trustee and the Collateral Trustee will provide to such Holder a copy of any report that the Company has sent the Trustee and the Collateral Trustee pursuant to this **Section 3.02(A)**, other than a report that is deemed to be sent to the Trustee and the Collateral Trustee pursuant to the preceding sentence.

(B) *Confidential Information.* To the extent any Holder requests in writing from the Company any document or material which contains Confidential Information and such document or material is, in the Company’s reasonable judgment, of the type that such Holder is entitled to receive under the terms of this Indenture, the Company shall make such document or material available to such Holder; *provided* that such Holder shall have executed and delivered to the Company a confidentiality agreement in form and substance satisfactory to the Company, acting reasonably. The Company shall not be obligated to deliver any Confidential Information to any Holder which has not executed and delivered to the Company a confidentiality agreement in form and substance satisfactory to the Company, acting reasonably.

(C) *Trustee’s Disclaimer.* The Trustee and the Collateral Trustee need not determine whether the Company has filed any material via the EDGAR system (or such successor). The sending or filing of reports pursuant to **Section 3.02(A)** will not be deemed to constitute constructive notice to the Trustee and/or Collateral Trustee of any information contained, or determinable from information contained, therein, including the Company’s compliance with any of its covenants under this Indenture. Any such reports delivered or filed by the Company with the Trustee and Collateral Trustee shall be considered for informational purposes only and the Trustee’s and Collateral Trustee’s receipt of such reports shall not constitute notice or actual knowledge of any information contained therein or determinable from information contained therein, including the Company’s compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on an Officer’s Certificate).

Section 3.03. RULE 144A INFORMATION.

If the Company is not subject to Section 13 or 15(d) of the Exchange Act at any time when any Notes or Ordinary Shares issuable upon conversion of the Notes are outstanding and constitute “restricted securities” (as defined in Rule 144), then the Company (or its successor) will promptly provide, to the Trustee and, upon written request, to any Holder, beneficial owner or prospective purchaser of such Notes or shares, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or shares pursuant to Rule 144A.

Section 3.04. RULE 144 INFORMATION.

The Company shall timely file any report that is required in order for the Company to satisfy the requirements set forth in Rule 144(c)(1) (after giving effect to all grace periods permitted thereunder).

Section 3.05. ADDITIONAL AMOUNTS.

(A) *Requirement to Pay Additional Amounts.* All payments and deliveries made by, or on behalf of, the Company or any successor to the Company under or with respect to the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any premium or interest (including any Special Interest) on, the delivery of any Optional Exchange Consideration due upon the Optional Exchange of, or the delivery of any Conversion Consideration due upon conversion of, any Note (together with payments of cash for any fractional share)) will be made without withholding or deduction for, or on account of, any present or future Taxes, unless such withholding or deduction is required by law or regulation or by governmental policy having the force of law. The Company or any successor to the Company and any applicable withholding agent is authorized to (a) liquidate a portion of any non-cash payment to be made under the Notes to generate sufficient funds to pay applicable withholding Taxes or (b) take such other actions as are reasonably appropriate to make the Company or any successor to the Company or any applicable withholding agent whole for any previously-paid “cashless” withholding Tax in respect of the Notes. If any Taxes imposed or levied by or on behalf of Singapore, or any other jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the Company or any successor to the Company is, for tax purposes, organized or resident or doing business or through which payment or delivery is made or deemed to be made (each such jurisdiction, subdivision or authority, as applicable, a “**Relevant Taxing Jurisdiction**”) are required to be withheld or deducted from any payments or deliveries made under or with respect to the Notes, then, subject to **Section 4.03(C)(ii)**, the Company or any successor to the Company, as applicable, will (i) make such withholding or deduction, (ii) remit the full amount deducted or withheld to the relevant authority in accordance with applicable law, and (iii) pay or deliver to the Holder of each Note such additional amounts (the “**Additional Amounts**”) as may be necessary to ensure that the net amount received by the beneficial owner of such Note after such withholding or deduction (and after withholding or deducting any Taxes on the Additional Amounts) will equal the amounts that would have been received by such beneficial owner had no such withholding or deduction been required; *provided, however*, that such obligation to pay Additional Amounts will not apply to:

(i) any Tax that would not have been imposed but for:

(1) the existence of any present or former connection between the Holder or beneficial owner of such Note (or between a fiduciary, settlor, beneficiary, member or shareholder of, or possessor of power over, the relevant holder or beneficial owner, if the relevant holder or beneficial owner (or such fiduciary, settlor, beneficiary, member or shareholder) is an estate, nominee, trust, partnership, limited liability company or corporation) and the Relevant Taxing Jurisdiction (other than merely holding or being a beneficial owner of such Note or the receipt of payments or enforcement of rights thereunder), including such Holder or beneficial owner being or having been a national, domiciliary or resident, or treated as a resident, of, or being or having been physically present or engaged in a trade or business, or having had a permanent establishment, in, such Relevant Taxing Jurisdiction;

(2) in cases where presentation of such Note is required to receive such payment or delivery, the presentation of such Note after a period of thirty (30) days after the later of (x) the date on which such payment or delivery became due and payable or deliverable, as applicable, pursuant to the terms of this Indenture and (y) the date such payment or delivery was made or duly provided for, except, in each case, to the extent that such Holder or beneficial owner would have been entitled to Additional Amounts if it presented such Note for payment or delivery, as applicable, at the end of such thirty (30) day period; or

(3) the failure of such Holder or beneficial owner to comply with a timely written request from the Company or the Successor Corporation, addressed to such Holder or beneficial owner, to (x) provide certification, information, documentation or other evidence concerning such Holder's or beneficial owner's nationality, residence, identity or connection with such Relevant Taxing Jurisdiction; or (y) make any declaration or satisfy any other reporting requirement relating to such matters, in each case if and to the extent that such Holder or beneficial owner is legally entitled and due and timely compliance with such request is required by statute, regulation or government policy of such Relevant Taxing Jurisdiction in order to reduce or eliminate such withholding or deduction;

(ii) any estate, inheritance, gift, use, sale, transfer, personal property or similar Tax or excise tax imposed on transfer of the Notes;

(iii) any Tax that is payable other than by withholding or deduction from payments or deliveries under or with respect to the Notes;

(iv) any withholding or deduction required by (x) sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Indenture (or any amended or successor version that is substantively comparable and not materially more burdensome to comply with) and any current or future U.S. Treasury regulations or rulings promulgated thereunder ("FATCA"); (y) any inter-governmental agreement between the United States and any other non-U.S. jurisdiction to implement FATCA or any law enacted by such other jurisdiction to give effect to such agreement; or (z) any agreement with the U.S. Internal Revenue Service pursuant to Section 1471(b)(1) of the Internal Revenue Code;

(v) any taxes imposed on or with respect to any payment by the Company to such Holder if such Holder is a fiduciary, partnership or person other than the sole beneficial owner of such payment, to the extent that such payment would be required, under the laws of such Relevant Taxing Jurisdiction, to be included for tax purposes in the income of a beneficiary or settlor with respect to such fiduciary, a partner or member of such partnership, or a beneficial owner, who would not have been entitled to such Additional Amounts had such beneficiary, settlor, partner, member or beneficial owner been the Holder thereof; or

(vi) any combination of items referred to in the preceding clauses (i) through (v), inclusive, above.

(B) *Indemnification for Transfer Taxes.* The Company or any successor to the Company will, jointly and severally, pay and indemnify each Holder and beneficial owner of Notes for any present or future stamp, issue, registration, value added, transfer, court or documentary Taxes, or any other excise, property or similar Taxes (including penalties, interest and any other reasonable expenses related thereto) (“**Transfer Taxes**”) levied by any Relevant Taxing Jurisdiction (and in the case of enforcement, any jurisdiction) on or in connection with the execution, delivery, registration, issuance or enforcement of any of the Notes, this Indenture or any other document or instrument referred to herein or the receipt of any payments or deliveries with respect to the Notes (including the receipt of shares (together with payment of cash for any fractional Share) or other Conversion Consideration).

(C) *Special Provision Regarding Interest.* For the avoidance of doubt, if any Note is called for a Tax Redemption and the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then the Company’s obligation to pay Additional Amounts will apply to the interest payment due on such Note on such Interest Payment Date unless such Note is subject to a Tax Redemption Opt-Out Election Notice.

(D) *Tax Receipts.* If the Company or any successor to the Company is required to make any deduction or withholding from any payments or deliveries with respect to the Notes, then the (i) Company or such successor to the Company will deliver to the Trustee official tax receipts (or, if, after expending reasonable efforts, the Company is unable to obtain such receipts, an Officer’s Certificate reasonably satisfactory to each Holder evidencing the payment of any applicable Taxes so deducted or withheld) evidencing the remittance to the relevant tax authorities of the amounts so withheld or deducted; and (ii) the Trustee or the Company or such successor to the Company will provide a copy of such receipts or evidence, as applicable, to any Holder or beneficial owner of any Notes upon request.

(E) *Interpretation of Indenture and Notes.* All references in this Indenture or the Notes to any payment on, or delivery with respect to, the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any premium or interest (including Special Interest) on, the delivery of any Optional Exchange Consideration due upon the Optional Exchange of, or the delivery of any Conversion Consideration due upon conversion of, any Note (together with payments of cash for any fractional share)) will, to the extent that Additional Amounts are payable in respect thereof, be deemed to include the payment of such Additional Amounts.

(F) *Survival of Obligations*. The obligations set forth in this **Section 3.05** will survive any termination, defeasance or discharge of this Indenture and any transfer of Notes by a Holder (or, in the case of a Global Note, a holder of a beneficial interest therein).

Section 3.06. COMPLIANCE AND DEFAULT CERTIFICATES.

(A) *Annual Compliance Certificate*. Within one hundred twenty (120) days after the earlier of (x) the end of the fiscal year of 2024 and each fiscal year of the Company thereafter, and (y) January 5 of the following year, the Company will deliver an Officer's Certificate to the Trustee and the Collateral Trustee stating (i) that the signatory thereto has supervised a review of the activities of the Company Indenture Parties during such fiscal year with a view towards determining whether any Default or Event of Default has occurred; and (ii) whether, to such signatory's knowledge, a Default or Event of Default has occurred or is continuing (and, if so, describing all such Defaults or Events of Default and what action any Company Indenture Party is taking or proposes to take with respect thereto).

(B) *Default Certificate*. If a Default or Event of Default occurs, then the Company will, within thirty (30) days after its occurrence, deliver an Officer's Certificate to the Trustee and the Collateral Trustee describing the same and what action the Company or any Company Indenture Party is taking or proposes to take with respect thereto; *provided, however*, that such notice will not be required if such Default or Event of Default has been cured or waived before the date the Company is required to deliver such notice.

Section 3.07. STAY, EXTENSION AND USURY LAWS.

To the extent that it may lawfully do so, each of the Company Indenture Party (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that may affect the covenants or the performance of this Indenture; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Trustee by this Indenture, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 3.08. CORPORATE EXISTENCE.

Subject to **Article 6**, each Company Indenture Party will cause to preserve and keep in full force and effect:

(A) its corporate existence in accordance with the organizational documents of the Company; and

(B) the material rights (charter and statutory), licenses and franchises of each Company Indenture Party and their respective Subsidiaries;

provided, however, that each Company Indenture Party need not preserve or keep in full force and effect any such license or franchise if the Board of Directors determines that (x) the preservation thereof is no longer desirable in the conduct of the business of the Company Indenture Parties, taken as a whole; and (y) the loss thereof is not, individually or in the aggregate, materially adverse to the Holders or the Collateral Trustee.

Section 3.09. ACQUISITION OF NOTES BY THE COMPANY AND ITS AFFILIATES.

Without limiting the generality of **Section 2.18**, Notes that the Company or any of its Subsidiaries have purchased or otherwise acquired will be deemed to remain outstanding (except to the extent provided in **Section 2.16**) until such time as such Notes are delivered to the Trustee for cancellation. The Company will use commercially reasonable efforts to prevent any of its controlled Affiliates (other than the Investor) from acquiring any Note (or any beneficial interest therein).

Section 3.10. FURTHER INSTRUMENTS AND ACTS.

At the Trustee's request, each Company Indenture Party will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to more effectively carry out the purposes of this Indenture.

Section 3.11. FUTURE SUBSIDIARY GUARANTORS

The Company shall cause (A) prior to the Forward Purchase Closing, each Restricted Subsidiary that guarantees or becomes an obligor under the First Lien Notes or that guarantees any other Indebtedness of the Company or any of the Guarantors; or (B) on and from the Forward Purchase Closing, each Restricted Subsidiary that guarantees or becomes an obligor under the First Lien Notes to (i) execute and deliver to the Trustee a supplemental indenture substantially in the form of Exhibit C hereto pursuant to which such Restricted Subsidiary will guarantee the Company's Obligations under the Notes and this Indenture, (ii) execute and deliver joinders to or new Notes Security Documents and (iii) take all actions required thereunder to perfect the Liens created thereunder with respect to its assets that constitute Collateral; *provided* that this **Section 3.11** shall not be applicable to SunPower Systems International Limited.

Section 3.12. LIMITATION ON INDEBTEDNESS

The Company will not, and will cause the Restricted Subsidiaries not to, directly or indirectly, create, incur, issue, assume, guarantee, suffer to exist or otherwise become directly or indirectly liable, contingently or otherwise with respect to, any Secured Indebtedness, except for the following, without duplication:

(A) Secured Indebtedness in respect of the Obligations;

(B) Secured Indebtedness existing as of the Issue Date (other than the Indebtedness described in **clauses (A), (C) and (D)**);

(C) (i) Secured Indebtedness incurred pursuant to the Amended [2029] First Lien Notes Indenture; and (ii) Secured Indebtedness incurred pursuant to the New [2029] First Lien Notes Indenture, in each case as in effect on the Issue Date;

(D) Secured Indebtedness incurred pursuant to repayment obligations under the Total Solarization Agreement and any Secured Indebtedness of the Company or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, redeem, defease, discharge or extend, in full or in part, such repayment obligations (plus premiums, accrued interest, fees and expenses), in an amount not to exceed the amount so refinanced or refunded;

(E) Secured Indebtedness of the Company or any Restricted Subsidiary issued in exchange for, or the net proceeds of which are used to refinance or refund, replace, exchange, renew, repay, redeem, defease, discharge or extend (collectively, “refinance,” “refinances,” “refinancing” and “refinanced” shall have a correlative meaning) (“**Permitted Refinancing Secured Indebtedness**”), then outstanding Secured Indebtedness (or Indebtedness repaid substantially concurrently with, but in any case before, the incurrence of such Permitted Refinancing Secured Indebtedness) incurred under **Sections 3.12(A), 3.12(B), 3.12(C), 3.12(F), 3.12(G), 3.12(H), 3.12(I) and 3.12(I)** and any refinancing thereof in an amount not to exceed the amount so refinanced or refunded (plus reasonable premiums, accrued interest, fees and expenses); *provided* that (i) Secured Indebtedness the proceeds of which are used to refinance or refund the Notes or Secured Indebtedness that is *pari passu* with, or subordinated in right of payment to, the Notes shall only be permitted under this **Section 3.12(E)** if (y) in case the Notes are refinanced in part or the Secured Indebtedness to be refinanced is *pari passu* with the Notes, such new Secured Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Secured Indebtedness is outstanding, is expressly made *pari passu* with, or subordinate in right of payment to, the remaining Notes, if any, as applicable, or (z) in case the Secured Indebtedness to be refinanced is subordinated in right of payment to the Notes, such new Secured Indebtedness, by its terms or by the terms of any agreement or instrument pursuant to which such new Secured Indebtedness is issued or remains outstanding, is expressly made subordinate in right of payment to the Notes at least to the extent and in the same manner that the Secured Indebtedness to be refinanced is subordinated to the Notes, (ii) such new Secured Indebtedness, determined as of the date of incurrence of such new Secured Indebtedness, does not mature prior to the Stated Maturity of the Secured Indebtedness to be refinanced, and the Average Life of such new Secured Indebtedness is at least equal to the remaining Average Life of the Secured Indebtedness to be refinanced, (iii) such new Secured Indebtedness will not have additional obligors or greater (including higher ranking priority) guarantees; and *provided, further*, that the Liens securing such Secured Indebtedness (i) do not extend to or cover any property or assets of the Company or any Restricted Subsidiary other than the property or assets securing the Secured Indebtedness being refinanced, and (ii) do not rank higher in priority than the Liens on such property or assets securing the Secured Indebtedness being refinanced, whether by priority of such Lien or the priority of payment on enforcement of such Lien;

(F) Secured Indebtedness of the Company or any Company Indenture Party not to exceed US\$[50,000,000]; *provided* that such Secured Indebtedness shall not constitute refinancing Indebtedness;

(G) Secured Indebtedness incurred (i) in connection with the acquisition, lease, construction, repair, replacement or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) or (ii) in respect of Sale/Leaseback Transactions of equipment and property of the Company or any Restricted Subsidiary, in an aggregate amount in the case of (i) and (ii), at any time outstanding (together with refinancing thereof) not to exceed an amount equal to [25.0]% of PP&E;

(H) Secured Indebtedness incurred by the Company or any Restricted Subsidiary with a maturity of one year or less for working capital in an aggregate principal amount at any one time outstanding (together with any refinancings thereof, including any Permitted Refinancing Indebtedness under **Section 3.12(E)** (which must for such purposes have a maturity of one year or less and be for working capital)) of all Secured Indebtedness incurred under this **Section 3.12(H)**, together with the aggregate principal amount at such time outstanding of any Indebtedness incurred (i) pursuant to the SCB Agreement and (ii) pursuant to any Receivable Financing (other than Non-recourse Receivable Financing) under **Section 3.12(I)**, not to exceed [15.0]% of Total Revenue (or the Dollar Equivalent thereof);

(I) Secured Indebtedness arising in connection with Hedging Agreements entered into in the ordinary course of business (and not for speculative purposes) (a) to hedge or mitigate risks to which the Company or any of its Subsidiaries has actual or potential exposure (other than those in respect of equity interest of the Company or any of its Subsidiaries), including to hedge or mitigate foreign currency and commodity price risks and (b) to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability of the Company or any of its Subsidiaries; *provided* that the Liens securing such Secured Indebtedness are encumbering customary initial deposits or margin deposits or are otherwise within the general parameters customary in the industry and incurred in the ordinary course of business;

(J) Secured Indebtedness of the Company or any Restricted Subsidiary in respect of Receivable Financing (other than Non-recourse Receivable Financing) in an aggregate principal amount any time outstanding (together with any refinancing thereof, including any Permitted Refinancing Indebtedness under **Section 3.12(E)**) not to exceed \$15,000,000; *provided* that the Liens securing such Secured Indebtedness are on accounts receivables and other assets of the type specified in the definition of "Receivable Financing;"

(K) Secured Indebtedness incurred to finance Capital Expenditures duly approved by the Board of Directors; *provided*, that the Liens securing such Indebtedness shall not be permitted to exist on any portion of the Collateral and such Lien secures only the assets that are the subject of the Indebtedness referred to in this **Section 3.12(K)**;

(L) Secured Indebtedness with respect to letters of credit, bank guarantee, or similar instruments posted to support (i) pension obligations that arise in the ordinary course of business; and (ii) contracts with trade creditors, contracts (other than in respect of debt for borrowed money), leases, bids, statutory obligations, customs, surety, stay, appeal and performance bonds, performance and completion guarantees and other obligations of a like nature (including those to secure health, safety and environmental obligations), in each case, incurred in the ordinary course of business or consistent with industry practice;

(M) Secured Indebtedness owed to (i) any Person providing worker's compensation to the Company or any of its Subsidiaries incurred in connection with such Person providing such benefits pursuant to customary reimbursement or indemnification obligations to such Person and (ii) appeal or similar bonds, or bonds with respect to worker's compensation claims; *provided* that the Liens securing such Indebtedness shall be incurred in the ordinary course of business and exclusive of obligations for the payment of borrowed money;

(N) any Junior Lien Indebtedness; and

(O) on and from the Forward Purchase Closing, any other Secured Indebtedness that the Company or its Restricted Subsidiary is permitted to incur pursuant to any of the Priority Lien Debt Documents.

Section 3.13. LIMITATION ON TRANSACTIONS WITH AFFILIATES

The Company shall not, and shall not permit any of its Subsidiaries to, directly or indirectly (whether by merger, consolidation, amendment, recapitalization or otherwise) make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of transactions, contract, agreement, understanding, loan (including intercompany loans), advance or guarantee with, or for the benefit of, any Affiliate of the Company (other than the Company and its Subsidiaries) involving aggregate consideration in excess of \$[5,000,000] (each of the foregoing, an "**Affiliate Transaction**"), unless (i) such Affiliate Transaction is on terms that are not materially less favorable to the Company or the relevant Subsidiary than those that could have been obtained in a comparable transaction by the Company or such Subsidiary with an unrelated Person on an arm's length basis, and (ii) the Company delivers to the Trustee (x) a resolution adopted by the Board of Directors, including a majority of the disinterested directors with respect to such transaction, approving such Affiliate Transaction, or (y) an opinion issued to the Board of Directors by an accounting, appraisal or investment banking firm of nationally recognized standing as to the fairness to the Company or such Subsidiary of such Affiliate Transaction from a financial point of view or that the terms of such Affiliate Transaction are no less favorable to the Company or the relevant Subsidiary, taken as a whole, than those that could have been obtained in a comparable arm's-length transaction by the Company or such Subsidiary with a Person that is not an Affiliate of the Company, except for the following transactions:

(A) [transactions with a joint venture in which one or more of the Company and any of its Restricted Subsidiaries is a participant (whether in the form of a partnership, limited liability company or other entity) for the purchase or sale of goods, equipment and services, in each case, entered into in the ordinary course of business and on an arm's length basis;

(B) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options and stock ownership plans or similar employee benefit plans approved by the Board of Directors in good faith;

(C) (i) any employment agreements entered into by the Company or any of its Subsidiaries in the ordinary course of business; (ii) any subscription agreement or similar agreement pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with employees, officers or directors; and (iii) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract and transactions pursuant thereto;

(D) any Restricted Payment or any Permitted Investment permitted under the First Lien Notes Indentures;

(E) transactions with customers, clients, suppliers, or purchasers or sellers of goods or services, in each case, in the ordinary course of business and otherwise in compliance with the terms of this Indenture that are fair to the Company and its Subsidiaries;

(F) any contribution to the capital of the Company;

(G) the existence of, or the performance by the Company or any Subsidiary of its obligations under the terms of, any agreement as in effect as of the Issue Date or any amendment thereto (so long as any such agreement together with all amendments thereto, taken as a whole, is not more disadvantageous to the holders of the Notes in any material respect than the original agreement as in effect on the Issue Date, as determined in good faith by the Company) or any transaction contemplated thereby;

(H) the transactions in connection with the incurrence of the Indebtedness pursuant to the First Lien Notes Indentures;

(I) the transactions in connection with the issuance of the Investor Warrant;

(J) the transactions in connection with the Forward Purchase Investment; and

(K) payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the Company or any of its Subsidiaries.]

Section 3.14. ACCOUNTS; CONTROL AGREEMENTS.

(A) Subject to **clauses (B) and (C)** below, the Company Indenture Parties shall cause their respective accounts maintained, or opened at any time after the Issue Date, at any bank or financial institution (other than any Excluded Accounts) to be subject to an account control agreement or its equivalent or shall take such other actions necessary to create a Lien over any such account in favor of the Collateral Trustee for the benefit of the Notes Secured Parties pursuant to applicable law, including providing notice to the bank or financial institution with which any such account is held of the Liens granted in favor of the Collateral Trustee for the benefit of the Notes Secured Parties over such account pursuant to applicable law (collectively, the “**Bank Account Perfection Actions**”), and shall cause all Collections to be deposited in an account that is subject to an account control agreement or other Bank Account Perfection Actions; *provided, however*, that, so long as no Event of Default has occurred and is continuing, any Company Indenture Party may open new accounts at any bank or financial institution; *provided* that, within forty-five (45) days after opening each such account, the relevant Company Indenture Party shall have delivered to the Collateral Trustee an account control agreement with respect to such account (or taken such other Bank Account Perfection Actions) (other than any Excluded Account) (but, with respect to any such accounts opened after the Issue Date, shall not deposit or transfer funds into such account prior to taking such Bank Account Perfection Actions).

(B) (i) At any time prior to the discharge in full of Priority Lien Secured Obligations in accordance with the terms of the Priority Lien Debt Documents and the Intercreditor Agreement, with respect to any account for which an account control agreement with the applicable First Lien Notes Collateral Trustee is in effect or is subject to other Bank Account Perfection Actions by the applicable First Lien Notes Collateral Trustee (any such account, a “**First Lien Notes Collateral Trustee Controlled Account**”), the Company Indenture Parties shall not be required to cause such account to be subject to an account control agreement or other Bank Account Perfection Actions in favor of the Notes Secured Parties pursuant to **Section 3.14(A)** and (ii) with respect to any such First Lien Notes Collateral Trustee Controlled Account, upon the discharge in full of Priority Lien Secured Obligations in accordance with the terms of the Priority Lien Debt Documents and the Intercreditor Agreement or such account otherwise ceasing to be a First Lien Notes Collateral Trustee Controlled Account, to the extent the Obligations have not been discharged in full in accordance with the terms of this Indenture and the Intercreditor Agreement, the Company Indenture Parties shall promptly use commercially reasonable efforts to cause such account to be subject to an account control agreement or other Bank Account Perfection Actions as required by **Section 3.14(A)**.

(C) Neither the deposit account control agreement or its equivalent nor any Bank Account Perfection Actions shall restrict the Company Indenture Parties’ ability to freely receive, withdraw or otherwise transfer any credit balance from time to time on such any account prior to the occurrence of an Event of Default; *provided that* following the occurrence of an Event of Default any Company Indenture Party that receives or otherwise has dominion over or control of any Collections, such Company Indenture Party shall hold such Collections in trust for the Collateral Trustee and shall not commingle such Collections with any other funds of any Company Indenture Party or other Person (unless otherwise instructed by the Collateral Trustee).

Section 3.15. INTELLECTUAL PROPERTY.

(A) Notwithstanding anything to the contrary contained herein, Maxeon Solar Pte. Ltd. shall hold ownership of or an exclusive license in all Intellectual Property, which are material to the conduct of the business or operation of the Company or its Subsidiaries taken as a whole and shall not be permitted to dispose of any such Intellectual Property except to the extent permitted under the Priority Lien Debt Documents.

(B) The Company Indenture Parties shall cause any Intellectual Property that is assigned to the Company or any of its Subsidiaries in accordance with the SDA to be registered in the name of Maxeon Solar Pte. Ltd. in relevant jurisdictions as soon as practicable.

(C) The Company Indenture Parties shall take or cause to be taken all commercial reasonable actions to preserve, renew, and keep in full force and effect the legal existence of all Intellectual Property, which are material to the conduct of the business or operation of the Company and its Subsidiaries taken as a whole.

Section 3.16. ENVIRONMENTAL COMPLIANCE.

The Company and its Restricted Subsidiaries shall comply in all material respects with all Environmental Law and obtain and maintain any permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, except where failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.17. POST-CLOSING OBLIGATIONS.

(A) The Company Indenture Parties shall use commercially best efforts to satisfy their respective obligations described on **Schedule 3.17**, in each case, within the time periods set forth therein with respect to the relevant obligations.

(B) Any Notes Security Documents entered into on or after the Issue Date shall be substantially in the form of the corresponding Priority Lien Security Document securing the Priority Lien Secured Obligations then in effect, or to the extent there is no such corresponding Priority Lien Security Document then in effect, the corresponding Priority Lien Security Document securing the Priority Lien Secured Obligations in place on the Issue Date, in each case, with such changes as are reasonably necessary to reflect the terms of the Intercreditor Agreement.

Section 3.18. ADDITIONAL COLLATERAL.

Not later than sixty (60) days (or such longer date as may be reasonably agreed by the Collateral Trustee upon receiving written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate) after the acquisition or creation by any Restricted Collateral Subsidiary of any asset (including Intellectual Property but only to the extent that a second priority perfected Lien would have been required under the terms of the Notes Security Documents granted by Maxeon Solar Pte. Ltd. had such Intellectual Property been registered under the name of Maxeon Solar Pte. Ltd.), except for any asset that constitutes Excluded Assets, that is material to the business or operations of the Company and its Subsidiaries taken as a whole, which asset would not automatically be subject to the Collateral Trustee's second priority perfected Lien pursuant to pre-existing Notes Security Documents due to restrictions under applicable laws or regulations, the applicable Restricted Collateral Subsidiary shall, to the extent practicable under applicable law cause such asset to be subject to a second priority perfected Lien (subject to the Priority Liens, any lien permitted under the Priority Lien Debt Documents, and any limitations required under the applicable law and/or, if applicable, the exclusions set forth in the relevant Notes Security Document(s)) in favor of the Collateral Trustee for the benefit of the Notes Secured Parties and take such actions as shall be necessary or reasonably requested by the Collateral Trustee to grant and perfect or record such second priority Lien, in each case to the extent practicable under the applicable law; *provided* that this **Section 3.18** shall not apply to the extent such assets are of the type over which Liens are permitted under the Priority Lien Debt Documents; *provided further* that the applicable Restricted Collateral Subsidiary shall be required to cause such asset to be subject to a second priority perfected Lien (subject to the Priority Lien, any lien permitted under the Priority Lien Debt Documents, any limitations required under the applicable law, the exclusions set forth in the relevant Notes Security Document(s), if applicable, the terms of the Indenture and/or the terms of the Intercreditor Agreement) in favor of the Collateral Trustee for the benefit of the Notes Secured Parties and/or take such actions as shall be necessary or reasonably requested by the Collateral Trustee to grant and perfect or record such second priority Lien, in each case to the extent practicable under the applicable law, pursuant to this **Section 3.18**, only if any such asset becomes part of the collateral securing the Priority Lien Secured Obligations.

Article 4. REPURCHASE, REDEMPTION AND OPTIONAL EXCHANGE

Section 4.01. NO SINKING FUND.

No sinking fund is required to be provided for the Notes.

Section 4.02. RIGHT OF HOLDERS TO REQUIRE THE COMPANY TO REPURCHASE NOTES UPON A FUNDAMENTAL CHANGE.

(A) *Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change.* Subject to the other terms of this **Section 4.02**, if a Fundamental Change occurs, then each Holder will have the right (the “**Fundamental Change Repurchase Right**”) to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(B) *Repurchase Prohibited in Certain Circumstances.* If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Fundamental Change Repurchase Date for a Repurchase Upon Fundamental Change (including as a result of the payment of the related Fundamental Change Repurchase Price, and any related interest pursuant to the proviso to **Section 4.02(D)**, on such Fundamental Change Repurchase Date), then (i) the Company may not repurchase any Notes pursuant to this **Section 4.02**; and (ii) the Company will cause any Notes theretofore surrendered for such Repurchase Upon Fundamental Change to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Notes in accordance with the Depositary Procedures).

(C) *Fundamental Change Repurchase Date.* The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company’s choosing that is no more than thirty-five (35), nor less than twenty (20), Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 4.02(E)**.

(D) *Fundamental Change Repurchase Price.* The Fundamental Change Repurchase Price for any Note to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to one hundred percent (100%) of the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change; *provided, however*, that if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date); and (ii) the Fundamental Change Repurchase Price will not include accrued and unpaid interest on such Note to, but excluding, such Fundamental Change Repurchase Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Fundamental Change Repurchase Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Fundamental Change Repurchase Price will include interest on Notes to be repurchased from, and including, such Interest Payment Date.

(E) *Fundamental Change Notice.* On or before the twentieth (20th) calendar day after the effective date of a Fundamental Change, the Company will send to each Holder, the Trustee and the Paying Agent a notice of such Fundamental Change (a "**Fundamental Change Notice**"). Substantially contemporaneously, the Company will issue a press release through such national newswire service as the Company then uses (or publish the same through such other widely disseminated public medium as the Company then uses, including its website) containing the information set forth in the Fundamental Change Notice.

Such Fundamental Change Notice must state:

- (i) briefly, the events causing such Fundamental Change;
- (ii) the effective date of such Fundamental Change;
- (iii) the procedures that a Holder must follow to require the Company to repurchase its Notes pursuant to this **Section 4.02**, including the deadline for exercising the Fundamental Change Repurchase Right and the procedures for submitting and withdrawing a Fundamental Change Repurchase Notice;
- (iv) the Fundamental Change Repurchase Date for such Fundamental Change;
- (v) the Fundamental Change Repurchase Price per \$1,000 principal amount of Notes for such Fundamental Change (and, if such Fundamental Change Repurchase Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.02(D)**);
- (vi) the name and address of the Paying Agent and the Conversion Agent;

(vii) the Conversion Rate in effect on the date of such Fundamental Change Notice and a description and quantification of any adjustments to the Conversion Rate that may result from such Fundamental Change (including pursuant to **Section 5.07**);

(viii) that Notes for which a Fundamental Change Repurchase Notice has been duly tendered and not duly withdrawn must be delivered to the Paying Agent for the Holder thereof to be entitled to receive the Fundamental Change Repurchase Price;

(ix) that Notes (or any portion thereof) that are subject to a Fundamental Change Repurchase Notice that has been duly tendered may be converted only if such Fundamental Change Repurchase Notice is withdrawn in accordance with this Indenture; and

(x) the CUSIP and ISIN numbers, if any, of the Notes.

Neither the failure to deliver a Fundamental Change Notice nor any defect in a Fundamental Change Notice will limit the Fundamental Change Repurchase Right of any Holder or otherwise affect the validity of any proceedings relating to any Repurchase Upon Fundamental Change.

(F) Procedures to Exercise the Fundamental Change Repurchase Right.

(i) *Delivery of Fundamental Change Repurchase Notice and Notes to Be Repurchased.* To exercise its Fundamental Change Repurchase Right for a Note following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such Note; and

(2) such Note, duly endorsed for transfer (if such Note is a Physical Note) or by book-entry transfer (if such Note is a Global Note).

The Paying Agent will promptly deliver to the Company a copy of each Fundamental Change Repurchase Notice that it receives.

(ii) *Contents of Fundamental Change Repurchase Notices.* Each Fundamental Change Repurchase Notice with respect to a Note must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be repurchased, which must be an Authorized Denomination; and

(3) that such Holder is exercising its Fundamental Change Repurchase Right with respect to such principal amount of such Note;

provided, however, that if such Note is a Global Note, then such Fundamental Change Repurchase Notice must comply with the Depository Procedures (and any such Fundamental Change Repurchase Notice delivered in compliance with the Depository Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

(iii) *Withdrawal of Fundamental Change Repurchase Notice.* A Holder that has delivered a Fundamental Change Repurchase Notice with respect to a Note may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date. Such withdrawal notice must state:

(1) if such Note is a Physical Note, the certificate number of such Note;

(2) the principal amount of such Note to be withdrawn, which must be an Authorized Denomination; and

(3) the principal amount of such Note, if any, that remains subject to such Fundamental Change Repurchase Notice, which must be an Authorized Denomination;

provided, however, that if such Note is a Global Note, then such withdrawal notice must comply with the Depository Procedures (and any such withdrawal notice delivered in compliance with the Depository Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

Upon receipt of any such withdrawal notice with respect to a Note (or any portion thereof), the Paying Agent will (x) promptly deliver a copy of such withdrawal notice to the Company; and (y) if such Note is surrendered to the Paying Agent, cause such Note (or such portion thereof in accordance with **Section 2.11**, treating such Note as having been then surrendered for partial repurchase in the amount set forth in such withdrawal notice as remaining subject to repurchase) to be returned to the Holder thereof (or, if applicable with respect to any Global Note, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Note in accordance with the Depository Procedures).

(G) *Payment of the Fundamental Change Repurchase Price.* Without limiting the Company's obligation to deposit the Fundamental Change Repurchase Price within the time proscribed by **Section 3.01(B)**, the Company will cause the Fundamental Change Repurchase Price for a Note (or portion thereof) to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the later of (i) the applicable Fundamental Change Repurchase Date; and (ii) the date (x) such Note is delivered to the Paying Agent (in the case of a Physical Note) or (y) the Depository Procedures relating to the repurchase, and the delivery to the Paying Agent, of such Holder's beneficial interest in such Note to be repurchased are complied with (in the case of a Global Note). For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.02(D)** on any Note to be repurchased pursuant to a Repurchase Upon Fundamental Change must be paid pursuant to such proviso regardless of whether such Note is delivered or such Depository Procedures are complied with pursuant to the first sentence of this **Section 4.02(G)**.

(H) *Repurchase by Third Party*. Notwithstanding anything to the contrary in this **Section 4.02**, the Company will be deemed to satisfy its obligations under this **Section 4.02** if (i) one or more third parties conduct any Repurchase Upon Fundamental Change and related offer to repurchase Notes otherwise required by this **Section 4.02** in a manner that would have satisfied the requirements of this **Section 4.02** if conducted directly by the Company; and (ii) an owner of a beneficial interest in any Note repurchased by such third party or parties will not (after giving effect to the payment of any Additional Amounts pursuant to **Section 3.05**) receive a lesser amount as a result of withholding or similar taxes than such owner would have received had the Company repurchased such Note.

(I) *Compliance with Applicable Securities Laws*. To the extent applicable, the Company will comply with all federal and state securities laws in connection with a Repurchase Upon Fundamental Change (including complying with Rules 13e-4 and 14e-1 under the Exchange Act and filing any required Schedule TO, to the extent applicable) so as to permit effecting such Repurchase Upon Fundamental Change in the manner set forth in this Indenture; *provided, however*, that, to the extent that any securities laws or regulations enacted after the Issue Date conflict with the **Section 4.02**, the Company will comply with such securities laws and regulations and will not be deemed to have breached its obligations under this **Section 4.02** by virtue of such conflict.

(J) *Repurchase in Part*. Subject to the terms of this **Section 4.02**, Notes may be repurchased pursuant to a Repurchase Upon Fundamental Change in part, but only in Authorized Denominations. Provisions of this **Section 4.02** applying to the repurchase of a Note in whole will equally apply to the repurchase of a permitted portion of a Note.

Section 4.03. RIGHT OF THE COMPANY TO REDEEM THE NOTES.

(A) *No Right to Redeem Before [January 15], [2026]*. The Company may not redeem the Notes at any time before [January 15], [2026], except pursuant to a Tax Redemption.

(B) *Right to Redeem the Notes on or after [January 15], [2026]*. Subject to the terms of this **Section 4.03**, the Company has the right, at its election, to redeem (a “**Provisional Redemption**”) all, or any portion in an Authorized Denomination, of the Notes, at any time, and from time to time, on a Redemption Date that falls:

(i) on or after [January 15], [2026] and on or before the sixtieth (60th) Scheduled Trading Day immediately before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if the Last Reported Sale Price per Ordinary Share exceeds one hundred and fifty percent (150%) of the Conversion Price on each of at least twenty (20) Trading Days (whether or not consecutive) during the thirty (30) consecutive Trading Days ending on, and including, the Trading Day immediately before the Redemption Notice Date for such Redemption.

For the avoidance of doubt, the calling of any Notes for Provisional Redemption will constitute a Make-Whole Event with respect to such Notes pursuant to **clause (B)** of the definition thereof.

(C) *Right to Redeem the Notes After a Change in Tax Law.*

(i) *Generally.* Subject to the terms of this **Section 4.03**, and without limiting the Company's right to redeem any Notes pursuant to **Section 4.03(B)**, the Company has the right, at its election, to redeem (a "**Tax Redemption**") all, but not less than all, of the Notes, at any time (subject to **Section 4.03(H)**), on a Redemption Date before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if (i) the Company has (or, on the next Interest Payment Date, would) become obligated to pay any Additional Amounts to Holders as a result of any Change in Tax Law; (ii) the Company cannot avoid such obligation by taking reasonable measures available to the Company; and (iii) the Company delivers to the Trustee (1) an Opinion of Counsel of outside legal counsel of recognized standing in the Relevant Taxing Jurisdiction attesting to **clause (i)** above; and (2) an Officer's Certificate attesting to **clauses (i)** and **(ii)** above. For the avoidance of doubt, the calling of any Notes for a Tax Redemption will constitute a Make-Whole Event pursuant to **clause (B)** of the definition thereof.

(ii) *Tax Redemption Opt-Out Election.* If the Company calls the Notes for a Tax Redemption, then, notwithstanding anything to the contrary in this **Section 4.03** or in **Section 3.05**, each Holder will have the right to elect (a "**Tax Redemption Opt-Out Election**") not to have such Holder's Notes (or any portion thereof in an Authorized Denomination) redeemed pursuant to such Tax Redemption, in which case, from and after the Redemption Date for such Tax Redemption (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, from and after such time as the Company pays such Redemption Price in full), the Company will no longer have any obligation to pay any Additional Amounts with respect to such Notes solely as a result of such Change in Tax Law, and all future payments (other than any payment or delivery of any Conversion Consideration (including payments of cash in lieu of any fractional shares)) with respect to such Notes will be subject to the deduction or withholding of such Relevant Taxing Jurisdiction's taxes required by law to be deducted or withheld as a result of such Change in Tax Law (it being understood and agreed, for the avoidance of doubt, that if such Holder converts such Notes at any time, then the Company will be obligated to pay Additional Amounts, if any, with respect to such conversion).

(1) *Tax Redemption Opt-Out Election Notice.* To make a Tax Redemption Opt-Out Election with respect to any Note (or any portion thereof in an Authorized Denomination), the Holder of such Note must deliver a notice (a "**Tax Redemption Opt-Out Election Notice**") to the Paying Agent before the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, which notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election will apply, which must be an Authorized Denomination; and (z) that such Holder is making a Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided, however*, that if such Note is a Global Note, then such notice must comply with the Depository Procedures (and any such notice delivered in compliance with the Depository Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(1)**).

(2) *Withdrawal of Tax Redemption Opt-Out Election Notice.* A Holder that has delivered a Tax Redemption Opt-Out Election Notice with respect to any Note (or any portion thereof in an Authorized Denomination) may withdraw such Tax Redemption Opt-Out Election Notice by delivering a withdrawal notice to the Paying Agent at any time before the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, which withdrawal notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election is being withdrawn, which must be an Authorized Denomination; and (z) that such Holder is withdrawing the Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided, however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depositary Procedures (and any such withdrawal notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(2)**).

(iii) *Right to Convert Not Affected.* For the avoidance of doubt, a Tax Redemption will not affect any Holder's right to convert any Notes on or after the Issue Date and the Company's obligation to pay any Additional Amounts with respect to such conversion. For the avoidance of doubt, if a Tax Redemption Opt-Out Election Notice is not delivered (or is delivered but thereafter withdrawn) with respect to any Note as of the Close of Business on the second (2nd) Business Day immediately before the related Redemption Date, then such Note will be redeemed pursuant to the Tax Redemption without any further action.

(D) *Redemption Prohibited in Certain Circumstances.* If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Redemption Date (including as a result of the payment of the related Redemption Price, and any related interest pursuant to the proviso to **Section 4.03(F)**, on such Redemption Date), then (i) the Company may not call for Provisional Redemption or Tax Redemption or otherwise redeem any Notes pursuant to this **Section 4.03**; and (ii) the Company will cause any Notes theretofore surrendered for such Redemption to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interests in such Notes in accordance with the Depositary Procedures).

(E) *Redemption Date.* The Redemption Date for a Tax Redemption will be a Business Day of the Company's choosing that is no more than eighty-five (85), nor less than sixty-five (65), Scheduled Trading Days after the related Redemption Notice Date for such Tax Redemption. [The Redemption Date for a Provisional Redemption will be a Business Day of the Company's choosing that is on or before sixty (60) Scheduled Trading Days after the related Redemption Notice Date for such Provisional Redemption.]

(F) *Redemption Price.* The Redemption Price for any Note called for Provisional Redemption or Tax Redemption is an amount in cash equal to one hundred percent (100%) of the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Redemption; *provided, however,* that if such Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Redemption, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Redemption Date is before such Interest Payment Date); and (ii) the Redemption Price will not include accrued and unpaid interest on such Note to, but excluding, such Redemption Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Redemption Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Regular Record Date; and (y) the Redemption Price will include interest on Notes to be redeemed from, and including, such Interest Payment Date. For the avoidance of doubt, Additional Amounts will be added to the Redemption Price if, and to the extent, provided for in **Section 3.05**.

(G) *Redemption Notice.* To call any Notes for Provisional Redemption or Tax Redemption, the Company must (i) send to each Holder of such Notes, the Trustee and the Paying Agent a written notice of such Provisional Redemption or Tax Redemption (a "**Redemption Notice**"); and (ii) substantially contemporaneously therewith, either (x) issue a press release through such national newswire service as the Company then uses; (y) publish the same through such other widely disseminated public medium as the Company then uses, including its website; or (z) file or furnish a Form 8-K or Form 6-K (or any successor form) with the SEC, in each case of **clauses (x), (y) and (z)**, containing the information set forth in the Redemption Notice.

Such Redemption Notice must state:

(i) that such Notes have been called for Redemption, briefly describing the Company's Redemption right under this Indenture;

(ii) the Redemption Date for such Redemption;

(iii) the Redemption Price per \$1,000 principal amount of Notes for such Redemption (and, if the Redemption Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.03(F)**);

(iv) the name and address of the Paying Agent and the Conversion Agent;

(v) that Notes called for Redemption may be converted at any time before the Close of Business on the Business Day immediately before the Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full);

(vi) the Conversion Rate in effect on the Redemption Notice Date for such Redemption and a description and quantification of any adjustments to the Conversion Rate that may result from such Redemption (including pursuant to **Section 5.07**);

(vii) the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after such Redemption Notice Date and on or before the second (2nd) Business Day before such Redemption Date; and

(viii) the CUSIP and ISIN numbers, if any, of the Notes.

On or before the Redemption Notice Date, the Company will send a copy of such Redemption Notice to the Trustee and the Paying Agent.

(H) *Special Requirement for Notice of Tax Redemption.* A Redemption Notice relating to a Tax Redemption must be sent pursuant to **Section 4.03(G)** no earlier than one hundred and eighty (180) calendar days before the earliest date on which the Company would have been required to make the related payment or withholding (assuming a payment in respect of the Notes were then due), and the obligation to pay Additional Amounts must be in effect as of the date the Company sends such Redemption Notice and must be expected to remain in effect at the time of the next payment or delivery in respect of the Notes.

(I) *Selection and Conversion of Notes to Be Redeemed in Part.* If less than all Notes then outstanding are called for Redemption, then:

(i) the Notes to be redeemed will be selected by the Company as follows: (1) in the case of Global Notes, in accordance with the Depositary Procedures; and (2) in the case of Physical Notes, pro rata, by lot or by such other method the Company considers fair and appropriate; and

(ii) if only a portion of a Note is subject to Redemption and such Note is converted in part, then the converted portion of such Note will be deemed to be from the portion of such Note that was subject to Redemption.

(J) *Payment of the Redemption Price.* Without limiting the Company's obligation to deposit the Redemption Price by the time proscribed by **Section 3.01(B)**, the Company will cause the Redemption Price for a Note (or portion thereof) subject to Redemption to be paid to the Holder thereof on or before the applicable Redemption Date. For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.03(F)** on any Note (or portion thereof) subject to Redemption must be paid pursuant to such proviso.

(K) [Special Provisions for Partial Provisional Redemptions. If the Company elects to redeem less than all of the outstanding Notes pursuant to a Provisional Redemption, and the Holder of any Note, or any owner of a beneficial interest in any Global Note, is reasonably not able to determine, before the Close of Business on the tenth (10th) Scheduled Trading Day immediately before the relevant Redemption Date for such Provisional Redemption, whether such Note or beneficial interest, as applicable, is to be redeemed pursuant to such Provisional Redemption, then such Holder or owner, as applicable, will be entitled to convert such Note or beneficial interest, as applicable, at any time before the Close of Business on the second (2nd) Business Day immediately before such Redemption Date, and each such conversion will be deemed to be of a Note called for Provisional Redemption for purposes of this **Section 4.03** and **5.07**.]

Section 4.04. RIGHT OF THE COMPANY TO EXCHANGE NOTES.

(A) *Right to Exchange Notes upon the Occurrence of the Optional Exchange Triggering Event.* Subject to the terms of this **Section 4.04** and **Section 4.05**, upon and following the occurrence of the Optional Exchange Triggering Event, the Company has the right, at its election at any time until the fifth scheduled Trading Day immediately preceding the Maturity Date, to exchange (the “**Optional Exchange**”) all outstanding Tranche A Notes, on the Optional Exchange Date, for the Optional Exchange Consideration. For the avoidance of doubt, the Optional Exchange will not apply to the Tranche B Notes, and the Optional Exchange of the Tranche A Notes will not constitute a Make-Whole Event with respect to the Notes.

(B) *Optional Exchange Prohibited in Certain Circumstances.* If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Optional Exchange Date (including as a result of the delivery of the Optional Exchange Consideration, and any related interest pursuant to the proviso to **Section 4.04(D)**, on such Optional Exchange Date), then (i) the Company may not require any Tranche A Notes to be exchanged for the Optional Exchange Consideration pursuant to this **Section 4.04**; and (ii) the Company will cause any Tranche A Notes theretofore surrendered for the Optional Exchange to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interests in such Notes in accordance with the Depository Procedures).

(C) *Optional Exchange Date.* The Optional Exchange Date will be a Business Day of the Company’s choosing that is no more than five (5) Scheduled Trading Days after the Optional Exchange Notice Date for the Optional Exchange.

(D) *Optional Exchange Consideration.* The consideration for the Tranche A Notes called for Optional Exchange shall consist of the type and amount of consideration identical to the Conversion Consideration due in respect of the Tranche A Notes, if the Tranche A Notes were to be converted on a Conversion Date that falls on the Optional Exchange Notice Date, and Physical Settlement applies to such conversion, as determined pursuant to **Section 5.03(B)**, subject to the other terms of **Article 5** as applicable (the “**Optional Exchange Consideration**”). For the avoidance of doubt, the Company shall not be obligated to deliver any Interest Make-Whole Amount in connection with the Optional Exchange.

(E) *Optional Exchange Notice*. To call the Tranche A Notes for Optional Exchange, the Company must (i) send to each Holder of the Tranche A Notes, the Trustee, the Paying Agent and the Conversion Agent a written notice of the Optional Exchange (the “**Optional Exchange Notice**”); and (ii) substantially contemporaneously therewith, either (x) issue a press release through such national newswire service as the Company then uses; (y) publish the same through such other widely disseminated public medium as the Company then uses, including its website; or (z) file or furnish a Form 8-K or Form 6-K (or any successor form) with the SEC, in each case of **clauses (x), (y) and (z)**, containing the information set forth in the Optional Exchange Notice.

Other than provided in **Section 4.04(B)**, the Optional Exchange Notice, once delivered, shall be irrevocable.

The Optional Exchange Notice must state:

(i) the aggregate principal amount of the Tranche A Notes (including the relevant PIK Notes issued on or prior to the Optional Exchange Date) which have been called for Optional Exchange, briefly describing the Company’s right to require the Optional Exchange under this Indenture;

(ii) the Optional Exchange Date for the Optional Exchange;

(iii) the Optional Exchange Consideration per \$1,000 principal amount of Tranche A Notes for the Optional Exchange (and, if the Optional Exchange Date is after a Regular Record Date and on or before the next Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.04(D)**);

(iv) the name and address of the Paying Agent and the Conversion Agent;

(v) that the Tranche A Notes may be converted at any time before the Close of Business on the second (2nd) Business Day immediately before the Optional Exchange Date (or, if the Company fails to pay the Optional Exchange Consideration due on such Optional Exchange Date in full, at any time until such time as the Company pays such Optional Exchange Consideration in full);

(vi) the number of outstanding Ordinary Shares of the Company as of the date of the Optional Exchange Notice;

(vii) the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the Optional Exchange Notice Date and on or before the second (2nd) Business Day before the Optional Exchange Date; and

(viii) the CUSIP and ISIN numbers, if any, of the Tranche A Notes being called for Optional Exchange.

On or before the Optional Exchange Notice Date, the Company will send a copy of such Optional Exchange Notice to the Trustee, the Paying Agent and the Conversion Agent.

(F) [Reserved].

(G) *Delivery of the Optional Exchange Consideration.* Subject to **Section 4.05(C)**, the Company will cause the Optional Exchange Consideration for a Note (or portion thereof) subject to Optional Exchange to be paid or delivered, as applicable, to the Holder thereof on the Optional Exchange Date.

(H) *Effect of Optional Exchange.* At the Close of Business on the Optional Exchange Date, the Tranche A Notes will (unless there occurs a Default in the delivery of the Optional Exchange Consideration) be deemed to cease to be outstanding and, for the avoidance of doubt, no Person will be deemed to be a Holder of the Tranche A Notes as of the Close of Business on the Optional Exchange Date.

(I) *Holder of Record of Option Exchange Shares.* The Person in whose name any Ordinary Share is issuable upon the exchange of the Tranche A Notes will be deemed to become the holder of record of such share as of the Close of Business on the Optional Exchange Date.

(J) *Deemed Payment of Principal and Interest; Settlement of Accrued Interest Notwithstanding Optional Exchange.* Except as provided in **Section 4.04(D)**, the Company's delivery of the Optional Exchange Consideration due in respect of such conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of, and accrued and unpaid interest, if any, on, the Tranche A Notes to, but excluding the Optional Exchange Date. As a result, except as provided in **Section 4.04(D)**, any accrued and unpaid interest on the Tranche A Notes will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In addition, subject to **Section 4.04(D)**, if the Optional Exchange Consideration consists of both cash and Ordinary Shares, then accrued and unpaid interest that is deemed to be paid therewith will be deemed to be paid first out of such cash.

(K) *Status of Ordinary Shares Issued in Optional Exchange; Listing.* Each Ordinary Share delivered upon the exchange of the Tranche A Notes in the Optional Exchange will be a newly issued share, will be duly and validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of the Holder of the Tranche A Notes or the Person to whom such Ordinary Share will be delivered) and will rank *pari passu* with the existing Ordinary Shares. If the Ordinary Shares are then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will cause each Ordinary Share to be admitted for listing on such exchange or quotation on such system.

Section 4.05. LIMITATIONS ON CONVERSION AND OPTIONAL EXCHANGE.

(A) *Limitations on Conversion and Optional Exchange.* Notwithstanding anything to the contrary contained herein, the Company is entitled to not effect any conversion (including in connection with the Optional Exchange) of any Note (or portion thereof), and the holders of the Notes shall not have the right to convert or surrender any Note (or portion thereof) for conversion (including in connection with the Optional Exchange), to the extent that immediately following such conversion, such holder of the Notes, together with the Attribution Parties, beneficially owns or would beneficially own the Ordinary Shares in excess of the Exchange Cap.

(B) *Exchange Cap Limitation.*

(i) *Conversion other than the Optional Exchange.*

(1) On or prior to the second (2nd) Business Day preceding to submitting a conversion notice for any Note (or complying with the Depository Procedures for converting such beneficial interest) pursuant to **Article 5**, the relevant holder of the Notes shall deliver to the Company, the Trustee and the Conversion Agent a written notice setting forth the principal amount of Notes proposed to be converted, the Pro Forma Owned Shares, the Exchange Cap and the Excess Share, if any, (the “**Holder’s Ownership Information Notice**”) in connection with such conversion.

(2) If such holder of the Notes fails or refuses to provide the Company, the Trustee and the Conversion Agent the Holder Ownership Information Notice in connection with such conversion by the time specified in the preceding paragraph, such holder of the Notes shall be deemed to represent and warrant to the Company, the Trustee and the Conversion Agent that no Exchange Cap Limitation shall apply to such conversion, and the Company shall be entitled to disregard any Exchange Cap Limitation in connection with such conversion.

(3) In connection with any conversion as to which the Company has received the relevant Holder’s Ownership Information Notice in accordance with the **Section 4.05(B)(i)(1)**, the Company shall use reasonable efforts to deliver, or caused to be delivered, to such holder of the Notes such number of the Ordinary Share so that, immediately following such delivery, such holder of the Notes, together with the applicable Attribution Parties, does not beneficially own in excess of the Exchange Cap (as set forth in the Holder’s Ownership Information Notice).

(ii) *Optional Exchange.*

(1) With respect to the Optional Exchange pursuant to **Section 4.04**, within five (5) Scheduled Trading Days after the Optional Exchange Notice Date, each holder of the Notes shall deliver to the Company, the Trustee and the Conversion Agent the Holder’s Ownership Information Notice in connection with the Optional Exchange.

(2) If any holder of the Notes fails or refuses to provide the Company, the Trustee and the Conversion Agent the Holder’s Ownership Information Notice in connection with the Optional Exchange by the time specified in the preceding paragraph, such holder of the Notes shall be deemed to represent and warrant to the Company, the Trustee and the Conversion Agent that no Exchange Cap Limitation shall apply to the Optional Exchange, and the Company shall be entitled to disregard any Exchange Cap Limitation with respect to such holder of the Notes in connection with the Optional Exchange.

(3) In connection with the Optional Exchange and in the event that the Company has received the Holder's Ownership Information Notice from any holder of the Notes in accordance with the **Section 4.05(B)(ii)(1)**, the Company shall use reasonable efforts to deliver, or caused to be delivered, to such holder of the Notes such number of the Ordinary Share so that, immediately following such delivery, such holder of the Notes, together with the applicable Attribution Parties, does not beneficially own in excess of the Exchange Cap (as set forth in the Holder's Ownership Information Notice).

(C) *The Delivery of Excess Shares.* The Company's obligation to deliver the Excess Shares in connection with any conversion (including in connection with the Optional Exchange) shall be suspended and not extinguished, and the Company shall deliver such Excess Shares within five (5) Business Days following delivery of written notice from the holder of the Notes to the Company that the receipt of such Excess Share will not be restricted under **Section 4.05(A)**.

(D) *The Holder's Rights.* Following the delivery of the Conversion Consideration or the Optional Exchange Consideration in accordance with **Section 4.05(B)(i)(3)** or **Section 4.05(B)(ii)(3)**, as the case may be, notwithstanding anything to the contrary in this Indenture, the converted (or exchanged) Notes shall be deemed to cease to be outstanding, and the right or claims of the holders of the Notes under this Indenture following such delivery shall be limited solely to the right to receive the Excess Shares pursuant to **Section 4.05(C)**.

(E) Notwithstanding anything to the contrary in this Indenture, this **Section 4.05** shall not restrict the number of Ordinary Shares which any holder or the applicable Attribution Parties may receive or beneficially own in order to determine the amount of securities or other consideration that such holder or the Attribution Parties may receive in the event of an Ordinary Share Change Event as contemplated in **Section 5.09**.

(F) *Relevant Definitions.* For purposes of **this Section 4.05**, the following terms shall have the following meaning:

"**Excess Shares**" means, with respect to a holder of the Notes, in connection with any conversion (including in connection with the Optional Exchange), the number of Ordinary Shares equal to (i) the Pro Forma Owned Shares *less* (ii) the Exchange Cap, to the extent it is greater than zero.

"**Exchange Cap**" means, with respect to a holder of the Notes, in connection with any conversion (including in connection with the Optional Exchange), the number of Ordinary Shares equal to the product of the Maximum Percentage and the Pro Forma Outstanding Share Numbers.

"**Exchange Cap Limitation**" means the limitation on the Company to issue any Ordinary Shares to any holder of the Notes as a result of this **Section 4.05**.

A “**holder of the Notes**” means (i) an owner of a beneficial interest in a Global Note, if the Notes is evidenced by one or more Global Notes, or (ii) the Holder of a Physical Note, if the Notes is evidenced by one or more Physical Notes, as the case may be.

“**Maximum Percentage**” means 9.9%.

“**Pro Forma Outstanding Share Numbers**” means, with respect to any conversion (including in connection with the Optional Exchange), the sum of the most recent Reported Outstanding Share Numbers and the number of Ordinary Shares to be issued in connection with such conversion, which, for the avoidance of doubt, shall be the number of Ordinary Shares to be issued in the Optional Exchange if such conversion is in connection with the Optional Exchange, without giving effect to **Section 4.05**.

“**Pro Forma Owned Shares**” means with respect to any holder of the Notes, in connection with any conversion (including in connection with the Optional Exchange), the aggregate number of Ordinary Shares held and/or beneficially owned by a holder together with the applicable Attribution Parties, shall include the number of Ordinary Shares held and/or beneficially owned by such holder together with the applicable Attribution Parties plus the number of Ordinary Shares issuable upon the conversion (including in connection with the Optional Exchange) of any Note (or portion thereof) with respect to which the determination is being made, without giving effect to this **Section 4.05**, but, for the avoidance of doubt, shall exclude the number of Ordinary Shares which would be issuable upon (i) exercise of the remaining outstanding Notes held and/or beneficially owned by the holder or the applicable Attribution Parties and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company held and/or beneficially owned by such holder or any applicable Attribution Party (including, without limitation, any convertible notes, convertible stock or warrants) that are subject to a limitation on conversion or exercise analogous to the limitation contained in this **Section 4.05**.

“**Reported Outstanding Share Number**” means the number of outstanding Ordinary Shares as reflected in (1) the Company’s most recent Form 20-F, Current Report on Form 6-K or other public filing with the SEC, as the case may be, or (2) a more recent public announcement by the Company.

Article 5. Conversion

Section 5.01. RIGHT TO CONVERT.

(A) *Generally.* Notwithstanding anything to the contrary in this Indenture or the Notes, the Notes will not be convertible on the Issue Date. From and after the Conversion Commencement Date until the fifth scheduled Trading Day immediately preceding the Maturity Date, subject to the provisions of **Section 4.05** and this **Article 5**, each Holder may, at its option, convert such Holder’s Notes into Conversion Consideration.

(B) *Conversions in Part*. Subject to the terms of this Indenture, Notes may be converted in part, but only in Authorized Denominations. Provisions of this **Article 5** applying to the conversion of a Note in whole will equally apply to conversions of a permitted portion of a Note.

(C) When Notes May Be Converted.

(i) [Reserved]

(ii) *Limitations and Closed Periods*. Notwithstanding anything to the contrary in this Indenture or the Notes:

(1) Notes may be surrendered for conversion only after the Open of Business and before the Close of Business on a day that is a Business Day;

(2) in no event may any Note be converted after the Close of Business on the fifth (5th) Scheduled Trading Day immediately before the Maturity Date;

(3) if the Company calls any Note for Redemption pursuant to **Section 4.03**, then the Holder of such Note may not convert such Note after the Close of Business on the second (2nd) Business Day immediately before the applicable Redemption Date, except to the extent the Company fails to pay the Redemption Price for such Note in accordance with this Indenture;

(4) if a Fundamental Change Repurchase Notice is validly delivered pursuant to **Section 4.02(F)** with respect to any Note, then such Note may not be converted, except to the extent (a) such Note is not subject to such notice; (b) such notice is withdrawn in accordance with **Section 4.02(F)**; or (c) the Company fails to pay the Fundamental Change Repurchase Price for such Note in accordance with this Indenture; and

(5) if the Company calls any Note for Optional Exchange pursuant to **Section 4.04**, then the Holder of such Note may not convert such Note after the Optional Exchange Notice Date, except to the extent the Company fails to pay the Optional Exchange Consideration for such Note in accordance with this Indenture.

Section 5.02. CONVERSION PROCEDURES.

(A) *Generally*.

(i) *Global Notes*. To convert a beneficial interest in a Global Note that is convertible pursuant to **Section 5.01**, the owner of such beneficial interest must (1) comply with the Depositary Procedures for converting such beneficial interest (at which time such conversion will become irrevocable); and (2) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(ii) *Physical Notes*. To convert all or a portion of a Physical Note that is convertible pursuant to **Section 5.01**, the Holder of such Note must (1) complete, manually sign and deliver to the Conversion Agent the conversion notice attached to such Physical Note or a facsimile/email of such conversion notice; (2) deliver such Physical Note to the Conversion Agent (at which time such conversion will become irrevocable); (3) furnish any endorsements and transfer documents that the Company or the Conversion Agent may require; and (4) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(B) *Effect of Converting a Note.* At the Close of Business on the Conversion Date for a Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **5.02(D)**, upon such conversion) be deemed to cease to be outstanding (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Note (or such portion thereof) as of the Close of Business on such Conversion Date), except to the extent provided in **Section 5.02(D)**.

(C) *Holder of Record of Conversion Shares.* The Person in whose name any Ordinary Share is issuable upon conversion of any Note will be deemed to become the holder of record of such share as of the Close of Business on (i) the Conversion Date for such conversion, in the case of Physical Settlement; or (ii) the last VWAP Trading Day of the Observation Period for such conversion, in the case of Combination Settlement.

(D) *Interest Payable upon Conversion in Certain Circumstances.* If the Conversion Date of a Note is after a Regular Record Date and before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such conversion (and, for the avoidance of doubt, notwithstanding anything set forth in the proviso to this sentence), to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date); and (ii) the Holder surrendering such Note for conversion must deliver to the Conversion Agent, at the time of such surrender, an amount of cash equal to the amount of such interest referred to in clause (i) above; *provided, however*, that the Holder surrendering such Note for conversion need not deliver such cash (v) if the Company has specified a Redemption Date for a Provisional Redemption or Tax Redemption that is after such Regular Record Date and on or before the second (2nd) Business Day immediately after such Interest Payment Date; (w) if such Conversion Date occurs after the Regular Record Date immediately before the Maturity Date; (x) if the Company has specified a Fundamental Change Repurchase Date that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (y) if the Company has specified an Optional Exchange Date for an Optional Exchange Date that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; or (z) to the extent of any overdue interest or interest that has accrued on any overdue interest. For the avoidance of doubt, as a result of, and without limiting the generality of, the foregoing, if a Note is converted with a Conversion Date that is after the Regular Record Date immediately before the Maturity Date, then the Company will pay, as provided above, the interest that would have accrued on such Note to, but excluding, the Maturity Date. For the avoidance of doubt, if the Conversion Date of a Note to be converted is on an Interest Payment Date, then the Holder of such Note at the Close of Business on the Regular Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid interest that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for conversion, need not be accompanied by any cash amount pursuant to the first sentence of this **Section 5.02(D)**.

(E) *Taxes and Duties.* If a Holder converts a Note, the Company will pay any documentary, stamp or similar issue or transfer tax or duty due on the issue or delivery (including, for the avoidance of doubt, pursuant to **Section 5.08**) of any Ordinary Shares upon such conversion; *provided, however*, that if any tax or duty is due because such Holder requested such shares to be registered in a name other than such Holder's name, then such Holder will pay such tax or duty.

(F) *Conversion Agent to Notify Company of Conversions.* If any Note is submitted for conversion to the Conversion Agent or the Conversion Agent receives any notice of conversion with respect to a Note, then the Conversion Agent will promptly notify the Company and the Trustee of such occurrence, together with any other information reasonably requested by the Company, and will cooperate with the Company to determine the Conversion Date for such Note.

Section 5.03. SETTLEMENT UPON CONVERSION.

(A) *Settlement Method.* Upon the conversion of any Note, the Company will settle such conversion by paying or delivering, as applicable and as provided in this **Article 5**, either (x) Ordinary Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(1)** (a "**Physical Settlement**"); (y) solely cash as provided in **Section 5.03(B)(i)(2)** (a "**Cash Settlement**"); or (z) a combination of cash and Ordinary Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(3)** (a "**Combination Settlement**").

(i) *The Company's Right to Elect Settlement Method.* The Company will have the right to elect the Settlement Method applicable to any conversion of a Note; *provided, however*, that:

(1) if any Notes are called for Redemption, then the Company will specify, in the related Redemption Notice (and, in the case of a Redemption of less than all outstanding Notes, in a notice simultaneously sent to all Holders of Notes not called for Redemption) sent pursuant to Section 4.03(G), the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the related Redemption Notice Date and before the related Redemption Date;

(2) the Company will use the same Settlement Method for all conversions of Notes with the same Conversion Date (and, for the avoidance of doubt, the Company will not be obligated to use the same Settlement Method with respect to conversions of Notes with different Conversion Dates, except as provided in clause (1) above);

(3) if the Company does not timely elect a Settlement Method with respect to the conversion of a Note, then the Company will be deemed to have elected the Default Settlement Method (and, for the avoidance of doubt, the failure to timely make such election will not constitute a Default or Event of Default);

(4) if the Company timely elects Combination Settlement with respect to the conversion of a Note but does not timely notify the Holder of such Note of the applicable Specified Dollar Amount, then the Specified Dollar Amount for such conversion will be deemed to be \$1,000 per \$1,000 principal amount of Notes (and, for the avoidance of doubt, the failure to timely send such notification will not constitute a Default or Event of Default); and;

(5) the Settlement Method will be subject to **Section 5.09(A)(2)**.

(ii) *The Company's Right to Irrevocably Fix the Settlement Method.* The Company will have the right, exercisable at its election by sending notice of such exercise to the Holders (with a copy to the Trustee and the Conversion Agent), to irrevocably fix the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders, *provided* that (x) such Settlement Method must be a Settlement Method that the Company is then permitted to elect (for the avoidance of doubt, including pursuant to, and subject to, the other provisions of this **Section 5.03(A)**); (y) no such irrevocable election will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to the other provisions of this **Section 5.03(A)**; and (z) upon any such irrevocable election, the Default Settlement Method will automatically be deemed to be set to the Settlement Method so fixed. Such notice, if sent, must set forth the applicable Settlement Method and expressly state that the election is irrevocable and applicable to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders. For the avoidance of doubt, such an irrevocable election, if made, will be effective without the need to amend this Indenture or the Notes, including pursuant to **Section 8.01(G)** (it being understood, however, that the Company may nonetheless choose to execute such an amendment at its option).

(iii) *Requirement to Publicly Disclose the Fixed or Default Settlement Method.* If the Company changes the Default Settlement Method pursuant to **clause (x)** of the proviso to the definition of such term or irrevocably fixes the Settlement Method pursuant to **Section 5.03(A)(i)**, then the Company will either post the Default Settlement Method or fixed Settlement Method, as applicable, on its website or disclose the same in a Current Report on Form 8-K or Form 6-K (or any successor form) that is filed with the SEC.

(B) *Conversion Consideration.*

(i) *Generally.* Subject to **Section 5.03(B)(ii)** and **Section 5.03(B)(iii)**, the type and amount of consideration (the “**Conversion Consideration**”) due in respect of each \$1,000 principal amount of a Note to be converted will be as follows:

(1) if Physical Settlement applies to such conversion, (x) a number of Ordinary Shares equal to the Conversion Rate in effect on the Conversion Date for such conversion and (y) solely in connection with any conversion of Tranche B Notes prior to the Forward Purchase Closing, the Interest Make-Whole Amount;

(2) if Cash Settlement applies to such conversion, (x) cash in an amount equal to the sum of the Daily Conversion Values for each VWAP Trading Day in the Observation Period for such conversion and (y) solely in connection with any conversion of Tranche B Notes prior to the Forward Purchase Closing, the Interest Make-Whole Amount; or

(3) if Combination Settlement applies to such conversion, consideration consisting of (x) (a) a number of Ordinary Shares equal to the sum of the Daily Share Amounts for each VWAP Trading Day in the Observation Period for such conversion, and (b) an amount of cash equal to the sum of the Daily Cash Amounts for each VWAP Trading Day in such Observation Period and (y) solely in connection with any conversion of Tranche B Notes prior to the Forward Purchase Closing, the Interest Make-Whole Amount.

(ii) *Cash in Lieu of Fractional Shares.* If Physical Settlement or Combination Settlement applies to the conversion of any Note and the number of Ordinary Shares deliverable pursuant to **Section 5.03(B)(i)** upon such conversion is not a whole number, then such number will be rounded down to the nearest whole number and the Company will deliver, in addition to the other consideration due upon such conversion, cash in lieu of the related fractional share in an amount equal to the product of (1) such fraction and (2) (x) the Daily VWAP on the Conversion Date for such conversion (or, if such Conversion Date is not a VWAP Trading Day, the immediately preceding VWAP Trading Day), in the case of Physical Settlement; or (y) the Daily VWAP on the last VWAP Trading Day of the Observation Period for such conversion, in the case of Combination Settlement.

(iii) *Conversion of Multiple Notes by a Single Holder.* If a Holder converts more than one (1) Note on a single Conversion Date, then the Conversion Consideration due in respect of such conversion will (in the case of any Global Note, to the extent permitted by, and practicable under, the Depositary Procedures) be computed based on the total principal amount of Notes converted on such Conversion Date by such Holder.

(iv) *Notice of Calculation of Conversion Consideration.* If Cash Settlement or Combination Settlement applies to the conversion of any Note, then the Company will determine the Conversion Consideration due thereupon promptly following the last VWAP Trading Day of the applicable Observation Period and will promptly thereafter send notice to the Trustee and the Conversion Agent of the same and the calculation thereof in reasonable detail. Neither the Trustee nor the Conversion Agent will have any duty to make any such determination.

(C) *Delivery of the Conversion Consideration.* Except as set forth in **Sections 5.05(D)** and **5.09**, the Company will pay or deliver, as applicable, the Conversion Consideration due upon the conversion of any Note to the Holder as follows: (i) if Cash Settlement or Combination Settlement applies to such conversion, on or before the second (2nd) Business Day immediately after the last VWAP Trading Day of the Observation Period for such conversion; and (ii) if Physical Settlement applies to such conversion, on or before the second (2nd) Business Day immediately after the Conversion Date for such conversion.

(D) *Deemed Payment of Principal and Interest; Settlement of Accrued Interest Notwithstanding Conversion.* If a Holder converts a Note, then the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest on such Note, and, except as provided in **Section 5.02(D)**, the Company's delivery of the Conversion Consideration due in respect of such conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of, and accrued and unpaid interest, if any, on, such Note to, but excluding the Conversion Date. As a result, except as provided in **Section 5.02(D)**, any accrued and unpaid interest on a converted Note will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In addition, subject to **Section 5.02(D)**, if the Conversion Consideration for a Note consists of both cash and Ordinary Shares, then accrued and unpaid interest that is deemed to be paid therewith will be deemed to be paid first out of such cash.

Section 5.04. RESERVE AND STATUS OF ORDINARY SHARES ISSUED UPON CONVERSION.

(A) *Share Reserve.* At all times from and after the Issue Date when any Notes are outstanding, the Company will reserve, out of its share issue mandate, a number of Ordinary Shares sufficient to permit the conversion of all then-outstanding Notes, assuming (x) Physical Settlement will apply to such conversion; and (y) the Conversion Rate is adjusted pursuant to **Section 5.05** or **Section 5.06**, or increased by the maximum amount pursuant to which the Conversion Rate may be increased pursuant to **Section 5.07**.

(B) *Status of Conversion Shares; Listing.* Each Conversion Share, if any, delivered upon conversion of any Note will be a newly issued share (except that any Conversion Share delivered by a designated financial institution pursuant to **Section 5.08** need not be a newly issued share), will be duly and validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of the Holder of such Note or the Person to whom such Conversion Share will be delivered) and will rank pari passu with the existing Ordinary Shares. If the Ordinary Shares are then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will cause each Ordinary Share to be admitted for listing on such exchange or quotation on such system.

Section 5.05. ADJUSTMENTS TO THE CONVERSION RATE.

(A) *Events Requiring an Adjustment to the Conversion Rate.* The Conversion Rate will be adjusted from time to time as follows:

(i) *Share Dividends, Splits and Combinations.* If the Company issues solely the Ordinary Shares as a dividend or distribution on all or substantially all of the Ordinary Shares, or if the Company effects a split or a combination of the Ordinary Shares (in each case excluding an issuance solely pursuant to an Ordinary Share Change Event, as to which **Section 5.09** will apply), then the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately before the Open of Business on the effective date of such split or combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or effective date, as applicable;

OS_0 = the number of Ordinary Shares outstanding immediately before the Open of Business on such Ex-Dividend Date or effective date, as applicable, without giving effect to such dividend, distribution, split or combination; and

OS_1 = the number of Ordinary Shares outstanding immediately after giving effect to such dividend, distribution, split or combination.

If any dividend, distribution, split or combination of the type described in this **Section 5.05(A)(i)** is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such split or combination, to the Conversion Rate that would then be in effect had such dividend, distribution, split or combination not been declared or announced.

(ii) *Rights, Options and Warrants.* If the Company distributes, to all or substantially all holders of the Ordinary Shares, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a shareholder rights plan, as to which **Sections 5.05(A)(iii)(1)** and **5.05(F)** will apply) entitling such holders, for a period of not more than sixty (60) calendar days after the record date of such distribution, to subscribe for or purchase Ordinary Shares at a price per share that is less than the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS + X}{OS + Y}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

OS = the number of Ordinary Shares outstanding immediately before the Open of Business on such Ex-Dividend Date;

X = the total number of Ordinary Shares issuable pursuant to such rights, options or warrants; and

Y = a number of Ordinary Shares obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

To the extent such rights, options or warrants referred to in this **Section 5.05(A)(ii)** are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of only the rights, options or warrants, if any, actually distributed. In addition, to the extent that Ordinary Shares are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of Ordinary Shares actually delivered upon exercise of such rights, option or warrants.

For purposes of this **Section 5.05(A)(ii)**, in determining whether any rights, options or warrants entitle holders of Ordinary Shares to subscribe for or purchase Ordinary Shares at a price per share that is less than the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Company in good faith.

(iii) Spin-Offs and Other Distributed Property.

(1) *Distributions Other than Spin-Offs*. If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Ordinary Shares, excluding:

(a) dividends, distributions, rights, options or warrants (including Ordinary Share splits) for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(i)** or **5.05(A)(ii)**;

(b) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iv)**;

(c) rights issued or otherwise distributed pursuant to a shareholder rights plan, except to the extent provided in **Section 5.05(F)**;

(d) Spin-Offs for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iii)(2)**;

(e) a distribution solely pursuant to a tender offer or exchange offer for Ordinary Shares, as to which **Section 5.05(A)(v)** will apply; and

(f) a distribution solely pursuant to an Ordinary Share Change Event, as to which **Section 5.09** will apply,

then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the average of the Last Reported Sale Prices per Ordinary Share for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (as determined by the Company in good faith), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per Ordinary Share pursuant to such distribution;

provided, however, that if *FMV* is equal to or greater than *SP*, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each \$1,000 principal amount of Notes held by such Holder on the record date for such distribution, at the same time and on the same terms as holders of Ordinary Shares, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of Ordinary Shares equal to the Conversion Rate in effect on such record date.

To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(2) *Spin-Offs*. If the Company distributes or dividends shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Company to all or substantially all holders of the Ordinary Shares (other than solely pursuant to (x) an Ordinary Share Change Event, as to which **Section 5.09** will apply; or (y) a tender offer or exchange offer for Ordinary Shares, as to which **Section 5.05(A)(v)** will apply), and such Capital Stock or equity interests are listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a “**Spin- Off**”), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

*CR*₀ = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Spin-Off Valuation Period for such Spin-Off;

*CR*₁ = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Spin-Off Valuation Period;

FMV = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Stock or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the “**Spin-Off Valuation Period**”) beginning on, and including, the Ex- Dividend Date for such Spin-Off (such average to be determined as if references to Ordinary Shares in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Capital Stock or equity interests); and (y) the number of shares or units of such Capital Stock or equity interests distributed per Ordinary Share in such Spin-Off; and

SP = the average of the Last Reported Sale Prices per Ordinary Share for each Trading Day in the Spin-Off Valuation Period.

Notwithstanding anything to the contrary in this **Section 5.05(A)(iii)(2)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose conversion will be settled pursuant to Physical Settlement occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Consideration for such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such Conversion Date.

To the extent any dividend or distribution of the type set forth in this **Section 5.05(A)(iii)(2)** is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(iv) *Cash Dividends or Distributions*. If any cash dividend or distribution is made to all or substantially all holders of Ordinary Shares, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - D}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the Last Reported Sale Price per Ordinary Share on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per Ordinary Share in such dividend or distribution;

provided, however, that if D is equal to or greater than SP , then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each \$1,000 principal amount of Notes held by such Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of Ordinary Shares, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of Ordinary Shares equal to the Conversion Rate in effect on such record date.

To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(v) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer that is subject to the then- applicable tender offer rules under the Exchange Act (other than solely pursuant to an odd- lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act or any successor rule thereto), for Ordinary Shares, and the value (determined as of the Expiration Time by the Board of Directors) of the cash and other consideration paid per Ordinary Share in such tender or exchange offer exceeds the Last Reported Sale Price per Ordinary Share on the Trading Day immediately after the last date (the “**Expiration Date**”) on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{SP \times OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period for such tender or exchange offer;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period;

AC = the aggregate value (determined as of the time (the “**Expiration Time**”) such tender or exchange offer expires by the Board of Directors) of all cash and other consideration paid for Ordinary Shares purchased or exchanged in such tender or exchange offer;

OS_0 = the number of Ordinary Shares outstanding immediately before the Expiration Time (including all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of Ordinary Shares outstanding immediately after the Expiration Time (excluding all Ordinary Shares accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Last Reported Sale Prices per Ordinary Share over the ten (10) consecutive Trading Day period (the “**Tender/Exchange Offer Valuation Period**”) beginning on, and including, the Trading Day immediately after the Expiration Date;

provided, however, that the Conversion Rate will in no event be adjusted down pursuant to this **Section 5.05(A)(v)**, except to the extent provided in the immediately following paragraph. Notwithstanding anything to the contrary in this **Section 5.05(A)(v)**, (i) if any VWAP Trading Day of the Observation Period for a Note whose conversion will be settled pursuant to Cash Settlement or Combination Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date for such tender or exchange offer to, and including, such VWAP Trading Day; and (ii) if the Conversion Date for a Note whose conversion will be settled pursuant to Physical Settlement occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Consideration for such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date to, and including, such Conversion Date.

To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of Ordinary Shares in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of Ordinary Shares, if any, actually made, and not rescinded, in such tender or exchange offer.

(B) No Adjustments in Certain Cases.

(i) *Where Holders Participate in the Transaction or Event Without Conversion.* Notwithstanding anything to the contrary in **Section 5.05(A)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 5.05(A)** (other than a split or combination of the type set forth in **Section 5.05(A)(i)** or a tender or exchange offer of the type set forth in **Section 5.05(A)(v)**) if each Holder participates, at the same time and on the same terms as holders of Ordinary Shares, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of Ordinary Shares equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such date.

(ii) *Certain Events.* The Company will not be required to adjust the Conversion Rate except as provided in **Section 5.05** or **Section 5.07**. Without limiting the foregoing, the Company will not be obligated to adjust the Conversion Rate on account of:

(1) except as otherwise provided in **Section 5.05**, the sale of Ordinary Shares for a purchase price that is less than the market price per Ordinary Share or less than the Conversion Price;

(2) the issuance of any Ordinary Shares pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in Ordinary Shares under any such plan;

(3) the issuance of any Ordinary Shares or options or rights to purchase Ordinary Shares pursuant to any present or future employee, director or consultant benefit or incentive plan (including pursuant to an evergreen provision) or program of, or assumed by, the Company or any of its Subsidiaries or in connection with any shares withheld for tax withholding purposes;

(4) the issuance of any Ordinary Shares pursuant to any option, warrant, right or convertible or exchangeable security of the Company outstanding or announced as of the Issue Date;

(5) for a tender offer or exchange offer by any party other than a tender offer or exchange offer by the Company or one or more of its Subsidiaries as described in Section 5.05(A)(v);

(6) an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act or any successor rule thereto;

(7) upon the repurchase of any of the Ordinary Shares pursuant to an open-market repurchase program or other buy-back transaction (including through any structured or derivative transactions, such as accelerated share repurchase transactions, prepaid forward transactions or similar forward derivatives) that is not a tender offer or exchange offer of the nature described in **Section 5.05(A)(v)**;

(8) solely a change in the par value of the Ordinary Shares;

(9) accrued and unpaid interest on the Notes; or

(10) an Optional Exchange pursuant to the terms of this Indenture.

(iii) Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting the operation of **Section 5.05(H)**), the Conversion Rate will not be adjusted pursuant to **Section 5.05(A)** on an account of any event described in any of **clauses (i)** through **(v)**, inclusive **Section 5.05(A)** where the Ex-Dividend Date, effective date or Expiration Date, as applicable, of such event occurs before the Issue Date.

(C) If an adjustment to the Conversion Rate otherwise required by this **Article 5** would result in a change of less than one percent (1%) to the Conversion Rate, then, notwithstanding anything to the contrary in this **Article 5**, the Company may, at its election, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest of the following: (i) when all such deferred adjustments not already given effect would result in a change of at least one percent (1%) to the Conversion Rate; (ii) the Conversion Date of, or any VWAP Trading Day of an Observation Period for, any Note; (iii) the date a Fundamental Change or Make-Whole Event occurs; (iv) the date the Company calls any Notes for Redemption; and (v) the thirty fifth (35th) VWAP Trading Day before the Maturity Date.

(D) *Adjustments Not Yet Effective.* Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Note is to be converted pursuant to Physical Settlement or Combination Settlement;

(ii) the record date, effective date or Expiration Time for any event that requires an adjustment to the Conversion Rate pursuant to **Section 5.05(A)** has occurred on or before the Conversion Date for such conversion (in the case of Physical Settlement) or on or before any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement), but an adjustment to the Conversion Rate for such event has not yet become effective as of such Conversion Date or VWAP Trading Day, as applicable;

(iii) the Conversion Consideration due upon such conversion includes any whole Ordinary Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Ordinary Shares (in the case of Combination Settlement); and

(iv) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise),

then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date (in the case of Physical Settlement) or such VWAP Trading Day (in the case of Combination Settlement). In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such conversion until the second (2nd) Business Day after such first date.

(E) *Conversion Rate Adjustments where Converting Holders Participate in the Relevant Transaction or Event.* Notwithstanding anything to the contrary in this Indenture or the Notes, if:

(i) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to **Section 5.05(A)**;

(ii) a Note is to be converted pursuant to Physical Settlement or Combination Settlement;

(iii) the Conversion Date for such conversion (in the case of Physical Settlement) or any VWAP Trading Day in the Observation Period for such conversion (in the case of Combination Settlement) occurs on or after such Ex-Dividend Date and on or before the related record date;

(iv) the Conversion Consideration due upon such conversion includes any whole Ordinary Shares (in the case of Physical Settlement) or due in respect of such VWAP Trading Day includes any whole or fractional Ordinary Shares (in the case of Combination Settlement), in each case based on a Conversion Rate that is adjusted for such dividend or distribution; and

(v) such shares would be entitled to participate in such dividend or distribution (including pursuant to **Section 5.02(C)**),

then (x) in the case of Physical Settlement, such Conversion Rate adjustment will not be given effect for such conversion and the Ordinary Shares issuable upon such conversion based on such unadjusted Conversion Rate will not be entitled to participate in such dividend or distribution, but there will be added, to the Conversion Consideration otherwise due upon such conversion, the same kind and amount of consideration that would have been delivered in such dividend or distribution with respect to such Ordinary Shares had such shares been entitled to participate in such dividend or distribution; and (y) in the case of Combination Settlement, the Conversion Rate adjustment relating to such Ex-Dividend Date will be made for such conversion in respect of such VWAP Trading Day, but the Ordinary Shares issuable with respect to such VWAP Trading Day based on such adjusted Conversion Rate will not be entitled to participate in such dividend or distribution.

(F) *Shareholder Rights Plans*. If any Ordinary Shares are to be issued or delivered upon conversion of any Note and, at the time of such conversion, the Company has in effect any shareholder rights plan, then the Holder of such Note will be entitled to receive, in addition to, and concurrently with the delivery of, the Conversion Consideration otherwise payable under this Indenture upon such conversion, the rights set forth in such shareholder rights plan, unless such rights have separated from the Ordinary Shares at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to **Section 5.05(A)(iii)(1)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such Section to all holders of the Ordinary Shares, subject to readjustment in accordance with such Section if such rights expire, terminate or are redeemed.

(G) *Limitation on Effecting Transactions Resulting in Certain Adjustments*. The Company will not engage in or be a party to any transaction or event that would require the Conversion Rate to be adjusted pursuant to **Section 5.05(A)** or **Section 5.07** to an amount that would result in the Conversion Price per Ordinary Share being less than the par value per Ordinary Share.

(H) *Equitable Adjustments to Prices*. Whenever any provision of this Indenture requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days (including to calculate (i) the Share Price for a Make-Whole Event or (ii) or an adjustment to the Conversion Rate), or to calculate the Daily Conversion Values or Daily VWAPs over an Observation Period, the Company will make appropriate adjustments, if any, to such calculations to account for any adjustment to the Conversion Rate pursuant to **Section 5.05(A)**, would have resulted in an adjustment to the Conversion Rate) that becomes effective, or any event that requires such an adjustment to the Conversion Rate where the Ex- Dividend Date, effective date or Expiration Date, as applicable, of such event occurs, at any time during such period, or Observation Period, as applicable.

(I) *Calculation of Number of Outstanding Ordinary Shares.* For purposes of **Section 5.05(A)**, the number of Ordinary Shares outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of Ordinary Shares; and (ii) exclude Ordinary Shares held in the Company's treasury (unless the Company pays any dividend or makes any distribution on Ordinary Shares held in its treasury).

(J) *Calculations.* All calculations with respect to the Conversion Rate and adjustments thereto will be made, by the Company, to the nearest 1/10,000th of an Ordinary Share (with 5/100,000ths rounded upward).

(K) *Notice of Conversion Rate Adjustments.* Upon the effectiveness of any adjustment to the Conversion Rate pursuant to **Section 5.05(A)**, the Company will promptly send notice to the Holders, the Trustee and the Conversion Agent containing (i) a brief description of the transaction or other event on account of which such adjustment was made; (ii) the Conversion Rate in effect immediately after such adjustment; and (iii) the effective time of such adjustment.

Section 5.06. VOLUNTARY ADJUSTMENTS.

(A) *Generally.* To the extent permitted by law and applicable listing standards of The Nasdaq Global Stock Market (or any other securities exchange on which the Ordinary Shares (or other applicable security) is then listed), the Company, from time to time, may (but is not required to) increase the Conversion Rate by any amount if (i) the Board of Directors determines that such increase is either (x) in the best interest of the Company; or (y) advisable to avoid or diminish any income tax imposed on holders of Ordinary Shares or rights to purchase Ordinary Shares as a result of any dividend or distribution of shares (or rights to acquire shares) of Ordinary Shares or any similar event; (ii) such increase is in effect for a period of at least twenty (20) Business Days; and (iii) subject to applicable law, such increase is irrevocable during such period.

(B) *Notice of Voluntary Increases.* If the Board of Directors determines to increase the Conversion Rate pursuant to **Section 5.06(A)** or upon the occurrence of a Forward Purchase Adjustment Event, then, no later than the first Business Day of the related twenty (20) Business Day period referred to in **Section 5.06(A)**, the Company will send notice to each Holder, the Trustee and the Conversion Agent of such increase, the amount thereof and the period during which such increase will be in effect.

Section 5.07. ADJUSTMENTS TO THE CONVERSION RATE IN CONNECTION WITH A MAKE- WHOLE EVENT.

(A) *Generally.* If a Make-Whole Event occurs on or after the Issue Date and the Conversion Date for the conversion of a Note occurs during the related Make-Whole Event Conversion Period, then, subject to this **Section 5.07**, the Conversion Rate applicable to such conversion will be increased by the applicable Make-Whole Share Amount.

(B) *Notice of the Occurrence of a Make-Whole Event.* The Company will notify the Holders, the Trustee and the Conversion Agent of each Make-Whole Event (i) occurring pursuant to **clause (A)** of the definition thereof; and (ii) occurring pursuant to **clause (B)** of the definition thereof in accordance with **Section 4.03(G)**.

Section 5.08. EXCHANGE IN LIEU OF CONVERSION.

Notwithstanding anything to the contrary in this **Article 5**, and subject to the terms of this **Section 5.08**, if a Note is submitted for conversion, the Company may elect, in lieu of conversion, to transfer such Note to a financial institution designated by the Company and arrange to have such financial institution deliver to the Holder of such Note the Conversion Consideration that would have been due upon conversion. To make such election, the Company must send notice of such election to the Holder of such Note, the Trustee and the Conversion Agent before the Close of Business on the Business Day immediately following the Conversion Date for such Note. If the Company has made such election, then:

(A) no later than the Business Day immediately following such Conversion Date, the Company must deliver (or cause the Conversion Agent to deliver) such Note, together with delivery instructions for the Conversion Consideration due upon such conversion (including wire instructions, if applicable), to a financial institution designated by the Company that has agreed to deliver such Conversion Consideration in the manner and at the time the Company would have had to deliver the same pursuant to this **Article 5**;

(B) if such Note is a Global Note, then (i) such designated institution will send written confirmation to the Conversion Agent promptly after wiring the cash Conversion Consideration, if any, and delivering any other Conversion Consideration, due upon such conversion to the Holder of such Note; and (ii) the Conversion Agent will as soon as reasonably practicable thereafter contact such Holder's custodian with the Depository to confirm receipt of the same; and

(C) such Note will not cease to be outstanding by reason of such exchange in lieu of conversion;

provided, however, that if such financial institution does not accept such Note or fails to timely deliver such Conversion Consideration, then the Company will be responsible for delivering such Conversion Consideration in the manner and at the time provided in this **Article 5** as if the Company had not elected to make an exchange in lieu of conversion.

Section 5.09. EFFECT OF ORDINARY SHARE CHANGE EVENT.

(A) *Generally*. If there occurs any:

(i) recapitalization, reclassification or change of the Ordinary Shares (other than (x) changes solely resulting from a subdivision or combination of the Ordinary Shares, (y) a change only in par value or from par value to no par value or no par value to par value and (z) splits and combinations that do not involve the issuance of any other series or class of securities);

(ii) consolidation, merger, combination or binding or statutory share exchange involving the Company;

(iii) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or

(iv) other similar event,

and, as a result of which, the Ordinary Shares is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing (such an event, a “**Ordinary Share Change Event**,” and such other securities, cash or property, the “**Reference Property**,” and the amount and kind of Reference Property that a holder of one (1) Ordinary Share would be entitled to receive on account of such Ordinary Share Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a “**Reference Property Unit**”), then the Company and the resulting, surviving or transferee person (if not the Company) of such Ordinary Share Change Event (the “**Successor Person**”), and, if applicable as set forth below, the Underlying Issuer, will execute and deliver to the Trustee a supplemental indenture, without the consent of the Holders, providing, notwithstanding anything to the contrary in this Indenture or the Notes, as follows:

(1) from and after the effective time of such Ordinary Share Change Event, (I) the Conversion Consideration due upon conversion of any Note, and the conditions to any such conversion, will be determined in the same manner as if each reference to any number of Ordinary Shares in this **Article 5** (or in any related definitions) were instead a reference to the same number of Reference Property Units; (II) for purposes of **Section 4.03**, each reference to any number of Ordinary Shares in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (III) for purposes of the definition of “Fundamental Change” and “Make-Whole Event,” references to Ordinary Shares or to “Common Equity” will be deemed to refer to the common equity (including depository receipts representing common equity), if any, forming part of such Reference Property;

(2) if such Reference Property Unit consists entirely of cash, then the Company will be deemed to elect Physical Settlement in respect of all conversions whose Conversion Date occurs on or after the effective date of such Ordinary Share Change Event and will pay the cash due upon such conversions no later than the second (2nd) Business Day after the relevant Conversion Date;

(3) for these purposes, (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of “Daily VWAP,” substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof); and

(4) if such Reference Property includes any shares of Capital Stock, then the Conversion Rate will be subject to subsequent adjustments in a manner consistent with **Section 5.05(A)**.

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of shareholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per Ordinary Share, by the holders of the Ordinary Shares. The Company will notify Holders of such weighted average as soon as practicable after such determination is made.

At or before the effective time of such Ordinary Share Change Event, the Company and the Successor Person will execute and deliver to the Trustee a supplemental indenture pursuant to **Section 8.01(F)** as set forth above. If the Reference Property includes shares of stock or other securities or assets (other than cash) of a Person other than the Successor Person (such person, the “**Underlying Issuer**”), then such Underlying Issuer will also execute such supplemental indenture.

(B) *Notice of Ordinary Share Change Events.* The Company will provide notice of each Ordinary Share Change Event to Holders, the Trustee and the Conversion Agent no later than the effective date of such Ordinary Share Change Event.

(C) *Compliance Covenant.* The Company will not become a party to any Ordinary Share Change Event unless its terms are consistent with this **Section 5.09**.

Section 5.10. RESPONSIBILITY OF TRUSTEE.

(A) The Trustee, the Collateral Trustee and the Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine the Conversion Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or in the Indenture or in any supplemental indenture provided to be employed, in making the same. The Trustee and the Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any Ordinary Shares, or of any securities, property or cash that may at any time be issued or delivered upon the conversion of any Note; and the Trustee and the Conversion Agent make no representations with respect thereto. Neither the Trustee nor the Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Ordinary Shares or stock certificates or other securities or property or cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this **Article 5**. Without limiting the generality of the foregoing, neither the Trustee nor the Conversion Agent shall be under any responsibility to (a) determine whether a supplemental indenture needs to be entered into or (b) determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to **Section 5.09** relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any event referred to in such **Section 5.09** or to any adjustment to be made with respect thereto, but, subject to the provisions of **Section 13.02** of the Indenture, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in conclusively relying upon, the Officer’s Certificate (which the Company shall be obligated to file with the Trustee and the Conversion Agent prior to the execution of any such supplemental indenture) with respect thereto.

(B) The Conversion Agent will open a non-interest bearing account in the name of the Company in relation to its Settlement Method.

(C) Conversion Agent's wire instructions are listed in **Schedule I** to receive wire from the Company for cash in lieu for fractional shares.

(D) **Schedule II** lists Company's wire instructions for interest reimbursement.

(E) If there is a conversion between the Regular Record Date and Interest Payment Date (for regular period), the Holders will return the interest back to Conversion Agent and the Conversion Agent will reimburse the Company.

Article 6. SUCCESSORS

Section 6.01. WHEN THE COMPANY MAY MERGE, ETC.

(A) *Generally*. The Company will not consolidate with or merge with or into, dissolve or liquidate voluntarily into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise Dispose, in one transaction or a series of transactions, all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to another Person (a "**Company Business Combination Event**"), unless:

(i) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is a corporation (the "**Successor Corporation**") duly organized and existing under the laws of the United States of America, any State thereof, the District of Columbia or Singapore that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Company Business Combination Event, a supplemental indenture pursuant to **Section 8.01(E)**) all of the Company's obligations under this Indenture, the Notes Security Documents to which the Company is a party, and the Notes (including, for the avoidance of doubt, the obligation to pay Additional Amounts pursuant to **Section 3.05**);

(ii) immediately after giving effect to such Company Business Combination Event, no Default or Event of Default will have occurred and be continuing; and

(iii) before the effective time of any Company Business Combination Event, the Company will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Company Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 6.01(A)**; and (ii) all conditions precedent to such Company Business Combination Event provided in this Indenture have been satisfied.

(B) *Guarantors*. The Company shall not permit any Guarantor to consolidate with or merge with or into, dissolve or liquidate voluntarily into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise Dispose, in one transaction or a series of transactions, all or substantially all of the consolidated assets (other than to the Company or another Guarantor) (a “**Guarantor Business Combination Event**” together with a Company Business Combination Event, a “**Business Combination Event**”) unless:

(i) the resulting, surviving or transferee Person (the “**Successor Guarantor**”) either (x) is the Guarantor or (y) if not the Guarantor, is a corporation duly organized and existing under the laws of the jurisdiction of the Company or any of the Guarantors that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Guarantor Business Combination Event, a supplemental indenture pursuant to **Section 8.01(B)**) all of such Guarantor’s obligations under this Indenture, the Notes Security Documents to which it is a party, the Notes and its Guarantee (including, for the avoidance of doubt, the obligation to pay Additional Amounts pursuant to **Section 3.05**);

(ii) immediately after giving effect to such Guarantor Business Combination Event, no Default or Event of Default will have occurred and be continuing; and

(iii) before the effective time of any Guarantor Business Combination Event, the Company and the Guarantor, as applicable, will deliver to the Trustee an Officer’s Certificate and Opinion of Counsel, each stating that (i) such Guarantor Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 6.01(B)**; and (ii) all conditions precedent to such Guarantor Business Combination Event provided in this Indenture have been satisfied.

Section 6.02. SUCCESSOR CORPORATION SUBSTITUTED.

At the effective time of any Business Combination Event that complies with **Section 6.01**, the Successor Corporation (if not the Company) or the Successor Guarantor (if not the applicable Guarantor), as the case may be, will succeed to, and may exercise every right and power of, the Company or the Guarantor, as the case may be, under this Indenture, the Notes Security Documents, the Notes and/or Guarantee, as is applicable, with the same effect as if such Successor Corporation or Successor Guarantor, as the case may be, had been named as the Company or Guarantor, as the case may be, in this Indenture, the Notes Security Documents, the Notes and such Guarantee; *provided that* in the case of a lease, the predecessor Company will be discharged from its obligations under this Indenture and the Notes.

Article 7. DEFAULTS AND REMEDIES

Section 7.01. EVENTS OF DEFAULT.

(A) *Definition of Events of Default*. “**Event of Default**” means the occurrence of any of the following:

(i) a default in the payment when due (whether at maturity, upon Redemption or Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, any Note;

(ii) a default in the payment when due of interest on any Note, which default continues for thirty (30) days;

(iii) the Company's failure to deliver, when required by this Indenture, a Fundamental Change Notice, such failure is not cured within three (3) Business Days after its occurrence;

(iv) a default in the payment or delivery when due of the Optional Exchange Consideration for any Note subject to an Optional Exchange;

(v) a default in the Company's obligation to convert a Note in accordance with **Article 5** upon the exercise of the conversion right with respect thereto, if such default is not cured within two (2) Business Days after its occurrence;

(vi) a default in the Company's obligations under **Article 6**;

(vii) [Reserved];

(viii) a default in any of the Company's obligations or agreements under the Indenture Documents (other than a default set forth in **clause (i), (ii), (iii), (iv), (v) or (vi)** of this **Section 7.01(A)**) where such default is not cured or waived within thirty (30) days after notice to the Company by the Trustee and the Collateral Trustee, or to the Company, the Trustee and the Collateral Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, which notice must specify such default, demand that it be remedied and state that such notice is a "Notice of Default", *provided* that any issuance of Ordinary Shares in connection with any conversion (including in connection with the Optional Exchange) that results in any holder of the Notes, together with the Attribution Parties, beneficially owns or would beneficially own the number of Ordinary Shares in excess of the Exchange Cap shall not constitute a Default or an Event of Default;

(ix) a default by a Company Indenture Party or any of its Significant Subsidiaries with respect to indebtedness for money borrowed (whether pursuant to one or more agreements or other instruments) of greater than twenty-five million dollars (\$25,000,000) (or its foreign currency equivalent) in the aggregate of a Company Indenture Party or any of its Significant Subsidiaries, whether such indebtedness exists as of the Issue Date or is thereafter created, either: (x) resulting in such indebtedness becoming or being declared due and payable prior to its stated maturity, or (y) constituting a failure to pay the principal of any such indebtedness when due and payable (after the expiration of all applicable grace periods) at its stated maturity, upon required repurchase, upon declaration or otherwise, and, in the case of either **clause (x)** or **(y)**, such acceleration is not, after the expiration of any applicable grace period, rescinded or annulled or such indebtedness is not paid or discharged, as the case may be, within thirty (30) days after notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding in accordance with this Indenture;

(x) one or more final judgments being rendered against a Company Indenture Party or any of its Subsidiaries for the payment of at least twenty-five million dollars (\$25,000,000) (or its foreign currency equivalent) in the aggregate (excluding any amounts covered by insurance), where such judgment is not discharged or stayed within sixty (60) days after (i) the date on which the right to appeal the same has expired, if no such appeal has commenced; or (ii) the date on which all rights to appeal have been extinguished;

(xi) a Company Indenture Party or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law, either:

(1) commences a voluntary case or proceeding;

(2) consents to the entry of an order for relief against it in an involuntary case or proceeding;

(3) consents to the appointment of a custodian of it or for any substantial part of its property (other than that arises from any solvent liquidation or restructuring of a Significant Subsidiary in the ordinary course of business that shall result in the net assets of such Significant Subsidiary being transferred to or otherwise vested in such Company Indenture Party or any of its other subsidiaries on a pro rata basis or on a basis more favorable to such Company Indenture Party);

(4) makes a general assignment for the benefit of its creditors;

(5) takes any comparable action under any foreign Bankruptcy Law; or

(6) generally is not paying its debts as they become due;

(xii) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that either:

(1) is for relief against a Company Indenture Party or any of its Significant Subsidiaries in an involuntary case or proceeding;

(2) appoints a custodian of a Company Indenture Party or any of its Significant Subsidiaries, or for any substantial part of the property of a Company Indenture Party or any of its Significant Subsidiaries;

(3) orders the winding up or liquidation of a Company Indenture Party or any of its Significant Subsidiaries; or

(4) grants any similar relief under any foreign Bankruptcy Law,

(5) and, in each case under this **Section 7.01(A)(xii)**, such order or decree remains unstayed and in effect for at least sixty (60) days;

(xiii) If the obligation of any Guarantor under its Guarantee or any other Indenture Document to which any Guarantor is a party is limited or terminated by operation of law or by such Guarantor (other than, in each case, in accordance with the terms of this Indenture or such other Indenture Documents), or if any Guarantor fails to perform any obligation under its Guarantee or under any such Indenture Document, or repudiates or revokes or purports to repudiate or revoke in writing any obligation under its Guarantee, or under any such Indenture Document, or any Guarantor ceases to exist for any reason (other than as permitted or not prohibited by this Indenture); or

(xiv) Except as permitted or not prohibited by this Indenture and other Indenture Documents, if this Indenture or any other Indenture Document that purports to create a Lien on Collateral, shall, for any reason, fail or cease to be in full force and effect for any reason, being declared fully or partially void in judicial, regulatory or administrative proceeding or becoming enforceable against the relevant Company Indenture Parties.

(B) *Cause Irrelevant.* Each of the events set forth in **Section 7.01(A)** will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

Section 7.02. ACCELERATION.

(A) *Automatic Acceleration in Certain Circumstances.* If an Event of Default set forth in **Section 7.01(A)(xi)** or **7.01(A)(xii)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company), then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding will immediately become due and payable without any further action or notice by any Person.

(B) *Optional Acceleration.* Subject to **Section 7.03**, if an Event of Default (other than an Event of Default set forth in **Section 7.01(A)(xi)** or **7.01(A)(xii)** with respect to the Company and not solely with respect to a Significant Subsidiary of the Company) occurs and is continuing, then the Trustee, by notice to the Company, or Holders of at least twenty five percent (25%) of the aggregate principal amount of Notes then outstanding, by notice to the Company, the Trustee and the Collateral Trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding (subject to the Trustee and the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction) to become due and payable immediately.

(C) *Rescission of Acceleration.* Notwithstanding anything to the contrary in this Indenture or the Notes, the Majority Holders, by notice to the Company and the Trustee, may, on behalf of all Holders, rescind any acceleration of the Notes and its consequences if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; (ii) all existing Events of Default (except the non-payment of principal of, or interest on, the Notes that has become due solely because of such acceleration) have been cured or waived; and (iii) all sums paid or advanced by the Trustee under this Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee and the Collateral Trustee and their agents and counsel have been paid. No such rescission will affect any subsequent Default or impair any right consequent thereto.

Section 7.03. SOLE REMEDY FOR A FAILURE TO REPORT.

(A) *Generally.* Notwithstanding anything to the contrary in this Indenture or the Notes, the Company may elect that the sole remedy for any Event of Default (a “**Reporting Event of Default**”) pursuant to **Section 7.01(A)(viii)** arising from the Company’s failure to comply with **Section 3.02** will, for each of the first one hundred and eighty (180) calendar days on which a Reporting Event of Default has occurred and is continuing, consist exclusively of the accrual of Special Interest on the Notes. If the Company has made such an election, then (i) the Notes will be subject to acceleration pursuant to **Section 7.02** on account of the relevant Reporting Event of Default from, and including, the one hundred and eighty first (181st) calendar day on which a Reporting Event of Default has occurred and is continuing or if the Company fails to pay any accrued and unpaid Special Interest when due; and (ii) Special Interest will cease to accrue on any Notes from, and including, such one hundred and eighty first (181st) calendar day (it being understood that interest on any defaulted Special Interest will nonetheless accrue pursuant to **Section 2.05(B)**).

(B) *Amount and Payment of Special Interest.* Any Special Interest that accrues on a Note pursuant to **Section 7.03(A)** will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to one quarter of one percent (0.25%) of the principal amount thereof for the first ninety (90) days on which Special Interest accrues and, thereafter, at a rate per annum equal to one half of one percent (0.50%) of the principal amount thereof; *provided, however,* that in no event will Special Interest accrue on any day on a Note at a combined rate per annum that exceeds one half of one percent (0.50%). For the avoidance of doubt, any Special Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note.

(C) *Notice of Election.* To make the election set forth in **Section 7.03(A)**, the Company must send to the Holders, the Trustee and the Paying Agent, before the date on which each Reporting Event of Default first occurs, a notice that (i) briefly describes the report(s) that the Company failed to file with the SEC; (ii) states that the Company is electing that the sole remedy for such Reporting Event of Default consist of the accrual of Special Interest; and (iii) briefly describes the periods during which and rate at which Special Interest will accrue and the circumstances under which the Notes will be subject to acceleration on account of such Reporting Event of Default.

(D) *Notice to Trustee and Paying Agent; Trustee’s Disclaimer.* If Special Interest accrues on any Note, then, no later than five (5) Business Days before each date on which such Special Interest is to be paid, the Company will deliver an Officer’s Certificate to the Trustee and the Paying Agent stating (i) that the Company is obligated to pay Special Interest on such Note on such date of payment; and (ii) the amount of such Special Interest that is payable on such date of payment. The Trustee will have no duty to determine whether any Special Interest is payable or the amount thereof.

(E) *No Effect on Other Events of Default.* No election pursuant to this **Section 7.03** with respect to a Reporting Event of Default will affect the rights of any Holder with respect to any other Event of Default, including with respect to any other Reporting Event of Default.

Section 7.04. OTHER REMEDIES.

(A) *Trustee May Pursue All Remedies.* If an Event of Default occurs and is continuing, then the Trustee may pursue any available remedy to collect the payment of any amounts due with respect to the Notes or to enforce the performance of any provision of this Indenture or the Notes.

(B) *Procedural Matters.* The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in such proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy following an Event of Default will not impair the right or remedy or constitute a waiver of, or acquiescence in, such Event of Default. All remedies will be cumulative to the extent permitted by law.

Section 7.05. WAIVER OF PAST DEFAULTS.

An Event of Default pursuant to **clause (i), (ii), (v) or (viii) of Section 7.01(A)** (that, in the case of **clause (viii)** only, results from a Default under any covenant that cannot be amended without the consent of each affected Holder), and a Default that could lead to such an Event of Default, can be waived only with the consent of each affected Holder. Each other Default or Event of Default may be waived, on behalf of all Holders, by the Majority Holders. If an Event of Default is so waived, then it will cease to exist. If a Default is so waived, then it will be deemed to be cured and any Event of Default arising therefrom will be deemed not to occur. However, no such waiver will extend to any subsequent or other Default or Event of Default or impair any right arising therefrom.

Section 7.06. CONTROL BY MAJORITY.

Majority Holders may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it under this Indenture. However, the Trustee may refuse to follow any direction that conflicts with law, this Indenture or the Notes, or that, subject to **Section 10.01**, the Trustee determines may be unduly prejudicial to the rights of other Holders or may involve the Trustee in liability, unless the Trustee is offered security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such direction.

Section 7.07. LIMITATION ON SUITS.

No Holder may pursue any remedy with respect to this Indenture or the Notes (except to enforce (x) its rights to receive the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or interest on, any Notes; or (y) the Company's obligations to convert any Notes pursuant to **Article 5**), unless:

(A) such Holder has previously delivered to the Trustee notice that an Event of Default is continuing;

(B) Holders of at least twenty five percent (25%) in aggregate principal amount of the Notes then outstanding deliver a request to the Trustee to pursue such remedy;

(C) such Holder or Holders offer and, if requested, provide to the Trustee security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such request;

(D) the Trustee does not comply with such request within sixty (60) calendar days after its receipt of such request and such offer of security or indemnity; and

(E) during such sixty (60) calendar day period, the Majority Holders do not deliver to the Trustee a direction that is inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. The Trustee will have no duty to determine whether any Holder's use of this Indenture complies with the preceding sentence.

Section 7.08. ABSOLUTE RIGHT OF HOLDERS TO INSTITUTE SUIT FOR THE ENFORCEMENT OF THE RIGHT TO RECEIVE PAYMENT AND CONVERSION CONSIDERATION.

Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting **Section 8.01**), the right of each Holder of a Note to bring suit for the enforcement of any payment or delivery, as applicable, of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or the Conversion Consideration due pursuant to **Article 5** upon conversion of, such Note on or after the respective due dates therefor provided in this Indenture and the Notes, will not be impaired or affected without the consent of such Holder.

Section 7.09. COLLECTION SUIT BY TRUSTEE.

The Trustee will have the right, upon the occurrence and continuance of an Event of Default pursuant to **clause (i), (ii) or (iv) of Section 7.01(A)**, to recover judgment in its own name and as trustee of an express trust against the Company for the total unpaid or undelivered principal of, or Redemption Price or Fundamental Change Repurchase Price for, or interest on, or Conversion Consideration due pursuant to **Article 5** upon conversion of, the Notes, as applicable, and, to the extent lawful, any Default Interest on any Defaulted Amounts, and such further amounts sufficient to cover the costs and expenses of collection, including compensation provided for in **Section 10.06**.

Section 7.10. PREFERENTIAL COLLECTION OF CLAIMS AGAINST COMPANY.

If and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Notes), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Company (or any such other obligor).

Section 7.11. TRUSTEE MAY FILE PROOFS OF CLAIM.

The Trustee has the right to (A) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes) or its creditors or property and (B) collect, receive and distribute any money or other property payable or deliverable on any such claims. Each Holder authorizes any custodian in such proceeding to make such payments to the Trustee, and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to the Trustee for the reasonable compensation, expenses, disbursements and advances of the Trustee, and its agents and counsel, and any other amounts payable to the Trustee pursuant to **Section 10.06**. To the extent that the payment of any such compensation, expenses, disbursements, advances and other amounts out of the estate in such proceeding, is denied for any reason, payment of the same will be secured by a lien on, and will be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding (whether in liquidation or under any plan of reorganization or arrangement or otherwise). Nothing in this Indenture will be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 7.12. PAYMENT OF THE SOULTE.

If, following any Appropriation, a Soulte is owed by the Notes Secured Parties to the Company or any Guarantor, the Company or that Guarantor agrees that such Soulte shall only become due and payable by the relevant Notes Secured Parties on the earlier of:

- (a) the date falling 12 months after the date of the Appropriation; and
- (b) the Final Discharge Date.

For the avoidance of doubt, the obligations of each Notes Secured Party to pay its proportionate share of any Soulte are several (*conjointes et non solidaires*).

Any payment of the Soulte under paragraph (a) above to the Company or any Guarantor which occurs on or prior to the Final Discharge Date shall be made by the relevant Notes Secured Parties (or the Collateral Trustee on their behalf) to a bank account of the Company or relevant Guarantor and in each case held with the Collateral Trustee and pledged in a manner satisfactory to the Collateral Trustee acting on behalf of the Notes Secured Parties as security for any obligation of the Company or relevant Guarantor under any of the Indenture Documents to which it is party including any obligation under this Indenture to pay back any Soulte or any amounts to be turned over by it as the Company or Guarantor pursuant to **Section 7.12** on or prior to the Final Discharge Date. This pledge agreement shall include an irrevocable instruction from the Company or the relevant Guarantor to make from such pledged bank accounts any payment required to be fulfilled under this Indenture or any Indenture Document.

The provisions of this **Section 7.11** override any conflicting provisions in the French Security Documents.

Section 7.13. SUMS RECEIVED BY DEBTORS AND THIRD-PARTY SECURITY PROVIDERS.

Without prejudice to **Section 7.11**, if the Company or any Guarantor receives or recovers (i) any Soulte or (ii) any other sum which, under the terms of any of the Indenture Documents, should have been paid to the Collateral Trustee, the Company or that Guarantor will:

(a) hold an amount of that receipt or recovery equal to the relevant Obligations (or, if less, the amount received or recovered) on trust for (or otherwise on behalf and for the account of) the Collateral Trustee and promptly pay that amount to the Collateral Trustee (or as the Collateral Trustee may direct) for application in accordance with the terms of this Indenture; and

(b) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the relevant Obligations to the Collateral Trustee (or as the Collateral Trustee may direct) for application in accordance with the terms of this Indenture.

Section 7.14. PRIORITIES.

Subject to the terms of the Intercreditor Agreement, the Collateral Trustee and Trustee (acting in any capacity) will pay or deliver in the following order any money or other property that it collects pursuant to this **Article 7**:

First: to the Collateral Trustee and Trustee (acting in any capacity) and its agents and attorneys for amounts due under **Section 10.06**, including payment of all fees (including any reasonably incurred and documented fees and expenses of legal counsel; *provided* that there shall not be more than one counsel in each relevant jurisdiction), compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: if an Appropriation has occurred, in payment to the Collateral Trustee on behalf of the Appropriated Instruments Holders which have paid all or part of any Soulte for distribution of each Appropriated Instruments Holder in an amount equal to the amount of Soulte paid and not yet reimbursed for application towards the discharge of (for the avoidance of doubt, on a *pari passu* basis) the corresponding relevant Obligations;

Third: to the Trustee for the benefit of the Holders for unpaid amounts or other property due on the Notes, including the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or any Conversion Consideration due upon conversion of, the Notes, ratably, and without preference or priority of any kind, according to such amounts or other property due and payable on all of the Notes; and

Fourth: to the Company or such other Person as a court of competent jurisdiction directs, including upon or following an Appropriation, (i) in payment or distribution of any Soulte payable and not yet paid to it; or (ii) an amount equal to any Soulte previously paid to it (to the extent the Company paid such Soulte back to the Collateral Trustee in accordance with this Indenture) as a result of an Appropriation.

The Trustee (acting in any capacity) may fix a record date and payment date for any payment or delivery to the Holders pursuant to this **Section 7.11**, in which case the Trustee will instruct the Company to, and the Company will, deliver, at least fifteen (15) calendar days before such record date, to each Holder and the Trustee a notice stating such record date, such payment date and the amount of such payment or nature of such delivery, as applicable.

Section 7.15. UNDERTAKING FOR COSTS.

In any suit for the enforcement of any right or remedy under this Indenture or the Notes or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court, in its discretion, may (A) require the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and (B) assess reasonable costs (including reasonable attorneys' fees) against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided, however*, that this **Section 7.12** does not apply to any suit by the Trustee, any suit by a Holder pursuant to **Section 7.08**, any suit by one or more Holders of more than ten percent (10%) in aggregate principal amount of the Notes then outstanding, or any suit by any Holder for the enforcement of the payment of the principal of or interest on any Note, on or after the respective due dates expressed in such Note.

Section 7.16. COLLATERAL TRUSTEE EXPENSE REIMBURSEMENT

The Company Indenture Parties, jointly and severally, agree to reimburse or pay the Trustee or Collateral Trustee for its fees and expenses incurred under this Indenture or the Notes Security Documents (including all reasonably incurred and documented fees and disbursements of legal counsel; *provided* that there shall not be more than one counsel in each relevant jurisdiction) that may be paid or incurred by the Trustee or Collateral Trustee in enforcing, or obtaining advice of counsel in respect of, any rights with respect to, or collecting, any or all of the Obligations or Guaranteed Obligations and/or enforcing any rights with respect to, or collecting against, the Company Indenture Parties under this Indenture or the Notes Security Documents.

Article 8. AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 8.01. WITHOUT THE CONSENT OF HOLDERS.

Notwithstanding anything to the contrary in **Section 8.02**, the Company and the Trustee may amend or supplement the Indenture Documents without the consent of any Holder to:

(A) cure any ambiguity or correct any omission, defect or inconsistency in any Indenture Document;

(B) add guarantees or security with respect to the Company's obligations under this Indenture or the Notes, including for greater certainty, to allow any additional Guarantor to execute a supplemental indenture, a joinder to any Notes Security Document and/or a Guarantee with respect to the Notes;

(C) [Reserved];

(D) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred on the Company;

(E) provide for the assumption of the Company's or any Guarantor's obligations under this Indenture, the Notes and the Notes Security Document, as applicable, pursuant to, and in compliance with, **Article 6**;

(F) enter into supplemental indentures pursuant to, and in accordance with, **Section 5.09** in connection with an Ordinary Share Change Event;

(G) irrevocably elect or eliminate any Settlement Method or Specified Dollar Amount; *provided, however*, that no such election or elimination will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to **Section 5.03(A)**;

(H) adjust the Conversion Rate or the Conversion Price (including the establishment of the Conversion Rate or the Conversion Price) in accordance with, and subject to the terms of, this Indenture;

(I) evidence or provide for the acceptance of the appointment, under this Indenture, of a successor Trustee or Collateral Trustee;

(J) [Reserved];

(K) comply with the rules of any applicable Depository in a manner that does not adversely affect the rights of the Holders;

(L) comply with any requirement of the SEC in connection with any qualification of this Indenture or any supplemental indenture under the Trust Indenture Act, as then in effect;

(M) make any other change to the Indenture Documents that does not, individually or in the aggregate with all other such changes, adversely affect the rights of the Holders, as such, in any material respect; or

(N) effect, confirm and evidence the release, termination or discharge or any guarantee of or Lien securing the Notes when such release, termination or discharge is permitted by the Indenture Documents.

Section 8.02. WITH THE CONSENT OF HOLDERS.

(A) *Generally*. Subject to **Sections 8.01, 7.05 and 7.08**, the immediately following sentence and the terms of the Intercreditor Agreement, the Company and the Trustee may, with the consent of the Majority Holders, amend or supplement the Indenture Documents or waive compliance with any provision of the Indenture Documents. Notwithstanding anything to the contrary in the foregoing sentence, but subject to **Section 8.01** and the terms of the Intercreditor Agreement, without the consent of each affected Holder, no amendment or supplement to the Indenture Documents, or waiver of any provision of the Indenture Documents, may:

(i) reduce the principal, or extend the stated maturity, of any Note;

(ii) reduce the Redemption Price or Fundamental Change Repurchase Price for any Note, amended the definition of “Optional Exchange Consideration” or change the times at which, or the circumstances under which, the Notes may or will be redeemed, repurchased or exchanged by the Company;

(iii) reduce the rate, or extend the time for the payment, of interest on any Note;

(iv) make any change that adversely affects the conversion rights of any Note other than as permitted or required by this Indenture or the Notes;

(v) impair the rights of any Holder set forth in **Section 7.08** (as such section is in effect on the Issue Date);

(vi) change the ranking of the Notes;

(vii) make any Note payable in money, or at a place of payment, other than that stated in this Indenture or the Note;

(viii) make any change to **Section 3.05**, or in any related definitions, in any manner that is adverse to the rights of the Holders or beneficial owners of the Notes;

(ix) make any change to **Section 13.18(A)**, or in any related definitions, in any manner that is adverse to the rights of the Holders or beneficial owners of the Notes;

(x) reduce the amount of Notes whose Holders must consent to any amendment, supplement, waiver or other modification; or

(xi) make any change to any amendment, supplement, waiver or modification provision of this Indenture or the Notes that requires the consent of each affected Holder.

For the avoidance of doubt, pursuant to **clauses (i), (ii), (iii) and (iv)** of this **Section 8.02(A)**, no amendment or supplement to this Indenture or the Notes, or waiver of any provision of this Indenture or the Notes, may change the amount or type of consideration due on any Note (whether on an Interest Payment Date, Redemption Date, Fundamental Change Repurchase Date or the Maturity Date or upon a Optional Exchange or conversion, or otherwise), or the date(s) or time(s) such consideration is payable or deliverable, as applicable, without the consent of each affected Holder.

(B) Holders Need Not Approve the Particular Form of any Amendment. A consent of any Holder pursuant to this **Section 8.02** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

(C) Guarantors Bound. The Guarantors shall be bound by any supplemental indenture or amendment to the Indenture Documents entered into by the Company and the Trustee pursuant to the terms of this Indenture and may but shall not be required to execute any such supplemental indenture or amendment, other than in the case of a joinder of a new Guarantor the execution by such Guarantor.

Section 8.03. WITH THE CONSENT OF SUPERMAJORITY HOLDERS.

(A) Notwithstanding anything contained in **Section 8.01** or **Section 8.02**, without the consent of the Supermajority Holders, no amendment or supplement to the Indenture Documents, or waiver of any provision of the Indenture Documents, may:

(i) subordinate, or change the priority with respect to the Liens securing the Obligations and then only to the extent provided or permitted under the Intercreditor Agreement;

(ii) release all or substantially all of the Collateral except as otherwise may be provided or permitted under this Indenture, the Intercreditor Agreement or the other Indenture Documents; or

(iii) discharge any Company Indenture Party from its respective payment Obligations under the Indenture Documents, in each case, except as otherwise may be provided or permitted under this Indenture, the Intercreditor Agreement or the other Indenture Documents.

(B) Notwithstanding anything contrary under this Indenture, the Holders are deemed to have consented to, and shall be deemed to have directed the Trustee and/or the Collateral Trustee (as applicable), to execute and deliver any of the following amendments, waivers and other modifications to the Indenture Documents, in each case, as evidenced by an Officer's Certificate and Opinion of Counsel delivered to the Trustee and the Collateral Trustee pursuant to **Section 13.02** and **Section 13.03** hereof:

(i) to establish that the Liens on any Collateral securing any Indebtedness replacing the applicable series of First Lien Notes permitted to be incurred under the Priority Lien Debt Documents that represent Priority Lien Secured Obligations shall be senior to the Liens on such Collateral securing any Obligations under this Indenture, the Notes and the Subsidiary Guarantees, which obligations shall continue to be secured on a second-priority basis on the Collateral;

(ii) to give effect to any amendment, waiver or consent to any of the Priority Lien Debt Documents, to the extent applicable to the Collateral (including the release of any Liens on Collateral)[, that applies automatically to the comparable Notes Security Documents with respect to the security interest of the Holders in such Collateral pursuant to the terms of the Intercreditor Agreement]; and

(iii) upon any cancellation, repayment, redemption or termination of the First Lien Notes and all other Priority Lien Secured Obligations without a replacement thereof, and to the extent the Obligations have not been discharged in full in accordance with the terms of this Indenture and the Intercreditor Agreement, to establish that the Liens on the Collateral securing any Obligations under this Indenture, the Notes and the Subsidiary Guarantees shall become first priority perfect Lien, except as set forth below under Section 11.05.

(C) *Holders Need Not Approve the Particular Form of any Amendment.* A consent of any Holder pursuant to this **Section 8.03** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

Section 8.04. NOTICE OF AMENDMENTS, SUPPLEMENTS AND WAIVERS.

As soon as reasonably practicable after any amendment, supplement or waiver pursuant to **Section 8.01, 8.02 or 8.03** becomes effective, the Company will send to the Holders and the Trustee notice that (A) describes the substance of such amendment, supplement or waiver in reasonable detail and (B) states the effective date thereof; *provided, however*, that the Company will not be required to provide such notice to the Holders if such amendment, supplement or waiver is included in a periodic report filed by the Company with the SEC within four (4) Business Days of its effectiveness. The failure to send, or the existence of any defect in, such notice will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.05. REVOCATION, EFFECT AND SOLICITATION OF CONSENTS; SPECIAL RECORD DATES; ETC.

(A) *Revocation and Effect of Consents.* The consent of a Holder of a Note to an amendment, supplement or waiver will bind (and constitute the consent of) each subsequent Holder of any Note to the extent the same evidences any portion of the same indebtedness as the consenting Holder's Note, subject to the right of any Holder of a Note to revoke (if not prohibited pursuant to **Section 8.05(B)**) any such consent with respect to such Note by delivering notice of revocation to the Trustee before the time such amendment, supplement or waiver becomes effective.

(B) *Special Record Dates.* The Company may, but is not required to, fix a record date for the purpose of determining the Holders entitled to consent or take any other action in connection with any amendment, supplement or waiver pursuant to this **Article 8**. If a record date is fixed, then, notwithstanding anything to the contrary in **Section 8.05(A)**, only Persons who are Holders as of such record date (or their duly designated proxies) will be entitled to give such consent, to revoke any consent previously given or to take any such action, regardless of whether such Persons continue to be Holders after such record date; *provided, however*, that no such consent will be valid or effective for more than one hundred and twenty (120) calendar days after such record date.

(C) *Solicitation of Consents.* For the avoidance of doubt, each reference in this Indenture or the Notes to the consent of a Holder will be deemed to include any such consent obtained in connection with a repurchase of, or tender or exchange offer for, any Notes.

(D) *Effectiveness and Binding Effect.* Each amendment, supplement or waiver pursuant to this **Article 8** will become effective in accordance with its terms and, when it becomes effective with respect to any Note (or any portion thereof), will thereafter bind every Holder of such Note (or such portion).

Section 8.06. NOTATIONS AND EXCHANGES.

If any amendment, supplement or waiver changes the terms of a Note, then the Trustee or the Company may, in its discretion, require the Holder of such Note to deliver such Note to the Trustee so that the Trustee may place an appropriate notation prepared by the Company on such Note and return such Note to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Note, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Note that reflects the changed terms. The failure to make any appropriate notation or issue a new Note pursuant to this **Section 8.06** will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.07. TRUSTEE AND COLLATERAL TRUSTEE TO EXECUTE SUPPLEMENTAL INDENTURES.

The Trustee and/or the Collateral Trustee, as the case may be, will execute and deliver any amendment or supplemental indenture authorized pursuant to this **Article 8**; *provided, however*, that the Trustee and/or the Collateral Trustee, as the case may be, need not (but may, in their respective sole and absolute discretion) execute or deliver any such amendment or supplemental indenture that adversely affects the rights, duties, liabilities or immunities of the Trustee and/or the Collateral Trustee, as the case may be. In executing any amendment or supplemental indenture, the Trustee and/or the Collateral Trustee, as the case may be will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with **Section 13.02**, each stating that (A) the execution and delivery of such amendment or supplemental indenture is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such amendment or supplemental indenture is valid, binding and enforceable against the Company in accordance with its terms. Every amendment or supplement to this Indenture or the Notes will be set forth in an amended or supplemental indenture.

Article 9. SATISFACTION AND DISCHARGE

Section 9.01. TERMINATION OF COMPANY'S OBLIGATIONS.

This Indenture will be discharged, and will cease to be of further effect as to all Notes issued under this Indenture, when:

(A) all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**) have (i) been delivered to the Trustee for cancellation; or (ii) become due and payable (whether on a Redemption Date, a Fundamental Change Repurchase Date, the Maturity Date, upon conversion or otherwise) for an amount of cash or Conversion Consideration, as applicable, that has been fixed;

(B) the Company or any Guarantor has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent (or, with respect to Conversion Consideration, the Conversion Agent), in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash (or, with respect to Notes to be converted, Conversion Consideration) sufficient to satisfy all amounts or other property (including, if applicable, all related Additional Amounts) due on all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**);

(C) the Company has performed all other Obligation by it under this Indenture; and

(D) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that the conditions precedent to the discharge of this Indenture have been satisfied;

provided, however, that **Article 10** and **Section 11.01** will survive such discharge and, until no Notes remain outstanding, **Section 2.15** and the obligations of the Trustee, the Paying Agent and the Conversion Agent with respect to money or other property deposited with them will survive such discharge.

At the Company's written request, the Trustee will acknowledge the satisfaction and discharge of this Indenture.

Section 9.02. REPAYMENT TO COMPANY.

Subject to applicable unclaimed property law, the Trustee, the Paying Agent and the Conversion Agent will promptly notify the Company if there exists (and, at the Company's request, promptly deliver to the Company) any cash, Conversion Consideration or other property held by any of them for payment or delivery on the Notes that remain unclaimed two (2) years after the date on which such payment or delivery was due. After such delivery to the Company, the Trustee, the Paying Agent and the Conversion Agent will have no further liability to any Holder with respect to such cash, Conversion Consideration or other property, and Holders entitled to the payment or delivery of such cash, Conversion Consideration or other property must look to the Company for payment as a general creditor of the Company.

Section 9.03. REINSTATEMENT.

If the Trustee, the Paying Agent or the Conversion Agent is unable to apply any cash or other property deposited with it pursuant to **Section 9.01** because of any legal proceeding or any order or judgment of any court or other governmental authority that enjoins, restrains or otherwise prohibits such application, then the discharge of this Indenture pursuant to **Section 9.01** will be rescinded; *provided, however*, that if the Company thereafter pays or delivers any cash or other property due on the Notes to the Holders thereof, then the Company will be subrogated to the rights of such Holders to receive such cash or other property from the cash or other property, if any, held by the Trustee, the Paying Agent or the Conversion Agent, as applicable.

Article 10. TRUSTEE

Section 10.01. DUTIES OF THE TRUSTEE.

(A) If an Event of Default has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(B) Except during the continuance of an Event of Default:

(i) the duties of the Trustee will be determined solely by the express provisions of this Indenture, and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations will be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon Officer's Certificates or Opinions of Counsel that are provided to the Trustee and conform to the requirements of this Indenture. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(C) The Trustee may not be relieved from liabilities for its negligent action or negligent failure to actor willful misconduct, except that:

(i) this paragraph will not limit the effect of **Section 10.01(B)**;

(ii) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to **Section 7.06**.

(D) Each provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (A), (B) and (C) of this **Section 10.01**, regardless of whether such provision so expressly provides.

(E) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability.

(F) The Trustee will not be liable for interest on any money received by it, except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds, except to the extent required by law.

Section 10.02. RIGHTS OF THE TRUSTEE.

(A) The Trustee may conclusively rely on any document that it believes to be genuine and signed or presented by the proper Person, and the Trustee need not investigate any fact or matter stated in such document.

(B) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate, an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel; and the advice of such counsel, or any Opinion of Counsel, will constitute full and complete authorization of the Trustee to take or omit to take any action in good faith in reliance thereon without liability.

(C) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(D) The Trustee will not be liable for any action it takes or omits to take in good faith and that it believes to be authorized or within the rights or powers vested in it by this Indenture.

(E) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(F) The Trustee need not exercise any rights or powers vested in it by this Indenture at the request or direction of any Holder unless such Holder has offered the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense that it may incur in complying with such request or direction.

(G) The Trustee will not be responsible or liable for any punitive, special, indirect or consequential loss or damage (including lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(H) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and will be enforceable by, the Trustee in each of its capacities under this Indenture (including in its capacity as Conversion Agent) and each agent, custodian and other Person employed to act under this Indenture, including the Conversion Agent.

(I) The permissive rights of the Trustee enumerated in this Indenture will not be construed as duties.

(J) Neither the Trustee nor the Registrar will have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary Participants, members of the Depositary or owners of beneficial interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements of this Indenture.

(K) Except with respect to receipt of payments of principal and interest on the Notes payable by the Company pursuant to **Section 3.01** and any Default or Event of Default information contained in the Officer's Certificate delivered to it pursuant to **Section 3.06(B)**, the Trustee will have no duty to monitor the Company's compliance with or the breach of any representation, warranty or covenant made in this Indenture.

(F) The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

(G) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has received written notice at the Corporate Trust Office of any event which is in fact such a default, and such notice references the Notes and this Indenture.

Section 10.03. INDIVIDUAL RIGHTS OF THE TRUSTEE.

(A) The Trustee, in its individual or any other capacity, may become the owner or pledgee of any Note and may otherwise deal with the Company or any of its Affiliates with the same rights that it would have if it were not Trustee; *provided, however*, that if the Trustee acquires a “conflicting interest” (within the meaning of Section 310(b) of the Trust Indenture Act), then it must eliminate such conflict within ninety (90) days or resign as Trustee. Each Note Agent will have the same rights and duties as the Trustee under this **Section 10.03**.

Section 10.04. TRUSTEE’S DISCLAIMER.

The Trustee will not be (A) responsible for, and makes no representation as to, the validity or adequacy of this Indenture or the Notes; (B) accountable for the Company’s use of the proceeds from the Notes or any money paid to the Company or upon the Company’s direction under any provision of this Indenture; (C) responsible for the use or application of any money received by any Paying Agent other than the Trustee; and (D) responsible for any statement or recital in this Indenture, the Notes or any other document relating to the sale of the Notes or this Indenture, other than the Trustee’s certificate of authentication.

Section 10.05. NOTICE OF DEFAULTS.

If a Default or Event of Default occurs, then the Trustee will send Holders a notice of such Default or Event of Default within ninety (90) days after it occurs or, if it is not known to the Trustee at such time, promptly (and in any event within ten (10) Business Days) after it becomes known to a Responsible Officer; *provided, however*, that, except in the case of a Default or Event of Default in the payment of the principal of, or interest on, any Note, the Trustee shall be protected in withholding such notice if and for so long as it in good faith determines that withholding such notice is in the interests of the Holders. The Trustee will not to be charged with knowledge of any Default or Event of Default, or knowledge of any cure of any Default or Event of Default, unless written notice of such Default or Event of Default, or of such cure of any Default or Event of Default, has been given by the Company or any Holder to a Responsible Officer of the Trustee.

Section 10.06. COMPENSATION AND INDEMNITY.

(A) The Company will, from time to time, pay the Trustee reasonable compensation for its acceptance of this Indenture and services under this Indenture. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. In addition to the compensation for the Trustee's services, the Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it under this Indenture, including the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(B) The Company will indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance and administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this **Section 10.06**) and defending itself against any claim (whether asserted by the Company, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties under this Indenture, except to the extent any such loss, liability or expense may be attributable to its gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. The Trustee will promptly notify the Company of any claim for which it may seek indemnity, but the Trustee's failure to so notify the Company will not relieve the Company of its obligations under this **Section 10.06(B)**. The Company will defend such claim, and the Trustee will cooperate in such defense. If the Trustee is advised by counsel that it may have defenses available to it that are in conflict with the defenses available to the Company, or that there is an actual or potential conflict of interest, then the Trustee may retain separate counsel, and the Company will pay the reasonable fees and expenses of such counsel (including the reasonable fees and expenses of counsel to the Trustee incurred in evaluating whether such a conflict exists). The Company need not pay for any settlement of any such claim made without its consent, which consent will not be unreasonably withheld.

(C) The obligations of the Company under this **Section 10.06** will survive the resignation or removal of the Trustee and the satisfaction or discharge of this Indenture.

(D) To secure the Company's payment obligations in this **Section 10.06**, the Trustee will have a lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, or interest on, particular Notes, which lien will survive the discharge of this Indenture.

(E) If the Trustee incurs expenses or renders services after an Event of Default pursuant to **Section 7.01(A)(xi)** or **7.01(A)(xii)** occurs, then such expenses and the compensation for such services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

Section 10.07. REPLACEMENT OF THE TRUSTEE.

(A) Notwithstanding anything to the contrary in this **Section 10.07**, a resignation or removal of the Trustee, and the appointment of a successor Trustee, will become effective only upon such successor Trustee's acceptance of appointment as provided in this **Section 10.07**.

(B) The Trustee may resign at any time and be discharged from the trust created by this Indenture by so notifying the Company. The Majority Holders may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

(i) the Trustee fails to comply with the provisions of Section 310(b) of the Trust Indenture Act with respect to any series of Notes after written request therefor by the Company or by any Holder who has been a bona fide holder of a Note or Notes of such series for at least six (6) months;

(ii) the Trustee fails to comply with **Section 10.09**;

(iii) the Trustee is adjudged to be bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(iv) a custodian or public officer takes charge of the Trustee or its property; or

(v) the Trustee becomes incapable of acting.

(C) If the Trustee resigns or is removed, or if a vacancy exists in the office of Trustee for any reason, then (i) the Company will promptly appoint a successor Trustee; and (ii) at any time within one (1) year after the successor Trustee takes office, the Majority Holders may appoint a successor Trustee to replace such successor Trustee appointed by the Company.

(D) If a successor Trustee does not take office within sixty (60) days after the retiring Trustee resigns or is removed, then the retiring Trustee (at the expense of the Company), the Company or the Holders of at least ten percent (10%) in aggregate principal amount of the Notes then outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(E) If the Trustee, after written request by a Holder of at least six (6) months, fails to comply with **Section 10.09**, then such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(F) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company, upon which notice the resignation or removal of the retiring Trustee will become effective and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will send notice of its succession to Holders. The retiring Trustee will, upon payment of all amounts due to it under this Indenture, promptly transfer all property held by it as Trustee to the successor Trustee, which property will, for the avoidance of doubt, be subject to the lien provided for in **Section 10.06(D)**.

(G) For as long as any Priority Lien Secured Obligations remain outstanding, the successor Trustee shall concurrently with its appointment as the successor Trustee accede as a party to the Intercreditor Agreement.

Section 10.08. SUCCESSOR TRUSTEE BY MERGER, ETC.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, then such corporation will become the successor Trustee without any further act.

Section 10.09. ELIGIBILITY; DISQUALIFICATION.

There will at all times be a Trustee under this Indenture that is a corporation organized and doing business under the laws of the United States of America or of any state or territory thereof or the District of Columbia, that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal, state, territorial or District of Columbia authorities and that has a combined capital and surplus of at least \$50.0 million as set forth in its most recent published annual report of condition. Neither the Company nor any Guarantor nor any person directly or indirectly controlling, controlled by, or under common control with the Company or any Guarantor shall serve as Trustee under this Indenture.

Section 10.10. REPORTS BY THE TRUSTEE.

The Trustee shall transmit to Holders such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act (including, without limitation, Sections 313(a), (b) and (c)) at the times and in the manner provided pursuant thereto. If required by Section 313(a) of the Trust Indenture Act, the Trustee shall, within sixty (60) days after each May 15 following the date of this Indenture, deliver to Holders a brief report, dated as of such May 15, which complies with the provisions of such Section 313(a) (but if no event described in Section 313(a) has occurred within the twelve (12) months preceding the reporting date, no report need be transmitted).

A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each securities exchange upon which any Notes are listed, with the SEC and with the Company. The Company shall promptly notify the Trustee in writing when any Notes are listed on any securities exchange.

Article 11. COLLATERAL AND SECURITY

Section 11.01. COLLATERAL.

(A) The Obligations will be secured by a Lien on the Collateral, subject to perfection in accordance with the terms of this Indenture and the Notes Security Documents, subject to the Priority Liens and the terms of the Intercreditor Agreement.

Section 11.02. NOTES SECURITY DOCUMENTS.

(A) The Notes Security Documents to be entered into by the applicable Company Indenture Parties on or after the Issue Date, in each case, shall create the second priority Liens on the Collateral securing their respective Obligations, subject to the Priority Liens and the terms of the Intercreditor Agreement. In the event of a conflict between the terms of this Indenture and the Notes Security Documents in regards to the Collateral, this Indenture shall control. The Company will take, and will cause its Subsidiaries to take any and all actions reasonably required to cause the Notes Security Documents to create and maintain, as security for the Obligations hereunder, a valid and enforceable second priority Lien in and on all the Collateral, in favor of the Collateral Trustee for the benefit of the Holders, the Trustee and the Collateral Trustee, subject to the Priority Liens, the terms of the Notes Security Documents and the terms of the Intercreditor Agreement and perfected in accordance with the terms of this Indenture and the Notes Security Documents.

Section 11.03. AUTHORIZATION OF ACTIONS TO BE TAKEN.

(A) Each Holder of Notes, by its acceptance thereof, hereby designates and appoints the Collateral Trustee as its agent under this Indenture, the Notes Security Documents and the Intercreditor Agreement and each Holder by acceptance of the Notes consents and agrees to the terms of each Notes Security Document and the Intercreditor Agreement, as originally in effect and as amended, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture and the Intercreditor Agreement, authorizes and directs the Collateral Trustee to enter into the Notes Security Documents and the Intercreditor Agreement, and irrevocably authorizes and empowers the Collateral Trustee to perform its obligations and duties, exercise its rights and powers and take any action permitted or required thereunder that are expressly delegated to the Collateral Trustee by the terms of this Indenture, the Notes Security Documents and the Intercreditor Agreement. Subject to the terms of the Intercreditor Agreement, the Collateral Trustee shall hold (directly or through any agent) and is directed by each Holder to so hold, and shall be entitled to enforce (in accordance with the terms of the Notes Security Documents and the Intercreditor Agreement) on behalf of the Holders all Liens on the Collateral created by the Notes Security Documents for their benefit.

(B) Subject to the provisions of the applicable Notes Security Documents and the Intercreditor Agreement, the Trustee and each Holder, by acceptance of any Notes, agrees that (x) the Collateral Trustee may, in its sole discretion and without the consent of the Trustee or the Holders, take all actions it deems necessary or appropriate, subject to the terms of the Intercreditor Agreement, in order to (i) preserve the Collateral or rights under the Notes Security Documents, and (ii) collect and receive any and all amounts payable in respect of the Obligations of the Company and the Guarantors hereunder and under the Indenture Documents and (y) the Collateral Trustee shall, subject to the terms of the Intercreditor Agreement, have power to institute and to maintain such suits and proceedings as it may deem expedient to protect or enforce the Liens securing the Obligations and/or to prevent any impairment of the Collateral by any act that may be unlawful or in violation of the Indenture Documents, and such suits and proceedings as the Collateral Trustee may deem expedient to preserve or protect its interests and the interests of the Holders in the Collateral (including the power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest thereunder or be prejudicial to the interests of the Collateral Trustee, the Holders or the Trustee). Notwithstanding the foregoing, the Collateral Trustee may, at the expense of the Company, request the written direction of the Holders with respect to any such actions and upon receipt of the written consent of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture (subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction), shall take such actions. Subject to the terms of the Intercreditor Agreement, until the Notes and the other Obligations are discharged in full or are otherwise no longer outstanding, all remedies and Enforcement Actions in respect of the Collateral and any foreclosure actions in respect of any Liens on all or any portion of the Collateral, and all actions, undertakings or consents by the Collateral Trustee in respect of all or any portion of the Collateral, in each case, shall be undertaken solely at the written instruction of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction.

(C) Unless expressly provided to the contrary in any Indenture Document, in relation to any Collateral governed by the laws of Switzerland (the “**Swiss Security Documents**”) or Italian Security Documents, as the case may be:

(i) the Collateral Trustee:

A. holds:

- (1) any Collateral created or evidenced or expressed to be created or evidenced under or pursuant to a Swiss Security Document by way of a security assignment (*Sicherungsabtretung*) or transfer for security purposes (*Sicherungsübereignung*) or any other non-accessory (*nicht akzessorische*) Collateral;
- (2) the benefit of any Collateral Trustee Claims; and
- (3) any proceeds and other benefits of such Collateral,
- (4) as fiduciary (*treuhänderisch*) in its own name but for the account of all relevant Notes Secured Parties which have the benefit of such Collateral in accordance with this Indenture and the respective Swiss Security Document and so that they are not available to the personal creditors of the Collateral Trustee; and

B. In respect of any Italian Security Documents (as defined below) where the relevant Collateral cannot be granted to the Collateral Trustee by way of trust, the Collateral Trustee declares that, in respect of such Italian Security Documents, it shall (to the extent possible under applicable law) hold such Collateral as *mandatario con rappresentanza* and representative for the security pursuant to article 2414-bis of the Italian Civil Code of the relevant Notes Secured Parties on the terms contained in this Indenture;

(ii) each present and future Notes Secured Party hereby authorizes the Collateral Trustee:

- (1) to (a) accept and execute as its direct representative (*direkter Stellvertreter*) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Collateral created or evidenced or expressed to be created or evidenced under or pursuant to a Swiss Security Document for the benefit of such Notes Secured Party and (b) hold, administer and, if necessary, enforce any such Collateral on behalf of each relevant Notes Secured Party which has the benefit of such Collateral;
- (2) to agree as its direct representative (*direkter Stellvertreter*) to amendments and alterations to any Swiss Security Document which creates or evidences or expressed to create or evidence a pledge or any other Swiss law accessory (*akzessorische*) Collateral;
- (3) to effect as its direct representative (*direkter Stellvertreter*) any release of a Collateral created or evidenced or expressed to be created or evidenced under a Swiss Security Document in accordance with this Indenture; and
- (4) to exercise as its direct representative (*direkter Stellvertreter*) such other rights granted to the Collateral Trustee hereunder or under the relevant Swiss Security Document;

(iii) each present and future Notes Secured Party hereby authorizes the Collateral Trustee, when acting in its capacity as creditor of the Collateral Trustee Claim, to hold:

- (1) any Swiss law pledge or any other Swiss law accessory (*akzessorische*) Collateral;
- (2) any proceeds of such Collateral; and
- (3) the benefit of this paragraph and of the Collateral Trustee Claims;

(iv) as creditor in its own right but for the benefit of the Notes Secured Parties in accordance with this Indenture.

(D) in relation to any Collateral governed by the laws of the Republic of Italy (the “**Italian Security Documents**”) each present and future Notes Secured Party hereby:

(i) appoints, with the express consent pursuant to articles 1394 and 1395 of the Italian Civil Code, the Collateral Trustee to act as its agent with representative powers (*mandatario con rappresentanza*) and special attorney-in-fact (*procuratore speciale*) and representative for the security pursuant to article 2414-bis of the Italian Civil Code so that, acting in the name and on behalf of each Notes Secured Party, but also in its own name and on its own interest, it takes all the actions that it considers proper or necessary as provided under this Indenture and executes, also in the name and on behalf of the Notes Secured Parties, the Italian Security Documents, and the Collateral Trustee hereby accepts such appointment;

(ii) grants the Collateral Trustee the power to negotiate and approve the terms and conditions of such Italian Security Documents and any amendment and/or restatement, confirmation and/or confirmation and extension thereof, execute any other agreement or instrument, give or receive any notice or declaration, identify and specify to third parties the names of the Notes Secured Parties at any given date, collect any and all amounts due to the Notes Secured Parties under each Italian Security Document and take any other action in relation to the creation, perfection, maintenance, confirmation and extension, enforcement and release of the security created thereunder and the performance of the Italian Security Documents, any amendments and/or waivers thereof which is made in accordance with this Indenture and any other such agreement, instrument, notices or declaration, in each case in the name and on behalf of the Notes Secured Parties;

(iii) confirms that the Collateral Trustee is entitled to release any Italian Security Documents upon payment in full of any amounts due thereunder before the expiry of the applicable claw-back or ineffectiveness period, subject to satisfaction of the conditions set out in the relevant Italian Security Documents;

(iv) confirms that in the event that any security created under any Italian Security Documents remains registered in the name of a Notes Secured Party after it has ceased to be a Notes Secured Party, then the Collateral Trustee shall remain empowered to execute a release of such security in its name and on its behalf;

(v) undertakes to grant any power of attorney as it might be needed or appropriate for the Collateral Trustee to act in accordance with and within the limits of this Indenture and any Italian Security Document;

(vi) undertakes to ratify and approve any such action taken in the name and on behalf of the Notes Secured Parties by the Collateral Trustee acting in its appointed capacity;

(vii) confirms that the Collateral Trustee has authority to accept on its behalf the terms of any reliance letter or engagement letter relating to any reports or letters provided in connection with the Italian Security Document or the transactions contemplated therein, to bind it in respect of those reports or letters and to sign that reliance letter or engagement letter on its behalf and, to the extent that reliance letter or engagement letter has already been entered into, ratifies those actions;

(viii) confirms that it accepts the terms and qualifications set out in that reliance letter or engagement letter; and

(ix) acknowledges and agrees that the Collateral Trustee may enter in its name and on its behalf as agent with representative powers (*mandatario con rappresentanza*) into contractual arrangements pursuant to or in connection with the Italian Security Documents to which the Collateral Trustee is also a party (in its capacity as agent, trustee, *mandatario con rappresentanza*, representative for the security pursuant to article 2414-bis of the Italian Civil Code or otherwise) and expressly authorizes the Collateral Trustee, pursuant to article 1395 of the Italian Civil Code. The Notes Secured Parties expressly waive any right they may have under article 1394 of the Italian Civil Code in respect of contractual arrangements entered into by the Collateral Trustee in their name and on their behalf pursuant to or in connection with the Italian Security Documents, in each case to the extent legally possible to such Notes Secured Party.

(E) Notwithstanding anything else to the contrary herein, whenever reference is made in this Indenture to any discretionary action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Collateral Trustee or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction, reasonable satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Collateral Trustee, it is understood that in all cases the Collateral Trustee shall be fully justified in failing or refusing to take any such action under this Indenture if it shall not have received such written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate. This provision is intended solely for the benefit of the Collateral Trustee and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim, or confer any rights or benefits on any party hereto.

Section 11.04. PARALLEL DEBT

(A) In this Section 11.04:

“**Collateral Trustee Claim**” has the meaning given to it in Section 11.04(C) below; and

“**Notes Secured Party Claim**” means any amount which a Company Indenture Party owes to a Notes Secured Party under and in connection with the Indenture Documents.

(B) As relevant, any Collateral created pursuant to a Notes Security Document (other than for any Italian Security Document) is granted to the Collateral Trustee in its individual capacity as an independent creditor of the Collateral Trustee Claim created pursuant to this Section 11.04.(D).

(C) Subject to **Section 12.06 (Guarantee Limitations)**, each Company Indenture Party must pay the Collateral Trustee, as an independent and separate creditor, in its own right and not as a trustee, agent or representative of the other Notes Secured Parties, an amount equal to its Notes Secured Party Claim on its due date when that amount falls due for payment under the relevant Indenture Document (each a “**Collateral Trustee Claim**”).

(D) Each Collateral Trustee Claim is created on the understanding that the Collateral Trustee must:

- (i) share the proceeds of each Collateral Trustee Claim with itself and the other Notes Secured Parties; and
- (ii) pay those proceeds to the Notes Secured Parties,
- (iii) in accordance with Section 7.11 subject to limitations (if any) expressly provided for in any Notes Security Document.

(E) The Collateral Trustee may, subject to any indemnification and/or prefunding and/or security to its satisfaction and its rights in **Section 11.07 (Collateral Trustee)**, demand and receive payment and enforce performance of any Collateral Trustee Claim in its own name as an independent and separate right. This includes any payment demand, suit, execution, enforcement of security, recovery of guarantees and applications for and voting in respect of any kind of insolvency proceeding. Each Company Indenture Party shall have all objections and defenses against a Collateral Trustee Claim as such Company Indenture Party has against a Notes Secured Party Claim.

(F) Each Company Indenture Party irrevocably and unconditionally waives any right it may have to require a Notes Secured Party to join in any proceedings as co-claimant with the Collateral Trustee in respect of any Collateral Trustee Claim.

(G) The Collateral Trustee Claims do not limit or affect the existence of the Notes Secured Party Claims for which the Notes Secured Parties have an independent right to demand payment.

(H) Discharge by a Company Indenture Party of a Notes Secured Party Claim will discharge the corresponding Collateral Trustee Claim in the same amount.

(I) Discharge by Company Indenture Party of a Collateral Trustee Claim will discharge the corresponding Notes Secured Party Claim in the same amount.

(J) The aggregate amount of the Collateral Trustee Claims will never exceed the aggregate amount of Notes Secured Party Claims and vice versa.

(K) A defect affecting a Collateral Trustee Claim against a Company Indenture Party will not affect any Notes Secured Party Claim.

(L) A defect affecting a Notes Secured Party Claim against a Company Indenture Party will not affect any Collateral Trustee Claim.

(M) If the Collateral Trustee returns to any Company Indenture Party whether in any kind of insolvency proceedings or otherwise, any recovery in respect of which it has made a payment to a Notes Secured Party, that Notes Secured Party must repay an amount equal to that recovery to the Collateral Trustee; provided that the Collateral Trustee shall have no obligation to make any such return payment until it has received the repayment of the full amount due from the relevant Notes Secured Party.

(N) In no event will the “parallel debt” provisions (including, for the avoidance of doubt, the provisions of this Section 11.05) apply to the Italian Security Documents.

Section 11.05. RELEASE OF COLLATERAL

(A) Subject to the terms of the Intercreditor Agreement and to **Section 11.05(D)**, the Liens securing the Obligations on the applicable Collateral shall be automatically terminated and released without further action by any party (other than satisfaction of any requirements in the Notes Security Documents, if any), in whole or in part, as the case may be: (i) upon any disposition of any portion of Collateral in accordance with a disposition permitted under the terms of any Priority Lien Debt Document; *provided* that Liens on such Collateral under any Priority Lien Debt Document are also released under any such Priority Lien Debt Document substantially concurrently; (ii) upon the full and final payment and performance of all Obligations of the Company Indenture Parties under the Indenture Documents or the satisfaction and discharge of this Indenture and the other Indenture Documents in accordance with **Article 9**; (iii) as described under **Section 8.03**; (iv) if the Collateral is owned by a Guarantor, upon release of such Guarantor from its Subsidiary Guarantee of the Obligations in accordance with the provisions hereof and the terms of the Intercreditor Agreement and/or the Priority Lien Debt Document; (v) to the extent the Liens on the Collateral securing the Priority Lien Secured Obligations are released by the First Lien Notes Collateral Trustees (other than a discharge or release by or as a result of payment under such guarantee after the occurrence of a payment default or acceleration thereunder (it being understood that a release subject to a contingent reinstatement is still a release)), upon release of such Liens and (vi) pursuant to the Intercreditor Agreement and the Notes Security Documents.

(B) Without the necessity of any consent of or notice to the Trustee or any Holder of the Notes, any Company Indenture Party may request and instruct the Collateral Trustee to, on behalf of each Holder of Notes, (i) execute and deliver to any Company Indenture Party, as the case may be, for the benefit of any Person, such release documents as may be reasonably requested, of all or any Liens held by the Collateral Trustee in any Collateral securing the Obligations, and (ii) deliver any such assets in the possession of the Collateral Trustee to any Company Indenture Party, as the case may be; and Collateral Trustee shall as soon as practicable take such actions provided that any such release complies with and is expressly permitted in accordance with the terms of this Indenture, the Notes Security Documents and the Intercreditor Agreement and is accompanied by an Officer's Certificate and an Opinion of Counsel.

(C) The release of any Collateral from the Liens securing the Obligations or the release of, in whole or in part, the Liens securing the Obligations created by any of the Notes Security Documents will not be deemed to impair the Liens securing the Obligations in contravention of the provisions hereof if and to the extent the Collateral or the Liens securing the Obligations are released pursuant to the terms of this Indenture, the applicable Notes Security Documents and the Intercreditor Agreement. Each of the Holders of the Notes acknowledges that a release of Collateral or Liens securing the Obligations strictly in accordance with the terms of this Indenture, the Notes Security Documents and the Intercreditor Agreement will not be deemed for any purpose to be an impairment of the Notes Security Documents or otherwise contrary to the terms of this Indenture.

(D) The Company shall furnish to the Collateral Trustee and the Trustee on or prior to any proposed releases of Collateral an Officer's Certificate certifying and an Opinion of Counsel stating that all requirements relating to such release have been complied with and that such release has been authorized by, permitted by and made in accordance with the provisions of this Indenture, the relevant Notes Security Documents and the Intercreditor Agreement. No release of the Collateral shall be effective against the Collateral Trustee, the Trustee or the Holders until the Company has delivered to the Collateral Trustee and the Trustee the Officer's Certificate and the Opinion of Counsel required under this **Section 11.05**.

Section 11.06. APPLICATION OF PROCEEDS OF COLLATERAL.

(A) Upon any realization upon the Collateral from the exercise of any rights or remedies under any Notes Security Document or any other agreement with any Company Indenture Party which secures any of the Obligations, the proceeds thereof shall, subject to the terms of the Intercreditor Agreement, be applied in accordance with **Section 7.11** of this Indenture.

(B) Subject to the terms of the Intercreditor Agreement, each of the Collateral Trustee and the Trustee is authorized and empowered to receive any funds collected or distributed under the Notes Security Documents and to apply and distribute such funds according to the provisions of this Indenture.

Section 11.07. COLLATERAL TRUSTEE.

(A) Subject to the provisions of **Section 10.01**, neither the Trustee, nor the Collateral Trustee nor any of their respective officers, directors, employees, attorneys or agents shall be responsible or liable (i) for the legality, enforceability, effectiveness or sufficiency of the Notes Security Documents, for the creation, perfection, priority, sufficiency, maintenance, renewal or protection of any Lien, or for any defect or deficiency as to any such matters, or (ii) for any failure to demand, collect, foreclose or realize upon or otherwise enforce any of the Liens or Notes Security Documents or any delay in doing so; except, in the case of the Collateral Trustee, to the extent such action or omission constitutes gross negligence or willful misconduct (as determined by a final order of a court of competent jurisdiction that is not subject to appeal) on the part of the Collateral Trustee, (iii) for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral, (iv) for the legality, enforceability, effectiveness or sufficiency of the Intercreditor Agreement, or (v) for the legality, enforceability, effectiveness or sufficiency of any subordination agreement or other similar agreement entered into in connection with this Indenture.

(B) The rights, privileges, protections, immunities and benefits given to the Trustee under this Indenture, including, without limitation, its right to be indemnified and compensated and all other rights, privileges, protections, immunities and benefits set forth in this Indenture (including those set forth in **Article 10**), are extended to the Collateral Trustee, and its agents, receivers and attorneys, and shall be enforceable by, the Collateral Trustee, as if fully set forth in this **Section 11.07** with respect to the Collateral Trustee, except that the Collateral Trustee shall only be liable for (and shall be indemnified and held harmless to the extent such losses do not constitute) its gross negligence or willful misconduct (as determined by a final order of a court of competent jurisdiction that is not subject to appeal). In acting under any Notes Security Document, the Collateral Trustee shall enjoy the rights, privileges, protections, immunities and benefits that are extended to the Collateral Trustee hereunder. The Collateral Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(C) Beyond the exercise of reasonable care in the custody of Collateral in its possession, the Collateral Trustee will have no duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto. For the avoidance of doubt, nothing herein shall require the Collateral Trustee to be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any Liens on the Collateral. If, at the direction of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture (subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction), the Trustee or Collateral Trustee agrees to (but shall be under no obligation to do so) file or record any Notes Security Documents or any related financing statement or other similar documents, such filing or recording by the Trustee or Collateral Trustee at the direction of the Holders shall be deemed done by Trustee or Collateral Trustee without representation or warranty by the Trustee or the Collateral Trustee (and the Trustee and the Collateral Trustee disclaim any representation or warranty as to the validity, effectiveness, priority, perfection or otherwise). The Collateral Trustee will be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords property held by it as a collateral agent or any similar arrangement, and the Collateral Trustee will not be liable or responsible for any loss or diminution in the value of any of the Collateral by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Collateral Trustee in good faith.

(D) The Collateral Trustee shall not have any duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or any Indenture Document by the Company or any Company Indenture Party or any other Person that is a party thereto or bound thereby.

(E) The Collateral Trustee shall not be required to acquire title to an asset for any reason and shall not be required to carry out any fiduciary or trust obligation for the benefit of another. The Collateral Trustee is not a fiduciary and shall not be deemed to have assumed any fiduciary obligation. If the Collateral Trustee in its sole discretion believes that any obligation to take or omit to take any action may cause the Collateral Trustee to be considered an “owner or operator” under any Environmental Laws or otherwise cause the Collateral Trustee to incur, or be exposed to, any environmental liability or any liability under any other federal, state or local law, the Collateral Trustee reserves the right, instead of taking such action, either to resign as Collateral Trustee or to arrange for the transfer of the title or control of the asset to a court appointed receiver. The Collateral Trustee will not be liable to any Person for any environmental liability or any environmental claims or contribution actions under any federal, state or local law, rule or regulation by reason of the Collateral Trustee’s actions and conduct as authorized, empowered and directed hereunder or relating to any kind of discharge or release or threatened discharge or release of any hazardous materials into the environment.

(F) The Collateral Trustee may resign or be replaced in accordance with the procedures set forth in **Section 10.07** hereof, except that references to the Trustee in such section shall be deemed to be references to the Collateral Trustee for this purpose. If the Collateral Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Collateral Trustee.

Section 11.08. APPOINTMENT OF THE COLLATERAL TRUSTEE FOR FRENCH TRANSACTION SECURITY DOCUMENTS.

Without prejudice to, and in addition to, the other provisions of **Section 10** and this **Section 11**, each other Notes Secured Party:

(A) appoints the Collateral Trustee to act as security agent (*agent des sûretés*) pursuant to articles 2488-6 et seq. of the French Civil Code acting in such a capacity in respect of the French Security Documents (including any lower ranking French Security Documents to be entered into after the date hereof in order to create security in favor of the Notes Secured Parties); and

(B) irrevocably authorizes (and as the case may be directs) the Collateral Trustee acting as security agent (*agent des sûretés*) within the meaning of article 2488-6 of the French Civil Code without limitation and notwithstanding any other rights conferred upon the Collateral under this Indenture:

(i) to negotiate, accept and execute in its name and for the benefit of each other Notes Secured Party the French Security Documents;

(ii) to take, register, administer and enforce any security interest created or expressed to be created pursuant to a French Security Document and proceed to all relevant filings and notifications in order to ensure the enforceability of the security interests created pursuant to the French Security Documents;

(iii) to perform the duties and to exercise the rights, powers and discretions that are specifically delegated to it under or in connection with the French Security Documents and in particular to:

(1) enforce the French Security Documents, and, in connection with any enforcement or any step to be taken in connection with any enforcement, to appoint any expert, to collect any sums, to give good discharge for any amount payable and to make any payment (including any *Soulte*);

(2) take any action in the interest of the Notes Secured Parties in any proceedings including filing a claim for any debt (*déclarer*) owed to a Notes Secured Party;

(3) exercise any of the rights, powers, authorities and discretions which the Notes Secured Parties would have had, if they had been parties as beneficiaries under the French Security Documents including (1) giving any instruction to any third party in connection with any security interest created under a French Security Documents, (2) receiving any payment in respect of any security interest created under a French Security Documents, (3) completing any applicable registration requirements in connection with the French Security Documents and (4) receiving any information which a secured creditor is entitled to receive with respect to any Notes Security Property subject to security interest created under a French Security Documents; and

(4) and more generally to take any action and exercise any right, power, prerogative and discretion upon the Indenture Documents set out in this Indenture or under or in connection with the Notes Security Documents and to protect the rights of the Notes Secured Parties under or in connection with any security interest created thereunder, in each case together with any other right, power, prerogative and discretion which is incidental thereto;

(5) to release the security interest granted under the French Security Documents in accordance with the provisions of **Section 11.04**; and

(6) to take any action and exercise any right, power, authorities and discretion in accordance with the Indenture Documents, in each case, in accordance with the Intercreditor Agreement.

(C) Unless expressly provided to the contrary in any French Security Documents, in accordance with the provisions of article 2488-6 of the French Civil Code, the Collateral Trustee shall hold:

(i) any security interest created under a French Security Document;

(ii) the proceeds of any security interest created under a French Security Document; and

(iii) any other rights or assets acquired by the Collateral Trustee in connection with the French Security Documents,

(iv) in its own name (en son nom propre) for the benefit of (*au profit de*) the Notes Secured Parties (together with any of their successors in title and transferees) on the terms contained in this Indenture. The Collateral Trustee shall hold those rights and assets set out in paragraphs (i) to (iii) above in its capacity as *agent des sûretés* and those rights and assets shall constitute, in accordance with article 2488-6 of the French Civil Code, an estate (*patrimoine affecté*) separate from all the Collateral Trustee's own assets.

(D) In connection with any French Security Documents or any security interest created under a French Security Documents only, it is intended that the Collateral Trustee shall act as *agent des sûretés* under French law in its relations with any third party, despite the choice of laws of the State of New York as the governing law of this Indenture.

(E) The Collateral Trustee accepts its appointment as "*agent des sûretés*" pursuant to this **Section 11.07** and declares that it holds in its own name the security interest created or expressed to be created pursuant to the French Security Documents in its capacity as Collateral Trustee (*agent des sûretés*) pursuant to articles 2488-6 et seq. of the French Civil Code for the benefit of the Notes Secured Parties on the terms contained in this Indenture and accordingly any action taken by the Collateral Trustee in connection with or for the purposes of the French Security Documents and the security interest created thereunder in accordance with this Indenture and the French Security Documents shall be deemed to be taken by the Collateral Trustee acting as "*agent des sûretés*" in its own name and for the benefit of the Notes Secured Parties.

(F) The Collateral Trustee is under no obligation to file (*déclarer*) a claim for any debt owed by the Company or any Guarantor to a Notes Secured Party in any insolvency proceedings unless:

- (i) each relevant Notes Secured Party instructs the Collateral Trustee to file (*déclarer*) such a claim;
- (ii) the Collateral Trustee has received all information it deems necessary to file that claim (*déclaration*);
- (iii) the Collateral Trustee expressly agrees with each relevant Notes Secured Party to file that claim on that Notes Secured Party's behalf; and
- (iv) the filing of such claim is in accordance with the terms of the Intercreditor Agreement].

(G) If, the Collateral Trustee enforces a French Security Document by way of Appropriation, the Collateral Trustee shall become, in accordance with the relevant French Security Document and French law, the owner of the Charged Property subject to the appropriation for the benefit of (*au profit de*) the Notes Secured Parties.

(H) If a Soulte is payable as a result of the enforcement of any security interest created under any French Security Document, the Collateral Trustee shall:

(i) determine, for each Notes Secured Party whose Obligations are discharged by that enforcement, the portion of the Soulte which is attributable to the Notes Secured Party, such amount being in proportion with the amount of that Notes Secured Party's Secured Liabilities (as such term is defined in the French Security Documents) (its **Soulte Portion**); and

(ii) promptly notify each relevant Notes Secured Party of its Soulte Portion and the name of each Notes Secured Party which is entitled to receive the Soulte.

(I) In consideration of the Collateral Trustee acting as *agent des sûretés* in connection with any French Security Documents, the Collateral Trustee, the Company, each Guarantor, each security provider under the Indenture Document and each Notes Secured Party agree that each relevant Notes Secured Party is liable to pay in accordance with the provisions of article 2348 of the French Civil Code and the provisions of the relevant French Security Document, its Soulte Portion to the Company, the Guarantor or the relevant security provider, as applicable, which, before the enforcement by way of transfer of ownership of any Charged Property, was the owner of that Charged Property.

(J) Each relevant Notes Secured Party shall pay to the Collateral Trustee its Soutle Portion for payment to the Company, the Guarantor or the relevant security provider under the Indenture Document, as applicable, promptly following any request by the Collateral Trustee. In no circumstances shall the Collateral Trustee in its capacity as security agent or agent (as the case may be) be liable for the payment of any Soutle out of its own assets.

(K) The obligations of each Notes Secured Party in respect of the payment of any Soutle are several. Failure by a Notes Secured Party to pay its Soutle Portion under this **Section 11.08** does not affect the obligations of any other Notes Secured Party to pay its Soutle Portion under this **Section 11.08** and no Notes Secured Party is responsible for the obligations of any other Notes Secured Party under this **Section 11.08(K)**.

(L) The Collateral Trustee may resign, or be required to resign as *agent des sûretés*, only if the Collateral Trustee resigns or is required to resign as Collateral Trustee under **Section 11.07(F)** at the same time.

(M) If the Collateral Trustee resigns, or the Majority Holders require the Collateral Trustee to resign under **Section 11.07(F)**:

(i) the Collateral Trustee will be deemed to have resigned from its role as *agent des sûretés* under this **Section 11.08(L)**; and

(ii) the successor Collateral Trustee shall accept its appointment as *agent des sûretés* immediately on the successor Collateral Trustee's appointment under **Section 11.07(F)**.

immediately on its acceptance of its appointment as *agent des sûretés* under paragraph (ii) above, all rights and assets held by the Collateral Trustee as *agent des sûretés* will be transferred to the successor Collateral Trustee automatically (*de plein droit*) in accordance with article 2488-11 of the French Civil Code.

Section 11.09. APPOINTMENT OF SUPPLEMENTAL COLLATERAL TRUSTEE.

(A) Without limiting paragraphs of this **Article 11** hereof, the Company is hereby authorized to appoint an additional individual or institution selected by the Company in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral trustee, sub-trustee, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "**Supplemental Collateral Trustee**" and collectively as "**Supplemental Collateral Trustees**") by executing one or more supplemental indentures hereto.

(B) In the event that the Company appoints a Supplemental Collateral Trustee with respect to any Collateral, (i) subject to the terms of the Intercreditor Agreement, each and every right, power, privilege or duty expressed or intended by this Indenture or any of the other Notes Security Documents (other than the rights arising in respect of the Collateral Trust Claims under **Section 11.04**) to be exercised by or vested in or conveyed to such Supplemental Collateral Trustee with respect to such Collateral shall be exercisable by and vest in such Supplemental Collateral Trustee to the extent, and only to the extent, necessary to enable such Supplemental Collateral Trustee to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Notes Security Documents and necessary to the exercise or performance thereof by such Supplemental Collateral Trustee (other than covenants and obligations relating to the Collateral Trust Claims) shall run to and be enforceable by such Supplemental Collateral Trustee, and (ii) the provisions of this Indenture (and, in particular, this **Article 11**) that refer to the Collateral Trustee shall inure to the benefit of such Supplemental Collateral Trustee and all references therein to the Collateral Trustee shall be deemed to be references to a Collateral Trustee and/or such Supplemental Collateral Trustee, as the context may require.

(C) The Company hereby appoints the Philippine Supplemental Collateral Trustee as the collateral trustee in respect of the Philippine Collateral.

(D) The Philippine Supplemental Collateral Trustee agrees, with respect to the Philippine Collateral, (i) subject to the terms of the Intercreditor Agreement, each and every right, power, privilege or duty expressed or intended by this Indenture or the Philippine Security Document (other than the rights arising in respect of the Collateral Trust Claims under **Section 11.04**) to be exercised by or vested in or conveyed to the Philippine Supplemental Collateral Trustee with respect to the Philippine Collateral shall be exercisable by and vest in the Philippine Supplemental Collateral Trustee to the extent, and only to the extent, necessary to enable the Philippine Supplemental Collateral Trustee to exercise such rights, powers and privileges with respect to the Philippine Collateral and to perform such duties with respect to Philippine Collateral, and every covenant and obligation contained in the Philippine Security Document and necessary to the exercise or performance thereof by the Philippine Supplemental Collateral Trustee (other than covenants and obligations relating to the Collateral Trust Claims) shall run to and be enforceable by the Philippine Supplemental Collateral Trustee, and (ii) the provisions of this Indenture (and, in particular, this **Article 11**) that refer to the Collateral Trustee shall inure to the benefit of the Philippine Supplemental Collateral Trustee and all references therein to the Collateral Trustee shall be deemed to be references to a Collateral Trustee and/or the Philippine Supplemental Collateral Trustee, as the context may require.

Article 12. GUARANTEES

Section 12.01. SUBSIDIARY GUARANTEES

(A) Subject to this **Article 12**, each of the Guarantors hereby, jointly and severally, unconditionally guarantees, on a senior secured basis, as primary obligors and not as a surety, to each Holder (and its successors and assigns) of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes, the Indenture Documents and/or the Obligations of the Company:

(i) that the principal of, interest on, or any other amount payable to the Holders, under the Notes shall be promptly paid in full or performed when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest (including but not limited to any interest, fees, costs or charges that would accrue but for the provisions of applicable Bankruptcy Law after any insolvency proceeding), on the Notes, if any, if lawful; and

(ii) that in the case of any extension of time of payment or renewal of any Notes or the payment of any other amount payable to the Holders, the same shall be promptly paid in full when due (such obligations in **clauses (i) and (ii)** being herein collectively called the “**Guaranteed Obligations**”)

(B) Failing payment when so due of any amount so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. An Event of Default under this Indenture or the Notes shall constitute an event of default under the Subsidiary Guarantees, and shall entitle the Holders to accelerate the obligations of the Guarantors hereunder in the same manner and to the same extent as the obligations of the Company.

(C) The Guarantors hereby agree that their obligations hereunder shall be absolute, irrevocable and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Notes, this Indenture, the Indenture Documents or any other agreement or instrument referred to herein or therein, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance (other than complete performance) which might otherwise constitute a legal or equitable discharge or defense of a surety of Guarantor, all to the fullest extent permitted by law. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not alter or impair the liability of the Guarantors hereunder which remain absolute, irrevocable and unconditional under any and all circumstances as described above, to the fullest extent permitted by law:

(i) at any time or from time to time, without notice to the Guarantors, the time for any performance of or compliance with any of the Guaranteed Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of this Indenture or the Notes, if any, or any other agreement or instrument referred to herein or therein shall be done or omitted;

(iii) the maturity of any of the Guaranteed Obligations shall be accelerated, or any of the Guaranteed Obligations shall be amended in any respect, or any right under the Indenture, Notes, or any other agreement or instrument referred to herein or therein shall be amended or waived in any respect or any other guarantee of any of the Guaranteed Obligations or any security therefor shall be released or exchanged in whole or in part or otherwise dealt with;

(iv) any Lien or security interest granted to, or in favor of any Holder, the Collateral Trustee or the Trustee as security for any of the Guaranteed Obligations shall fail to be perfected; or

(v) the release of any other Guarantor.

(D) Each Guarantor further, to the fullest extent permitted by law, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that its Subsidiary Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(E) Until terminated in accordance with **Section 12.05**, each Subsidiary Guarantee shall, to the fullest extent permitted by law, remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation, reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee or other similar officer be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or Subsidiary Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(F) Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (a) the maturity of the obligations guaranteed hereby may be accelerated as provided in **Section 7.02** hereof (and shall be deemed to have become automatically due and payable in the circumstances in said **Section 7.02**) for the purposes of its Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed thereby, and (b) in the event of any declaration of acceleration of such obligations as provided in **Section 7.02** hereof, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantor for the purpose of its Subsidiary Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantees.

(G) Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee or the Collateral Trustee in enforcing any rights under the Indenture Documents.

(H) Each Guarantor shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by such Guarantor pursuant to the provisions of this **Section 12.01**; provided that, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture, the Notes or the Indenture Documents shall have been paid in full in cash.

(I) Each payment to be made by a Guarantor in respect of its Subsidiary Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

(H) Each Subsidiary Guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held in connection with the Indenture Documents or any of them.

Section 12.02. EXECUTION AND DELIVERY

(A) To evidence its Subsidiary Guarantee set forth in **Section 12.01** hereof, each Guarantor hereby agrees that this Indenture (or a supplemental indenture) shall be executed on behalf of such Guarantor by one of its authorized officers.

(B) Each Guarantor hereby agrees that its Subsidiary Guarantee set forth in **Section 12.01** hereof shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Subsidiary Guarantee on the Notes. If an officer whose signature is on this Indenture (or a supplemental indenture) no longer holds that office at the time the Trustee authenticates a Note, the Subsidiary Guarantee of such Guarantor shall be valid nevertheless.

(C) The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Subsidiary Guarantee set forth in this Indenture on behalf of the Guarantors.

Section 12.03. [RESERVED].

Section 12.04. RELEASES OF SUBSIDIARY GUARANTEES.

(A) The Subsidiary Guarantee of a Guarantor shall be automatically and unconditionally released: (1) in connection with (x) any disposition (including by way of merger or consolidation) of the Capital Stock of such Guarantor (or the Capital Stock of the direct parent of such Guarantor) to a Person that is not (either before or after giving effect to such transaction) a Company Indenture Party, to the extent such sale is permitted under any Priority Lien Debt Documents or (y) any sale or other disposition of all or substantially all of the properties or assets of that Guarantor, by way of merger, consolidation or otherwise solely to the extent that such sale or other disposition is permitted pursuant to **Section 6.01**, in each case, only provided that the applicable guarantee of such Guarantor under any Priority Lien Debt Documents is also released under any Priority Lien Debt Documents substantially at the same time; (2) the liquidation or dissolution of such Guarantor; *provided* that no Event of Default occurs as a result thereof or has occurred or is continuing; (3) upon satisfaction and discharge of this Indenture and the other Indenture Documents in accordance with **Article 9**; or (4) upon payment of the Obligations in full in immediately available funds.

(B) Upon delivery by the Company to the Trustee of an Officer's Certificate or an Opinion of Counsel to the effect that any of the conditions described in the foregoing **clauses (1), (2), or (3) of Section 12.04(A)** has occurred and the conditions precedent to such transactions provided for in this Indenture have been complied with, the Trustee shall promptly execute any documents reasonably requested by the Company in order to evidence the release of any Guarantor from its obligations under its Subsidiary Guarantee. Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest, premium, if any, on, the Notes and for the other obligations of such Guarantor under this Indenture as provided in this **Article 12**.

(C) Further, the Subsidiary Guarantees are not convertible and will automatically terminate when the Notes are all converted in full in accordance with **Article 5**.

Section 12.05. INSTRUMENT FOR THE PAYMENT OF MONEY.

(A) Each Guarantor hereby acknowledges that the guarantee in this **Article 12** constitutes an instrument for the payment of money, and consents and agrees that any Holder (to the extent that the Holder is otherwise entitled to exercise rights and remedies hereunder) or the Trustee, at its sole option, in the event of a dispute by such Guarantor in the payment of any moneys due hereunder, shall have the right to bring a motion-action under New York CPLR Section 3213 to the extent permitted thereunder.

Section 12.06. LIMITATION ON GUARANTOR LIABILITY

(A) Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of any bankruptcy law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law or any comparable laws in any other jurisdiction to the extent applicable to any Subsidiary Guarantee. The obligations of each Guarantor under its Subsidiary Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law or any comparable laws in any other jurisdiction and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally.

(B) Limitation with respect to Swiss Guarantors

(i) If and to the extent a Guarantor incorporated in Switzerland (a “**Swiss Guarantor**”) becomes directly or indirectly liable under this Indenture or any other Indenture Documents for obligations of any other Company Indenture Party (other than the wholly owned direct or indirect subsidiaries of such Swiss Guarantor) (the “**Restricted Obligations**”) and if complying with such obligations would constitute a repayment of capital (*Einlagerückgewähr*), a violation of the legally protected reserves (*gesetzlich geschützte Reserven*) or the payment of a (constructive) dividend (*Gewinnausschüttung*) by such Swiss Guarantor or would otherwise be restricted under Swiss law and practice then applicable, such Swiss Guarantor’s aggregate liability for Restricted Obligations shall not exceed the amount of the Swiss Guarantor’s freely disposable equity (*frei verfügbares Eigenkapital*) at the time it becomes liable including, without limitation, any statutory reserves which can be transferred into unrestricted, distributable reserves, in accordance with Swiss law (the “**Freely Disposable Amount**”).

(ii) This limitation shall only apply to the extent it is a requirement under applicable law at the time the Swiss Guarantor is required to perform Restricted Obligations under any Indenture Document. Such limitation shall not free the Swiss Guarantor from its obligations in excess of the Freely Disposable Amount, but merely postpone the performance date thereof until such times when the Swiss Guarantor has again freely disposable equity.

(iii) If the enforcement of the obligations of the Swiss Guarantor under any Indenture Documents would be limited due to the effects referred to in this Indenture, the Swiss Guarantor shall further, to the extent permitted by applicable law and Swiss accounting standards and upon request by the Collateral Trustee, (i) write up or sell any of its assets that are shown in its balance sheet with a book value that is significantly lower than the market value of the assets, in case of sale, however, only if such assets are not necessary for the Swiss Guarantor's business (*nicht betriebsnotwendig*) and (ii) reduce its share capital to the minimum allowed under then applicable law, provided that such steps are permitted under the Indenture Documents.

(iv) The Swiss Guarantor and any holding company of the Swiss Guarantor which is a party to an Indenture Document shall procure that the Swiss Guarantor will take and will cause to be taken all and any action as soon as reasonably practicable but in any event within 30 Business Days from the request of the Collateral Trustee, including, without limitation, (i) the passing of any shareholders' resolutions to approve any payment or other performance under this Indenture or any other Indenture Document, (ii) the provision of an audited interim balance sheet, (iii) the provision of a determination by the Swiss Guarantor of the Freely Disposable Amount based on such audited interim balance sheet, (iv) the provision of a confirmation from the auditors of the Swiss Guarantor that a payment of the Swiss Guarantor under the Indenture or any other Indenture Documents in an amount corresponding to the Freely Disposable Amount is in compliance with the provisions of Swiss corporate law which are aimed at protecting the share capital and legal reserves, and (v) the obtaining of any other confirmations which may be required as a matter of Swiss mandatory law in force at the time the Swiss Guarantor is required to make a payment or perform other obligations under this Indenture or any other Indenture Document, in order to allow a prompt payment in relation to Restricted Obligations with a minimum of limitations.

(v) If so required under applicable law (including tax treaties) at the time it is required to make a payment under this Indenture and any Indenture Document, the Swiss Guarantor:

(1) shall use its best efforts to ensure that such payments can be made without deduction of Swiss Withholding Tax, or with deduction of Swiss Withholding Tax at a reduced rate, by discharging the liability to such tax by notification pursuant to applicable law (including tax treaties) rather than payment of the tax;

(2) shall deduct the Swiss Withholding Tax at such rate (being 35% on the date hereof) as in force from time to time if the notification procedure pursuant to sub-paragraph (a) above does not apply; or shall deduct the Swiss Withholding Tax at the reduced rate resulting after discharge of part of such tax by notification if the notification procedure pursuant to sub-paragraph (a) applies for a part of the Swiss Withholding Tax only; and shall pay within the time allowed any such taxes deducted to the Swiss Federal Tax Administration; and

(3) shall promptly notify the Collateral Trustee that such notification or, as the case may be, deduction has been made, and provide the Collateral Trustee with evidence that such a notification of the Swiss Federal Tax Administration has been made or, as the case may be, such taxes deducted have been paid to the Swiss Federal Tax Administration.

(vi) In the case of a deduction of Swiss Withholding Tax, the Swiss Guarantor shall use its best efforts to ensure that any person that is entitled to a full or partial refund of the Swiss Withholding Tax deducted from such payment under this Indenture or any Indenture Documents, will, as soon as possible after such deduction:

- (1) request a refund of the Swiss Withholding Tax under applicable law (including tax treaties), and
- (2) pay to the Collateral Trustee upon receipt any amount so refunded.

The Collateral Trustee shall co-operate with the Swiss Guarantor to secure such refund.

(vii) To the extent the Swiss Guarantor is required to deduct Swiss Withholding Tax pursuant to this Indenture or any other Indenture Documents, and if the Freely Disposable Amount is not fully utilised, the Swiss Guarantor will be required to pay an additional amount so that after making any required deduction of Swiss Withholding Tax the aggregate net amount paid to the Collateral Trustee is equal to the amount which would have been paid if no deduction of Swiss Withholding Tax had been required, provided that the aggregate amount paid (including the additional amount) shall in any event be limited to the Freely Disposable Amount. If a refund is made to a Notes Secured Party, such Notes Secured Party shall transfer the refund so received to the Swiss Guarantor, subject to any right of set-off of such Notes Secured Party pursuant to the Indenture Documents.

Section 12.07. "TRUSTEE" TO INCLUDE PAYING AGENT

(A) In case at any time any Paying Agent other than the Trustee shall have been appointed and be then acting hereunder, the term "Trustee" as used in this **Article 12** shall in each case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent within its meaning as fully and for all intents and purposes as if such Paying Agent were named in this Article 12 in place of the Trustee.

Article 13. MISCELLANEOUS

Section 13.01. NOTICES.

Any notice or communication by any Company Indenture Party or the Trustee, Collateral Trustee and Note Agent to the other must be provided in writing and will be deemed to have been duly given in writing if delivered in person or by first class mail (registered or certified, return receipt requested), facsimile transmission, electronic transmission or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

If to any Company Indenture Party:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02
Marina Bay Financial Centre
018981, Singapore
Attention: Chief Legal Officer
Telephone: (480) 734 - 1234
Email address: lindsey.wiedmann@maxon.com

with a copy (which will not constitute notice) to:

White & Case
16th floor, York House, The Landmark
15 Queen's Road Central
Hong Kong
Attention: Jessica Zhou; Kaya Proudian
Email: jessica.zhou@whitecase.com; kproudian@whitecase.com

If to the Trustee:

Deutsche Bank Trust Company Americas
1 Columbus Circle, 17th Floor
Mail Stop: NYC01-1710
New York, NY 10019
Facsimile: (732) 578-4635
Attention: Corporates Team, Maxeon Solar Technologies Ltd. – AA6573

If to the Collateral Trustee:

DB Trustees (Hong Kong) Limited
Level 60, International Commerce Centre
1 Austin Road West
Kowloon, Hong Kong

Facsimile No.: +852 2203 7320
Attention: The Directors
E-mail: debtagency.hkcs@list.db.com

If to the Philippine Supplemental Collateral Trustee:

Rizal Commercial Banking Corporation – Trust and Investments Group
9th Floor, Yuchengco Tower
RCBC Plaza, 6819 Ayala Avenue
Makati City, Philippines 0727

Attention: Mr. Ryan Roy W. Sinaon
Telephone: 63 (02) 8894-9000 local 1278
E-mail: rwsinaon@rcbc.com

Any Company Indenture Party, the Trustee, the Collateral Trustee or the Philippine Supplemental Collateral Trustee, by notice to the other, may designate additional or different addresses (including facsimile numbers and electronic addresses) for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: (A) at the time delivered by hand, if personally delivered; (B) five (5) Business Days after being deposited in the mail, postage prepaid, if mailed; (C) when receipt acknowledged, if transmitted by facsimile, electronic transmission or other similar means of unsecured electronic communication; and (D) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

All notices or communications required to be made to a Holder pursuant to this Indenture must be made in writing and will be deemed to be duly sent or given in writing if mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to its address shown on the Register; *provided, however*, that a notice or communication to a Holder of a Global Note may, but need not, instead be sent pursuant to the Depositary Procedures (in which case, such notice will be deemed to be duly sent or given in writing). The failure to send a notice or communication to a Holder, or any defect in such notice or communication, will not affect its sufficiency with respect to any other Holder.

If the Trustee is then acting as the Depositary's custodian for the Notes, then, at the reasonable request of the Company to the Trustee, the Trustee will cause any notice prepared by the Company to be sent to any Holder(s) pursuant to the Depositary Procedures, *provided* such request is evidenced in a Company Order delivered, together with the text of such notice, to the Trustee at least two (2) Business Days before the date such notice is to be so sent. For the avoidance of doubt, such Company Order need not be accompanied by an Officer's Certificate or Opinion of Counsel. The Trustee will not have any liability relating to the contents of any notice that it sends to any Holder pursuant to any such Company Order.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

Notwithstanding anything to the contrary in this Indenture or the Notes, (A) whenever any provision of this Indenture requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities; and (B) whenever any provision of this Indenture requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to such Person.

Facsimile, documents executed, scanned and transmitted electronically and electronic signatures, including those created or transmitted through a software platform or application, will be deemed original signatures for purposes of this Indenture and all matters and agreements related thereto, with such facsimile, scanned and electronic signatures having the same legal effect as original signatures. The parties agree that this Indenture or any instrument, agreement or document necessary for the consummation of the transactions contemplated by this Indenture or related hereto or thereto (including addendums, amendments, notices, instructions, communications with respect to the delivery of securities or the wire transfer of funds or other communications) (“**Executed Documentation**”) may be accepted, executed or agreed to through the use of an electronic signature in accordance with applicable laws, rules and regulations in effect from time to time applicable to the effectiveness and enforceability of electronic signatures. Any Executed Documentation accepted, executed or agreed to in conformity with such laws, rules and regulations will be binding on all parties to this Indenture to the same extent as if it were physically executed and each party hereby consents to the use of any third-party electronic signature capture service providers as may be reasonably chosen by a signatory hereto or thereto. When the Trustee, Collateral Trustee or a Note Agent acts on any Executed Documentation sent by electronic transmission, the Trustee, Collateral Trustee or Note Agent will not be responsible or liable for any losses, costs or expenses arising directly or indirectly from its reliance upon and compliance with such Executed Documentation, notwithstanding that such Executed Documentation (A) may not be an authorized or authentic communication of the party involved or in the form such party sent or intended to send (whether due to fraud, distortion or otherwise); or (B) may conflict with, or be inconsistent with, a subsequent written instruction or communication; it is understood and agreed that the Trustee, Collateral Trustee and each Note Agent will conclusively presume that Executed Documentation that purports to have been sent by an authorized officer of a Person has been sent by an authorized officer of such Person. The party providing Executed Documentation through electronic transmission or otherwise with electronic signatures agrees to assume all risks arising out of such electronic methods, including the risk of the Trustee, Collateral Trustee or a Note Agent acting on unauthorized instructions and the risk of interception and misuse by third parties.

Section 13.02. DELIVERY OF OFFICER’S CERTIFICATE AND OPINION OF COUNSEL AS TO CONDITIONS PRECEDENT.

Upon any request or application by the Company to the Trustee or to the Collateral Trustee to take any action under this Indenture (other than the initial authentication of Notes under this Indenture), the Company will furnish to the Trustee and the Collateral Trustee:

(A) an Officer’s Certificate in form and substance reasonably satisfactory to the Trustee and the Collateral Trustee that complies with **Section 13.03** and states that, in the opinion of the signatory thereto, all conditions precedent and covenants, if any, provided for in this Indenture relating to such action have been satisfied; and

(B) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee that complies with **Section 13.03** and states that, in the opinion of such counsel, all such conditions precedent and covenants, if any, have been satisfied.

Section 13.03. STATEMENTS REQUIRED IN OFFICER'S CERTIFICATE AND OPINION OF COUNSEL.

Upon any application or request by the Company to the Trustee to take or refrain from taking any action under any provision of this Indenture, the Company shall furnish to the Trustee such certificates and opinions as may be required under the provisions of the Trust Indenture Act made a part of this Indenture and hereunder. Each such certificate or opinion shall be given in the form of an Officer's Certificate, if to be given by an Officer of the Company, or an Opinion of Counsel, if to be given by counsel, and shall comply with the requirements of the Trust Indenture Act and any other requirements set forth in this Indenture.

Each Officer's Certificate (other than an Officer's Certificate pursuant to **Section 3.06**) or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture will include:

(A) a statement that the signatory making such certificate or opinion thereto has read such covenant or condition;

(B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion therein are based;

(C) a statement that, in the opinion of such signatory, he, she or it has made such examination or investigation as is necessary to enable him, her or it to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(D) a statement as to whether, in the opinion of such signatory, such covenant or condition has been complied with.

Any certificate, statement or opinion of an Officer of the Company or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Company, unless such officer or counsel, as the case may be, knows that the certificate or opinion or representations with respect to the accounting matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous.

Any certificate or opinion of any independent firm of public accountants filed with the Trustee shall contain a statement that such firm is independent.

Section 13.04. RULES BY THE TRUSTEE, THE REGISTRAR AND THE PAYING AGENT.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 13.05. No PERSONAL LIABILITY OF DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS.

No past, present or future director, officer, employee, incorporator or shareholder of any Company Indenture Party, as such, will have any liability for any obligations of such Company Indenture Party under this Indenture, the Intercreditor Agreement or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

Section 13.06. GOVERNING LAW; WAIVER OF JURY TRIAL.

THIS INDENTURE AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE OR THE NOTES, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY INDENTURE PARTIES, THE TRUSTEE AND THE COLLATERAL TRUSTEE IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED BY THIS INDENTURE OR THE NOTES.

Section 13.07. SUBMISSION TO JURISDICTION.

Any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated by this Indenture may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the “Specified Courts”), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party’s address set forth in **Section 13.01** will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company Indenture Parties, the Trustee, the Collateral Trustee and Holders (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

Section 13.08. No ADVERSE INTERPRETATION OF OTHER AGREEMENTS.

Neither this Indenture nor the Notes may be used to interpret any other indenture, note, loan or debt agreement of the Company or its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret this Indenture or the Notes.

Section 13.09. SUCCESSORS.

All agreements of each Company Indenture Parties in this Indenture and the Notes will bind its successors. All agreements of the Trustee and the Collateral Trustee in this Indenture will bind their respective successors.

Section 13.10. FORCE MAJEURE.

The Trustee, Collateral Trustee and each Note Agent will not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility under this Indenture or the Notes by reason of any occurrence beyond its control (including any act or provision of any present or future law or regulation or governmental authority, act of God or war, civil unrest, epidemic, pandemic, local or national disturbance or disaster, act of terrorism or unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

Section 13.11. U.S.A. PATRIOT ACT.

In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States (“**Applicable Terrorism Law**”), the Trustee, Collateral Trustee and the Note Agents are required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Trustee, Collateral Trustee and/or the Note Agents. Accordingly, each of the Company Indenture Parties (including any Person that executes an agreement to become a Guarantor) agrees to provide to the Trustee, Collateral Trustee or any of the Note Agents (or any additional party that executes an agreement to become party to this Indenture as a trustee, a collateral trustee or a note agent) upon its request from time to time such documentation as may be available for such party in order to enable the Trustee, the Collateral Trustee or any of the Note Agents (or any such additional party) to comply with Applicable Terrorism Law.

Section 13.12. CALCULATIONS.

Except as otherwise provided in this Indenture, the Company will be responsible for making all calculations called for under this Indenture or the Notes, including, but not limited to, determinations of the Share Price, the Last Reported Sale Price, the Daily Conversion Value, the Daily Cash Amount, the Daily Share Amount, accrued interest on the Notes, the Conversion Rate, the Conversion Price, the Make-Whole Share Amount and the Interest Make-Whole Amount.

The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of its calculations to the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent may rely conclusively on the accuracy of the Company’s calculations without independent verification. The Trustee will promptly forward a copy of each such schedule to a Holder upon its written request therefor.

Section 13.13. SEVERABILITY.

If any provision of this Indenture or the Notes is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of this Indenture or the Notes will not in any way be affected or impaired thereby.

Section 13.14. COUNTERPARTS.

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, and all of them together represent the same agreement. Delivery of an executed counterpart of this Indenture by facsimile, electronically in portable document format or in any other format will be effective as delivery of a manually executed counterpart.

Section 13.15. TABLE OF CONTENTS, HEADINGS, ETC.

The table of contents and the headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions of this Indenture.

Section 13.16. SERVICE OF PROCESS.

The Company Indenture Parties irrevocably appoint [Corporation Service Company], which currently maintains an office at [19 West 44th Street, Suite 200, New York, New York 10036, United States of America], as their authorized agent in the City of New York upon which process may be served in any suit, action or proceeding referred to in **Section 13.07**, and agrees that service of process upon such agent, and written notice of such service to the Company Indenture Parties, as applicable, by the person serving the same to Maxeon Solar Technologies, Ltd., Maxeon Solar Technologies, Pte. Ltd., 51 Rio Robles, San Jose, California 95134, Attention: General Counsel, will be in every respect effective service of process upon the Company in any such suit, action or proceeding. The Company Indenture Parties agree to take any and all reasonable action as may be necessary to maintain such designation and appointment of such agent in full force and effect until the date that is six (6) months after the Maturity Date. If, for any reason, such agent ceases to be such agent for service of process, then the Company Indenture Parties will promptly appoint a new agent of recognized standing for service of process in the State of New York and deliver to the Holders and the Trustee a copy of the new agent's acceptance of that appointment within ten (10) Business Days of such acceptance. Nothing in this **Section 13.16** will affect the right of the Trustee, any Note Agent or any Holder to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against the Company Indenture Parties in any other court of competent jurisdiction. To the extent that the Company Indenture Parties have or hereafter may acquire any sovereign or other immunity from jurisdiction of any court or from any legal process with respect to itself or its property, the Company Indenture Parties irrevocably waive such immunity in respect of their obligations under this Indenture or under any Note.

Section 13.17. PROVISION REQUIRED BY TRUST INDENTURE ACT TO CONTROL.

If and to the extent that any provision of this Indenture limits, qualifies or conflicts with duties imposed by, or with another provision (an “incorporated provision”) included in this Indenture by operation of Sections 310 to 3178, inclusive, of the Trust Indenture Act, such imposed duties or incorporated provision shall control.

Section 13.18. U.S. FEDERAL INCOME TAX MATTERS.

(A) The Company Indenture Parties (in each case solely to the extent such applicable Company Indenture Party is required to take a position pursuant to applicable law) and the Holders intend, for U.S. federal (and applicable state and local) income tax purposes, (i) to treat each of the Tranche A Notes and the Tranche B Notes as a separate issue of indebtedness for U.S. federal (and applicable state and local) income tax purposes, neither of which are “contingent payment debt instruments” within the meaning of U.S. Treasury regulations Section 1.1275-4; and (ii) to treat any adjustment to the Conversion Price of the Notes as being made pursuant to a “bona fide, reasonable, adjustment formula” within the meaning of U.S. Treasury regulations Section 1.305-7(b) (except to the extent otherwise required pursuant to the last sentence of Treasury regulations Section 1.305-7(b)(1) or other applicable U.S. federal income tax law or regulation), and shall not take any position for U.S. federal (and applicable state and local) income tax purposes inconsistent with the foregoing clauses (i) and (ii), in each case, except to the extent otherwise required by a change in law or a “determination” within the meaning of Section 1313(a) of the Internal Revenue Code of 1986.

Article 14. INTERCREDITOR ARRANGEMENTS

Section 14.01. INTERCREDITOR AGREEMENT

(A) The Indenture is entered into with the benefit of, and subject to the terms of, the Intercreditor Agreement and each Holder, by accepting a Note, shall be deemed to have agreed to, and accepted the terms and conditions of, the Intercreditor Agreement, to have authorized the Collateral Trustee to enter into the Intercreditor Agreement on its behalf, and to have agreed that the Trustee and the Collateral Trustee shall be bound by the Intercreditor Agreement, as well as the Indenture. The rights, duties and benefits of the Trustee and the Collateral Trustee are governed by the Indenture and the Intercreditor Agreement. For the avoidance of doubt, to the extent any provision of the Intercreditor Agreement conflicts with the express provisions of this Indenture, the provisions of the Intercreditor Agreement shall govern and be controlling.

Section 14.02. ADDITIONAL INTERCREDITOR AGREEMENT

(A) At the request of the Company, at the time of, or prior to, the incurrence of any Indebtedness that is permitted to share the Collateral or that is otherwise permitted to be incurred under this Indenture, the Company, the relevant Guarantors, the Trustee and the Collateral Trustee will (without the consent of Holders), to the extent authorized and permitted under the Intercreditor Agreement, enter into such amendments, supplements or agreements as necessary to add the obligees of such Indebtedness and/or any representative(s) thereof as party to the Intercreditor Agreement, or an additional Intercreditor Agreement (the “**Additional Intercreditor Agreement**”); *provided* that such amendments, supplements, agreements or such Additional Intercreditor Agreement will not impose any personal obligations on the Trustee or the Collateral Trustee or adversely affect the rights, duties, liabilities or immunities of the Trustee or the Collateral Trustee under the Indenture or the Intercreditor Agreement.

(B) At the written direction of the Company and without the consent of the Holders, the Trustee and the Collateral Trustee, to the extent authorized and permitted under the Intercreditor Agreement, shall upon the written direction of the Company from time to time enter into one or more Additional Intercreditor Agreements or amendments or supplements of the Intercreditor Agreement to: (1) cure any ambiguity, omission, defect or inconsistency therein; (2) increase the amount of Indebtedness permitted to be incurred or issued under this Indenture of the types covered thereby that may be incurred by the Company or any Company Indenture Party that is subject thereto (including the addition of provisions relating to new Indebtedness); (3) add Guarantors thereto; (4) further secure the Notes (including any Additional Notes); (5) [allow any successor Trustee and/or Collateral Trustee to accede as a party thereto;] or (6) make any other such change thereto that does not adversely affect the rights of holders of the Notes in any material respect; *provided* that such Additional Intercreditor Agreement will not impose any personal obligations on the Trustee or the Collateral Trustee or adversely affect the rights, duties, liabilities or immunities of the Trustee or the Collateral Trustee under the Indenture or the Intercreditor Agreement.

(C) In executing any execution of the Additional Intercreditor Agreement or the amendments or supplements of the Intercreditor Agreement in accordance with this **Section 14.02**, the Trustee and the Collateral Trustee, as the case may be will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel, provided in accordance with **Section 13.02**, each stating that (A) the execution and delivery of such Additional Intercreditor Agreement or such amendments or supplements of the Intercreditor Agreement is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such Additional Intercreditor Agreement, or such amendments or supplements of the Intercreditor Agreement is valid, binding and enforceable against the Company in accordance with its terms.

(D) Each Holder, by accepting a Note, will be deemed to have agreed to and accepted the terms and conditions of the Intercreditor Agreement and each Additional Intercreditor Agreement (in each case as may be amended or supplemented from time to time in accordance with the terms of this Indenture, the Intercreditor Agreement or other Indenture Documents), to have authorized the Trustee and the Collateral Trustee to become a party to any such Intercreditor Agreement, and Additional Intercreditor Agreement, and any amendment referred to in Article 8 and the Trustee or the Collateral Trustee will not be required to seek the consent of any Holders to perform their respective obligations under and in accordance with this Article 14.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties to this Indenture have caused this indenture to be duly executed as of the date first written above.

Issuer:

MAXEON SOLAR TECHNOLOGIES, LTD.

By: _____
Name:
Title:

Guarantors:

SUNPOWER CORPORATION LIMITED

By: _____
Name:
Title:

SUNPOWER ENERGY CORPORATION LIMITED

By: _____
Name:
Title:

[Signature Page to Second Lien Indenture]

SUNPOWER MANUFACTURING CORPORATION LIMITED

By: _____
Name:
Title:

MAXEON ROOSTER HOLDCO, LTD.

By: _____
Name:
Title:

MAXEON SOLAR PTE. LTD.

By: _____
Name:
Title:

SUNPOWER BERMUDA HOLDINGS

By: _____
Name:
Title:

[Signature Page to Second Lien Indenture]

SUNPOWER TECHNOLOGY LTD.

By: _____
Name:
Title:

**SUNPOWER PHILIPPINES
MANUFACTURING LTD.**

By: _____
Name:
Title:

ROOSTER BERMUDA DRE, LLC

By: _____
Name:
Title:

SUNPOWER SYSTEMS SÀRL

By: _____
Name:
Title:

[Signature Page to Second Lien Indenture]

Trustee:

**DEUTSCHE BANK TRUST COMPANY AMERICAS, AS
TRUSTEE, REGISTRAR, PAYING AGENT, CONVERSION
AGENT**

By: _____
Name:
Title:

By: _____
Name:
Title:

[Signature Page to Second Lien Indenture]

Collateral Trustee:

DB TRUSTEES (HONG KONG) LIMITED, AS COLLATERAL TRUSTEE

By: _____
Name:
Title:

By: _____
Name:
Title:

[Signature Page to Second Lien Indenture]

Philippine Supplemental Collateral Trustee:

**RIZAL COMMERCIAL BANKING
CORPORATION – TRUST AND
INVESTMENTS GROUP, AS PHILIPPINE
SUPPLEMENTAL COLLATERAL TRUSTEE**

By: _____

Name:

Title:

By: _____

Name:

Title:

[Signature Page to Second Lien Indenture]

FORM OF TRANCHE A NOTE*[Insert Global Note Legend, if applicable]**Insert Restricted Note Legend, if applicable]*

[THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THE NOTES WERE ISSUED WITH "ORIGINAL ISSUE DISCOUNT" ("OID") WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NOTEHOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF ANY OID, THE ISSUE PRICE, THE ISSUE DATE, AND THE YIELD TO MATURITY RELATING TO THE NOTES BY CONTACTING THE COMPANY.]

Maxeon Solar Technologies, Ltd.**Adjustable-Rate Convertible Second Lien Senior Secured Note due 202[8]**CUSIP No.: [_____] *[Insert for a "unrestricted"/"restricted" CUSIP number: *]*

Certificate No. [_____]

ISIN No.: [_____] *[Insert for a "unrestricted"/"restricted" ISIN number: *]*

Maxeon Solar Technologies, Ltd., a company incorporated in Singapore, for value received, promises to pay to Cede & Co., or its registered assigns, the principal sum of [____] dollars (\$[____]) [(as revised by the attached Schedule of Exchanges of Interests in the Global Note)][†] on [●], 202[●] and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: [●] and [●] of each year, commencing on [●], 2024, unless otherwise provided in the definition of "Interest Payment Date."

Regular Record Dates: [●] and [●].

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

* This Note will be deemed to be identified by CUSIP No. [_____] and ISIN No. [_____] from and after such time when the Company delivers, pursuant to Section 2.12 of the within-mentioned Indenture, written notice to the Trustee of the deemed removal of the Restricted Note Legend affixed to this Note.

† Insert bracketed language for Global Notes only.

IN WITNESS WHEREOF, Maxeon Solar Technologies, Ltd. has caused this instrument to be duly executed as of the date set forth below.

MAXEON SOLAR TECHNOLOGIES, LTD.

Date: _____

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Deutsche Bank Trust Company Americas, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: _____

By: _____
Authorized Signatory

Adjustable-Rate Convertible Second Lien Senior Note due 202[8]

This Note is one of a duly authorized issue of notes of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore (the “**Company**”), designated as its Adjustable-Rate Convertible Second Lien Senior Notes due 202[8] (the “**Notes**”), all issued or to be issued pursuant to an indenture, dated as of [●], 2024 (as the same may be amended from time to time, the “**Indenture**”), between the Company, the Guarantors from time to time party thereto and Deutsche Bank Trust Company Americas, a New York Banking Corporation as Trustee and as DB Trustees (Hong Kong) Limited as Collateral Trustee and Rizal Commercial Banking Corporation – Trust and Investment Group as Philippine Supplemental Collateral Trustee. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee and the Holders and the terms of the Notes. The Notes are secured pursuant to the terms of the Indenture, the Intercreditor Agreement (as defined in the Indenture) and the Notes Security Documents referred to in the Indenture and subject to the Priority Liens as defined in the Indenture. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest.** This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Indenture. Stated Interest on this Note will begin to accrue from, and including, [●], 2024.

2. **Maturity.** This Note will mature on [January 15], 202[8], unless earlier repurchased, redeemed or converted.

3. **Method of Payment.** Cash amounts due on this Note will be paid in the manner set forth in Section 2.04 of the Indenture. Interest payable in PIK Notes or payment of interest in Ordinary Shares will be paid in the manner set forth in Section 2.04.

4. **Persons Deemed Owners.** The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges.** All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.** If a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 4.02 of the Indenture.

7. **Redemption of the Notes.** The Notes will be subject to Redemption for cash in the manner, and subject to the terms, set forth in Section 4.03 of the Indenture.

8. **Optional Exchange of the Notes.** A portion of the Notes may be subject to Optional Exchange for the Optional Exchange Consideration in the manner, and subject to the terms, set forth in Section 4.04 of the Indenture.

9. **Limitation on Conversion and Optional Exchange.** Any conversion (including in connection with the Optional Exchange) of any Note is subject to Section 4.05 of the Indenture.

10. **Conversion.** The Holder of this Note may convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 5 of the Indenture.

11. **When the Company May Merge, Etc.** Article 6 of the Indenture places certain restrictions on the Company and the Guarantors' ability to be a party to a Business Combination Event.

12. **Defaults and Remedies.** If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 7 of the Indenture.

13. **Amendments, Supplements and Waivers.** The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Indenture or the Notes in the manner, and subject to the terms, set forth in Section 7.05 and Article 8 of the Indenture.

14. **No Personal Liability of Directors, Officers, Employees and Shareholders.** No past, present or future director, officer, employee, incorporator or shareholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

15. **Authentication.** No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

16. **Abbreviations.** Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

17. **Governing Law.** THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02
Marina Bay Financial Centre
018981, Singapore
Attention: General Counsel

CONVERSION NOTICE

Maxon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 202[8]

Subject to the terms of the Indenture, by executing and delivering this Conversion Notice, the undersigned Holder of the Note identified below directs the Company to convert (check one):

- the entire principal amount of
- \$ _____ * aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No. _____.

The undersigned acknowledges that if the Conversion Date of a Note to be converted is after a Regular Record Date and before the next Interest Payment Date, then such Note, when surrendered for conversion, must, in certain circumstances, be accompanied with an amount of cash equal to the interest that would have accrued on such Note to, but excluding, such Interest Payment Date.

Date: _____

(Legal Name of Holder)

By: _____

Name:

Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory

* Must be an Authorized Denomination.

FUNDAMENTAL CHANGE REPURCHASE NOTICE

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes 202[8]

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

the entire principal amount of

\$ _____ * aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No. _____.

The undersigned acknowledges that this Note, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: _____

(Legal Name of Holder)

By: _____

Name:

Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory

* Must be an Authorized Denomination.

ASSIGNMENT FORM

Maxon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 202[8]

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name: _____

Address: _____

Social security or tax identification number: _____

the within Note and all rights thereunder irrevocably appoints:

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

Date: _____

(Legal Name of Holder)

By: _____

Name:

Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory

TRANSFEROR ACKNOWLEDGMENT

If the within Note bears a Restricted Note Legend, the undersigned further certifies that (check one):

1. Such Transfer is being made to the Company or a Subsidiary of the Company.
2. Such Transfer is being made pursuant to, and in accordance with, a registration statement that is effective under the Securities Act at the time of the Transfer.
3. Such Transfer is being made pursuant to, and in accordance with, Rule 144A under the Securities Act, and, accordingly, the undersigned further certifies that the within Note is being transferred to a Person that the undersigned reasonably believes is purchasing the within Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act in a transaction meeting the requirements of Rule 144A. **If this item is checked, then the transferee must complete and execute the acknowledgment contained on the next page.**
4. Such Transfer is being made pursuant to, and in accordance with, any other available exemption from the registration requirements of the Securities Act (including, if available, the exemption provided by Rule 144 under the Securities Act).

Dated: _____

(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

(Participant in a Recognized Signature
Guarantee Medallion Program)

By: _____
Authorized Signatory

TRANSFeree ACKNOWLEDGMENT

The undersigned represents that it is purchasing the within Note for its own account, or for one or more accounts with respect to which the undersigned exercises sole investment discretion, and that and the undersigned and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act. The undersigned acknowledges that the transferor is relying, in transferring the within Note on the exemption from the registration and prospectus- delivery requirements of the Securities Act of 1933, as amended, provided by Rule 144A and that the undersigned has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A.

Dated: _____

(Name of Transferee)

By: _____

Name:

Title:

FORM OF TRANCHE B NOTE*[Insert Global Note Legend, if applicable]**[Insert Restricted Note Legend, if applicable]*

[THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THE NOTES WERE ISSUED WITH “ORIGINAL ISSUE DISCOUNT” (“OID”) WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NOTEHOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF ANY OID, THE ISSUE PRICE, THE ISSUE DATE, AND THE YIELD TO MATURITY RELATING TO THE NOTES BY CONTACTING THE COMPANY.]

Maxeon Solar Technologies, Ltd.**Adjustable-Rate Convertible Second Lien Senior Secured Note due 202[8]**CUSIP No.: [_____] *[Insert for a “unrestricted”/“restricted” CUSIP number: *]*

Certificate No. [_____]

ISIN No.: [_____] *[Insert for a “unrestricted”/“restricted” ISIN number: *]*

Maxeon Solar Technologies, Ltd., a company incorporated in Singapore, for value received, promises to pay to Cede & Co., or its registered assigns, the principal sum of [_____] dollars (\$[_____] [(as revised by the attached Schedule of Exchanges of Interests in the Global Note)][†] on [●], 202[●] and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: [●] and [●] of each year, commencing on [●], 2024, unless otherwise provided in the definition of “Interest Payment Date.”

Regular Record Dates: [●] and [●].

Additional provisions of this Note are set forth on the other side of this Note.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

* This Note will be deemed to be identified by CUSIP No. [_____] and ISIN No. [_____] from and after such time when the Company delivers, pursuant to Section 2.12 of the within-mentioned Indenture, written notice to the Trustee of the deemed removal of the Restricted Note Legend affixed to this Note.

† Insert bracketed language for Global Notes only.

IN WITNESS WHEREOF, Maxeon Solar Technologies, Ltd. has caused this instrument to be duly executed as of the date set forth below.

MAXEON SOLAR TECHNOLOGIES, LTD.

Date: _____

By: _____

Name:

Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

Deutsche Bank Trust Company Americas, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: _____

By: _____
Authorized Signatory

Adjustable-Rate Convertible Second Lien Senior Note due 202[8]

This Note is one of a duly authorized issue of notes of Maxeon Solar Technologies, Ltd., a company incorporated in Singapore (the “**Company**”), designated as its Adjustable-Rate Convertible Second Lien Senior Notes due 202[8] (the “**Notes**”), all issued or to be issued pursuant to an indenture, dated as of [●], 2024 (as the same may be amended from time to time, the “**Indenture**”), between the Company, the Guarantors from time to time party thereto and Deutsche Bank Trust Company Americas, a New York Banking Corporation as Trustee and as DB Trustees (Hong Kong) Limited as Collateral Trustee and Rizal Commercial Banking Corporation – Trust and Investment Group as Philippine Supplemental Collateral Trustee. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee and the Holders and the terms of the Notes. The Notes are secured pursuant to the terms of the Indenture, the Intercreditor Agreement (as defined in the Indenture) and the Notes Security Documents referred to in the Indenture and subject to the Priority Liens as defined in the Indenture. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

5. **Interest.** This Note will accrue interest at a rate and in the manner set forth in Section 2.05 of the Indenture. Stated Interest on this Note will begin to accrue from, and including, [●], 2024.

6. **Maturity.** This Note will mature on [January 15], 202[8], unless earlier repurchased, redeemed or converted.

7. **Method of Payment.** Cash amounts due on this Note will be paid in the manner set forth in Section 2.04 of the Indenture. Interest payable in PIK Notes will be paid in the manner set forth in Section 2.04.

8. **Persons Deemed Owners.** The Holder of this Note will be treated as the owner of this Note for all purposes.

9. **Denominations; Transfers and Exchanges.** All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

10. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.** If a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 4.02 of the Indenture.

11. **Redemption of the Notes.** The Notes will be subject to Redemption for cash in the manner, and subject to the terms, set forth in Section 4.03 of the Indenture.

12. **Limitation on Conversion.** Any conversion of any Note is subject to Section 4.05 of the Indenture.

13. **Conversion.** The Holder of this Note may convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 5 of the Indenture.

14. **When the Company May Merge, Etc.** Article 6 of the Indenture places certain restrictions on the Company and the Guarantors' ability to be a party to a Business Combination Event.

15. **Defaults and Remedies.** If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 7 of the Indenture.

16. **Amendments, Supplements and Waivers.** The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Indenture or the Notes in the manner, and subject to the terms, set forth in Section 7.05 and Article 8 of the Indenture.

17. **No Personal Liability of Directors, Officers, Employees and Shareholders.** No past, present or future director, officer, employee, incorporator or shareholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

18. **Authentication.** No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually or electronically signs the certificate of authentication of such Note.

19. **Abbreviations.** Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

20. **Governing Law.** THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Maxeon Solar Technologies, Ltd.
8 Marina Boulevard, #05-02
Marina Bay Financial Centre
018981, Singapore
Attention: General Counsel

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

INITIAL PRINCIPAL AMOUNT OF THIS GLOBAL NOTE: \$[●]

The following exchanges, transfers or cancellations of this Global Note have been made:

Date	Amount of Increase (Decrease) in Principal Amount of this Global Note	Principal Amount of this Global Note After Such Increase (Decrease)	Signature of Authorized Signatory of Trustee

* Insert for Global Notes only.

CONVERSION NOTICE

Maxon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 202[8]

Subject to the terms of the Indenture, by executing and delivering this Conversion Notice, the undersigned Holder of the Note identified below directs the Company to convert (check one):

- the entire principal amount of
- \$ _____ * aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No. _____.

The undersigned acknowledges that if the Conversion Date of a Note to be converted is after a Regular Record Date and before the next Interest Payment Date, then such Note, when surrendered for conversion, must, in certain circumstances, be accompanied with an amount of cash equal to the interest that would have accrued on such Note to, but excluding, such Interest Payment Date.

Date: _____

(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory

* Must be an Authorized Denomination.

FUNDAMENTAL CHANGE REPURCHASE NOTICE

Maxeon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes 202[8]

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

the entire principal amount of

\$ _____ * aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No. _____.

The undersigned acknowledges that this Note, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: _____

(Legal Name of Holder)

By: _____

Name:

Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory

* Must be an Authorized Denomination.

ASSIGNMENT FORM

Maxon Solar Technologies, Ltd.

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 202[8]

Subject to the terms of the Indenture, the undersigned Holder of the within Note assigns to:

Name: _____

Address: _____

Social security or tax identification number: _____

the within Note and all rights thereunder irrevocably appoints:

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

Date: _____

(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

Authorized Signatory

TRANSFEROR ACKNOWLEDGMENT

If the within Note bears a Restricted Note Legend, the undersigned further certifies that (check one):

- 21. Such Transfer is being made to the Company or a Subsidiary of the Company.
- 22. Such Transfer is being made pursuant to, and in accordance with, a registration statement that is effective under the Securities Act at the time of the Transfer.
- 23. Such Transfer is being made pursuant to, and in accordance with, Rule 144A under the Securities Act, and, accordingly, the undersigned further certifies that the within Note is being transferred to a Person that the undersigned reasonably believes is purchasing the within Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act in a transaction meeting the requirements of Rule 144A. **If this item is checked, then the transferee must complete and execute the acknowledgment contained on the next page.**
- 24. Such Transfer is being made pursuant to, and in accordance with, any other available exemption from the registration requirements of the Securities Act (including, if available, the exemption provided by Rule 144 under the Securities Act).

Dated: _____

(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

(Participant in a Recognized Signature
Guarantee Medallion Program)

By: _____
Authorized Signatory

TRANSFeree ACKNOWLEDGMENT

The undersigned represents that it is purchasing the within Note for its own account, or for one or more accounts with respect to which the undersigned exercises sole investment discretion, and that the undersigned and each such account is a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act. The undersigned acknowledges that the transferor is relying, in transferring the within Note on the exemption from the registration and prospectus- delivery requirements of the Securities Act of 1933, as amended, provided by Rule 144A and that the undersigned has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A.

Dated: _____

(Name of Transferee)

By: _____

Name:
Title:

FORM OF RESTRICTED NOTE LEGEND

THE OFFER AND SALE OF THIS NOTE AND THE ORDINARY SHARES, IF ANY, ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:

- (1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT; AND
- (2) AGREES FOR THE BENEFIT OF THE COMPANY THAT IT WILL NOT OFFER, SELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:
 - (A) TO THE COMPANY, ITS PARENT OR ANY SUBSIDIARY THEREOF;
 - (B) PURSUANT TO A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT;
 - (C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;
 - (D) PURSUANT TO RULE 144 UNDER THE SECURITIES ACT;
 - (E) PURSUANT TO REGULATION S UNDER THE SECURITIES ACT; OR
 - (F) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (C), (D), (E) OR (F) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS."

* This paragraph and the immediately preceding paragraph will be deemed to be removed from the face of this Note at such time when the Company delivers written notice to the Trustee of such deemed removal pursuant to Section 2.12 of the within-mentioned Indenture.

FORM OF GLOBAL NOTE LEGEND

THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS THE OWNER AND HOLDER OF THIS NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (“DTC”) TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR’S NOMINEE, AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE 2 OF THE INDENTURE HEREINAFTER REFERRED TO.

FORM OF SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this “**Supplemental Indenture**”) dated as of _____, 20__ among Maxeon Solar Technologies, Ltd. (or its successor) (the “**Company**”), Deutsche Bank Trust Company Americas, as trustee (the “**Trustee**”), and DB Trustees (Hong Kong) Limited as collateral trustee (the “**Collateral Trustee**”), under the indenture referred to below.

WHEREAS the Company (or its successor) has heretofore executed and delivered to the Trustee and the Collateral Trustee an indenture (as amended, supplemented or otherwise modified, the “**Indenture**”) dated as of [●], 2024, providing for the issuance of the Company’s Adjustable-Rate Convertible Second Lien Senior Secured Notes due 202[8] (the “**Notes**”), initially in an aggregate principal amount of \$[●]; and

WHEREAS pursuant to [Section 8.01] / [Section 8.02] / [Section 8.03] of the Indenture, the Trustee, the Collateral Trustee and the Company are authorized to execute and deliver this Supplemental Indenture [without]/[with] the consent of [any Holder]/[Majority Holder]/[Supermajority Holder]/[each Holder] of the Notes;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Trustee and the Collateral Trustee mutually covenant and agree for the equal and ratable benefit of the Holders (as defined in the Indenture) as follows:

1. **Defined Terms.** As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined. The words “herein,” “hereof” and “hereby” and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

2. **Amendments.** [●]

3. **Ratification of Indenture; Supplemental Indentures Part of Indenture.** Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder shall be bound hereby.

4. **Governing Law.** THIS SUPPLEMENTAL INDENTURE AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SUPPLEMENTAL INDENTURE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

5. **Trustee and Collateral Make No Representation.** The Trustee and the Collateral Trustee make no representation as to the validity or sufficiency of this Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

6. **Counterparts.** The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

7. **Effect of Headings.** The Section headings herein are for convenience only and shall not affect the construction thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

MAXEON SOLAR TECHNOLOGIES, LTD.

By: _____
Name: _____
Title: _____

**DEUTSCHE BANK TRUST COMPANY
AMERICAS, AS TRUSTEE, REGISTRAR, PAYING AGENT,
CONVERSION AGENT**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

**DB TRUSTEES (HONG KONG)
LIMITED, AS COLLATERAL TRUSTEE**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Schedule III

Part 1

(A) consents, approvals, expiration of waiting periods or agreements required under the HSR Act or any other applicable Antitrust Laws; and

(B) the consummation of the regulatory approval procedures in connection with the filings as set forth in Schedule III – Part 2 without there having been a Regulatory Turndown.

Part 2

(i) a filing under 31 C.F.R. Part 800, Subpart E regarding the transactions contemplated by the Forward Purchase Agreement; and

(ii) the filing of notifications that the Forward Purchaser and its counsel reasonably determine are required under, and as contemplated by, Investment Screening Laws regarding the transactions contemplated by the Forward Purchase Agreement.

For the purpose of this Schedule

“**Antitrust Laws**” means the HSR Act and any other applicable U.S. or foreign competition, antitrust or merger control laws.

“**HSR Act**” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“**Investment Screening Laws**” means applicable laws of jurisdictions other than the United States pertaining to the screening or regulation of foreign investment on national security grounds and any regulation, order or directive promulgated, issued or enforced pursuant to such laws.

“**Regulatory Turndown**” means any applicable U.S. or foreign governmental authority for the regulatory filings as set forth in Schedule III – Part 2 has taken action, or otherwise indicated in writing to the Company and the Forward Purchaser an intention to take action, to prevent the consummation of the transactions contemplated by the Forward Purchase Agreement.

Schedule 3.17 Post-Closing Obligations

1. [Not later than the dates specified in Schedule 1.01 (or such later date as may be reasonably agreed by the Collateral Trustee upon receiving written instruction, advice or concurrence of the Holders of twenty five percent (25%) or more in aggregate principal amount of Notes outstanding provided in accordance with this Indenture, subject to the Collateral Trustee being indemnified and/or secured and/or pre-funded to its satisfaction, as it deems appropriate, subject to the terms of the Intercreditor Agreement), the Company and the Restricted Subsidiaries shall enter into each document or take the actions set forth on **Schedule 1.01**.]

MAXEON SOLAR TECHNOLOGIES, LTD.

CROSS REFERENCE SHEET

Reconciliation and tie between Trust Indenture Act of 1939, as amended
and
Indenture, dated as of [●], 2024.

Trust Indenture Act Section	Indenture Section
310 (a)(1)	10.09
(a)(2)	10.09
(a)(3)	11.09(B)
(a)(4)	N/A9
(a)(5)	10.09
(b)	10.07/10.09
311 (a)	7.10
(b)	7.10
312 (a)	2.08(A), (B)
(b)	2.08(C)
(c)	2.08(D)
313 (a)	10.10
(b)(1)	10.10
(b)(2)	10.10
(c)	10.10
(d)	10.10
314 (a)	3.02
(b)	10.02/13.03
(c)(1)	13.02/13.03
(c)(2)	13.02/13.03
(c)(3)	13.02
(d)	13.03
(e)	13.03
(f)	N/A
315 (a)	10.01(B)
(b)	10.05
(c)	10.01(A)
(d)	10.01(C)
(e)	7.15
316 (a)(1)(A)	7.06
(a)(1)(B)	7.05
(a)(2)	N/A
(b)	7.08
(c)	8.05(B)
317 (a)(1)	7.09
(a)(2)	7.11
(b)	2.07
318 (a)	1.04/13.17

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY UNDER THE TRUST INDENTURE ACT OF 1939 OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT TO SECTION 305(b)(2)

DEUTSCHE BANK TRUST COMPANY AMERICAS
(formerly BANKERS TRUST COMPANY)
(Exact name of trustee as specified in its charter)

NEW YORK

(Jurisdiction of Incorporation or
organization if not a U.S. national bank)

13-4941247

(I.R.S. Employer
Identification no.)

1 COLUMBUS CIRCLE
NEW YORK, NEW YORK

(Address of principal
executive offices)

10019

(Zip Code)

Deutsche Bank Trust Company Americas
1 Columbus Circle
New York, New York 10019
(212) 250 – 2500

(Name, address and telephone number of agent for service)

MAXEON SOLAR TECHNOLOGIES. LTD.
(Exact name of obligor as specified in its charter)

SINGAPORE

(State or other jurisdiction of
incorporation or organization)

N/A

(I.R.S. Employer
Identification No.)

8 Marina Boulevard #05-02
Marina Bay Financial Centre
018981, Singapore

(Address of principal executive offices)

N/A

(Zip code)

Adjustable-Rate Convertible Second Lien Senior Secured Notes due 2028
(Title of the Indenture securities)

Item 1. General Information.

Furnish the following information as to the trustee.

(a) Name and address of each examining or supervising authority to which it is subject.

Name	Address
Federal Reserve Bank (2nd District)	New York, NY
Federal Deposit Insurance Corporation	Washington, D.C.
New York State Banking Department	Albany, NY

(b) Whether it is authorized to exercise corporate trust powers.

Yes.

Item 2. Affiliations with Obligor.

If the obligor is an affiliate of the Trustee, describe each such affiliation.

N/A.

Item 3. -15. Not Applicable

Item 16. List of Exhibits.

Exhibit 1 - Restated Organization Certificate of Bankers Trust Company dated August 31, 1998; Certificate of Amendment of the Organization Certificate of Bankers Trust Company dated September 25, 1998; Certificate of Amendment of the Organization Certificate of Bankers Trust Company dated December 18, 1998; Certificate of Amendment of the Organization Certificate of Bankers Trust Company dated September 3, 1999; and Certificate of Amendment of the Organization Certificate of Bankers Trust Company dated March 14, 2002, incorporated herein by reference to Exhibit 1 filed with Form T-1 Statement, Registration No. 333-201810.

Exhibit 2 - Certificate of Authority to commence business, incorporated herein by reference to Exhibit 2 filed with Form T-1 Statement, Registration No. 333-201810.

Exhibit 3 - Authorization of the Trustee to exercise corporate trust powers, incorporated herein by reference to Exhibit 3 filed with Form T-1 Statement, Registration No. 333-201810.

Exhibit 4 - A copy of existing By-Laws of Deutsche Bank Trust Company Americas, dated March 2, 2023 (see attached).

Exhibit 5 - Not applicable.

Exhibit 6 - Consent of Bankers Trust Company required by Section 321(b) of the Act, incorporated herein by reference to Exhibit 6 filed with Form T-1 Statement, Registration No. 333-201810.

Exhibit 7 - A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority.

Exhibit 8 - Not Applicable.

Exhibit 9 - Not Applicable.

SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Deutsche Bank Trust Company Americas, a corporation organized and existing under the laws of the State of New York, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in The City of New York, and State of New York, on this 30th day of May, 2024.

DEUTSCHE BANK TRUST COMPANY AMERICAS

By: /s/ Jacqueline Bartnick

Name: Jacqueline Bartnick

Title: Director

**AMENDED AND RESTATED
BY-LAWS
OF
DEUTSCHE BANK TRUST COMPANY AMERICAS**

ARTICLE I

STOCKHOLDERS

Section 1.01. Annual Meeting. The annual meeting of the stockholders of Deutsche Bank Trust Company Americas (the "Company") shall be held in the City of New York within the State of New York within the first four months of the Company's fiscal year, on such date and at such time and place as the board of directors of the Company ("Board of Directors" or "Board") may designate in the call or in a waiver of notice thereof, for the purpose of electing directors and for the transaction of such other business as may properly be brought before the meeting.

Section 1.02. Special Meetings. Special meetings of the stockholders of the Company may be called by the Board of Directors or by the President, and shall be called by the President or by the Secretary upon the written request of the holders of record of at least twenty-five percent (25%) of the shares of stock of the Company issued and outstanding and entitled to vote, at such times. If for a period of thirteen months after the last annual meeting, there is a failure to elect a sufficient number of directors to conduct the business of the Company, the Board of Directors shall call a special meeting for the election of directors within two weeks after the expiration of such period; otherwise, holders of record of ten percent (10%) of the shares of stock of the Company entitled to vote in an election of directors may, in writing, demand the call of a special meeting at the office of the Company for the election of directors, specifying the date and month thereof, but not less than two nor more than three months from the date of such call. At any such special meeting called on demand of stockholders, the stockholders attending, in person or by proxy, and entitled to vote in an election of directors shall constitute a quorum for the purpose of electing directors, but not for the transaction of any other business.

Section 1.03. Notice of Meetings. Notice of the time, place and purpose of every meeting of stockholders shall be delivered personally or mailed not less than 10 nor more than 50 days before the date of such meeting (or any other action) to each stockholder of record entitled to vote, at his post office address appearing upon the records of the Company or at such other address as shall be furnished in writing by him to the Secretary of the Company for such purpose. Such further notice shall be given as may be required by law or by these By-Laws. Any meeting may be held without notice if all stockholders entitled to vote are present in person or by proxy, or if notice is waived in writing, either before or after the meeting, by those not present.

Section 1.04. Quorum. The holders of record of at least a majority of the shares of the stock of the Company issued and outstanding and entitled to vote, present in person or by proxy, shall, except as otherwise provided by law, by the Company's Organization Certificate or by these By-Laws, constitute a quorum at all meetings of the stockholders; if there be no such quorum, the holders of a majority of such shares so present or represented may adjourn the meeting from time to time until a quorum shall have been obtained.

Section 1.05. Organization of Meetings. Meetings of the stockholders shall be presided over by the Chairman of the Board or, if he is not present, by the President or, if he is not present, by a chairman to be chosen at the meeting. The Secretary of the Company, or in his absence an Assistant Secretary, shall act as secretary of the meeting, if present.

Section 1.06. Voting. At each meeting of stockholders, except as otherwise provided by statute, the Company's Organization Certificate or these By-Laws, every holder of record of stock entitled to vote shall be entitled to one vote in person or by proxy for each share of such stock standing in his name on the records of the Company. Elections of directors shall be determined by a plurality of the votes cast thereat and, except as otherwise provided by statute, the Company's Organization Certificate or these By-Laws, all other action shall be determined by a majority of the votes cast at such meeting.

At all elections of directors, the voting shall be by ballot or in such other manner as may be determined by the stockholders present in person or by proxy entitled to vote at such election.

Section 1.07. Action by Consent. Except as may otherwise be provided in the Company's Organization Certificate, any action required or permitted to be taken at any meeting of stockholders may be taken without a meeting, without prior notice and without a vote if, prior to such action, a written consent or consents thereto, setting forth such action, is signed by all the holders of record of shares of the stock of the Company, issued and outstanding and entitled to vote thereon, having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

ARTICLE II

DIRECTORS

Section 2.01. Chairman of the Board. Following the election of the Board of Directors at each annual meeting, the elected Board shall appoint one of its members as Chairman. The Chairman of the Board shall preside at all meetings of the Board of Directors and of the stockholders, and he shall perform such other duties and have such other powers as from time to time may be prescribed by the Board of Directors.

Section 2.02. Lead Independent Director. Following the election of the Board of Directors at each annual meeting, the elected Board may appoint one of its independent members as its Lead Independent Director. When the Chairman of the Board is not present at a meeting of the Board of Directors, the Lead Independent Director, if there be one, shall preside.

Section 2.03. Director Emeritus. The Board of Directors may from time to time elect one or more Directors Emeritus. Each Director Emeritus shall be elected for a term expiring on the date of the regular meeting of the Board of Directors following the next annual meeting. No Director Emeritus shall be considered a "director" for purposes of these By-Laws or for any other purpose.

Section 2.04. Powers, Number, Quorum, Term, Vacancies, Removal. The business and affairs of the Company shall be managed by or under the direction of the Board of Directors which may exercise all such powers of the Company and do all such lawful acts and things as are not by statute or by the Company's Organization Certificate or by these By-Laws required to be exercised or done by the stockholders.

The number of directors may be changed by a resolution passed by a majority of the members of the Board of Directors or by a vote of the holders of record of at least a majority of the shares of stock of the Company issued and outstanding and entitled to vote, but at all times the Board of Directors must consist of not less than seven nor more than thirty directors. No more than one-third of the directors shall be active officers or employees of the Company. At least one-half of the directors must be citizens of the United States at the time of their election and during their continuance in office.

Except as otherwise required by law, rule or regulation, or by the Company's Organization Certificate, at all meetings of the Board of Directors or any committee thereof, a majority of the entire Board of Directors or a majority of the directors constituting such committee, as the case may be, shall constitute a quorum for the transaction of business and the act of a majority of the directors or committee members present at any meeting at which there is a quorum shall be the act of the Board of Directors, or such committee, as applicable. Any one or more members of the Board may participate in a meeting of the Board by means of a conference telephone or video, or other similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. Whether or not a quorum shall be present at any meeting of the Board of Directors or a committee thereof, a majority of the directors present thereat may adjourn the meeting from time to time; notice of the adjourned meeting shall be given to the directors who were not present at the time of the adjournment, but if the time and place of the adjourned meeting are announced, no additional notice shall be required to be given to the directors present at the time of adjournment.

Directors shall hold office until the next annual election and until their successors shall have been elected and shall have qualified. Director vacancies not exceeding one-third of the whole number of the Board of Directors may be filled by the affirmative vote of a majority of the directors then in office, and the directors so elected shall hold office for the balance of the unexpired term.

Any one or more of the directors of the Company may be removed either with or without cause at any time by a vote of the holders of record of at least a majority of the shares of stock of the Company, issued and outstanding and entitled to vote, and thereupon the term of the director or directors who shall have been so removed shall forthwith terminate and there shall be a vacancy or vacancies in the Board of Directors, to be filled by a vote of the stockholders as provided in these By-Laws.

Section 2.05. Meetings, Notice. Meetings of the Board of Directors shall be held at such place either within or without the State of New York, as may from time to time be fixed by resolution of the Board, or as may be specified in the call or in a waiver of notice thereof. Regular meetings of the Board of Directors and its Executive Committee shall be held as often as may be required under applicable law, and special meetings may be held at any time upon the call of two directors, the Chairman of the Board or the President, by oral, telegraphic or written notice duly served on or sent or mailed to each director not less than two days before such meeting. Any meeting may be held without notice, if all directors are present, or if notice is waived in writing, either before or after the meeting, by those not present.

Section 2.06. Compensation. The Board of Directors may determine, from time to time, the amount of compensation, which shall be paid to its members. The Board of Directors shall also have power, in its discretion, to allow a fixed sum and expenses for attendance at each regular or special meeting of the Board, or of any committee of the Board. The Board of Directors shall also have power, in its discretion, to provide for and pay to directors rendering services to the Company not ordinarily rendered by directors, as such, special compensation appropriate to the value of such services, as determined by the Board from time to time.

ARTICLE III

COMMITTEES

Section 3.01. Executive Committee. There shall be an Executive Committee of the Board who shall be appointed annually by resolution adopted by the majority of the entire Board of Directors. The Chairman of the Board shall preside at meetings of the Executive Committee. In his absence, the Chief Executive Officer or, in his absence, the President or any Co-President or, in their absence, such other member of the Executive Committee as the Executive Committee from time to time may designate shall preside at such meetings.

Section 3.02. Audit and Fiduciary Committee. There shall be an Audit and Fiduciary Committee appointed annually by resolution adopted by a majority of the entire Board of Directors which shall consist of such number of independent directors, as may from time to time be fixed by the Audit and Fiduciary Committee charter adopted by the Board of Directors.

Section 3.03. Other Committees. The Board of Directors shall have the power to appoint any other Committees as may seem necessary, and from time to time to suspend or continue the powers and duties of such Committees. Each Committee appointed pursuant to this Article shall serve at the pleasure of the Board of Directors.

Section 3.04. Limitations. No committee shall have the authority as to the following matters: (i) the submission to stockholders of any action that needs stockholders' authorization under New York Banking Law; (ii) the filling of vacancies in the Board of Directors or in any such committee; (iii) the fixing of compensation of the directors for serving on the Board of Directors or on any committee; (iv) the amendment or repeal of these By-Laws, or the adoption of new by-laws; (v) the amendment or repeal of any resolution of the Board of Directors which by its terms shall not be so amendable or repealable; or (vi) the taking of action which is expressly required by any provision of New York Banking Law to be taken at a meeting of the Board of Directors or by a specified proportion of the directors.

ARTICLE IV

OFFICERS

Section 4.01. Titles and Election. The officers of the Company, who shall be chosen by the Board of Directors within twenty-five days after each annual meeting of stockholders, shall be a President, Chief Executive Officer, Chief Risk Officer, Chief Financial Officer, Treasurer, Secretary, and a General Auditor. The Board of Directors from time to time may elect one or more Managing Directors, Directors, Vice Presidents, Assistant Secretaries, Assistant Treasurers and such other officers and agents as it shall deem necessary, and may define their powers and duties. Any number of offices may be held by the same person, except the offices of President and Secretary.

Section 4.02. Terms of Office. Each officer shall hold office for the term for which he is elected or appointed, and until his successor has been elected or appointed and qualified.

Section 4.03. Removal. Any officer may be removed, either with or without cause, at any time, by the affirmative vote of a majority of the Board of Directors.

Section 4.04. Resignations. Any officer may resign at any time by giving written notice to the Board of Directors or to the Secretary. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.05. Vacancies. If the office of any officer or agent becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the Board of Directors may choose a successor, who shall hold office for the unexpired term in respect of which such vacancy occurred.

Section 4.06. President. The President shall have general authority to exercise all the powers necessary for the President of the Company. In the absence of the Chairman and the Lead Independent Director, the President shall preside at all meetings of the Board of Directors and of the stockholders. The President shall have the power to execute bonds, mortgages and other contracts, agreements and instruments of the Company, and he shall perform such other duties and have such other powers as may be incident to the office of the president of a corporation and as from time to time may otherwise be prescribed by the Board of Directors.

Section 4.07. Chief Executive Officer. Unless otherwise determined by the Board of Directors, the President shall be the Chief Executive Officer of the Company. The Chief Executive Officer shall exercise the powers and perform the duties usual to the chief executive officer and, subject to the control of the Board of Directors, shall have general management and control of the affairs and business of the Company; he shall appoint and discharge employees and agents of the Company (other than officers elected by the Board of Directors); he shall see that all orders and resolutions of the Board of Directors are carried into effect; he shall have the power to execute bonds, mortgages and other contracts, agreements and instruments of the Company, and he shall perform such other duties and have such other powers as may be incident to the office of the chief executive officer of a corporation and as from time to time may otherwise be prescribed by the Board of Directors.

Section 4.08. Chief Risk Officer. The Chief Risk Officer shall have the responsibility for the risk management and monitoring of the Company. The Chief Risk Officer shall have the power to execute bonds, notes, mortgages and other contracts, agreements and instruments of the Company, and he shall perform such other duties and have such other powers as may be incident to his office and as from time to time may otherwise be prescribed by the Board of Directors.

Section 4.09. Chief Financial Officer. The Chief Financial Officer shall have the responsibility for reporting to the Board of Directors on the financial condition of the Company, preparing and submitting all financial reports required by applicable law, and preparing annual financial statements of the Company and coordinating with qualified third party auditors to ensure such financial statements are audited in accordance with applicable law.

Section 4.10. Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company and shall deposit all moneys, and other valuable effects in the name and to the credit of the Company, in such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Company as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the directors whenever they may require it an account of all his transactions as Treasurer and of the financial condition of the Company.

Section 4.11. Secretary. The Secretary shall attend all sessions of the Board of Directors and all meetings of the stockholders and record all votes and the minutes of proceedings in records or books to be kept for that purpose. He shall give, or cause to be given, notice of all meetings of the stockholders and of the Board of Directors and shall perform such other duties and have such other powers as may be incident to the office of the secretary of a corporation and as from time to time may otherwise be prescribed by the Board of Directors. The Secretary shall have and be the custodian of the stock records and all other books, records and papers of the Company (other than financial) and shall see that all books, reports, statements, certificates and other documents and records required by law are properly kept and filed.

Section 4.12. General Auditor. The General Auditor shall be responsible, through the Audit and Fiduciary Committee, to the Board of Directors for the determination of the program of the internal audit function and the evaluation of the adequacy of the system of internal controls. Subject to the Board of Directors, the General Auditor shall have and may exercise all the powers and shall perform all the duties usual to such office and shall have such other powers as may be prescribed or assigned to him from time to time by the Board of Directors or vested in him by law or by these By-Laws. He shall perform such other duties and shall make such investigations, examinations and reports as may be prescribed or required by the Audit and Fiduciary Committee. The General Auditor shall have unrestricted access to all records and premises of the Company and shall delegate such authority to his subordinates. He shall have the duty to report to the Audit and Fiduciary Committee on all matters concerning the internal audit program and the adequacy of the system of internal controls of the Company which he deems advisable or which the Audit and Fiduciary Committee may request.

Section 4.13. Managing Directors, Directors and Vice Presidents. If chosen, the Managing Directors, Directors and Vice Presidents, in the order of their seniority, shall, in the absence or disability of the President, exercise all of the powers and duties of the President. Such Managing Directors, Directors and Vice Presidents shall have the power to execute bonds, notes, mortgages and other contracts, agreements and instruments of the Company, and they shall perform such other duties and have such other powers as may be incident to their respective offices and as from time to time may be prescribed by the Board of Directors or the President.

Section 4.14. Duties of Officers may be Delegated. In case of the absence or disability of any officer of the Company, or for any other reason that the Board may deem sufficient, the Board may delegate, for the time being, the powers or duties, or any of them, of such officer to any other officer.

ARTICLE V

INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS

Section 5.01. Power to Indemnify in Actions, Suits or Proceedings other than Those by or in the Right of the Company. Subject to the other provisions of this Article V, and subject to applicable law, the Company shall indemnify any person made or threatened to be made a party to an action or proceeding (other than one by or in the right of the Company to procure a judgment in its favor), whether civil or criminal, including an action by or in the right of any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any director or officer of the Company served in any capacity at the request of the Company, by reason of the fact that such person, his or her testator or intestate, was a director or officer of the Company, or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, if such director or officer acted, in good faith, for a purpose which such person reasonably believed to be in, or, in the case of service for any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the Company, and had no reasonable cause to believe that such person's conduct was unlawful.

Section 5.02. Power to Indemnify in Actions, Suits or Proceedings by or in the Right of the Company. Subject to the other provisions of this Article V, and subject to applicable law, the Company shall indemnify any person made, or threatened to be made, a party to an action by or in the right of the Company to procure a judgment in its favor by reason of the fact that such person, his or her testator or intestate, is or was a director or officer of the Company, or is or was serving at the request of the Company as a director or officer of any other corporation of any type or kind, domestic or foreign, of any partnership, joint venture, trust, employee benefit plan or other enterprise, against amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred by such person in connection with the defense or settlement of such action, or in connection with an appeal therein, if such director or officer acted, in good faith, for a purpose which he reasonably believed to be in, or, in the case of service for any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the Company, except that no indemnification under this Section 5.02 shall be made in respect of (a) a threatened action, or a pending action which is settled or otherwise disposed of, or (b) any claim, issue or matter as to which such person shall have been adjudged to be liable to the Company, unless and only to the extent that the court in which the action was brought, or, if no action was brought, any court of competent jurisdiction, determines upon application that, in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such portion of the settlement amount and expenses as the court deems proper.

Section 5.03. Authorization of Indemnification. Any indemnification under this Article V (unless ordered by a court) shall be made by the Company only if authorized in the specific case (i) by the Board acting by a quorum consisting of directors who are not parties to such action or proceeding upon a finding that the director or officer has met the standard of conduct set forth in Section 5.01 or Section 5.02, as the case may be; or (ii) if a quorum is not obtainable or, even if obtainable, a quorum of disinterested directors so directs, (x) by the Board upon the opinion in writing of independent legal counsel that indemnification is proper in the circumstances because the applicable standard of conduct set forth in Section 5.01 or Section 5.02, as the case may be, has been met by such director or officer; or (y) by the stockholders upon a finding that the director or officer has met the applicable standard of conduct set forth in Section 5.01 or Section 5.02, as the case may be. A person who has been successful on the merits or otherwise, in the defense of a civil or criminal action or proceeding of the character described in Sections 5.01 or 5.02, shall be entitled to indemnification as authorized in such section.

Section 5.04. Good Faith Defined. For purposes of any determination under Section 5.03, a person shall be deemed to have acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company, or to have had no reasonable cause to believe such person's conduct was unlawful, if such person's action is based on the records or books of account of the Company or another enterprise, or on information supplied to such person by the officers of the Company or another enterprise in the course of their duties, or on the advice of legal counsel for the Company or another enterprise or on information or records given or reports made to the Company or another enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Company or another enterprise. The provisions of this Section 5.04 shall not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standard of conduct set forth in Section 5.01 or Section 5.02, as the case may be.

Section 5.05. Serving an Employee Benefit Plan on behalf of the Company. For the purpose of this Article V, the Company shall be deemed to have requested a person to serve an employee benefit plan where the performance by such person of his duties to the Company also imposes duties on, or otherwise involves services by, such person to the plan or participants or beneficiaries of the plan; excise taxes assessed on a person with respect to an employee benefit plan pursuant to applicable law shall be considered fines; and action taken or omitted by a person with respect to an employee benefit plan in the performance of such person's duties for a purpose reasonably believed by such person to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the Company.

Section 5.06. Indemnification upon Application to a Court. Notwithstanding the failure of the Company to provide indemnification and despite any contrary resolution of the Board or stockholders under Section 5.03, or in the event that no determination has been made within ninety days after receipt of the Company of a written claim therefor, upon application to a court by a director or officer, indemnification shall be awarded by a court to the extent authorized in Section 5.01 or Section 5.02. Such application shall be upon notice to the Company. Neither a contrary determination in the specific case under Section 5.03 nor the absence of any determination thereunder shall be a defense to such application or create a presumption that the director or officer seeking indemnification has not met any applicable standard of conduct.

Section 5.07. Expenses Payable in Advance. Subject to the other provisions of this Article V, and subject to applicable law, expenses incurred in defending a civil or criminal action or proceeding may be paid by the Company in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount (i) if it shall ultimately be determined that such person is not entitled to be indemnified by the Company as authorized in this Article V, (ii) where indemnification is granted, to the extent expenses so advanced by the Company or allowed by a court exceed the indemnification to which such person is entitled and (iii) upon such other terms and conditions, if any, as the Company deems appropriate. Any such advancement of expenses shall be made in the sole and absolute discretion of the Company only as authorized in the specific case upon a determination made, with respect to a person who is a director or officer at the time of such determination, (i) by the Board acting by a quorum consisting of directors who are not parties to such action or proceeding, or (ii) if a quorum is not obtainable or, even if obtainable, if a quorum of disinterested directors so directs, (x) by the Board upon the opinion in writing of independent legal counsel or (y) by the stockholders and, with respect to former directors and officers, by any person or persons having the authority to act on the matter on behalf of the Company. Without limiting the foregoing, the Company reserves the right in its sole and absolute discretion to revoke at any time any approval previously granted in respect of any such request for the advancement of expenses or to, in its sole and absolute discretion, impose limits or conditions in respect of any such approval.

Section 5.08. Nonexclusivity of Indemnification and Advancement of Expenses. The indemnification and advancement of expenses granted pursuant to, or provided by, this Article V shall not be deemed exclusive of any other rights to which a director or officer seeking indemnification or advancement of expenses may be entitled whether contained in the Company's Organization Certificate, these By-Laws or, when authorized by the Organization Certificate or these By-Laws, (i) a resolution of stockholders, (ii) a resolution of directors, or (iii) an agreement providing for such indemnification, provided that no indemnification may be made to or on behalf of any director or officer if a judgment or other final adjudication adverse to the director or officer establishes that his acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he personally gained in fact a financial profit or other advantage to which he was not legally entitled. Nothing contained in this Article V shall affect any rights to indemnification to which corporate personnel other than directors and officers may be entitled by contract or otherwise under law.

Section 5.09. Insurance. Subject to the other provisions of this Article V, the Company may purchase and maintain insurance (in a single contract or supplement thereto, but not in a retrospective rated contract): (i) to indemnify the Company for any obligation which it incurs as a result of the indemnification of directors and officers under the provisions of this Article V, (ii) to indemnify directors and officers in instances in which they may be indemnified by the Company under the provisions of this Article V and applicable law, and (iii) to indemnify directors and officers in instances in which they may not otherwise be indemnified by the Company under the provisions of this Article V, provided the contract of insurance covering such directors and officers provides, in a manner acceptable to the New York Superintendent of Financial Services, for a retention amount and for co-insurance. Notwithstanding the foregoing, any such insurance shall be subject to the provisions of, and the Company shall comply with the requirements set forth in, Section 7023 of the New York State Banking Law.

Section 5.10. Limitations on Indemnification and Insurance. All indemnification and insurance provisions contained in this Article V are subject to any limitations and prohibitions under applicable law, including but not limited to Section 7022 (with respect to indemnification, advancement or allowance) and Section 7023 (with respect to insurance) of the New York State Banking Law and the Federal Deposit Insurance Act (with respect to administrative proceedings or civil actions initiated by any federal banking agency). Notwithstanding anything contained in this Article V to the contrary, no indemnification, advancement or allowance shall be made (i) to or on behalf of any director or officer if a judgment or other final adjudication adverse to the director or officer establishes that his acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he personally gained in fact a financial profit or other advantage to which he was not legally entitled, or (ii) in any circumstance where it appears (a) that the indemnification would be inconsistent with a provision of the Company's Organization Certificate, these By-Laws, a resolution of the Board or of the stockholders, an agreement or other proper corporate action, in effect at the time of the accrual of the alleged cause of action asserted in the threatened or pending action or proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or (b) if there has been a settlement approved by the court, that the indemnification would be inconsistent with any condition with respect to indemnification expressly imposed by the court in approving the settlement.

Notwithstanding anything contained in this Article V to the contrary, but subject to any requirements of applicable law, (i) except for proceedings to enforce rights to indemnification (which shall be governed by Section 5.06), the Company shall not be obligated to indemnify any director or officer (or his testators intestate) or advance expenses in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the Board of Directors of the Company, (ii) with respect to indemnification or advancement of expenses relating to attorneys' fees under this Article V, counsel for the present or former director or officer must be reasonably acceptable to the Company (and the Company may, in its sole and absolute discretion, establish a panel of approved law firms for such purpose, out of which the present or former director or officer could be required to select an approved law firm to represent him), (iii) indemnification in respect of amounts paid in settlement shall be subject to the prior consent of the Company (not to be unreasonably withheld), (iv) any and all obligations of the Corporation under this Article V shall be subject to applicable law, (v) in no event shall any payments pursuant to this Article V be made if duplicative of any indemnification or advancement of expenses or other reimbursement available to the applicable director or officer (other than for coverage maintained by such person in his individual capacity), and (vi) no indemnification or advancement of expenses shall be provided under these By-Laws to any person in respect of any expenses, judgments, fines or amounts paid in settlement to the extent incurred by such person in his capacity or position with another entity (including, without limitation, an entity that is a stockholder of the Company or any of the branches or affiliates of such stockholder), except as expressly provided in these By-Laws in respect of such person's capacity and position as a director or officer of the Company or such person is a director or officer of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

Section 5.11. Indemnification of Other Persons. The Company may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses (whether pursuant to an adoption of a policy or otherwise) to employees and agents of the Company (whether similar to those conferred in this Article V upon directors and officers of the Company or on other terms and conditions authorized from time to time by the Board of Directors), as well as to employees of direct and indirect subsidiaries of the Company and to other persons (or categories of persons) approved from time to time by the Board of Directors.

Section 5.12. Repeal. Any repeal or modification of this Article V shall not adversely affect any rights to indemnification and to the advancement of expenses of a director, officer, employee or agent of the Company existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

ARTICLE VI

CAPITAL STOCK

Section 6.01. Certificates. The interest of each stockholder of the Company shall be evidenced by certificates for shares of stock in such form as the Board of Directors may from time to time prescribe. The certificates of stock shall be signed by the Chairman of the Board or the President or a Managing Director or a Director or a Vice President and by the Secretary, or the Treasurer, or an Assistant Secretary, or an Assistant Treasurer, sealed with the seal of the Company or a facsimile thereof, and countersigned and registered in such manner, if any, as the Board of Directors may by resolution prescribe. Where any such certificate is countersigned by a transfer agent other than the Company or its employee, or registered by a registrar other than the Company or its employee, the signature of any such officer may be a facsimile signature. In case any officer or officers who shall have signed, or whose facsimile signature or signatures shall have been used on, any such certificate or certificates shall cease to be such officer or officers of the Company, whether because of death, resignation, retirement, disqualification, removal or otherwise, before such certificate or certificates shall have been delivered by the Company, such certificate or certificates may nevertheless be adopted by the Company and be issued and delivered as though the person or persons who signed such certificate or certificates or whose facsimile signature or signatures shall have been used thereon had not ceased to be such officer or officers of the Company.

Section 6.02. Transfer. The shares of stock of the Company shall be transferred only upon the books of the Company by the holder thereof in person or by his attorney, upon surrender for cancellation of certificates for the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, with such proof of the authenticity of the signature as the Company or its agents may reasonably require.

Section 6.03. Record Dates. The Board of Directors may fix in advance a date, not less than 10 nor more than 50 days preceding the date of any meeting of stockholders, or the date for the payment of any dividend, or the date for the distribution or allotment of any rights, or the date when any change, conversion or exchange of capital stock shall go into effect, as a record date for the determination of the stockholders entitled to notice of, and to vote at, any such meeting, or entitled to receive payment of any such dividend, or to receive any distribution or allotment of such rights, or to exercise the rights in respect of any such change, conversion or exchange of capital stock, and in such case only such stockholders as shall be stockholders of record on the date so fixed shall be entitled to such notice of, and to vote at, such meeting, or to receive payment of such dividend, or to receive such distribution or allotment or rights or to exercise such rights, as the case may be, notwithstanding any transfer of any stock on the books of the Company after any such record date fixed as aforesaid.

Section 6.04. Lost Certificates. In the event that any certificate of stock is lost, stolen, destroyed or mutilated, the Board of Directors may authorize the issuance of a new certificate of the same tenor and for the same number of shares in lieu thereof. The Board may in its discretion, before the issuance of such new certificate, require the owner of the lost, stolen, destroyed or mutilated certificate or the legal representative of the owner to make an affidavit or affirmation setting forth such facts as to the loss, destruction or mutilation as it deems necessary and to give the Company a bond in such reasonable sum as it directs to indemnify the Company.

ARTICLE VII

CHECKS, NOTES, ETC.

Section 7.01. Checks, Notes, Etc. All checks and drafts on the Company's bank accounts and all bills of exchange and promissory notes, and all acceptances, obligations and other instruments for the payment of money, may be signed by the President or any Managing Director or any Director or any Vice President and may also be signed by such other officer or officers, agent or agents, as shall be thereunto authorized from time to time by the Board of Directors.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.01. Fiscal Year. The fiscal year of the Company shall be from January 1 to December 31, unless changed by the Board of Directors.

Section 8.02. Books. There shall be kept at such office of the Company as the Board of Directors shall determine, within or without the State of New York, correct books and records of account of all its business and transactions, minutes of the proceedings of its stockholders, Board of Directors and committees, and the stock book, containing the names and addresses of the stockholders, the number of shares held by them, respectively, and the dates when they respectively became the owners of record thereof, and in which the transfer of stock shall be registered, and such other books and records as the Board of Directors may from time to time determine.

Section 8.03. Voting of Stock. Unless otherwise specifically authorized by the Board of Directors, all stock owned by the Company, other than stock of the Company, shall be voted, in person or by proxy, by the President or any Managing Director or any Director or any Vice President of the Company on behalf of the Company.

ARTICLE IX

AMENDMENTS

Section 9.01. Amendments. The vote of the holders of at least a majority of the shares of stock of the Company issued and outstanding and entitled to vote shall be necessary at any meeting of stockholders to amend or repeal these By-Laws or to adopt new by-laws. These By-Laws may also be amended or repealed, or new by-laws adopted, at any meeting of the Board of Directors by the vote of at least a majority of the entire Board, provided that any by-law adopted by the Board may be amended or repealed by the stockholders in the manner set forth above.

Any proposal to amend or repeal these By-Laws or to adopt new by-laws shall be stated in the notice of the meeting of the Board of Directors or the stockholders or in the waiver of notice thereof, as the case may be, unless all of the directors or the holders of record of all of the shares of stock of the Company issued and outstanding and entitled to vote are present at such meeting.

DEUTSCHE BANK TRUST COMPANY AMERICAS
00623
New York, NY 10019

Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency

OMB Number 7100-0036
OMB Number 3064-0052
OMB Number 1557-0081
Approval expires August 31, 2026
Page 1 of 85

Federal Financial Institutions Examination Council



**Consolidated Reports of Condition and Income for
a Bank with Domestic Offices Only—FFIEC 041**

Report at the close of business March 31, 2024

20240331
(RCON 9999)

This report is required by law: 12 U.S.C. § 324 (State member banks); 12 U.S.C. §1817 (State nonmember banks); 12 U.S.C. §161 (National banks); and 12 U.S.C. §1464 (Savings associations).

This report form is to be filed by banks with domestic offices only and total consolidated assets of less than \$100 billion, except those banks that file the FFIEC 051, and those banks that are advanced approaches institutions for regulatory capital purposes that are required to file the FFIEC 031.

Unless the context indicates otherwise, the term "bank" in this report form refers to both banks and savings associations.

NOTE: Each bank's board of directors and senior management are responsible for establishing and maintaining an effective system of internal control, including controls over the Reports of Condition and Income. The Reports of Condition and Income are to be prepared in accordance with federal regulatory authority instructions. The Reports of Condition and Income must be signed by the Chief Financial Officer (CFO) of the reporting bank (or by the individual performing an equivalent function) and attested to by not less than two directors (trustees) for state nonmember banks and three directors for state member banks, national banks, and savings associations.

schedules) for this report date have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true and correct to the best of my knowledge and belief.

We, the undersigned directors (trustees), attest to the correctness of the Reports of Condition and Income (including the supporting schedules) for this report date and declare that the Reports of Condition and Income have been examined by us and to the best of our knowledge and belief have been prepared in conformance with the instructions issued by the appropriate Federal regulatory authority and are true and correct.

I, the undersigned CFO (or equivalent) of the named bank, attest that the Reports of Condition and Income (including the supporting

Director (Trustee)

Signature of Chief Financial Officer (or Equivalent)

Director (Trustee)

04/30/2024
Date of Signature

Director (Trustee)

Submission of Reports

Each bank must file its Reports of Condition and Income (Call Report) data by either:

To fulfill the signature and attestation requirement for the Reports of Condition and Income for this report date, attach your bank's completed signature page (or a photocopy or a computer generated version of this page) to the hard-copy record of the data file submitted to the CDR that your bank must place in its files.

- (a) Using computer software to prepare its Call Report and then submitting the report data directly to the FFIEC's Central Data Repository (CDR), an Internet-based system for data collection (<https://cdr.ffiec.gov/cdr/>), or
- (b) Completing its Call Report in paper form and arranging with a software vendor or another party to convert the data into the electronic format that can be processed by the CDR. The software vendor or other party then must electronically submit the bank's data file to the CDR.

The appearance of your bank's hard-copy record of the submitted data file need not match exactly the appearance of the FFIEC's sample report forms, but should show at least the caption of each Call Report item and the reported amount.

For technical assistance with submissions to the CDR, please contact the CDR Help Desk by telephone at (888) CDR-3111, by fax at (703) 774-3946, or by e-mail at cdr.help@cdr.ffiec.gov.

DEUTSCHE BANK TRUST COMPANY AMERICAS
Legal Title of Bank (RSSD 9017)

New York
City (RSSD 9130)

FDIC Certificate Number 623
(RSSD 9050)

NY **10019**
State Abbreviation (RSSD 9200) Zip Code (RSSD 9220)

Legal Entity Identifier (LEI)
8EWQ2UQKS07AKK8ANH81
(Report only if your institution already has an LEI.) (RCON 9224)

The estimated average burden associated with this information collection is 54.60 hours per respondent and is expected to vary by institution, depending on individual circumstances. Burden estimates include the time for reviewing instructions, gathering and maintaining data in the required form, and completing the information collection, but exclude the time for compiling and maintaining business records in the normal course of a respondent's activities. A Federal agency may not conduct or sponsor, and an organization (or a person) is not required to respond to a collection of information, unless it displays a currently valid OMB control number. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to one of the following: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551; Legislative and Regulatory Analysis Division, Office of the Comptroller of the Currency, Washington, DC 20219; Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only

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Schedule RC-D—Trading Assets and Liabilities (to be completed only by selected banks).....	RC-16		

For information or assistance, national banks, state nonmember banks, and savings associations should contact the FDIC's Data Collection and Analysis Section, 550 17th Street, NW, Washington, DC 20429, toll free on (800) 688-FDIC(3342), Monday through Friday between 8:00 a.m. and 5:00 p.m., Eastern Time. State member banks should contact their Federal Reserve District Bank.

Contact Information for the Reports of Condition and Income

To facilitate communication between the Agencies and the bank concerning the Reports of Condition and Income, please provide contact information for (1) the Chief Financial Officer (or equivalent) of the bank signing the reports for this quarter, and (2) the person at the bank —other than the Chief Financial Officer (or equivalent)— to whom questions about the reports should be directed. If the Chief Financial Officer (or equivalent) is the primary contact for questions about the reports, please provide contact information for another person at the bank who will serve as a secondary contact for communications between the Agencies and the bank concerning the Reports of Condition and Income. Enter "none" for the contact's e-mail address or fax number if not available. Contact information for the Reports of Condition and Income is for the confidential use of the Agencies and will not be released to the public.

Chief Financial Officer (or Equivalent) Signing the Reports

Mona Nag

Name (TEXT C490)

CFO

Title (TEXT C491)

mona.nag@db.com

E-mail Address (TEXT C492)

212-250-0302

Area Code / Phone Number / Extension (TEXT C493)

212-797-5376

Area Code / FAX Number (TEXT C494)

Other Person to Whom Questions about the Reports Should be Directed

Scott Iacono

Name (TEXT C495)

Director

Title (TEXT C496)

Scott.iacono@db.com

E-mail Address (TEXT 4086)

212-250-8948

Area Code / Phone Number / Extension (TEXT 8902)

212-797-5376

Area Code / FAX Number (TEXT 9116)

Chief Executive Officer Contact Information

This information is being requested so the Agencies can distribute notifications about policy initiatives, deposit insurance assessments, and other matters directly to the Chief Executive Officers of reporting institutions. Notifications about other matters may include emergency notifications that may or may not also be sent to the institution's emergency contacts listed below. Please provide contact information for the Chief Executive Officer of the reporting institution. Enter "none" for the Chief Executive Officer's e-mail address or fax number if not available. Chief Executive Officer contact information is for the confidential use of the Agencies and will not be released to the public.

Chief Executive Officer

Arjun Nagarkatti

Name (TEXT FT42)

arjun.nagarkatti@db.com

E-mail Address (TEXT FT44)

442075450031

Area Code / Phone Number / Extension (TEXT FT43)

212-797-4932

Area Code / FAX Number (TEXT FT45)

Emergency Contact Information

This information is being requested so the Agencies can distribute critical, time-sensitive information to emergency contacts at banks. Please provide primary contact information for a senior official of the bank who has decision-making authority. Also provide information for a secondary contact if available. Enter "none" for the contact's e-mail address or fax number if not available. Emergency contact information is for the confidential use of the Agencies and will not be released to the public.

Primary Contact

Arjun Nagarkatti

Name (TEXT C366)

Managing Director

Title (TEXT C367)

Arjun.Nagarkatti@db.com

E-mail Address (TEXT C368)

442075450031

Area Code / Phone Number / Extension (TEXT C369)

212-797-4932

Area Code / FAX Number (TEXT C370)

Secondary Contact

Michael Connolly

Name (TEXT C371)

Managing Director

Title (TEXT C372)

Michael.Connolly@db.com

E-mail Address (TEXT C373)

212-250-1483

Area Code / Phone Number / Extension (TEXT C374)

212-797-4932

Area Code / FAX Number (TEXT C375)

USA PATRIOT Act Section 314(a) Anti-Money Laundering Contact Information

This information is being requested to identify points-of-contact who are in charge of your bank's USA PATRIOT Act Section 314(a) information requests. Bank personnel listed could be contacted by law enforcement officers or the Financial Crimes Enforcement Network (FinCEN) for additional information related to specific Section 314(a) search requests or other anti-terrorist financing and anti-money-laundering matters. Communications sent by FinCEN to the bank for purposes other than Section 314(a) notifications will state the intended purpose and should be directed to the appropriate bank personnel for review. Any disclosure of customer records to law enforcement officers or FinCEN must be done in compliance with applicable law, including the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.).

Please provide information for a primary and secondary contact. Information for a third and fourth contact may be provided at the bank's option. Enter "none" for the contact's e-mail address if not available. This contact information is for the confidential use of the Agencies, FinCEN, and law enforcement officers and will not be released to the public.

Primary Contact

Paul Khareyn

Name (TEXT C437)

Director

Title (TEXT C438)

Paul.Khareyn@db.com

E-mail Address (TEXT C439)

212-250-6774

Area Code / Phone Number / Extension (TEXT C440)

Secondary Contact

Joe Evans

Name (TEXT C442)

Managing Director

Title (TEXT C443)

Joe.Evans@db.com

E-mail Address (TEXT C444)

212-250-1213

Area Code / Phone Number / Extension (TEXT C445)

Third Contact

Hatton Hillin

Name (TEXT C870)

Assistant Vice President

Title (TEXT C871)

Hatton.Hillin@db.com

E-mail Address (TEXT C872)

904-520-5106

Area Code / Phone Number / Extension (TEXT C873)

Fourth Contact

Cristian Ilut

Name (TEXT C875)

Assistant Vice President

Title (TEXT C876)

Cristian.Ilut@db.com

E-mail Address (TEXT C877)

347-863-0715

Area Code / Phone Number / Extension (TEXT C878)

**Consolidated Report of Income
for the period January 1, 2024–March 31, 2024**

Schedule RI—Income Statement

	Dollar Amounts in Thousands		RIAD	Amount	
1. Interest income:					
a. Interest and fee income on loans:					
(1) Loans secured by real estate:					
(a) Loans secured by 1–4 family residential properties.....	4435	22,000			1.a.(1)(a)
(b) All other loans secured by real estate.....	4436	78,000			1.a.(1)(b)
(2) Commercial and industrial loans.....	4012	37,000			1.a.(2)
(3) Loans to individuals for household, family, and other personal expenditures:					
(a) Credit cards.....	B485	0			1.a.(3)(a)
(b) Other (includes revolving credit plans other than credit cards, automobile loans, and other consumer loans).....	B486	6,000			1.a.(3)(b)
(4) Not applicable					
(5) All other loans ⁽¹⁾.....	4058	127,000			1.a.(5)
(6) Total interest and fee income on loans (sum of items 1.a.(1)(a) through 1.a.(5)).....	4010	270,000			1.a.(6)
b. Income from lease financing receivables.....	4065	0			1.b.
c. Interest income on balances due from depository institutions ⁽²⁾.....	4115	153,000			1.c.
d. Interest and dividend income on securities:					
(1) U.S. Treasury securities and U.S. Government agency obligations (excluding mortgage-backed securities).....	B488	1,000			1.d.(1)
(2) Mortgage-backed securities.....	B489	0			1.d.(2)
(3) All other securities (includes securities issued by states and political subdivisions in the U.S.).....	4060	0			1.d.(3)
e. Not applicable					
f. Interest income on federal funds sold and securities purchased under agreements to resell.....	4020	80,000			1.f.
g. Other interest income.....	4518	1,000			1.g.
h. Total interest income (sum of items 1.a.(6) through 1.g.).....	4107	505,000			1.h.
2. Interest expense:					
a. Interest on deposits:					
(1) Transaction accounts (interest-bearing demand deposits, NOW accounts, ATS accounts, and telephone and preauthorized transfer accounts).....	4508	143,000			2.a.(1)
(2) Nontransaction accounts:					
(a) Savings deposits (includes MMDAs).....	0093	21,000			2.a.(2)(a)
(b) Time deposits of \$250,000 or less.....	HK03	0			2.a.(2)(b)
(c) Time deposits of more than \$250,000.....	HK04	3,000			2.a.(2)(c)
b. Expense of federal funds purchased and securities sold under agreements to repurchase.....	4180	0			2.b.
c. Interest on trading liabilities and other borrowed money.....	4185	6,000			2.c.
d. Interest on subordinated notes and debentures.....	4200	0			2.d.
e. Total interest expense (sum of items 2.a through 2.d.).....	4073	173,000			2.e.
3. Net interest income (item 1.h minus 2.e.).....	4074	332,000			3.
4. Provisions for credit losses ⁽³⁾.....	JJ33	0			4.

1. Includes interest and fee income on "Loans to depository institutions and acceptances of other banks," "Loans to finance agricultural production and other loans to farmers," "Obligations (other than securities and leases) of states and political subdivisions in the U.S.," and "Loans to nondepository financial institutions and other loans."

2. Includes interest income on time certificates of deposit not held for trading.

3. Institutions should report in item 4 the provisions for credit losses on all financial assets and off-balance-sheet credit exposures.

Schedule RI—Continued

	Dollar Amounts in Thousands	Year-to-date		
		RIAD	Amount	
5. Noninterest income:				
a. Income from fiduciary activities ⁽¹⁾		4070	67,000	5.a.
b. Service charges on deposit accounts.....		4080	32,000	5.b.
c. Trading revenue.....		A220	0	5.c.
d. Income from securities-related and insurance activities:				
(1) Fees and commissions from securities brokerage.....		C886	0	5.d.(1)
(2) Investment banking, advisory, and underwriting fees and commissions.....		C888	0	5.d.(2)
(3) Fees and commissions from annuity sales.....		C887	0	5.d.(3)
(4) Underwriting income from insurance and reinsurance activities.....		C386	0	5.d.(4)
(5) Income from other insurance activities.....		C387	0	5.d.(5)
e. Venture capital revenue.....		B491	0	5.e.
f. Net servicing fees.....		B492	0	5.f.
g. Net securitization income.....		B493	0	5.g.
h. Not applicable				
i. Net gains (losses) on sales of loans and leases.....		5416	0	5.i.
j. Net gains (losses) on sales of other real estate owned.....		5415	0	5.j.
k. Net gains (losses) on sales of other assets ⁽²⁾		B496	0	5.k.
l. Other noninterest income*.....		B497	(123,000)	5.l.
m. Total noninterest income (sum of items 5.a through 5.l).....	4079	(24,000)		5.m.
6. a. Realized gains (losses) on held-to-maturity securities.....				
	3521	0		6.a.
b. Realized gains (losses) on available-for-sale debt securities.....				
	3196	0		6.b.
7. Noninterest expense:				
a. Salaries and employee benefits.....		4135	34,000	7.a.
b. Expenses of premises and fixed assets (net of rental income) (excluding salaries and employee benefits and mortgage interest).....				
		4217	7,000	7.b.
c. (1) Goodwill impairment losses.....				
		C216	0	7.c.(1)
(2) Amortization expense and impairment losses for other intangible assets.....				
		C232	0	7.c.(2)
d. Other noninterest expense*.....		4092	179,000	7.d.
e. Total noninterest expense (sum of items 7.a through 7.d).....	4093	220,000		7.e.
8. a. Income (loss) before change in net unrealized holding gains (losses) on equity securities not held for trading, applicable income taxes, and discontinued operations (item 3 plus or minus items 4, 5.m, 6.a, 6.b, and 7.e).....				
	HT69	88,000		8.a.
b. Change in net unrealized holding gains (losses) on equity securities not held for trading ⁽³⁾.....				
	HT70	1,000		8.b.
c. Income (loss) before applicable income taxes and discontinued operations (sum of items 8.a and 8.b).....				
	4301	89,000		8.c.
9. Applicable income taxes (on item 8.c).....	4302	24,000		9.
10. Income (loss) before discontinued operations (Item 8.c minus item 9).....	4300	65,000		10.
11. Discontinued operations, net of applicable income taxes*.....	FT28	0		11.
12. Net income (loss) attributable to bank and noncontrolling (minority) interests (sum of items 10 and 11).....				
	G104	65,000		12.
13. LESS: Net income (loss) attributable to noncontrolling (minority) interests (if net income, report as a positive value; if net loss, report as a negative value).....				
	G103	0		13.
14. Net income (loss) attributable to bank (item 12 minus item 13).....	4340	65,000		14.

* Describe on Schedule RI-E—Explanations.

- For banks required to complete Schedule RC-T, items 14 through 22, income from fiduciary activities reported in Schedule RI, item 5.a, must equal the amount reported in Schedule RC-T, item 22.
- Exclude net gains (losses) on sales of trading assets and held-to-maturity and available-for-sale debt securities.
- Item 8.b is to be completed by all institutions. See the instructions for this item and the Glossary entry for "Securities Activities" for further detail on accounting for investments in equity securities.

Schedule RI—Continued

Memoranda

	Year-to-date		
	RIAD	Amount	
Dollar Amounts in Thousands			
1. Interest expense incurred to carry tax-exempt securities, loans, and leases acquired after August 7, 1986, that is not deductible for federal income tax purposes.....	4513	0	M.1.
<i>Memorandum item 2 is to be completed by banks with \$1 billion or more in total assets (1)</i>			
2. Income from the sale and servicing of mutual funds and annuities (included in Schedule RI, item 8).....	8431	0	M.2.
3. Income on tax-exempt loans and leases to states and political subdivisions in the U.S. (included in Schedule RI, items 1.a and 1.b).....	4313	0	M.3.
4. Income on tax-exempt securities issued by states and political subdivisions in the U.S. (included in Schedule RI, item 1.d.(3)).....	4507	0	M.4.
5. Number of full-time equivalent employees at end of current period (round to nearest whole number).....	4150	377	M.5.
<i>Memorandum item 6 is to be completed by: (1)</i>			
<ul style="list-style-type: none"> • banks with \$300 million or more in total assets, and • banks with less than \$300 million in total assets that have loans to finance agricultural production and other loans to farmers (Schedule RC-C, Part I, item 3) exceeding 5 percent of total loans 			
6. Interest and fee income on loans to finance agricultural production and other loans to farmers (included in Schedule RI, item 1.a.(5)).....	4024	0	M.6.
7. If the reporting institution has applied push down accounting this calendar year, report the date of the institution's acquisition (see instructions) (2).....	9106	00000000	M.7.
8. Not applicable			
<i>Memorandum items 9.a and 9.b are to be completed by banks with \$10 billion or more in total assets. (1)</i>			
9. Net gains (losses) recognized in earnings on credit derivatives that economically hedge credit exposures held outside the trading account:		Amount	
a. Net gains (losses) on credit derivatives held for trading.....	C889	0	M.9.a.
b. Net gains (losses) on credit derivatives held for purposes other than trading.....	C890	0	M.9.b.
<i>Memorandum item 10 is to be completed by banks with \$300 million or more in total assets. (1)</i>			
10. Credit losses on derivatives (see instructions).....	A251	0	M.10.
11. Does the reporting bank have a Subchapter S election in effect for federal income tax purposes for the current tax year?.....	RIAD	Yes	No
	A530		x
12. Not applicable			

1. The asset-size tests and the 5 percent of total loans test are based on the total assets and total loans reported on the June 30, 2023, Report of Condition.
2. Report the date in YYYYMMDD format. For example, a bank acquired on March 1, 2024, would report 20240301.

Schedule RI—Continued

Memoranda—Continued

	Dollar Amounts in Thousands		
	RIAD	Year-to-date Amount	
<i>Memorandum item 13 is to be completed by banks that have elected to account for assets and liabilities under a fair value option.</i>			
13. Net gains (losses) recognized in earnings on assets and liabilities that are reported at fair value under a fair value option:			
a. Net gains (losses) on assets.....	F551	0	M.13.a.
(1) Estimated net gains (losses) on loans attributable to changes in instrument-specific credit risk.....	F552	0	M.13.a.(1)
b. Net gains (losses) on liabilities.....	F553	0	M.13.b.
(1) Estimated net gains (losses) on liabilities attributable to changes in instrument-specific credit risk.....	F554	0	M.13.b.(1)
14. Not applicable			
<i>Memorandum item 15 is to be completed by institutions with \$1 billion or more in total assets ⁽¹⁾ that answered "Yes" to Schedule RC-E, Memorandum item 5.</i>			
15. Components of service charges on deposit accounts (sum of Memorandum Items 15.a through 15.d must equal Schedule RI, item 5.b):			
a. Consumer overdraft-related service charges levied on those transaction account and nontransaction savings account deposit products intended primarily for individuals for personal, household, or family use	H032	NA	M.15.a.
b. Consumer account periodic maintenance charges levied on those transaction account and nontransaction savings account deposit products intended primarily for individuals for personal, household, or family use	H033	NA	M.15.b.
c. Consumer customer automated teller machine (ATM) fees levied on those transaction account and nontransaction savings account deposit products intended primarily for individuals for personal, household, or family use	H034	NA	M.15.c.
d. All other service charges on deposit accounts	H035	NA	M.15.d.

1. The \$1 billion asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

Schedule RI-A—Changes in Bank Equity Capital

	Dollar Amounts in Thousands		
	RIAD	Amount	
1. Total bank equity capital most recently reported for the <i>December 31, 2023, Reports of Condition and Income</i> (i.e., after adjustments from amended Reports of Income).....	3217	9,665,000	1.
2. Cumulative effect of changes in accounting principles and corrections of material accounting errors*.....	B507	0	2.
3. Balance end of previous calendar year as restated (sum of items 1 and 2).....	B508	9,665,000	3.
4. Net income (loss) attributable to bank (must equal Schedule RI, item 14).....	4340	65,000	4.
5. Sale, conversion, acquisition, or retirement of capital stock, net (excluding treasury stock transactions).....	B509	0	5.
6. Treasury stock transactions, net.....	B510	0	6.
7. Changes incident to business combinations, net.....	4356	0	7.
8. LESS: Cash dividends declared on preferred stock.....	4470	0	8.
9. LESS: Cash dividends declared on common stock.....	4460	0	9.
10. Other comprehensive income ⁽¹⁾	B511	(3,000)	10.
11. Other transactions with stockholders (including a parent holding company)* (not included in items 5, 6, 8, or 9 above).....	4415	0	11.
12. Total bank equity capital end of current period (sum of items 3 through 11) (must equal Schedule RC, item 27.a).....	3210	9,727,000	12.

* Describe on Schedule RI-E—Explanations.

1. Includes, but is not limited to, changes in net unrealized holding gains (losses) on available-for-sale debt securities, changes in accumulated net gains (losses) on cash flow hedges, and pension and other postretirement plan-related changes other than net periodic benefit cost.

Schedule RI-B—Charge-offs and Recoveries on Loans and Leases and Changes in Allowances for Credit Losses

Part I. Charge-offs and Recoveries on Loans and Leases

Part I includes charge-offs and recoveries through the allocated transfer risk reserve.

Dollar Amounts in Thousands	(Column A) Charge-offs ⁽¹⁾		(Column B) Recoveries		
	Calendar Year-to-date				
	RIAD	Amount	RIAD	Amount	
1. Loans secured by real estate:					
a. Construction, land development, and other land loans:					
(1) 1–4 family residential construction loans.....	C891	0	C892	0	1.a.(1)
(2) Other construction loans and all land development and other land loans.....	C893	0	C894	0	1.a.(2)
b. Secured by farmland	3584	0	3585	0	1.b.
c. Secured by 1–4 family residential properties:					
(1) Revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit.....	5411	0	5412	0	1.c.(1)
(2) Closed-end loans secured by 1–4 family residential properties:					
(a) Secured by first liens.....	C234	0	C217	0	1.c.(2)(a)
(b) Secured by junior liens.....	C235	0	C218	0	1.c.(2)(b)
d. Secured by multifamily (5 or more) residential properties.....	3588	0	3589	0	1.d.
e. Secured by nonfarm nonresidential properties:					
(1) Loans secured by owner-occupied nonfarm nonresidential properties.....	C895	0	C896	0	1.e.(1)
(2) Loans secured by other nonfarm nonresidential properties.....	C897	0	C898	0	1.e.(2)
2. and 3. Not applicable					
4. Commercial and industrial loans.....	4638	0	4608	0	4.
5. Loans to individuals for household, family, and other personal expenditures:					
a. Credit cards.....	B514	0	B515	0	5.a.
b. Automobile loans.....	K129	0	K133	0	5.b.
c. Other (includes revolving credit plans other than credit cards and other consumer loans).....	K205	0	K206	0	5.c.
6. Not applicable					
7. All other loans ⁽²⁾.....	4644	0	4628	0	7.
8. Lease financing receivables.....	4266	0	4267	0	8.
9. Total (sum of items 1 through 8).....	4635	0	4605	0	9.

1. Include write-downs arising from transfers of loans to a held-for-sale account.

2. Includes charge-offs and recoveries on "Loans to depository institutions and acceptances of other banks," "Loans to finance agricultural production and other loans to farmers," "Obligations (other than securities and leases) of states and political subdivisions in the U.S.," and "Loans to nondepository financial institutions and other loans."

Schedule RI-B—Continued

Memoranda

	(Column A)		(Column B)		
	Charge-offs ⁽¹⁾		Recoveries		
	Calendar Year-to-date				
Dollar Amounts in Thousands	RIAD	Amount	RIAD	Amount	
1. Loans to finance commercial real estate, construction, and land development activities (not secured by real estate) included in Schedule RI-B, Part I, items 4 and 7, above.....	5409	0	5410	0	M.1.
2. Memorandum items 2.a. through 2.d. are to be completed by banks with \$300 million or more in total assets: ⁽²⁾					
a. Loans secured by real estate to non-U.S. addressees (domicile) (included in Schedule RI-B, Part I, item 1, above).....	4652	0	4662	0	M.2.a.
b. Not applicable					
c. Commercial and industrial loans to non-U.S. addressees (domicile) (included in Schedule RI-B, Part I, item 4 above)	4646	0	4618	0	M.2.c.
d. Leases to individuals for household, family, and other personal expenditures (included in Schedule RI-B, Part I, item 8, above).....	F 185	0	F 187	0	M.2.d.
Memorandum item 3 is to be completed by: ⁽²⁾					
• banks with \$300 million or more in total assets, and					
• banks with less than \$300 million in total assets that have loans to finance agricultural production and other loans to farmers (Schedule RC-C, Part I, item 3) exceeding 5 percent of total loans:					
3. Loans to finance agricultural production and other loans to farmers (included in Schedule RI-B, Part I, item 7, above)	4655	0	4665	0	M.3.
Memorandum item 4 is to be completed by banks that (1) together with affiliated institutions, have outstanding credit card receivables (as defined in the instructions) that exceed \$500 million as of the report date, or (2) are credit card specialty banks as defined for Uniform Bank Performance Report purposes.					
4. Uncollectible retail credit card fees and finance charges reversed against income (i.e., not included in charge-offs against the allowance for credit losses on loans and leases).....	Calendar Year-to-date				M.4.
	RIAD	Amount			
	C388		NA		

1. Include write-downs arising from transfers of loans to a held-for-sale account.

2. The \$300 million asset-size test and the 5 percent of total loans test are based on the total assets and total loans reported on the June 30, 2023, Report of Condition.

Schedule RI-B—Continued

Part II. Changes in Allowances for Credit Losses

Dollar Amounts in Thousands	(Column A) Loans and Leases Held for Investment		(Column B) Held-to-Maturity Debt Securities		(Column C) Available-for-Sale Debt Securities		
	RIAD	Amount	RIAD	Amount	RIAD	Amount	
1. Balance most recently reported for the <i>December 31, 2023</i> , Reports of Condition and Income (i.e., after adjustments from amended Reports of Income).....	B522	16,000	JH88	0	JH94	0	1.
2. Recoveries (column A must equal Part I, item 9, column B, above)	4605	0	JH89	0	JH95	0	2.
3. LESS: Charge-offs (column A must equal Part I, item 9, column A, above less Schedule RI-B, Part II, item 4, column A)	C079	0	JH92	0	JH98	0	3.
4. LESS: Write-downs arising from transfers of financial assets	5523	0	JJ00	0	JJ01	0	4.
5. Provisions for credit losses ⁽¹⁾	4230	0	JH90	0	JH96	0	5.
6. Adjustments* (see instructions for this schedule).....	C233	0	JH91	0	JH97	0	6.
7. Balance end of current period (sum of items 1, 2, 5, and 6, less items 3 and 4) (column A must equal Schedule RC, item 4.c).....	3123	16,000	JH93	0	JH99	0	7.

* Describe on Schedule RI-E—Explanations.

1. The sum of item 5, columns A through C, plus schedule RI-B, Part II, Memorandum items 5 and 7, below, must equal Schedule RI, item 4

Memoranda

Dollar Amounts in Thousands	RIAD	Amount	
1. Allocated transfer risk reserve included in Schedule RI-B, Part II, item 7, column A, above.....	C435	0	M.1.
<i>Memorandum items 2 and 3 are to be completed by banks that (1) together with affiliated institutions, have outstanding credit card receivables (as defined in the instructions) that exceed \$500 million as of the report date, or (2) are credit card specialty banks as defined for Uniform Bank Performance Report purposes.</i>			
2. Separate valuation allowance for uncollectible retail credit card fees and finance charges.....	C389	NA	M.2.
3. Amount of allowance for credit losses on loans and leases attributable to retail credit card fees and finance charges	C390	NA	M.3.
4. Not applicable			
5. Provisions for credit losses on other financial assets measured at amortized cost (not included in item 5, above)	JJ02	0	M.5.
6. Allowance for credit losses on other financial assets measured at amortized cost (not included in item 7, above)	RCON		
	JJ03	0	M.6.
7. Provisions for credit losses on off-balance-sheet credit exposures	MG93	0	M.7.
8. Estimated amount of expected recoveries of amounts previously written off included within the allowance for credit losses on loans and leases held for investment (included in item 7, column A, "Balance end of current period," above)	MG94	0	M.8.

Schedule RI-C—Disaggregated Data on the Allowances for Credit Losses

Schedule RI-C, is to be completed by institutions with \$1 billion or more in total assets. ⁽¹⁾

Dollar Amounts in Thousands	(Column A) Amortized Cost		(Column B) Allowance Balance		
	RCON	Amount	RCON	Amount	
Loans and Leases Held for Investment:					
1. Real estate loans:					
a. Construction loans.....	JJ04	79,000	JJ12	0	1.a.
b. Commercial real estate loans.....	JJ05	4,402,000	JJ13	3,000	1.b.
c. Residential real estate loans.....	JJ06	2,229,000	JJ14	4,000	1.c.
2. Commercial loans ⁽²⁾.....	JJ07	9,566,000	JJ15	9,000	2.
3. Credit cards.....	JJ08	0	JJ16	0	3.
4. Other consumer loans.....	JJ09	364,000	JJ17	0	4.
5. Unallocated, if any.....			JJ18	0	5.
6. Total (sum of items 1.a. through 5) ⁽³⁾.....	JJ11	16,640,000	JJ19	16,000	6.

Dollar Amounts in Thousands	Allowance Balance		
	RCON	Amount	
Held-to-Maturity Securities:			
7. Securities issued by states and political subdivisions in the U.S.....	JJ20	0	7.
8. Mortgage-backed securities (MBS) (including CMOs, REMICs, and stripped MBS).....	JJ21	0	8.
9. Asset-backed securities and structured financial products.....	JJ23	0	9.
10. Other debt securities.....	JJ24	0	10.
11. Total (sum of items 7 through 10) ⁽⁴⁾.....	JJ25	0	11.

1. The \$1 billion asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

2. Include all loans and leases not reported as real estate loans, credit cards, or other consumer loans in items 1, 3, or 4 of Schedule RI-C.

3. Item 6, column B, must equal Schedule RC, item 4. c.

4. Item 11 must equal Schedule RI-B, Part II, item 7, column B.

Schedule RI-E—Explanations

Schedule RI-E is to be completed each quarter on a calendar year-to-date basis.

Detail all adjustments in Schedule RI-A and RI-B, all discontinued operations in Schedule RI, and all significant items of other noninterest income and other noninterest expense in Schedule RI. (See instructions for details.)

		Year-to-date			
		RIAD	Amount		
Dollar Amounts in Thousands					
1. Other noninterest income (from Schedule RI, item 5.i)					
Itemize and describe amounts greater than \$100,000 that exceed 7 percent of Schedule RI, item 5.i:					
	a.	Income and fees from the printing and sale of checks.....	C013	0	1.a.
	b.	Earnings on/increase in value of cash surrender value of life insurance.....	C014	0	1.b.
	c.	Income and fees from automated teller machines (ATMs).....	C016	0	1.c.
	d.	Rent and other income from other real estate owned.....	4042	0	1.d.
	e.	Safe deposit box rent.....	C015	0	1.e.
	f.	Bank card and credit card interchange fees.....	F555	0	1.f.
	g.	Income and fees from wire transfers not reportable as service charges on deposit accounts.....	T047	0	1.g.
	h.	<small>TEXT</small> 4461 Net gains (losses) on non-trading derivatives	4461	(177,000)	1.h.
	i.	<small>TEXT</small> 4462 Revenue from Services rendered to affiliates	4462	41,000	1.i.
	j.	<small>TEXT</small> 4463	4463	0	1.j.
2. Other noninterest expense (from Schedule RI, item 7.d)					
Itemize and describe amounts greater than \$100,000 that exceed 7 percent of Schedule RI, item 7.d:					
	a.	Data processing expenses.....	C017	0	2.a.
	b.	Advertising and marketing expenses.....	0497	0	2.b.
	c.	Directors' fees.....	4136	0	2.c.
	d.	Printing, stationery, and supplies.....	C018	0	2.d.
	e.	Postage.....	8403	0	2.e.
	f.	Legal fees and expenses.....	4141	0	2.f.
	g.	FDIC deposit insurance assessments.....	4146	0	2.g.
	h.	Accounting and auditing expenses.....	F556	0	2.h.
	i.	Consulting and advisory expenses.....	F557	0	2.i.
	j.	Automated teller machine (ATM) and interchange expenses.....	F558	0	2.j.
	k.	Telecommunications expenses.....	F559	0	2.k.
	l.	Other real estate owned expenses.....	Y923	0	2.l.
	m.	Insurance expenses (not included in employee expenses, premises and fixed asset expenses, and other real estate owned expenses).....	Y924	0	2.m.
	n.	<small>TEXT</small> 4464 Services rendered by affiliates	4464	159,000	2.n.
	o.	<small>TEXT</small> 4467	4467	0	2.o.
	p.	<small>TEXT</small> 4468	4468	0	2.p.
3. Discontinued operations and applicable income tax effect (from Schedule RI, item 11)					
(itemize and describe each discontinued operation):					
	a.	(1) <small>TEXT</small> FT29	FT29	0	3.a.(1)
		(2) Applicable income tax effect.....	FT30	0	3.a.(2)
	b.	(1) <small>TEXT</small> FT31	FT31	0	3.b.(1)
		(2) Applicable income tax effect.....	FT32	0	3.b.(2)

Schedule RI-E—Continued

		Year-to-date		
		RIAD	Amount	
Dollar Amounts in Thousands				
4. Cumulative effect of changes in accounting principles and corrections of material accounting errors (from Schedule RI-A, item 2) (itemize and describe all such effects):				
a.	TEXT B526	B526	0	4.a.
b.	TEXT B527	B527	0	4.b.
5. Other transactions with stockholders (including a parent holding company) (from Schedule RI-A, item 11) (itemize and describe all such transactions):				
a.	TEXT 4498	4498	0	5.a.
b.	TEXT 4499	4499	0	5.b.
6. Adjustments to allowances for credit losses (from Schedule RI-B, Part II, item 6) (itemize and describe all adjustments):				
a. Initial allowances for credit losses recognized upon the acquisition of purchased credit-deteriorated assets ⁽¹⁾				
		JJ27	NA	6.a.
b.	TEXT 4521	4521	0	6.b.
c.	TEXT 4522	4522	0	6.c.
7. Other explanations (the space below is provided for the bank to briefly describe, at its option, any other significant items affecting the Report of Income):				
		RIAD	Yes	No
Comments?.....		4769		x

Other explanations (please type or print clearly; 750 character limit):

(TEXT 4789)

1. Institutions should report initial allowances for credit losses recognized upon the acquisition of purchased credit-deteriorated assets after the adoption of FASB ASC Topic 326.

Consolidated Report of Condition for Insured Banks and Savings Associations for March 31, 2024

All schedules are to be reported in thousands of dollars. Unless otherwise indicated, report the amount outstanding as of the last business day of the quarter.

Schedule RC—Balance Sheet

		Dollar Amounts in Thousands	RCON	Amount	
Assets					
1.	Cash and balances due from depository institutions (from Schedule RC-A)				
a.	Noninterest-bearing balances and currency and coin ⁽¹⁾		0081	30,000	1.a.
b.	Interest-bearing balances ⁽²⁾		0071	14,512,000	1.b.
2.	Securities:				
a.	Held-to-maturity securities (from Schedule RC-B, column A) ⁽³⁾		JJ34	0	2.a.
b.	Available-for-sale debt securities (from Schedule RC-B, column D).....		1773	375,000	2.b.
c.	Equity securities with readily determinable fair values not held for trading ⁽⁴⁾		JA22	0	2.c.
3.	Federal funds sold and securities purchased under agreements to resell:				
a.	Federal funds sold.....		B987	0	3.a.
b.	Securities purchased under agreements to resell ^(5, 6)		B989	4,920,000	3.b.
4.	Loans and lease financing receivables (from Schedule RC-C):				
a.	Loans and leases held for sale.....		5369	0	4.a.
b.	Loans and leases held for investment.....	B528		16,640,000	4.b.
c.	LESS: Allowance for credit losses on loans and leases.....	3123		16,000	4.c.
d.	Loans and leases held for investment, net of allowance (item 4.b minus 4.c).....	B529		16,624,000	4.d.
5.	Trading assets (from Schedule RC-D).....		3545	0	5.
6.	Premises and fixed assets (including right-of-use assets).....		2145	0	6.
7.	Other real estate owned (from Schedule RC-M).....		2150	4,000	7.
8.	Investments in unconsolidated subsidiaries and associated companies.....		2130	0	8.
9.	Direct and indirect investments in real estate ventures.....		3656	0	9.
10.	Intangible assets (from Schedule RC-M).....		2143	2,000	10.
11.	Other assets (from Schedule RC-F) ⁽⁸⁾		2160	2,453,000	11.
12.	Total assets (sum of items 1 through 11).....		2170	38,920,000	12.
Liabilities					
13.	Deposits:				
a.	In domestic offices (sum of totals of columns A and C from Schedule RC-E).....		2200	26,750,000	13.a.
(1)	Noninterest-bearing ⁽⁷⁾	6631		9,297,000	13.a.(1)
(2)	Interest-bearing.....	6636		17,453,000	13.a.(2)
b.	Not applicable				
14.	Federal funds purchased and securities sold under agreements to repurchase:				
a.	Federal funds purchased ⁽⁹⁾		B993	0	14.a.
b.	Securities sold under agreements to repurchase ⁽⁹⁾		B995	0	14.b.
15.	Trading liabilities (from Schedule RC-D).....		3548	0	15.
16.	Other borrowed money (includes mortgage indebtedness) (from Schedule RC-M).....		3190	0	16.
17.	and 18. Not applicable				
19.	Subordinated notes and debentures ⁽¹⁰⁾		3200	0	19.

1. Includes cash items in process of collection and unposted debits.
2. Includes time certificates of deposit not held for trading.
3. Institutions should report in item 2.a amounts net of any applicable allowance for credit losses, and item 2.a should equal Schedule RC-B, item 8, column A, less Schedule RI-B, Part II, item 7, column B.
4. Item 2.c is to be completed by all institutions. See the instructions for this item and the Glossary entry for "Securities Activities" for further detail on accounting for investments in equity securities.
5. Includes all securities resale agreements, regardless of maturity.
6. Institutions should report in items 3.b and 11 amounts net of any applicable allowance for credit losses.
7. Includes noninterest-bearing demand, time, and savings deposits.
8. Report overnight Federal Home Loan Bank advances in Schedule RC, item 16, "Other borrowed money."
9. Includes all securities repurchase agreements, regardless of maturity.
10. Includes limited-life preferred stock and related surplus.

03/2024

06/2012

Schedule RC—Continued

	Dollar Amounts in Thousands	RCON	Amount	
Liabilities—continued				
20. Other liabilities (from Schedule RC-G).....		2930	2,443,000	20.
21. Total liabilities (sum of items 13 through 20).....		2948	29,193,000	21.
22. Not applicable				
Equity Capital				
Bank Equity Capital				
23. Perpetual preferred stock and related surplus.....		3838	0	23.
24. Common stock.....		3230	2,127,000	24.
25. Surplus (exclude all surplus related to preferred stock).....		3839	935,000	25.
26. a Retained earnings.....		3632	6,702,000	26.a.
b Accumulated other comprehensive income ⁽¹⁾		B530	(37,000)	26.b.
c Other equity capital components ⁽²⁾		A130	0	26.c.
27. a Total bank equity capital (sum of items 23 through 26.c).....		3210	9,727,000	27.a.
b Noncontrolling (minority) interests in consolidated subsidiaries.....		3000	0	27.b.
28. Total equity capital (sum of items 27.a and 27.b).....		G105	9,727,000	28.
29. Total liabilities and equity capital (sum of items 21 and 28).....		3300	38,920,000	29.

Memoranda

To be reported with the March Report of Condition.

1. Indicate in the box at the right the number of the statement below that best describes the most comprehensive level of auditing work performed for the bank by independent external auditors as of any date during 2023

RCON	Number
6724	2a

M.1.

- 1a = An integrated audit of the reporting institution's financial statements and its internal control over financial reporting conducted in accordance with the standards of the American Institute of Certified Public Accountants (AICPA) or Public Company Accounting Oversight Board (PCAOB) by an independent public accountant that submits a report on the institution
- 1b = An audit of the reporting institution's financial statements only conducted in accordance with the auditing standards of the AICPA or the PCAOB by an independent public accountant that submits a report on the institution
- 2a = An integrated audit of the reporting institution's parent holding company's consolidated financial statements and its internal control over financial reporting conducted in accordance with the standards of the AICPA or the PCAOB by an independent public accountant that submits a report on the consolidated holding company (but not on the institution separately)

- 2b = An audit of the reporting institution's parent holding company's consolidated financial statements only conducted in accordance with the auditing standards of the AICPA or the PCAOB by an independent public accountant that submits a report on the consolidated holding company (but not on the institution separately)
- 3 = This number is not to be used
- 4 = Directors' examination of the bank conducted in accordance with generally accepted auditing standards by a certified public accounting firm (may be required by state-chartering authority)
- 5 = Directors' examination of the bank performed by other external auditors (may be required by state-chartering authority)
- 6 = Review of the bank's financial statements by external auditors
- 7 = Compilation of the bank's financial statements by external auditors
- 8 = Other audit procedures (excluding tax preparation work)
- 9 = No external audit work

To be reported with the March Report of Condition.

2. Bank's fiscal year-end date (report the date in MMDD format).....

RCON	Date
8678	1231

M.2.

1. Includes, but is not limited to, net unrealized holding gains (losses) on available-for-sale securities, accumulated net gains (losses) on cash flow hedges, and accumulated defined benefit pension and other postretirement plan adjustments.
2. Includes treasury stock and unearned Employee Stock Ownership Plan shares.

Schedule RC-A—Cash and Balances Due from Depository Institutions

Schedule RC-A is to be completed only by banks with \$300 million or more in total assets. ⁽¹⁾

Exclude assets held for trading.

	Dollar Amounts in Thousands		
	RCON	Amount	
1. Cash items in process of collection, unposted debits, and currency and coin:			
a. Cash items in process of collection and unposted debits.....	0020	30,000	1.a.
b. Currency and coin.....	0080	0	1.b.
2. Balances due from depository institutions in the U.S.....	0082	3,000	2.
3. Balances due from banks in foreign countries and foreign central banks.....	0070	0	3.
4. Balances due from Federal Reserve Banks.....	0090	14,509,000	4.
5. Total (sum of items 1 through 4) (must equal Schedule RC, sum of items 1.a and 1.b).....	0010	14,542,000	5.

1. The \$300 million asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

Schedule RC-B—Securities

Exclude assets held for trading.

Dollar Amounts in Thousands	Held-to-maturity				Available-for-sale				
	(Column A)		(Column B)		(Column C)		(Column D)		
	RCON	Amount	RCON	Amount	RCON	Amount	RCON	Amount	
1. U.S. Treasury securities.....	0211	0	0213	0	1286	423,000	1287	375,000	1.
2. U.S. Government agency and sponsored agency obligations (exclude mortgage-backed securities) ⁽¹⁾	HT50	0	HT51	0	HT52	0	HT53	0	2.
3. Securities issued by states and political subdivisions in the U.S.....	8496	0	8497	0	8498	0	8499	0	3.

1. Includes Small Business Administration "Guaranteed Loan Pool Certificates"; U.S. Maritime Administration obligations; Export-Import Bank participation certificates; and obligations (other than mortgage-backed securities) issued by the Farm Credit System, the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Resolution Funding Corporation, the Student Loan Marketing Association, and the Tennessee Valley Authority.

Schedule RC-B—Continued

Dollar Amounts in Thousands	Held-to-maturity				Available-for-sale					
	(Column A)		(Column B)		(Column C)		(Column D)			
	Amortized Cost	Fair Value	Amortized Cost	Fair Value	Amortized Cost	Fair Value	Amortized Cost	Fair Value		
	RCON	Amount	RCON	Amount	RCON	Amount	RCON	Amount		
4. Mortgage-backed securities (MBS):										
a. Residential mortgage pass-through securities:										
(1) Guaranteed by GNMA.....	G300	0	G301	0	G302	0	G303	0		4.a.(1)
(2) Issued by FNMA and FHLMC.....	G304	0	G305	0	G306	0	G307	0		4.a.(2)
(3) Other pass-through securities.....	G308	0	G309	0	G310	0	G311	0		4.a.(3)
b. Other residential mortgage-backed securities (include CMOs, REMICs, and stripped MBS):										
(1) Issued or guaranteed by U.S. Government agencies or sponsored agencies ⁽¹⁾	G312	0	G313	0	G314	0	G315	0		4.b.(1)
(2) Collateralized by MBS issued or guaranteed by U.S. Government agencies or sponsored agencies ⁽¹⁾	G316	0	G317	0	G318	0	G319	0		4.b.(2)
(3) All other residential MBS.....	G320	0	G321	0	G322	0	G323	0		4.b.(3)
c. Commercial MBS										
(1) Commercial mortgage pass-through securities:										
(a) Issued or guaranteed by FNMA, FHLMC, or GNMA.....	K142	0	K143	0	K144	0	K145	0		4.c.(1)(a)
(b) Other pass-through securities.....	K146	0	K147	0	K148	0	K149	0		4.c.(1)(b)

1. U.S. Government agencies include, but are not limited to, such agencies as the Government National Mortgage Association (GNMA), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA). U.S. Government-sponsored agencies include, but are not limited to, such agencies as the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA).

Schedule RC-B—Continued

Dollar Amounts in Thousands	Held-to-maturity				Available-for-sale				
	(Column A)		(Column B)		(Column C)		(Column D)		
	Amortized Cost	Fair Value	Amortized Cost	Fair Value	Amortized Cost	Fair Value	Amortized Cost	Fair Value	
	RCON	Amount	RCON	Amount	RCON	Amount	RCON	Amount	
4. c. (2) Other commercial MBS:									
(a) Issued or guaranteed by U.S. Government agencies or sponsored agencies ⁽¹⁾	K150	0	K151	0	K152	0	K153	0	4.c.(2)(a)
(b) All other commercial MBS.....	K154	0	K155	0	K156	0	K157	0	4.c.(2)(b)
5. Asset-backed securities and structured financial products:									
a. Asset-backed securities (ABS).....	C026	0	C988	0	C989	0	C027	0	5.a.
b. Structured financial products.....	HT58	0	HT59	0	HT60	0	HT61	0	5.b.
6. Other debt securities:									
a. Other domestic debt securities.....	1737	0	1738	0	1739	0	1741	0	6.a.
b. Other foreign debt securities.....	1742	0	1743	0	1744	0	1746	0	6.b.
7. Unallocated portfolio layer fair value hedge basis adjustments ⁽²⁾					MG95	NA			7.
8. Total (sum of items 1 through 7) ⁽³⁾	1754	0	1771	0	1772	423,000	1773	375,000	8.

1. U.S. Government agencies include, but are not limited to, such agencies as the Government National Mortgage Association (GNMA), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA). U.S. Government-sponsored agencies include, but are not limited to, such agencies as the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA).
2. This item is to be completed by institutions that have adopted ASU 2022-01, as applicable.
3. The total reported in column A must equal Schedule RC, item 2.a, plus Schedule RI-B, Part II, item 7, column B. The total reported in column D must equal Schedule RC, item 2.b.

Schedule RC-B—Continued

Memoranda

	Dollar Amounts in Thousands	RCON	Amount	
1. Pledged securities ⁽¹⁾		0416	0	M.1.
2. Maturity and repricing data for debt securities (excluding those in nonaccrual status):				
a. Securities issued by the U.S. Treasury, U.S. Government agencies, and states and political subdivisions in the U.S.; other non-mortgage debt securities; and mortgage pass-through securities other than those backed by closed-end first lien 1–4 family residential mortgages with a remaining maturity or next repricing date of: ^{(2), (3)}				
(1) Three months or less.....	A549		0	M.2.a.(1)
(2) Over three months through 12 months.....	A550		0	M.2.a.(2)
(3) Over one year through three years.....	A551		0	M.2.a.(3)
(4) Over three years through five years.....	A552		375,000	M.2.a.(4)
(5) Over five years through 15 years.....	A553		0	M.2.a.(5)
(6) Over 15 years.....	A554		0	M.2.a.(6)
b. Mortgage pass-through securities backed by closed-end first lien 1–4 family residential mortgages with a remaining maturity or next repricing date of: ^{(2), (4)}				
(1) Three months or less.....	A555		0	M.2.b.(1)
(2) Over three months through 12 months.....	A556		0	M.2.b.(2)
(3) Over one year through three years.....	A557		0	M.2.b.(3)
(4) Over three years through five years.....	A558		0	M.2.b.(4)
(5) Over five years through 15 years.....	A559		0	M.2.b.(5)
(6) Over 15 years.....	A560		0	M.2.b.(6)
c. Other mortgage-backed securities (include CMOs, REMICs, and stripped MBS; exclude mortgage pass-through securities) with an expected average life of: ⁽⁵⁾				
(1) Three years or less.....	A561		0	M.2.c.(1)
(2) Over three years.....	A562		0	M.2.c.(2)
d. Debt securities with a REMAINING MATURITY of one year or less (included in Memorandum items 2.a through 2.c above).....	A248		0	M.2.d.
<i>Memorandum item 3 is to be completed semiannually in the June and December reports only.</i>				
3. Amortized cost of held-to-maturity securities sold or transferred to available-for-sale or trading securities during the calendar year-to-date (report the amortized cost at date of sale or transfer).....		1778	0	M.3.
4. Structured notes (included in the held-to-maturity and available-for-sale accounts in Schedule RC-B, items 2, 3, 5, and 6):				
a. Amortized cost.....	8782		0	M.4.a.
b. Fair value.....	8783		0	M.4.b.

1. Includes held-to-maturity securities at amortized cost, available-for-sale debt securities at fair value, and equity securities with readily determinable fair values not held for trading (reported in Schedule RC, item 2.c) at fair value.
2. Report fixed-rate debt securities by remaining maturity and floating-rate debt securities by next repricing date.
3. Sum of Memorandum items 2.a.(1) through 2.a.(6) plus any nonaccrual debt securities in the categories of debt securities reported in Memorandum item 2.a that are included in Schedule RC-N, item 10, column C, must equal Schedule RC-B, sum of items 1, 2, 3, 4.c.(1), 5, and 6, columns A and D, plus residential mortgage pass-through securities other than those backed by closed-end first lien 1–4 family residential mortgages included in Schedule RC-B, item 4.a, columns A and D.
4. Sum of Memorandum items 2.b.(1) through 2.b.(6) plus any nonaccrual mortgage pass-through securities backed by closed-end first lien 1–4 family residential mortgages included in Schedule RC-N, item 10, column C, must equal Schedule RC-B, item 4.a, sum of columns A and D, less the amount of residential mortgage pass-through securities other than those backed by closed-end first lien 1–4 family residential mortgages included in Schedule RC-B, item 4.a, columns A and D.
5. Sum of Memorandum items 2.c.(1) and 2.c.(2) plus any nonaccrual "Other mortgage-backed securities" included in Schedule RC-N, item 10, column C, must equal Schedule RC-B, sum of items 4.b and 4.c.(2), columns A and D.

Schedule RC-B—Continued

Memoranda—Continued

Dollar Amounts in Thousands	Held-to-maturity				Available-for-sale				
	(Column A)		(Column B)		(Column C)		(Column D)		
	Amortized Cost	Fair Value	Amortized Cost	Fair Value	Amortized Cost	Fair Value	Amortized Cost	Fair Value	
	RCON	Amount	RCON	Amount	RCON	Amount	RCON	Amount	
<i>Memorandum items 5.a through 5.f and 6.a through 6.g are to be completed by banks with \$10 billion or more in total assets. (1)</i>									
5. Asset-backed securities (ABS) (for each column, sum of Memorandum items 5.a through 5.f must equal Schedule RC-B, item 5.a):									
a. Credit card									
receivables.....	B838	0	B839	0	B840	0	B841	0	M.5.a.
b. Home equity lines.....	B842	0	B843	0	B844	0	B845	0	M.5.b.
c. Automobile loans.....	B846	0	B847	0	B848	0	B849	0	M.5.c.
d. Other consumer loans.....	B850	0	B851	0	B852	0	B853	0	M.5.d.
e. Commercial and industrial loans.....	B854	0	B855	0	B856	0	B857	0	M.5.e.
f. Other.....	B858	0	B859	0	B860	0	B861	0	M.5.f.
6. Structured financial products by underlying collateral or reference assets (for each column, sum of Memorandum items 6.a through 6.g must equal Schedule RC-B, item 5.b):									
a. Trust preferred securities issued by financial institutions.....									
	G348	0	G349	0	G350	0	G351	0	M.6.a.
b. Trust preferred securities issued by real estate investment trusts.....									
	G352	0	G353	0	G354	0	G355	0	M.6.b.
c. Corporate and similar loans.....									
	G356	0	G357	0	G358	0	G359	0	M.6.c.
d. 1-4 family residential MBS issued or guaranteed by U.S. Government-sponsored enterprises (GSEs).....									
	G360	0	G361	0	G362	0	G363	0	M.6.d.
e. 1-4 family residential MBS not issued or guaranteed by GSEs.....									
	G364	0	G365	0	G366	0	G367	0	M.6.e.
f. Diversified (mixed) pools of structured financial products.....									
	G368	0	G369	0	G370	0	G371	0	M.6.f.
g. Other collateral or reference assets.....									
	G372	0	G373	0	G374	0	G375	0	M.6.g.

1. The \$10 billion asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

Schedule RC-C—Loans and Lease Financing Receivables

Part I. Loans and Leases

Do not deduct the allowance for credit losses on loans and leases or the allocated transfer risk reserve from amounts reported in this schedule. Report (1) loans and leases held for sale at the lower of cost or fair value, (2) loans and leases held for investment, net of unearned income, and (3) loans and leases accounted for at fair value under a fair value option. Exclude assets held for trading and commercial paper.

	(Column A) To Be Completed by Banks with \$300 Million or More in Total Assets ⁽¹⁾		(Column B) To Be Completed by All Banks		
	RCON	Amount	RCON	Amount	
	Dollar Amounts in Thousands				
1. Loans secured by real estate:					
a. Construction, land development, and other land loans:					
(1) 1–4 family residential construction loans.....	F158	0			1.a.(1)
(2) Other construction loans and all land development and other land loans.....	F159	79,000			1.a.(2)
b. Secured by farmland (including farm residential and other improvements).....	1420	0			1.b.
c. Secured by 1–4 family residential properties:					
(1) Revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit.....	1797	260,000			1.c.(1)
(2) Closed-end loans secured by 1–4 family residential properties:					
(a) Secured by first liens.....	5367	1,937,000			1.c.(2)(a)
(b) Secured by junior liens.....	5368	32,000			1.c.(2)(b)
d. Secured by multifamily (5 or more) residential properties.....	1460	2,334,000			1.d.
e. Secured by nonfarm nonresidential properties:					
(1) Loans secured by owner-occupied nonfarm nonresidential properties.....	F160	0			1.e.(1)
(2) Loans secured by other nonfarm nonresidential properties.....	F161	2,068,000			1.e.(2)
2. Loans to depository institutions and acceptances of other banks.....	1288	1,125,000			2.
a. To commercial banks in the U.S.	B531	1,000			2.a.
b. To other depository institutions in the U.S.....	B534	0			2.b.
c. To banks in foreign countries.....	B535	1,124,000			2.c.
3. Loans to finance agricultural production and other loans to farmers.....			1590	0	3.
4. Commercial and industrial loans.....			1766	3,178,000	4.
a. To U.S. addressees (domicile).....	1763	2,731,000			4.a.
b. To non-U.S. addressees (domicile).....	1764	447,000			4.b.
5. Not applicable					
6. Loans to individuals for household, family, and other personal expenditures (i.e., consumer loans) (includes purchased paper):					
a. Credit cards.....	B538	0			6.a.
b. Other revolving credit plans.....	B539	0			6.b.
c. Automobile loans.....	K137	0			6.c.
d. Other consumer loans (includes single payment and installment, loans other than automobile loans, and all student loans).....	K207	364,000			6.d.
7. Not applicable					
8. Obligations (other than securities and leases) of states and political subdivisions in the U.S.....			2107	0	8.

1. The \$300 million asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

Schedule RC-C—Continued
Part I—Continued

Dollar Amounts in Thousands	(Column A) To Be Completed by Banks with \$300 Million or More in Total Assets ⁽¹⁾		(Column B) To Be Completed by All Banks		
	RCON	Amount	RCON	Amount	
	9. Loans to nondepository financial institutions and other loans:				
a. Loans to nondepository financial institutions.....			J454	70,000	9.a.
b. Other loans.....			J464	5,193,000	9.b.
(1) Loans for purchasing or carrying securities (secured and unsecured).....	1545	2,326,000			9.b.(1)
(2) All other loans (exclude consumer loans).....	J451	2,867,000			9.b.(2)
10. Lease financing receivables (net of unearned income).....			2165	0	10.
a. Leases to individuals for household, family, and other personal expenditures (i.e., consumer leases).....	F162	0			10.a.
b. All other leases.....	F163	0			10.b.
11. LESS: Any unearned income on loans reflected in items 1-9 above.....			2123	0	11.
12. Total loans and leases held for investment and held for sale (sum of items 1 through 10 minus item 11) (must equal Schedule RC, sum of items 4.a and 4.b).....			2122	16,640,000	12.

Memoranda

Dollar Amounts in Thousands	RCON	Amount	
1. Loans restructured in troubled debt restructurings that are in compliance with their modified terms (included in Schedule RC-C, Part I, and not reported as past due or nonaccrual in Schedule RC-N, Memorandum item 1):			
a. Construction, land development, and other land loans:			
(1) 1—4 family residential construction loans.....	K158	0	M.1.a.(1)
(2) Other construction loans and all land development and other land loans.....	K159	0	M.1.a.(2)
b. Loans secured by 1—4 family residential properties.....	F576	0	M.1.b.
c. Secured by multifamily (5 or more) residential properties.....	K160	0	M.1.c.
d. Secured by nonfarm nonresidential properties:			
(1) Loans secured by owner-occupied nonfarm nonresidential properties.....	K161	0	M.1.d.(1)
(2) Loans secured by other nonfarm nonresidential properties.....	K162	0	M.1.d.(2)
e. Commercial and industrial loans.....	K256	0	M.1.e.
<i>Memorandum items 1.e.(1) and (2) are to be completed by banks with \$300 million or more in total assets ⁽¹⁾ (sum of Memorandum items 1.e(1) and (2) must equal Memorandum item 1.e):</i>			
(1) To U.S. addressees (domicile).....	K163	0	M.1.e.(1)
(2) To non-U.S. addressees (domicile).....	K164	0	M.1.e.(2)
f. All other loans (include loans to individuals for household, family, and other personal expenditures).....	K165	0	M.1.f.
<i>Itemize loan categories included in Memorandum item 1.f, above that exceed 10 percent of total loans restructured in troubled debt restructurings that are in compliance with their modified terms (sum of Memorandum items 1.a through 1.e plus 1.f):</i>			
(1) Loans secured by farmland.....	K166	0	M.1.f.(1)
(2) and (3) Not applicable			

1. The \$300 million asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

Schedule RC-C—Continued
Part I—Continued

Memoranda—Continued

	Dollar Amounts in Thousands		RCON	Amount	RCON	Amount	
1. f. (4) Loans to individuals for household, family, and other personal expenditures:							
(a) Credit cards.....	K098	0					M.1.f.(4)(a)
(b) Automobile loans.....	K203	0					M.1.f.(4)(b)
(c) Other (Includes revolving credit plans other than credit cards and other consumer loans).....	K204	0					M.1.f.(4)(c)
<i>Memorandum item 1.f.(5) is to be completed by:</i> ⁽¹⁾							
• Banks with \$300 million or more in total assets							
• Banks with less than \$300 million in total assets that have loans to finance agricultural production and other loans to farmers (Schedule RC-C, Part I, item 3) exceeding 5 percent of total loans							
(5) Loans to finance agricultural production and other loans to farmers included in Schedule RC-C, Part I, Memorandum item 1.f. above.....	K168	0					M.1.f.(5)
g. Total loans restructured in troubled debt restructurings that are in compliance with their modified terms (sum of Memorandum items 1.a.(1) through 1.e plus 1.f).....			HK25	0			M.1.g.
2. Maturity and repricing data for loans and leases (excluding those in nonaccrual status):							
a. Closed-end loans secured by first liens on 1–4 family residential properties (reported in Schedule RC-C, Part I, item 1.c.(2)(a), column B) with a remaining maturity or next repricing date of: ^{(2), (3)}							
(1) Three months or less.....	A564	78,000					M.2.a.(1)
(2) Over three months through 12 months.....	A565	254,000					M.2.a.(2)
(3) Over one year through three years.....	A566	294,000					M.2.a.(3)
(4) Over three years through five years.....	A567	182,000					M.2.a.(4)
(5) Over five years through 15 years.....	A568	1,097,000					M.2.a.(5)
(6) Over 15 years.....	A569	11,000					M.2.a.(6)
b. All loans and leases (reported in Schedule RC-C, Part I, items 1 through 10, column B above) EXCLUDING closed-end loans secured by first liens on 1–4 family residential properties (reported in Schedule RC-C, Part I, item 1.c.(2)(a), column B, above) with a remaining maturity or next repricing date of: ^{(2), (4)}							
(1) Three months or less.....	A570	13,685,000					M.2.b.(1)
(2) Over three months through 12 months.....	A571	726,000					M.2.b.(2)
(3) Over one year through three years.....	A572	5,000					M.2.b.(3)
(4) Over three years through five years.....	A573	12,000					M.2.b.(4)
(5) Over five years through 15 years.....	A574	19,000					M.2.b.(5)
(6) Over 15 years.....	A575	254,000					M.2.b.(6)
c. Loans and leases (reported in Schedule RC-C, Part I, items 1 through 10, column B, above) with a REMAINING MATURITY of one year or less (excluding those in nonaccrual status).....	A247	14,394,000					M.2.c.

1. The \$300 million asset-size test and the 5 percent of total loans test are based on the total assets and total loans reported on the June 30, 2023, Report of Condition.

2. Report fixed-rate loans and leases by remaining maturity and floating rate loans by next repricing date.

3. Sum of Memorandum items 2.a.(1) through 2.a.(6) plus total nonaccrual closed-end loans secured by first liens on 1–4 family residential properties included in Schedule RC-N, item 1.c.(2)(a), column C, must equal total closed-end loans secured by first liens on 1–4 family residential properties from Schedule RC-C, Part I, item 1.c.(2)(a), column B.

4. Sum of Memorandum items 2.b.(1) through 2.b.(6), plus total nonaccrual loans and leases from Schedule RC-N, item 9, column C, minus nonaccrual closed-end loans secured by first liens on 1–4 family residential properties included in Schedule RC-N, item 1.c.(2)(a), column C, must equal total loans and leases from Schedule RC-C, Part I, sum of items 1 through 10, column B, minus total closed-end loans secured by first liens on 1–4 family residential properties from Schedule RC-C, Part I, item 1.c.(2)(a), column B.

Schedule RC-C—Continued

Part I—Continued

Memoranda—Continued

	Dollar Amounts in Thousands		
	RCON	Amount	
3. Loans to finance commercial real estate, construction, and land development activities (not secured by real estate) included in Schedule RC-C, Part I, items 4 and 9, column B ⁽¹⁾	2746	40,000	M.3.
4. Adjustable-rate closed-end loans secured by first liens on 1–4 family residential properties (included in Schedule RC-C, Part I, item 1.c.(2)(a), column B).....	5370	1,926,000	M.4.
5. To be completed by banks with \$300 million or more in total assets: ⁽²⁾ Loans secured by real estate to non-U.S. addressees (domicile) (included in Schedule RC-C, Part I, items 1.a through 1.e, column B).....	B837	108,000	M.5.
<i>Memorandum item 6 is to be completed by banks that (1) together with affiliated institutions, have outstanding credit card receivables (as defined in the instructions) that exceed \$500 million as of the report date or (2) are credit card specialty banks as defined for Uniform Bank Performance Report purposes.</i>			
6. Outstanding credit card fees and finance charges included in Schedule RC-C, Part I, item 6.a.	C391	NA	M.6.
7. Not applicable			
<i>Memorandum item 8.a is to be completed by all banks semiannually in the June and December reports only.</i>			
8. Closed-end loans with negative amortization features secured by 1–4 family residential properties:			
a. Total amount of closed-end loans with negative amortization features secured by 1–4 family residential properties (included in Schedule RC-C, Part I, items 1.c.(2)(a) and (b)).....	F230	0	M.8.a.
<i>Memorandum items 8.b and 8.c are to be completed semiannually in the June and December reports only by banks that had closed-end loans with negative amortization features secured by 1–4 family residential properties (as reported in Schedule RC-C, Part I, Memorandum item 8.a) as of the preceding December 31 report date, that exceeded the lesser of \$100 million or 5 percent of total loans and leases held for investment and held for sale (as reported in Schedule RC-C, Part I, item 12, column B).</i>			
b. Total maximum remaining amount of negative amortization contractually permitted on closed-end loans secured by 1–4 family residential properties.....	F231	NA	M.8.b.
c. Total amount of negative amortization on closed-end loans secured by 1–4 family residential properties included in the amount reported in Memorandum item 8.a above.....	F232	NA	M.8.c.
9. Loans secured by 1–4 family residential properties in process of foreclosure (included in Schedule RC-C, Part I, items 1.c.(1), 1.c.(2)(a), and 1.c.(2)(b)).....	F577	0	M.9.
10. and 11. Not applicable			

1. Exclude loans secured by real estate that are included in Schedule RC-C, Part I, items 1.a through 1.e, column B.

Schedule RC-C—Continued

Part I—Continued

Memoranda—Continued

	(Column A) Fair Value of Acquired Loans and Leases at Acquisition Date		(Column B) Gross Contractual Amounts Receivable at Acquisition Date		(Column C) Best Estimate at Acquisition Date of Contractual Cash Flows Not Expected to be Collected		
	RCON	Amount	RCON	Amount	RCON	Amount	
Dollar Amounts in Thousands							
<i>Memorandum items 12.a, 12.b, 12.c, and 12.d are to be completed semiannually in the June and December reports only.</i>							
12. Loans (not considered purchased credit deteriorated per FASB ASC 326) and leases held for investment that were acquired in business combinations with acquisition dates in the current calendar year:							
a. Loans secured by real estate.....	G091	0	G092	0	G093	0	M.12.a.
b. Commercial and industrial loans.....	G094	0	G095	0	G096	0	M.12.b.
c. Loans to individuals for household, family, and other personal expenditures.....	G097	0	G098	0	G099	0	M.12.c.
d. All other loans and all leases.....	G100	0	G101	0	G102	0	M.12.d.

	Dollar Amounts in Thousands		
	RCON	Amount	
<i>Memorandum item 13 is to be completed by banks that had construction, land development, and other land loans (as reported in Schedule RC-C, Part I, item 1.a, column B) that exceeded the sum of tier 1 capital (as reported in Schedule RC-R, Part I, item 26) plus the allowance for credit losses on loans and leases, (as reported in Schedule RC, item 4.c) as of the preceding December 31 report date.</i>			
13. Construction, land development, and other land loans with interest reserves:			
a. Amount of loans that provide for the use of interest reserves (included in Schedule RC-C, Part I, item 1.a, column B).....	G376	0	M.13.a.
b. Amount of interest capitalized from interest reserves on construction, land development, and other land loans that is included in interest and fee income on loans during the quarter (included in Schedule RI, item 1.a.(1)(b)).....	RIAD		
	G377	0	M.13.b.
<i>Memorandum item 14 is to be completed by all banks.</i>			
14. Pledged loans and leases.....	RCON		
	G378	292,000	M.14.
<i>Memorandum item 15 is to be completed for the December report only.</i>			
15. Reverse mortgages:			
a. Reverse mortgages outstanding that are held for investment (included in Schedule RC-C, item 1.c, above).....	PR04	0	M.15.a.
b. Estimated number of reverse mortgage loan referrals to other lenders during the year from whom compensation has been received for services performed in connection with the origination of the reverse mortgages.....	PR05	0	M.15.b.
	RCON	Amount	
c. Principal amount of reverse mortgage originations that have been sold during the year.....	PR06	0	M.15.c.

Schedule RC-C—Continued

Part I—Continued

Memoranda—Continued

Dollar Amounts in Thousands	RC0N	Amount	
<i>Memorandum item 16 is to be completed by all banks.</i>			
16. Revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit that have converted to non-revolving closed-end status (included in item 1.c.(1) above).....	LE75	0	M.16.
<i>Amounts reported in Memorandum items 17.a and 17.b will not be made available to the public on an individual institution basis.</i>			
17. Eligible loan modifications under Section 4013, <i>Temporary Relief from Troubled Debt Restructurings</i> , of the 2020 Coronavirus Aid, Relief, and Economic Security Act:		Number	
a. Number of Section 4013 loans outstanding.....	LG24	0	M.17.a.
		Amount	
b. Outstanding balance of Section 4013 loans.....	LG25	0	M.17.b.

Schedule RC-C—Continued

Part II. Loans to Small Businesses and Small Farms

Report the number and amount currently outstanding as of *the report date* of business loans with "original amounts" of \$1,000,000 or less and farm loans with "original amounts" of \$500,000 or less. The following guidelines should be used to determine the "original amount" of a loan:

- (1) For loans drawn down under lines of credit or loan commitments, the "original amount" of the loan is the size of the line of credit or loan commitment when the line of credit or loan commitment was *most recently* approved, extended, or renewed prior to the report date. However, if the amount currently outstanding as of the report date exceeds this size, the "original amount" is the amount currently outstanding on the report date.
- (2) For loan participations and syndications, the "original amount" of the loan participation or syndication is the entire amount of the credit originated by the lead lender.
- (3) For all other loans, the "original amount" is the total amount of the loan at origination or the amount currently outstanding as of the report date, whichever is larger.

Loans to Small Businesses

1. Indicate in the appropriate box at the right whether all or substantially all of the dollar volume of your bank's "Loans secured by nonfarm nonresidential properties" reported in Schedule RC-C, Part I, items 1.e.(1) and 1.e.(2), *and* all or substantially all of the dollar volume of your bank's "Commercial and industrial loans" reported in Schedule RC-C, Part I, item 4, ⁽¹⁾ have *original amounts* of \$100,000 or less (If your bank has no loans outstanding in *both* of these two loan categories, place an "X" in the box marked "NO.")

RCON	Yes	No
6999		x

1.

If YES, complete items 2.a and 2.b below, skip items 3 and 4, and go to item 5.

If NO and your bank has loans outstanding in either loan category, skip items 2.a and 2.b, complete items 3 and 4 below, and go to item 5.

If NO and your bank has no loans outstanding in both loan categories, skip items 2 through 4, and go to item 5.

2. Report the total *number* of loans *currently outstanding* for each of the following Schedule RC-C, Part I, loan categories:

Number of Loans	
RCON	Number
5562	NA
5563	NA

2.a

2.b

- a. "Loans secured by nonfarm nonresidential properties" reported in Schedule RC-C, Part I, items 1.e.(1) and 1.e.(2) (Note: Sum of items 1.e.(1) and 1.e.(2) divided by the number of loans should NOT exceed \$100,000.)
- b. "Commercial and industrial loans" reported in Schedule RC-C, Part I, item 4 ⁽¹⁾ (Note: Item 4, ⁽¹⁾ divided by the number of loans should NOT exceed \$100,000.)

	(Column A) Number of Loans		(Column B) Amount Currently Outstanding		
	RCON	Number	RCON	Amount	
Dollar Amounts in Thousands					
3. Number and amount <i>currently outstanding</i> of "Loans secured by nonfarm nonresidential properties" reported in Schedule RC-C, Part I, items 1.e.(1) and 1.e.(2) (sum of items 3.a through 3.c must be less than or equal to Schedule RC-C, Part I, sum of items 1.e.(1) and 1.e.(2)):					
a. With <i>original amounts</i> of \$100,000 or less	5564	0	5565	0	3.a
b. With <i>original amounts</i> of more than \$100,000 through \$250,000	5566	0	5567	0	3.b
c. With <i>original amounts</i> of more than \$250,000 through \$1,000,000	5568	0	5569	0	3.c
4. Number and amount <i>currently outstanding</i> of "Commercial and industrial loans" reported in Schedule RC-C, Part I, item 4 ⁽¹⁾ (sum of items 4.a through 4.c must be less than or equal to Schedule RC-C, Part I, item 4 ⁽¹⁾):					
a. With <i>original amounts</i> of \$100,000 or less	5570	0	5571	0	4.a
b. With <i>original amounts</i> of more than \$100,000 through \$250,000	5572	0	5573	0	4.b
c. With <i>original amounts</i> of more than \$250,000 through \$1,000,000	5574	0	5575	0	4.c

1. Banks with \$300 million or more in total assets should provide the requested information for "Commercial and industrial loans" based on the loans reported in Schedule RC-C, Part I, item 4.a, column A, "Commercial and industrial loans to U.S. addressees."

Schedule RC-C—Continued

Part II—Continued

Agricultural Loans to Small Farms

5. Indicate in the appropriate box at the right whether all or substantially all of the dollar volume of your bank's "Loans secured by farmland (including farm residential and other improvements)" reported in Schedule RC-C, Part I, item 1.b, and all or substantially all of the dollar volume of your bank's "Loans to finance agricultural production and other loans to farmers" in reported in Schedule RC-C, Part I, item 3, have *original amounts* of \$100,000 or less (If your bank has no loans outstanding in both of these two loan categories, place an "X" in the box marked "NO.")

RCON	Yes	No
6860		x

5.

If YES, complete items 6.a and 6.b below, and do not complete items 7 and 8.

If NO and your bank has loans outstanding in either loan category, skip items 6.a and 6.b and complete items 7 and 8 below.

If NO and your bank has no loans outstanding in both loan categories, do not complete items 6 through 8.

6. Report the total *number of loans currently outstanding* for each of the following Schedule RC-C, Part I, loan categories:

Number of Loans	
RCON	Number
5576	NA
5577	NA

a. "Loans secured by farmland (including farm residential and other improvements)" reported in Schedule RC-C, Part I, item 1.b (Note: Item 1.b, divided by the number of loans should NOT exceed \$100,000.)

6.a.

b. "Loans to finance agricultural production and other loans to farmers" in reported in Schedule RC-C, Part I, item 3 (Note: Item 3 divided by the number of loans should NOT exceed \$100,000.)

6.b.

Dollar Amounts in Thousands	(Column A) Number of Loans		(Column B) Amount Currently Outstanding		
	RCON	Number	RCON	Amount	
7. Number and amount <i>currently outstanding</i> of "Loans secured by farmland (including farm residential and other improvements)" reported in Schedule RC-C, Part I, item 1.b (sum of items 7.a through 7.c must be less than or equal to Schedule RC-C, Part I, item 1.b):					
a. With <i>original amounts</i> of \$100,000 or less	5578	NA	5579	NA	7.a.
b. With <i>original amounts</i> of more than \$100,000 through \$250,000	5580	NA	5581	NA	7.b.
c. With <i>original amounts</i> of more than \$250,000 through \$500,000	5582	NA	5583	NA	7.c.
8. Number and amount <i>currently outstanding</i> of "Loans to finance agricultural production and other loans to farmers" reported in Schedule RC-C, Part I, item 3 (sum of items 8.a through 8.c must be less than or equal to Schedule RC-C, Part I, item 3):					
a. With <i>original amounts</i> of \$100,000 or less	5584	NA	5585	NA	8.a.
b. With <i>original amounts</i> of more than \$100,000 through \$250,000	5586	NA	5587	NA	8.b.
c. With <i>original amounts</i> of more than \$250,000 through \$500,000	5588	NA	5589	NA	8.c.

Schedule RC-D—Trading Assets and Liabilities

Schedule RC-D is to be completed by banks that (1) reported total trading assets of \$10 million or more in any of the four preceding calendar quarters, or (2) meet the FDIC's definition of a large or highly complex institution for deposit insurance assessment purposes.

	Dollar Amounts in Thousands	RCON	Amount	
Assets				
1. U.S. Treasury securities.....		3531	0	1.
2. U.S. Government agency obligations (exclude mortgage-backed securities).....		3532	0	2.
3. Securities issued by states and political subdivisions in the U.S.....		3533	0	3.
4. Mortgage-backed securities (MBS):				
a. Residential mortgage pass-through securities issued or guaranteed by FNMA, FHLMC, or GNMA.....		G379	0	4. a.
b. Other residential MBS issued or guaranteed by U.S. Government agencies or sponsored agencies ⁽¹⁾ (include CMOs, REMICs, and stripped MBS).....		G380	0	4. b.
c. All other residential MBS.....		G381	0	4. c.
d. Commercial MBS issued or guaranteed by U.S. Government agencies or sponsored agencies ⁽¹⁾		K197	0	4. d.
e. All other commercial MBS.....		K198	0	4. e.
5. Other debt securities:				
a. Structured financial products.....		HT62	0	5. a.
b. All other debt securities.....		G386	0	5. b.
6. Loans:				
a. Loans secured by real estate:				
(1) Loans secured by 1-4 family residential properties.....		HT63	0	6. a.(1)
(2) All other loans secured by real estate.....		HT64	0	6. a.(2)
b. Commercial and industrial loans.....		F614	0	6. b.
c. Loans to individuals for household, family, and other personal expenditures (i.e., consumer loans) (includes purchased paper).....		HT65	0	6. c.
d. Other loans.....		F618	0	6. d.
7. and 8. Not applicable				
9. Other trading assets.....		3541	0	9.
10. Not applicable				
11. Derivatives with a positive fair value.....		3543	0	11.
12. Total trading assets (sum of items 1 through 11) (must equal Schedule RC, item 5).....		3545	0	12.
Liabilities				
13. a. Liability for short positions.....		3546	0	13. a.
b. Other trading liabilities.....		F624	0	13. b.
14. Derivatives with a negative fair value.....		3547	0	14.
15. Total trading liabilities (sum of items 13.a through 14) (must equal Schedule RC, item 15).....		3548	0	15.

1. U.S. Government agencies include, but are not limited to, such agencies as the Government National Mortgage Association (GNMA), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA). U.S. Government-sponsored agencies include, but are not limited to, such agencies as the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA).

Memoranda

	Dollar Amounts in Thousands	RCON	Amount	
1. Unpaid principal balance of loans measured at fair value (reported in Schedule RC-D, items 6.a through 6.d):				
a. Loans secured by real estate:				
(1) Loans secured by 1-4 family residential properties.....		HT66	0	M.1.a.(1)
(2) All other loans secured by real estate.....		HT67	0	M.1.a.(2)
b. Commercial and industrial loans.....		F632	0	M.1.b.
c. Loans to individuals for household, family, and other personal expenditures (i.e., consumer loans) (includes purchased paper).....		HT68	0	M.1.c.
d. Other loans.....		F636	0	M.1.d.

Schedule RC-E—Deposit Liabilities

Dollar Amounts in Thousands	Transaction Accounts				Nontransaction Accounts		
	(Column A)		(Column B)		(Column C)		
	Total Transaction Accounts (Including Total Demand Deposits)		Memo: Total Demand Deposits (Included in Column A)		Total Nontransaction Accounts (Including MMDAs)		
	RCON	Amount	RCON	Amount	RCON	Amount	
Deposits of:							
1. Individuals, partnerships, and corporations.....	B549	15,839,000			B550	2,536,000	1.
2. U.S. Government.....	2202	0			2520	0	2.
3. States and political subdivisions in the U.S.	2203	227,000			2530	0	3.
4. Commercial banks and other depository institutions in the U.S.	B551	303,000			B552	244,000	4.
5. Banks in foreign countries.....	2213	7,082,000			2236	118,000	5.
6. Foreign governments and official institutions (including foreign central banks).....	2216	401,000			2377	0	6.
7. Total (sum of items 1 through 6) (sum of columns A and C must equal Schedule RC, item 13.a).....	2215	23,852,000	2210	23,852,000	2385	2,898,000	7.

Memoranda

Dollar Amounts in Thousands	RCON	Amount	
1. Selected components of total deposits (i.e., sum of item 7, columns A and C):			
a. Total Individual Retirement Accounts (IRAs) and Keogh Plan accounts.....	6835	51,000	M.1.a.
b. Total brokered deposits.....	2365	342,000	M.1.b.
c. Brokered deposits of \$250,000 or less (fully insured brokered deposits) ⁽²⁾	HK05	335,000	M.1.c.
d. Maturity data for brokered deposits:			
(1) Brokered deposits of \$250,000 or less with a remaining maturity of one year or less (included in Memorandum item 1.c above).....	HK06	335,000	M.1.d.(1)
(2) Not applicable			
(3) Brokered deposits of more than \$250,000 with a remaining maturity of one year or less (included in Memorandum item 1.b above).....	K220	7,000	M.1.d.(3)
e. Preferred deposits (uninsured deposits of states and political subdivisions in the U.S. reported in item 3 above which are secured or collateralized as required under state law) (to be completed for the December report only).....	5590	0	M.1.e.
f. Estimated amount of deposits obtained through the use of deposit listing services that are not brokered deposits	K223	0	M.1.f.
g. Total reciprocal deposits.....	JH83	0	M.1.g.
h. Sweep deposits:			
(1) Fully insured, affiliate sweep deposits	MT87	106,000	M.1.h.(1)
(2) Not fully insured, affiliate sweep deposits	MT89	358,000	M.1.h.(2)
(3) Fully insured, non-affiliate sweep deposits	MT91	0	M.1.h.(3)
(4) Not fully insured, non-affiliate sweep deposits	MT93	0	M.1.h.(4)
i. Total sweep deposits that are not brokered deposits	MT95	428,000	M.1.i.

1. Includes interest-bearing and noninterest-bearing demand deposits.

2. The dollar amount used as the basis for reporting in Memorandum item 1.c reflects the deposit insurance limits in effect on the report date.

Schedule RC-E—Continued

Memoranda—Continued

	Dollar Amounts in Thousands	RCON	Amount	
2. Components of total nontransaction accounts (sum of Memorandum items 2.a through 2.d must equal item 7, column C above):				
a. Savings deposits:				
(1) Money market deposit accounts (MMDAs).....	6810		2,583,000	M.2.a.(1)
(2) Other savings deposits (excludes MMDAs).....	0352		0	M.2.a.(2)
b. Total time deposits of less than \$100,000.....	6648		0	M.2.b.
c. Total time deposits of \$100,000 through \$250,000.....	J473		0	M.2.c.
d. Total time deposits of more than \$250,000.....	J474		315,000	M.2.d.
e. Individual Retirement Accounts (IRAs) and Keogh Plan accounts of \$100,000 or more included in Memorandum items 2.c and 2.d above.....	F233		0	M.2.e.
3. Maturity and repricing data for time deposits of \$250,000 or less:				
a. Time deposits of \$250,000 or less with a remaining maturity or next repricing date of: ^{(1), (2)}				
(1) Three months or less.....	HK07		0	M.3.a.(1)
(2) Over three months through 12 months.....	HK08		0	M.3.a.(2)
(3) Over one year through three years.....	HK09		0	M.3.a.(3)
(4) Over three years.....	HK10		0	M.3.a.(4)
b. Time deposits of \$250,000 or less with a REMAINING MATURITY of one year or less (included in Memorandum items 3.a.(1) and 3.a.(2) above) ⁽³⁾.....	HK11		0	M.3.b.
4. Maturity and repricing data for time deposits of more than \$250,000:				
a. Time deposits of more than \$250,000 with a remaining maturity or next repricing date of: ^{(1), (4)}				
(1) Three months or less.....	HK12		287,000	M.4.a.(1)
(2) Over three months through 12 months.....	HK13		28,000	M.4.a.(2)
(3) Over one year through three years.....	HK14		0	M.4.a.(3)
(4) Over three years.....	HK15		0	M.4.a.(4)
b. Time deposits of more than \$250,000 with a REMAINING MATURITY of one year or less (included in Memorandum items 4.a.(1) and 4.a.(2) above) ⁽³⁾.....	K222		315,000	M.4.b.
5. Does your institution offer one or more consumer deposit account products, i.e., transaction account or nontransaction savings account deposit products intended primarily for individuals for personal, household, or family use?.....				
	RCON	Yes	No	
	P752		x	M.5.

Memorandum items 6 and 7 are to be completed by institutions with \$1 billion or more in total assets ⁽⁵⁾ that answered "Yes" to Memorandum item 5 above.

	Dollar Amounts in Thousands	RCON	Amount	
6. Components of total transaction account deposits of individuals, partnerships, and corporations (sum of Memorandum items 6.a and 6.b must be less than or equal to item 1, column A above):				
a. Total deposits in those noninterest-bearing transaction account deposit products intended primarily for individuals for personal, household, or family use.....				
	P753		NA	M.6.a.
b. Total deposits in those interest-bearing transaction account deposit products intended primarily for individuals for personal, household, or family use.....				
	P754		NA	M.6.b.

- Report fixed-rate time deposits by remaining maturity and floating rate time deposits by next repricing date.
- Sum of Memorandum items 3.a.(1) through 3.a.(4) must equal Schedule RC-E, sum of Memorandum items 2.b and 2.c.
- Report both fixed- and floating-rate time deposits by remaining maturity. Exclude floating-rate time deposits with a next repricing date of one year or less that have a remaining maturity of over one year.
- Sum of Memorandum items 4.a.(1) through 4.a.(4) must equal Schedule RC-E, Memorandum item 2.d.
- The \$1 billion asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

Schedule RC-E—Continued

Memoranda—Continued

Dollar Amounts in Thousands	RCON	Amount	
7. Components of total nontransaction account deposits of individuals, partnerships, and corporations (sum of Memorandum items 7.a.(1), 7.a.(2), 7.b.(1), and 7.b.(2) plus all time deposits of individuals, partnerships, and corporations must equal item 1, column C, above):			
a. Money market deposit accounts (MMDAs) of individuals, partnerships, and corporations (sum of Memorandum items 7.a.(1) and 7.a.(2) must be less than or equal to Memorandum item 2.a.(1) above):			
(1) Total deposits in those MMDA deposit products intended primarily for individuals for personal, household, or family use.....	P756	NA	M.7.a.(1)
(2) Deposits in all other MMDAs of individuals, partnerships, and corporations.....	P757	NA	M.7.a.(2)
b. Other savings deposit accounts of individuals, partnerships, and corporations (sum of Memorandum items 7.b.(1) and 7.b.(2) must be less than or equal to Memorandum item 2.a.(2) above):			
(1) Total deposits in those other savings deposit account deposit products intended primarily for individuals for personal, household, or family use.....	P758	NA	M.7.b.(1)
(2) Deposits in all other savings deposit accounts of individuals, partnerships, and corporations.....	P759	NA	M.7.b.(2)

Schedule RC-F—Other Assets ⁽¹⁾

		Dollar Amounts in Thousands		RCON	Amount	
1.	Accrued interest receivable ⁽²⁾			B556	124,000	1.
2.	Net deferred tax assets ⁽³⁾			2148	468,000	2.
3.	Interest-only strips receivable (not in the form of a security) ⁽⁴⁾			HT80	0	3.
4.	Equity investments without readily determinable fair values ⁽⁵⁾			1752	98,000	4.
5.	Life insurance assets:					
a.	General account life insurance assets.....			K201	0	5.a.
b.	Separate account life insurance assets.....			K202	0	5.b.
c.	Hybrid account life insurance assets.....			K270	0	5.c.
6.	All other assets (itemize and describe amounts greater than \$100,000 that exceed 25 percent of this item).....			2168	1,763,000	6.
a.	Prepaid expenses.....	2166	0			6.a.
b.	Repossessed personal property (including vehicles).....	1578	0			6.b.
c.	Derivatives with a positive fair value held for purposes other than trading.....			C010	0	6.c.
d.	Not applicable					
e.	Computer software.....			FT33	0	6.e.
f.	Accounts receivable.....		1,252,000	FT34		6.f.
g.	Receivables from foreclosed government-guaranteed mortgage loans.....			FT35	0	6.g.
h.	TEXT 3549					6.h.
i.	TEXT 3550					6.i.
j.	TEXT 3551					6.j.
7.	Total (sum of items 1 through 6) (must equal Schedule RC, item 11).....			2160	2,453,000	7.

- Institutions should report asset amounts in Schedule RC-F net of any applicable allowance for credit losses.
- Include accrued interest receivable on loans, leases, debt securities, and other interest-bearing assets. Exclude accrued interest receivable on interest-bearing assets that is reported elsewhere on the balance sheet.
- See discussion of deferred income taxes in Glossary entry on "income taxes."
- Report interest-only strips receivable in the form of a security as available-for-sale securities in Schedule RC, item 2.b, or as trading assets in Schedule RC, item 5, as appropriate.
- Include Federal Reserve stock, Federal Home Loan Bank stock, and bankers' bank stock.

Schedule RC-G—Other Liabilities

		Dollar Amounts in Thousands		RCON	Amount	
1. a.	Interest accrued and unpaid on deposits ⁽¹⁾			3645	44,000	1.a.
b.	Other expenses accrued and unpaid (includes accrued income taxes payable).....			3646	434,000	1.b.
2.	Net deferred tax liabilities ⁽²⁾			3049	0	2.
3.	Allowance for credit losses on off-balance-sheet credit exposures.....			B557	2,000	3.
4.	All other liabilities (itemize and describe amounts greater than \$100,000 that exceed 25 percent of this item).....			2938	1,963,000	4.
a.	Accounts payable.....	3066	1,005,000			4.a.
b.	Deferred compensation liabilities.....			C011	0	4.b.
c.	Dividends declared but not yet payable.....			2932	0	4.c.
d.	Derivatives with a negative fair value held for purposes other than trading....		563,000	C012		4.d.
e.	Operating lease liabilities.....			LB56	0	4.e.
f.	TEXT 3552					4.f.
g.	TEXT 3553					4.g.
h.	TEXT 3554					4.h.
5.	Total (sum of items 1 through 4) (must equal Schedule RC, item 20).....			2930	2,443,000	5.

- For savings banks, include "dividends" accrued and unpaid on deposits.
- See discussion of deferred income taxes in Glossary entry on "income taxes."

Schedule RC-K—Quarterly Averages ⁽¹⁾

Dollar Amounts in Thousands		RCON	Amount	
Assets				
1. Interest-bearing balances due from depository institutions.....		3381	11,200,000	1.
2. U.S. Treasury securities and U.S. Government agency obligations ⁽²⁾ (excluding mortgage-backed securities).....		B558	375,000	2.
3. Mortgage-backed securities ⁽²⁾		B559	0	3.
4. All other debt securities ⁽²⁾ and equity securities with readily determinable fair values not held for trading ⁽³⁾		B560	0	4.
5. Federal funds sold and securities purchased under agreements to resell.....		3365	5,844,000	5.
6. Loans:				
a. Total loans.....		3360	15,604,000	6.a.
b. Loans secured by real estate:				
(1) Loans secured by 1–4 family residential properties.....		3465	2,205,000	6.b.(1)
(2) All other loans secured by real estate.....		3466	4,196,000	6.b.(2)
c. Commercial and industrial loans.....		3387	2,753,000	6.c.
d. Loans to individuals for household, family, and other personal expenditures:				
(1) Credit cards.....		B561	0	6.d.(1)
(2) Other (includes revolving credit plans other than credit cards, automobile loans, and other consumer loans).....		B562	332,000	6.d.(2)
<i>Item 7 is to be completed by (1) banks that reported total trading assets of \$10 million or more in any of the four preceding calendar quarters and (2) all banks meeting the FDIC's definition of a large or highly complex institution for deposit insurance assessment purposes.</i>				
7. Trading assets.....		3401	0	7.
8. Lease financing receivables (net of unearned income).....		3484	0	8.
9. Total assets ⁽⁴⁾		3368	34,998,000	9.
Liabilities				
10. Interest-bearing transaction accounts (interest-bearing demand deposits, NOW accounts, ATS accounts, and telephone and preauthorized transfer accounts).....		3485	6,836,000	10.
11. Nontransaction accounts:				
a. Savings deposits (includes MMDAs).....		B563	2,699,000	11.a.
b. Time deposits of \$250,000 or less.....		HK16	0	11.b.
c. Time deposits of more than \$250,000.....		HK17	244,000	11.c.
12. Federal funds purchased and securities sold under agreements to repurchase.....		3353	0	12.
13. To be completed by banks with \$100 million or more in total assets: ⁽⁵⁾ Other borrowed money (includes mortgage indebtedness).....		3355	0	13.

1. For all items, banks have the option of reporting either (1) an average of *DAILY* figures for the quarter, or (2) an average of *WEEKLY* figures (i.e., the Wednesday of each week of the quarter).
2. Quarterly averages for all debt securities should be based on amortized cost.
3. Quarterly averages for equity securities with readily determinable fair values should be based on fair value.
4. The quarterly average for total assets should reflect securities not held for trading as follows:
 - a) Debt securities at amortized cost.
 - b) Equity securities with readily determinable fair values at fair value.
 - c) Equity investments without readily determinable fair values at their balance sheet carrying values (i.e., fair value or, if elected, cost minus impairment, if any, plus or minus changes resulting from observable price changes).
5. The \$100 million asset-size test is based on the total assets reported on the *June 30, 2023*, Report of Condition.

Schedule RC-K—Quarterly Averages ⁽¹⁾—Continued

Memorandum

Dollar Amounts in Thousands

	RCON	Amount	
<i>Memorandum Item 1 is to be completed by: ⁽²⁾</i>			
<ul style="list-style-type: none"> • banks with \$300 million or more in total assets, and • banks with less than \$300 million in total assets that have loans to finance agricultural production and other loans to farmers (Schedule RC-C, Part 1, item 3) exceeding 5 percent of total loans. 			
1. Loans to finance agricultural production and other loans to farmers	3386	0	M.1.

1. For all items, banks have the option of reporting either (1) an average of *DAILY* figures for the quarter, or (2) an average of *WEEKLY* figures (i.e., the Wednesday of each week of the quarter).
 2. The \$300 million asset-size test and the 5 percent of total loans test are based on the total assets and total loans reported on the June 30, 2023, Report of Condition.

Schedule RC-L—Derivatives and Off-Balance-Sheet Items

Please read carefully the instructions for the preparation of Schedule RC-L. Some of the amounts reported in Schedule RC-L are regarded as volume indicators and not necessarily as measures of risk.

		Dollar Amounts in Thousands	RCON	Amount	
1. Unused commitments:					
a. Revolving, open-end lines secured by 1–4 family residential properties, e.g., home equity lines.....					
			3814	172,000	1.a.
<i>Item 1.a.(1) is to be completed for the December report only.</i>					
(1) Unused commitments for reverse mortgages outstanding that are held for investment (included in item 1.a. above).....					
			HT72	0	1.a.(1)
b. Credit card lines.....					
			3815	0	1.b.
<i>Items 1.b.(1) and 1.b.(2) are to be completed semiannually in the June and December reports only by banks with either \$300 million or more in total assets or \$300 million or more in credit card lines⁽¹⁾ (sum of items 1.b.(1) and 1.b.(2) must equal item 1.b.).</i>					
(1) Unused consumer credit card lines.....					
			J455	0	1.b.(1)
(2) Other unused credit card lines.....					
			J456	0	1.b.(2)
c. Commitments to fund commercial real estate, construction, and land development loans:					
(1) Secured by real estate:					
(a) 1–4 family residential construction loan commitments.....					
			F164	0	1.c.(1)(a)
(b) Commercial real estate, other construction loan, and land development loan commitments.....					
			F165	379,000	1.c.(1)(b)
(2) NOT secured by real estate.....					
			6550	0	1.c.(2)
d. Securities underwriting.....					
			3817	0	1.d.
e. Other unused commitments:					
(1) Commercial and industrial loans.....					
			J457	176,000	1.e.(1)
(2) Loans to financial institutions.....					
			J458	266,000	1.e.(2)
(3) All other unused commitments.....					
			J459	6,026,000	1.e.(3)
2. Financial standby letters of credit.....					
			3819	244,000	2.
<i>Item 2.a is to be completed by banks with \$1 billion or more in total assets.⁽¹⁾</i>					
a. Amount of financial standby letters of credit conveyed to others.....					
		3820		0	2.a.
3. Performance standby letters of credit.....					
			3821	105,000	3.
<i>Item 3.a is to be completed by banks with \$1 billion or more in total assets.⁽¹⁾</i>					
a. Amount of performance standby letters of credit conveyed to others.....					
		3822		0	3.a.
4. Commercial and similar letters of credit.....					
			3411	14,000	4.
5. Not applicable					
6. Securities lent and borrowed:					
a. Securities lent (including customers' securities lent where the customer is indemnified against loss by the reporting bank).....					
			3433	0	6.a.
b. Securities borrowed.....					
			3432	0	6.b.
7. Credit derivatives:					
a. Notional amounts:					
		(Column A)	(Column B)		
		Sold Protection	Purchased Protection		
		RCON	Amount	RCON	Amount
(1) Credit default swaps.....					
		C968	0	C969	0
(2) Total return swaps.....					
		C970	0	C971	0
(3) Credit options.....					
		C972	0	C973	0
(4) Other credit derivatives.....					
		C974	0	C975	0

1. The asset-size tests and the \$300 million credit card lines test are based on the total assets and credit card lines reported on the June 30, 2023, Report of Condition.

Schedule RC-L—Continued

Dollar Amounts in Thousands	(Column A) Sold Protection		(Column B) Purchased Protection																					
	RCON	Amount	RCON	Amount																				
	7. b. Gross fair values:																							
(1) Gross positive fair value.....	C219	0	C221	0		7. b.(1)																		
(2) Gross negative fair value.....	C220	0	C222	0		7. b.(2)																		
7. c. Notional amounts by regulatory capital treatment: ⁽¹⁾						RCON	Amount																	
(1) Positions covered under the Market Risk Rule:																								
(a) Sold protection.....	G401	0				7. c.(1)(a)																		
(b) Purchased protection.....	G402	0				7. c.(1)(b)																		
(2) All other positions:																								
(a) Sold protection.....	G403	0				7. c.(2)(a)																		
(b) Purchased protection that is recognized as a guarantee for regulatory capital purposes.....	G404	0				7. c.(2)(b)																		
(c) Purchased protection that is not recognized as a guarantee for regulatory capital purposes.....	G405	0				7. c.(2)(c)																		
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="6">Remaining Maturity of:</th> </tr> <tr> <th colspan="2">(Column A) One Year or Less</th> <th colspan="2">(Column B) Over One Year Through Five Years</th> <th colspan="2">(Column C) Over Five Years</th> </tr> <tr> <th>RCON</th> <th>Amount</th> <th>RCON</th> <th>Amount</th> <th>RCON</th> <th>Amount</th> </tr> </thead> </table>							Remaining Maturity of:						(Column A) One Year or Less		(Column B) Over One Year Through Five Years		(Column C) Over Five Years		RCON	Amount	RCON	Amount	RCON	Amount
Remaining Maturity of:																								
(Column A) One Year or Less		(Column B) Over One Year Through Five Years		(Column C) Over Five Years																				
RCON	Amount	RCON	Amount	RCON	Amount																			
7. d. Notional amounts by remaining maturity:																								
(1) Sold credit protection: ⁽²⁾																								
(a) Investment grade.....	G406	0	G407	0	G408	0	7. d.(1)(a)																	
(b) Subinvestment grade.....	G409	0	G410	0	G411	0	7. d.(1)(b)																	
(2) Purchased credit protection: ⁽³⁾																								
(a) Investment grade.....	G412	0	G413	0	G414	0	7. d.(2)(a)																	
(b) Subinvestment grade.....	G415	0	G416	0	G417	0	7. d.(2)(b)																	
8. Not applicable						RCON	Amount																	
9. All other off-balance-sheet liabilities (exclude derivatives) (itemize and describe each component of this item over 25 percent of Schedule RC, item 27.a, "Total bank equity capital").....						3430	0	9.																
a. Not applicable																								
b. Commitments to purchase when-issued securities.....						3434	0	9. b.																
c. Standby letters of credit issued by another party (e.g., a Federal Home Loan Bank) on the bank's behalf.....						C978	0	9. c.																
d. TEXT 3555						3555	0	9. d.																
e. TEXT 3556						3556	0	9. e.																
f. TEXT 3557						3557	0	9. f.																
10. All other off-balance-sheet assets (exclude derivatives) (itemize and describe each component of this item over 25 percent of Schedule RC, item 27.a, "Total bank equity capital").....						5591	0	10.																
a. Commitments to sell when-issued securities.....						3435	0	10. a.																
b. TEXT 5592						5592	0	10. b.																
c. TEXT 5593						5593	0	10. c.																
d. TEXT 5594						5594	0	10. d.																
e. TEXT 5595						5595	0	10. e.																

1. Sum of items 7. c.(1)(a) and 7. c.(2)(a), must equal sum of items 7. a.(1) through (4), column A. Sum of items 7. c.(1)(b), 7. c.(2)(b), and 7. c.(2)(c) must equal sum of items 7. a.(1) through (4), column B.
2. Sum of items 7. d.(1)(a) and (b), columns A through C, must equal sum of items 7. a.(1) through (4), column A.
3. Sum of items 7. d.(2)(a) and (b), columns A through C, must equal sum of items 7. a.(1) through (4), column B.

Schedule RC-L—Continued

		Dollar Amounts in Thousands		RCON	Amount
<i>Items 11.a and 11.b are to be completed semiannually in the June and December reports only.</i>					
11. Year-to-date merchant credit card sales volume:					
a. Sales for which the reporting bank is the acquiring bank.....		C223	0		11.a.
b. Sales for which the reporting bank is the agent bank with risk.....		C224	0		11.b.
Derivatives Position Indicators					
Dollar Amounts in Thousands		(Column A) Interest Rate Contracts Amount	(Column B) Foreign Exchange Contracts Amount	(Column C) Equity Derivative Contracts Amount	(Column D) Commodity and Other Contracts Amount
12. Gross amounts (e.g., notional amounts) (for each column, sum of items 12.a through 12.e must equal sum of items 13 and 14):					
a. Futures contracts.....		RCON 8693	RCON 8694	RCON 8695	RCON 8696
		0	0	0	0
b. Forward contracts.....		RCON 8697	RCON 8698	RCON 8699	RCON 8700
		0	0	0	0
c. Exchange-traded option contracts:		RCON 8701	RCON 8702	RCON 8703	RCON 8704
(1) Written options.....		0	0	0	0
(2) Purchased options.....		24,000	0	0	0
d. Over-the-counter option contracts:		RCON 8709	RCON 8710	RCON 8711	RCON8712
(1) Written options.....		5,025,000	0	0	0
(2) Purchased options.....		5,025,000	0	0	0
e. Swaps.....		RCON 3450	RCON 3826	RCON 8719	RCON 8720
		25,657,000	0	0	0
13. Total gross notional amount of derivative contracts held for trading.....		RCON A126	RCON A127	RCON 8723	RCON 8724
		0	0	0	0
14. Total gross notional amount of derivative contracts held for purposes other than trading.....		RCON 8725	RCON 8726	RCON 8727	RCON 8728
		35,731,000	0	0	0
a. Interest rate swaps where the bank has agreed to pay a fixed rate.....		RCON A589			
		0			

Schedule RC-L—Continued

Dollar Amounts in Thousands	(Column A)	(Column B)	(Column C)	(Column D)	
	Interest Rate Contracts	Foreign Exchange Contracts	Equity Derivative Contracts	Commodity and Other Contracts	
	Amount	Amount	Amount	Amount	
Derivatives Position Indicators					
15. Gross fair values of derivative contracts:					
a. Contracts held for trading:					
(1) Gross positive fair value.....	RCON 8733	RCON 8734	RCON 8735	RCON 8736	15.a.(1)
	0	0	0	0	
(2) Gross negative fair value.....	RCON 8737	RCON 8738	RCON 8739	RCON 8740	15.a.(2)
	0	0	0	0	
b. Contracts held for purposes other than trading:					
(1) Gross positive fair value.....	RCON 8741	RCON 8742	RCON 8743	RCON 8744	15.b.(1)
	437,000	0	0	0	
(2) Gross negative fair value.....	RCON 8745	RCON 8746	RCON 8747	RCON 8748	15.b.(2)
	567,000	0	0	0	

Dollar Amounts in Thousands	(Column A)		(Columns B-D)		(Column E)		
	Banks and Securities Firms	Not applicable	Corporations and All Other Counterparties				
	RCON	Amount	RCON	Amount	RCON	Amount	
<i>Item 16 is to be completed only by banks with total assets of \$10 billion or more. (1)</i>							
16. Over-the-counter derivatives:							
a. Net current credit exposure.....	G418	70,000			G422	364,000	16.a.
b. Fair value of collateral:							
(1) Cash—U.S. dollar.....	G423	38,000			G427	0	16.b.(1)
(2) Cash—Other currencies.....	G428	0			G432	0	16.b.(2)
(3) U.S. Treasury securities.....	G433	0			G437	0	16.b.(3)
(4) through (6) Not Applicable							
(7) All other collateral.....	G453	0			G457	0	16.b.(7)
(8) Total fair value of collateral (sum of items 16.b.(1) through (7)).....	G458	38,000			G462	0	16.b.(8)

1. The \$10 billion asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

Schedule RC-M—Memoranda

Dollar Amounts in Thousands		RCON	Amount	
1. Extensions of credit by the reporting bank to its executive officers, directors, principal shareholders, and their related interests as of the report date:				
a. Aggregate amount of all extensions of credit to all executive officers, directors, principal shareholders, and their related interests.....				
		6164	0	1.a.
b. Number of executive officers, directors, and principal shareholders to whom the amount of all extensions of credit by the reporting bank (including extensions of credit to related interests) equals or exceeds the lesser of \$500,000 or 5 percent of total capital as defined for this purpose in agency regulations.....				
	Number	6165	0	1.b.
2. Intangible assets:				
a. Mortgage servicing assets.....				
		3164	0	2.a.
(1) Estimated fair value of mortgage servicing assets.....				
	A590		0	2.a.(1)
b. Goodwill.....				
		3163	0	2.b.
c. All other intangible assets.....				
	JF76		2,000	2.c.
d. Total (sum of items 2.a, 2.b, and 2.c) (must equal Schedule RC, item 10).....				
		2143	2,000	2.d.
3. Other real estate owned:				
a. Construction, land development, and other land.....				
		5508	0	3.a.
b. Farmland.....				
		5509	0	3.b.
c. 1-4 family residential properties.....				
		5510	4,000	3.c.
d. Multifamily (5 or more) residential properties.....				
		5511	0	3.d.
e. Nonfarm nonresidential properties.....				
		5512	0	3.e.
f. Total (sum of items 3.a through 3.e) (must equal Schedule RC, item 7).....				
		2150	4,000	3.f.
4. Cost of equity securities with readily determinable fair values not held for trading (the fair value of which is reported in Schedule RC, item 2.c) ⁽¹⁾				
		JA29	0	4.
5. Other borrowed money:				
a. Federal Home Loan Bank advances:				
(1) Advances with a remaining maturity or next repricing date of: ⁽²⁾				
(a) One year or less.....				
		F055	0	5.a.(1)(a)
(b) Over one year through three years.....				
		F056	0	5.a.(1)(b)
(c) Over three years through five years.....				
		F057	0	5.a.(1)(c)
(d) Over five years.....				
		F058	0	5.a.(1)(d)
(2) Advances with a REMAINING MATURITY of one year or less (included in item 5.a.(1)(a) above) ⁽³⁾				
		2651	0	5.a.(2)
(3) Structured advances (included in items 5.a.(1)(a)-(d) above).....				
		F059	0	5.a.(3)
b. Other borrowings:				
(1) Other borrowings with a remaining maturity or next repricing date of: ⁽⁴⁾				
(a) One year or less.....				
		F060	0	5.b.(1)(a)
(b) Over one year through three years.....				
		F061	0	5.b.(1)(b)
(c) Over three years through five years.....				
		F062	0	5.b.(1)(c)
(d) Over five years.....				
		F063	0	5.b.(1)(d)
(2) Other borrowings with a REMAINING MATURITY of one year or less (included in item 5.b.(1)(a) above) ⁽⁵⁾				
		B571	0	5.b.(2)
c. Total (sum of items 5.a.(1)(a)-(d) and items 5.b.(1)(a)-(d)) (must equal Schedule RC, item 16).....				
		3190	0	5.c.

1. Item 4 is to be completed only by insured state banks that have been approved by the FDIC to hold grandfathered equity investments. See instructions for this item and the Glossary entry for "Securities Activities" for further detail on accounting for investments in equity securities.
2. Report fixed-rate advances by remaining maturity and floating-rate advances by next repricing date.
3. Report both fixed- and floating-rate advances by remaining maturity. Exclude floating-rate advances with a next repricing date of one year or less that have a remaining maturity of over one year.
4. Report fixed-rate other borrowings by remaining maturity and floating-rate other borrowings by next repricing date.
5. Report both fixed- and floating-rate other borrowings by remaining maturity. Exclude floating-rate other borrowings with a next repricing date of one year or less that have a remaining maturity of over one year.

Schedule RC-M—Continued

		Dollar Amounts in Thousands					
		RCON	Yes	No			
	6. Does the reporting bank sell private label or third-party mutual funds and annuities?.....	B569	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6.		
		RCON	Amount				
	7. Assets under the reporting bank's management in proprietary mutual funds and annuities.....	B570		0	7.		
8. Internet website addresses and physical office trade names:							
a. Uniform Resource Locator (URL) of the reporting institution's primary Internet website (home page), if any							
(Example: www.examplebank.com):							
	<table border="1" style="font-size: x-small; border-collapse: collapse;"> <tr> <td style="width: 20px; text-align: center;">TEXT 4087</td> <td>http:// http://www.db.com</td> </tr> </table>	TEXT 4087	http:// http://www.db.com				8. a.
TEXT 4087	http:// http://www.db.com						
b. URLs of all other public-facing Internet websites that the reporting institution uses to accept or solicit deposits from the public, if any (Example: www.examplebank.biz): ⁽¹⁾							
	(1)	TE01 NS28	http:// _____		8. b.(1)		
	(2)	TE02 NS28	http:// _____		8. b.(2)		
	(3)	TE03 NS28	http:// _____		8. b.(3)		
	(4)	TE04 NS28	http:// _____		8. b.(4)		
	(5)	TE05 NS28	http:// _____		8. b.(5)		
	(6)	TE06 NS28	http:// _____		8. b.(6)		
	(7)	TE07 NS28	http:// _____		8. b.(7)		
	(8)	TE08 NS28	http:// _____		8. b.(8)		
	(9)	TE09 NS28	http:// _____		8. b.(9)		
	(10)	TE10 NS28	http:// _____		8. b.(10)		
c. Trade names other than the reporting institution's legal title used to identify one or more of the institution's physical offices at which deposits are accepted or solicited from the public, if any:							
	(1)	TE01 NS29	_____		8. c.(1)		
	(2)	TE02 NS29	_____		8. c.(2)		
	(3)	TE03 NS29	_____		8. c.(3)		
	(4)	TE04 NS29	_____		8. c.(4)		
	(5)	TE05 NS29	_____		8. c.(5)		
	(6)	TE06 NS29	_____		8. c.(6)		
<i>Item 9 is to be completed annually in the December report only.</i>							
	9. Do any of the bank's Internet websites have transactional capability, i.e., allow the bank's customers to execute transactions on their accounts through the website?.....	4088	<input checked="" type="checkbox"/>	<input type="checkbox"/>	9.		
10. Secured liabilities:							
a. Amount of "Federal funds purchased" that are secured (included in Schedule RC, item 14. a).....		RCON	Amount				
		F064		0	10. a.		
b. Amount of "Other borrowings" that are secured (included in Schedule RC-M, items 5.b.(1)(a)-(d)).....		F065		0	10. b.		
	11. Does the bank act as trustee or custodian for Individual Retirement Accounts, Health Savings Accounts, and other similar accounts?.....	G463	<input checked="" type="checkbox"/>	<input type="checkbox"/>	11.		
	12. Does the bank provide custody, safekeeping, or other services involving the acceptance of orders for the sale or purchase of securities?.....	G464	<input checked="" type="checkbox"/>	<input type="checkbox"/>	12.		
1. Report only highest level URLs (for example, report www.examplebank.biz, but do not also report www.examplebank.biz/checking) Report each top level domain name used (for example, report both www.examplebank.biz and www.examplebank.net).							

Schedule RC-M—Continued

Dollar Amounts in Thousands		RCON	Amount	
13. Portion of covered other real estate owned that is protected by FDIC loss-sharing agreements (included in Schedule RC, item 7).....		K192	0	13.
<i>Items 14.a and 14.b are to be completed annually in the December report only.</i>				
14. Captive insurance and reinsurance subsidiaries:				
a. Total assets of captive insurance subsidiaries ⁽¹⁾		K193	0	14.a.
b. Total assets of captive reinsurance subsidiaries ⁽¹⁾		K194	0	14.b.
<i>Item 15 is to be completed by institutions that are required or have elected to be treated as a Qualified Thrift Lender.</i>				
15. Qualified Thrift Lender (QTL) test:				
a. Does the institution use the Home Owners' Loan Act (HOLA) QTL test or the Internal Revenue Service Domestic Building and Loan Association (IRS DBLA) test to determine its QTL compliance? (for the HOLA QTL test, enter 1; for the IRS DBLA test, enter 2).....		L133	NA	15.a.
b. Has the institution been in compliance with the HOLA QTL test as of each month end during the quarter or the IRS DBLA test for its most recent taxable year, as applicable?.....		L135		15.b.
<i>Item 16.a and, if appropriate, items 16.b.(1) through 16.b.(3) are to be completed annually in the December report only.</i>				
16. International remittance transfers offered to consumers: ⁽²⁾				
a. Estimated number of international remittance transfers provided by your institution during the calendar year ending on the report date.....		N523	NA	16.a.
<i>Items 16.b.(1) through 16.b.(3) are to be completed by institutions that reported 501 or more international remittance transfers in item 16.a in either or both of the current report or the most recent prior report in which item 16.a was required to be completed.</i>				
b. Estimated dollar value of remittance transfers provided by your institution and usage of regulatory exceptions during the calendar year ending on the report date:				
(1) Estimated dollar value of international remittance transfers.....		N524	NA	16.b.(1)
(2) Estimated number of international remittance transfers for which your institution applied the permanent exchange rate exception.....		MM07	NA	16.b.(2)
(3) Estimated number of international remittance transfers for which your institution applied the permanent covered third-party fee exception.....		MQ52	NA	16.b.(3)
17. U.S. Small Business Administration Paycheck Protection Program (PPP) loans ⁽³⁾ and the Federal Reserve PPP Liquidity Facility (PPPLF):				
a. Number of PPP loans outstanding.....		LG26	0	17.a.
b. Outstanding balance of PPP loans.....		LG27	0	17.b.
c. Outstanding balance of PPP loans pledged to the PPPLF.....		LG28	0	17.c.
d. Outstanding balance of borrowings from Federal Reserve Banks under the PPPLF with a remaining maturity of:				
(1) One year or less.....		LL59	0	17.d.(1)
(2) More than one year.....		LL60	0	17.d.(2)
e. Quarterly average amount of PPP loans pledged to the PPPLF and excluded from "Total assets for the leverage ratio" reported in Schedule RC-R, Part I, item 30.....		LL57	0	17.e.

1. Report total assets before eliminating intercompany transactions between the consolidated insurance or reinsurance subsidiary and other offices or consolidated subsidiaries of the reporting bank.

2. Report information about international electronic transfers of funds offered to consumers in the United States that:
(a) are "remittance transfers" as defined by subpart B of Regulation E (12 CFR § 1005.30(e)), or
(b) would qualify as "remittance transfers" under subpart B of Regulation E (12 CFR § 1005.30(e)) but are excluded from that definition only because the provider is not providing those transfers in the normal course of its business. See 12 CFR § 1005.30(f).
For purposes of this item 16, such transfers are referred to as international remittance transfers.
Exclude transfers sent by your institution as a correspondent bank for other providers. Report information only about transfers for which the reporting institution is the provider.

3. Paycheck Protection Program (PPP) covered loans as defined in sections 7(a)(36) and 7(a)(37) of the Small Business Act (15 U.S.C. 636(a)(36) and (37)).

Schedule RC-N—Past Due and Nonaccrual Loans, Leases, and Other Assets

Dollar Amounts in Thousands	(Column A) Past due 30 through 89 days and still accruing		(Column B) Past due 90 days or more and still accruing		(Column C) Nonaccrual		
	RCON	Amount	RCON	Amount	RCON	Amount	
	1. Loans secured by real estate:						
a. Construction, land development, and other land loans:							
(1) 1-4 family residential construction loans.....	F172	0	F174	0	F176	0	1.a.(1)
(2) Other construction loans and all land development and other land loans.....	F173	0	F175	0	F177	0	1.a.(2)
b. Secured by farmland.....	3493	0	3494	0	3495	0	1.b.
c. Secured by 1- 4 family residential properties:							
(1) Revolving, open-end loans secured by 1- 4 family residential properties and extended under lines of credit.....	5398	2,000	5399	1,000	5400	3,000	1.c.(1)
(2) Closed-end loans secured by 1-4 family residential properties:							
(a) Secured by first liens.....	C236	13,000	C237	2,000	C229	21,000	1.c.(2)(a)
(b) Secured by junior liens.....	C238	0	C239	0	C230	0	1.c.(2)(b)
d. Secured by multifamily (5 or more) residential properties.....	3499	0	3500	0	3501	0	1.d.
e. Secured by nonfarm nonresidential properties:							
(1) Loans secured by owner-occupied nonfarm nonresidential properties.....	F178	0	F180	0	F182	0	1.e.(1)
(2) Loans secured by other nonfarm nonresidential properties.....	F179	0	F181	0	F183	0	1.e.(2)
2. Loans to depository institutions and acceptances of other banks.....	B834	0	B835	0	B836	0	2.
3. Not applicable							
4. Commercial and industrial loans.....	1606	0	1607	0	1608	0	4.
5. Loans to individuals for household, family, and other personal expenditures:							
a. Credit cards.....	B575	0	B576	0	B577	0	5.a.
b. Automobile loans.....	K213	0	K214	0	K215	0	5.b.
c. Other (includes revolving credit plans other than credit cards and other consumer loans).....	K216	0	K217	0	K218	0	5.c.
6. Not applicable							
7. All other loans ⁽¹⁾	5459	0	5460	0	5461	1,000	7.
8. Lease financing receivables.....	1226	0	1227	0	1228	0	8.
9. Total loans and leases (sum of items 1 through 8).....	1406	15,000	1407	3,000	1403	25,000	9.
10. Debt securities and other assets (exclude other real estate owned and other repossessed assets).....							
	3505	0	3506	0	3507	0	10.

1. Includes past due and nonaccrual "Loans to finance agricultural productions and other loans to farmers," "Obligations (other than securities and leases) of states and political subdivisions in the U.S.," and "Loans to nondepository financial institutions and other loans."

Schedule RC-N—Continued

Amounts reported by loan and lease category in Schedule RC-N, items 1 through 8, include guaranteed and unguaranteed portions of past due and nonaccrual loans and leases. Report in items 11 and 12 below certain guaranteed loans and leases that have already been included in the amounts reported in items 1 through 8.

Dollar Amounts in Thousands	(Column A) Past due 30 through 89 days and still accruing		(Column B) Past due 90 days or more and still accruing		(Column C) Nonaccrual		
	RC0N	Amount	RC0N	Amount	RC0N	Amount	
11. Loans and leases reported in items 1 through 8 above that are wholly or partially guaranteed by the U.S. Government, excluding loans and leases covered by loss-sharing agreements with the FDIC.....	K036	0	K037	0	K038	0	11.
a. Guaranteed portion of loans and leases included in item 11 above, excluding rebooked "GNMA loans".....	K039	0	K040	0	K041	0	11.a.
b. Rebooked "GNMA loans" that have been repurchased or are eligible for repurchase included in item 11 above.....	K042	0	K043	0	K044	0	11.b.
12. Portion of covered loans and leases reported in item 9 above that is protected by FDIC loss-sharing agreements.....	K102	0	K103	0	K104	0	12.

Schedule RC-N—Continued

Memoranda

Dollar Amounts in Thousands	(Column A) Past due 30 through 89 days and still accruing		(Column B) Past due 90 days or more and still accruing		(Column C) Nonaccrual		
	RCON	Amount	RCON	Amount	RCON	Amount	
1. Loans restructured in troubled debt restructurings included in Schedule RC-N, items 1 through 7, above (and not reported in Schedule RC-C, Part I, Memorandum item 1):							
a. Construction, land development, and other land loans:							
(1) 1–4 family residential construction loans	K105	0	K106	0	K107	0	M.1.a.(1)
(2) Other construction loans and all land development and other land loans	K108	0	K109	0	K110	0	M.1.a.(2)
b. Loans secured by 1–4 family residential properties.....	F661	0	F662	0	F663	1,000	M.1.b.
c. Secured by multifamily (5 or more) residential properties	K111	0	K112	0	K113	0	M.1.c.
d. Secured by nonfarm nonresidential properties:							
(1) Loans secured by owner-occupied nonfarm nonresidential properties.....	K114	0	K115	0	K116	0	M.1.d.(1)
(2) Loans secured by other nonfarm nonresidential properties	K117	0	K118	0	K119	0	M.1.d.(2)
e. Commercial and industrial loans	K257	0	K258	0	K259	0	M.1.e.
<i>Memorandum items 1.e.(1) and (2) are to be completed by banks with \$300 million or more in total assets (sum of Memorandum items 1.e.(1) and (2) must equal Memorandum item 1.e):</i> (1)							
(1) To U.S. addressees (domicile)	K120	0	K121	0	K122	0	M.1.e.(1)
(2) To non-U.S. addressees (domicile)	K123	0	K124	0	K125	0	M.1.e.(2)
f. All other loans (include loans to individuals for household, family, and other personal expenditures)	K126	0	K127	0	K128	0	M.1.f.
<i>Itemize loan categories included in Memorandum item 1.f, above that exceed 10 percent of total loans restructured in troubled debt restructurings that are past due 30 days or more or in nonaccrual status (sum of Memorandum items 1.a through 1.e plus 1.f, columns A through C):</i>							
(1) Loans secured by farmland	K130	0	K131	0	K132	0	M.1.f.(1)
(2) and (3) Not applicable							

1. The \$300 million asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

Schedule RC-N—Continued

Memoranda—Continued

Dollar Amounts in Thousands	(Column A) Past due 30 through 89 days and still accruing		(Column B) Past due 90 days or more and still accruing		(Column C) Nonaccrual		
	RCON	Amount	RCON	Amount	RCON	Amount	
1. f. (4) Loans to individuals for household, family, and other personal expenditures:							
(a) Credit cards	K274	0	K275	0	K276	0	M.1.f.(4)(a)
(b) Automobile loans	K277	0	K278	0	K279	0	M.1.f.(4)(b)
(c) Other (includes revolving credit plans other than credit cards and other consumer loans)	K280	0	K281	0	K282	0	M.1.f.(4)(c)
<i>Memorandum item 1.f.(5) is to be completed by:</i> ⁽¹⁾							
• Banks with \$300 million or more in total assets							
• Banks with less than \$300 million in total assets that have loans to finance agricultural production and other loans to farmers (Schedule RC-C, Part I, item 3) exceeding 5 percent of total loans							
(5) Loans to finance agricultural production and other loans to farmers included in Schedule RC-N, Memorandum item 1.f. above	K138	0	K139	0	K140	0	M.1.f.(5)
1. g. Total loans restructured in troubled debt restructurings included in Schedule RC-N, items 1 through 7, above (sum of Memorandum items 1.a(1) through 1.e plus 1.f) ⁽²⁾	HK26	0	HK27	0	HK28	1,000	M.1.g.
2. Loans to finance commercial real estate, construction, and land development activities (not secured by real estate) included in Schedule RC-N, items 4 and 7, above	6558	0	6559	0	6560	0	M.2.
3. <i>Memorandum items 3.a through 3.d are to be completed by banks with \$300 million or more in total assets:</i> ⁽¹⁾							
a. Loans secured by real estate to non-U.S. addressees (domicile) (included in Schedule RC-N, item 1, above)	1248	0	1249	0	1250	0	M.3.a.
b. Loans to and acceptances of foreign banks (included in Schedule RC-N, item 2, above)	5380	0	5381	0	5382	0	M.3.b.
c. Commercial and industrial loans to non-U.S. addressees (domicile) included in Schedule RC-N, item 4, above	1254	0	1255	0	1256	0	M.3.c.

1. The \$300 million asset-size test and the 5 percent of total loans test are based on the total assets and total loans reported on the June 30, 2023, Report of Condition.
2. Exclude amounts reported in Memorandum items 1.e.(1), 1.e.(2), and 1.f.(1) through 1.f.(5) when calculating the total in Memorandum item 1.g.

Schedule RC-N—Continued

Memoranda—Continued

	(Column A) Past due 30 through 89 days and still accruing		(Column B) Past due 90 days or more and still accruing		(Column C) Nonaccrual		
	RCON	Amount	RCON	Amount	RCON	Amount	
Dollar Amounts in Thousands							
3. d. Leases to individuals for household, family, and other personal expenditures (included in Schedule RC-N, item 8, above)	F 166	0	F 167	0	F 168	0	M.3.d.
<i>Memorandum item 4 is to be completed by:</i> ⁽¹⁾							
• banks with \$300 million or more in total assets							
• banks with less than \$300 million in total assets that have loans to finance agricultural production and other loans to farmers (Schedule RC-C, Part I, item 3) exceeding 5 percent of total loans:							
4. Loans to finance agricultural production and other loans to farmers (included in Schedule RC-N, item 7, above)	1594	0	1597	0	1583	0	M.4.
5. Loans and leases held for sale (included in Schedule RC-N, items 1 through 8, above).....	C240	0	C241	0	C226	0	M.5.
6. Not applicable							
<i>Memorandum items 7 and 8 are to be completed semiannually in the June and December reports only.</i>							
7. Additions to nonaccrual assets during the previous six months	C410	0					M.7.
8. Nonaccrual assets sold during the previous six months.....	C411	0					M.8.

1. The \$300 million asset-size test and the 5 percent of total loans test are based on the total assets and total loans reported on the June 30, 2023, Report of Condition.

Schedule RC-O—Other Data for Deposit Insurance Assessments

All FDIC-insured depository institutions must complete items 1 and 2, 4 through 9, 10, and 11, Memorandum item 1, and, if applicable, item 9.a, Memorandum items 2, 3, and 5 through 18 each quarter. Unless otherwise indicated, complete items 1 through 11 and Memorandum items 1 through 3 on an "unconsolidated single FDIC certificate number basis" (see instructions) and complete Memorandum items 5 through 18 on a fully consolidated basis.

Dollar Amounts in Thousands		RCON	Amount	
1. Total deposit liabilities before exclusions (gross) as defined in Section 3(l) of the Federal Deposit Insurance Act and FDIC regulations.....		F236	27,036,000	1.
2. Total allowable exclusions, including interest accrued and unpaid on allowable exclusions.....		F237	0	2.
3. Not applicable				
4. Average consolidated total assets for the calendar quarter		K652	34,998,000	4.
a. Averaging method used				
(for daily averaging, enter 1, for weekly averaging, enter 2)	K653	1		4.a.
			Amount	
5. Average tangible equity for the calendar quarter ⁽¹⁾		K654	9,703,000	5.
6. Holdings of long-term unsecured debt issued by other FDIC-insured depository institutions.....		K655	0	6.
7. Unsecured "Other borrowings" with a remaining maturity of (sum of items 7.a through 7.d must be less than or equal to Schedule RC-M, items 5.b.(1)(a)–(d) minus item 10.b):				
a. One year or less.....		G465	0	7.a.
b. Over one year through three years.....		G466	0	7.b.
c. Over three years through five years.....		G467	0	7.c.
d. Over five years.....		G468	0	7.d.
8. Subordinated notes and debentures with a remaining maturity of (sum of items 8.a. through 8.d. must equal Schedule RC, item 19):				
a. One year or less.....		G469	0	8.a.
b. Over one year through three years.....		G470	0	8.b.
c. Over three years through five years.....		G471	0	8.c.
d. Over five years.....		G472	0	8.d.
9. Brokered reciprocal deposits (included in Schedule RC-E, Memorandum item 1.b).....		G803	0	9.
<i>Item 9.a is to be completed on a fully consolidated basis by all institutions that own another insured depository institution.</i>				
a. Fully consolidated brokered reciprocal deposits.....		L190	NA	9.a.
10. Banker's bank certification:				
Does the reporting institution meet both the statutory definition of a banker's bank and the business conduct test set forth in FDIC regulations?			Yes No	
	K656		x	10.
<i>If the answer to item 10 is "YES," complete items 10.a and 10.b.</i>				
			Amount	
a. Banker's bank deduction.....		K657	NA	10.a.
b. Banker's bank deduction limit		K658	NA	10.b.
11. Custodial bank certification:				
Does the reporting institution meet the definition of a custodial bank set forth in FDIC regulations?			Yes No	
	K659	x		11.
<i>If the answer to item 11 is "YES," complete items 11.a and 11.b. ⁽²⁾</i>				
			Amount	
a. Custodial bank deduction		K660	11,619,000	11.a.
b. Custodial bank deduction limit		K661	6,028,000	11.b.

1. See instructions for averaging methods. For deposit insurance assessment purposes, tangible equity is defined as Tier 1 capital as set forth in the banking agencies' regulatory capital standards and reported in Schedule RC-R, Part I, item 26, except as described in the instructions.
2. If the amount reported in item 11.b is zero, item 11.a may be left blank.

Schedule RC-O—Continued

Memoranda

Dollar Amounts in Thousands		RCON	Amount	
1. Total deposit liabilities of the bank, including related interest accrued and unpaid, less allowable exclusions, including related interest accrued and unpaid (sum of Memorandum items 1.a.(1), 1.b.(1), 1.c.(1), and 1.d.(1) must equal Schedule RC-O, item 1 less item 2):				
a. Deposit accounts (excluding retirement accounts) of \$250,000 or less: ⁽¹⁾				
(1) Amount of deposit accounts (excluding retirement accounts) of \$250,000 or less.....		F049	130,000	M.1.a.(1)
(2) Number of deposit accounts (excluding retirement accounts) of \$250,000 or less.....	Number			
	F050	5,792		M.1.a.(2)
b. Deposit accounts (excluding retirement accounts) of more than \$250,000: ⁽¹⁾				
(1) Amount of deposit accounts (excluding retirement accounts) of more than \$250,000.....		F051	26,855,000	M.1.b.(1)
(2) Number of deposit accounts (excluding retirement accounts) of more than \$250,000.....	Number			
	F052	3,359		M.1.b.(2)
c. Retirement deposit accounts of \$250,000 or less: ⁽¹⁾				
(1) Amount of retirement deposit accounts of \$250,000 or less.....		F045	51,000	M.1.c.(1)
(2) Number of retirement deposit accounts of \$250,000 or less.....	Number			
	F046	139		M.1.c.(2)
d. Retirement deposit accounts of more than \$250,000: ⁽¹⁾				
(1) Amount of retirement deposit accounts of more than \$250,000.....		F047	0	M.1.d.(1)
(2) Number of retirement deposit accounts of more than \$250,000.....	Number			
	F048	1		M.1.d.(2)
<i>Memorandum item 2 is to be completed by banks with \$1 billion or more in total assets. ⁽²⁾</i>				
2. Estimated amount of uninsured deposits including related interest accrued and unpaid (see instructions) ⁽³⁾				
		5597	26,015,000	M.2.
3. Has the reporting institution been consolidated with a parent bank or savings association in that parent bank's or parent savings association's Call Report? If so, report the legal title and FDIC Certificate Number of the parent bank or parent savings association:				
		RCON	FDIC Cert. No.	
	TEXT	A545	0	M.3.
	A545			

4. Not applicable

- The dollar amounts used as the basis for reporting in Memorandum items 1.a through 1.d reflect the deposit insurance limits in effect on the report date.
- The \$1 billion asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.
- Uninsured deposits should be estimated based on the deposit insurance limits set forth in Memorandum items 1.a through 1.d.

Schedule RC-O—Continued

Amounts reported in Memorandum items 6 through 9, 14, and 15 will not be made available to the public on an individual institution basis.

Memoranda—Continued

	Dollar Amounts in Thousands		
	RCON	Amount	
<i>Memorandum items 5 through 12 are to be completed by "large institutions" and "highly complex institutions" as defined in FDIC regulations.</i>			
5. Applicable portion of the CECL transitional amount or modified CECL transitional amount that has been added to retained earnings for regulatory capital purposes as of the current report date and is attributable to loans and leases held for investment	MW53	NA	M.5.
6. Criticized and classified items:			
a. Special mention	K663	1,627,000	M.6.a.
b. Substandard	K664	420,000	M.6.b.
c. Doubtful	K665	11,000	M.6.c.
d. Loss	K666	0	M.6.d.
7. "Nontraditional 1–4 family residential mortgage loans" as defined for assessment purposes only in FDIC regulations:			
a. Nontraditional 1-4 family residential mortgage loans	N025	1,737,000	M.7.a.
b. Securitizations of nontraditional 1-4 family residential mortgage loans	N026	0	M.7.b.
8. "Higher-risk consumer loans" as defined for assessment purposes only in FDIC regulations:			
a. Higher-risk consumer loans	N027	42,000	M.8.a.
b. Securitizations of higher-risk consumer loans	N028	0	M.8.b.
9. "Higher-risk commercial and industrial loans and securities" as defined for assessment purposes only in FDIC regulations:			
a. Higher-risk commercial and industrial loans and securities	N029	0	M.9.a.
b. Securitizations of higher-risk commercial and industrial loans and securities	N030	0	M.9.b.
10. Commitments to fund construction, land development, and other land loans secured by real estate:			
a. Total unfunded commitments	K676	379,000	M.10.a.
b. Portion of unfunded commitments guaranteed or insured by the U.S. government (including the FDIC)	K677	0	M.10.b.
11. Amount of other real estate owned recoverable from the U.S. government under guarantee or insurance provisions (excluding FDIC loss-sharing agreements)	K669	0	M.11.
12. Nonbrokered time deposits of more than \$250,000 in domestic offices (included in Schedule RC-E, Part I, Memorandum item 2.d)	K678	315,000	M.12.
<i>Memorandum item 13.a is to be completed by "large institutions" and "highly complex institutions" as defined in FDIC regulations. Memorandum items 13.b through 13.h are to be completed by "large institutions" only.</i>			
13. Portion of funded loans and securities guaranteed or insured by the U.S. government (including FDIC loss-sharing agreements):			
a. Construction, land development, and other land loans secured by real estate	N177	0	M.13.a.
b. Loans secured by multifamily residential and nonfarm nonresidential properties	N178	0	M.13.b.
c. Closed-end loans secured by first liens on 1–4 family residential properties	N179	0	M.13.c.
d. Closed-end loans secured by junior liens on 1–4 family residential properties and revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit	N180	0	M.13.d.
e. Commercial and industrial loans	N181	0	M.13.e.
f. Credit card loans to individuals for household, family, and other personal expenditures	N182	0	M.13.f.
g. All other loans to individuals for household, family, and other personal expenditures	N183	0	M.13.g.
h. Non-agency residential mortgage-backed securities	M963	0	M.13.h.
<i>Memorandum items 14 and 15 are to be completed by "highly complex institutions" as defined in FDIC regulations.</i>			
14. Amount of the institution's largest counterparty exposure	K673	NA	M.14.
15. Total amount of the institution's 20 largest counterparty exposures	K674	NA	M.15.

Schedule RC-O—Continued

Memoranda—Continued

Dollar Amounts in Thousands	RCON	Amount	
<i>Memorandum item 16 is to be completed by "large institutions" and "highly complex institutions" as defined in FDIC regulations.</i>			
16. Portion of loans restructured in troubled debt restructurings that are in compliance with their modified terms and are guaranteed or insured by the U.S. government (including the FDIC) (included in Schedule RC-C, Part I, Memorandum item 1).....	L189	0	M.16.
<i>Memorandum item 17 is to be completed on a fully consolidated basis by those "large institutions" and "highly complex institutions" as defined in FDIC regulations that own another insured depository institution.</i>			
17. Selected fully consolidated data for deposit insurance assessment purposes:			
a. Total deposit liabilities before exclusions (gross) as defined in Section 3(l) of the Federal Deposit Insurance Act and FDIC regulations.....	L194	NA	M.17.a.
b. Total allowable exclusions, including interest accrued and unpaid on allowable exclusions.....	L195	NA	M.17.b.
c. Unsecured "Other borrowings" with a remaining maturity of one year or less.....	L196	NA	M.17.c.
d. Estimated amount of uninsured deposits, including related interest accrued and unpaid.....	L197	NA	M.17.d.

Schedule RC-O—Continued

Memorandum item 18 is to be completed by "large institutions" and "highly complex institutions" as defined in FDIC regulations.
Amounts reported in Memorandum item 18 will not be made available to the public on an individual institution basis.

Dollar Amounts in Thousands	Two-Year Probability of Default (PD)									
	(Column A)	(Column B)	(Column C)	(Column D)	(Column E)	(Column F)	(Column G)	(Column H)		
	≤ 1%	1.01–4%	4.01–7%	7.01–10%	10.01–14%	14.01–16%	16.01–18%	18.01–20%		
Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount		
18. Outstanding balance of 1-4 family residential mortgage loans, consumer loans, and consumer leases by two-year probability of default:										
a. "Nontraditional 1-4 family residential mortgage loans" as defined for assessment purposes only in FDIC regulations.....	RCON M964	RCON M965	RCON M966	RCON M967	RCON M968	RCON M969	RCON M970	RCON M971		M. 18. a.
	401,000	646,000	363,000	178,000	54,000	4,000	0	3,000		
b. Closed-end loans secured by first liens on 1-4 family residential properties.....	RCON M979	RCON M980	RCON M981	RCON M982	RCON M983	RCON M984	RCON M985	RCON M986		M. 18. b.
	48,000	87,000	40,000	3,000	5,000	0	0	0		
c. Closed-end loans secured by junior liens on 1-4 family residential properties.....	RCON M994	RCON M995	RCON M996	RCON M997	RCON M998	RCON M999	RCON N001	RCON N002		M. 18. c.
	6,000	13,000	2,000	1,000	10,000	0	0	0		
d. Revolving, open-end loans secured by 1-4 family residential properties and extended under lines of credit	RCON N010	RCON N011	RCON N012	RCON N013	RCON N014	RCON N015	RCON N016	RCON N017		M. 18. d.
	26,000	76,000	95,000	9,000	7,000	0	0	0		
	RCON N040	RCON N041	RCON N042	RCON N043	RCON N044	RCON N045	RCON N046	RCON N047		
e. Credit cards.....	0	0	0	0	0	0	0	0		M. 18. e.
	RCON N055	RCON N056	RCON N057	RCON N058	RCON N059	RCON N060	RCON N061	RCON N062		
f. Automobile loans.....	0	0	0	0	0	0	0	0		M. 18. f.
	RCON N070	RCON N071	RCON N072	RCON N073	RCON N074	RCON N075	RCON N076	RCON N077		
g. Student loans.....	0	0	0	0	0	0	0	0		M. 18. g.
h. Other consumer loans and revolving credit plans other than credit cards.....	RCON N085	RCON N086	RCON N087	RCON N088	RCON N089	RCON N090	RCON N091	RCON N092		M. 18. h.
	158,000	112,000	67,000	1,000	0	0	0	0		
	RCON N100	RCON N101	RCON N102	RCON N103	RCON N104	RCON N105	RCON N106	RCON N107		
i. Consumer leases.....	0	0	0	0	0	0	0	0		M. 18. i.
	RCON N115	RCON N116	RCON N117	RCON N118	RCON N119	RCON N120	RCON N121	RCON N122		
j. Total.....	639,000	934,000	567,000	192,000	76,000	4,000	0	3,000		M. 18. j.

Schedule RC-O—Continued

Memorandum item 18 is to be completed by "large institutions" and "highly complex institutions" as defined in FDIC regulations. Amounts reported in Memorandum item 18 will not be made available to the public on an individual institution basis.

Dollar Amounts in Thousands	Two-Year Probability of Default (PD)						(Column O) PDs Were Derived Using ⁽¹⁾ Number
	(Column I)	(Column J)	(Column K)	(Column L)	(Column M)	(Column N)	
	20.01–22%	22.01–26%	26.01–30%	> 30%	Unscoreable	Total	
Amount	Amount	Amount	Amount	Amount	Amount	Amount	
18. Outstanding balance of 1-4 family residential mortgage loans, consumer loans, and consumer leases by two-year probability of default:							
a. "Nontraditional 1-4 family residential mortgage loans" as defined for assessment purposes only in FDIC regulations.....	RCON M972	RCON M973	RCON M974	RCON M975	RCON M976	RCON M977	RCON M978
	5,000	2,000	2,000	0	79,000	1,737,000	1
b. Closed-end loans secured by first liens on 1-4 family residential properties.....	RCON M987	RCON M988	RCON M989	RCON M990	RCON M991	RCON M992	RCON M993
	0	0	0	0	11,000	194,000	1
c. Closed-end loans secured by junior liens on 1-4 family residential properties.....	RCON N003	RCON N004	RCON N005	RCON N006	RCON N007	RCON N008	RCON N009
	0	0	0	0	0	32,000	1
d. Revolving, open-end loans secured by 1-4 family residential properties and extended under lines of credit.....	RCON N018	RCON N019	RCON N020	RCON N021	RCON N022	RCON N023	RCON N024
	0	0	0	0	47,000	260,000	1
e. Credit cards.....	RCON N048	RCON N049	RCON N050	RCON N051	RCON N052	RCON N053	RCON N054
	0	0	0	0	0	0	0
f. Automobile loans.....	RCON N063	RCON N064	RCON N065	RCON N066	RCON N067	RCON N068	RCON N069
	0	0	0	0	0	0	0
g. Student loans.....	RCON N078	RCON N079	RCON N080	RCON N081	RCON N082	RCON N083	RCON N084
	0	0	0	0	0	0	0
h. Other consumer loans and revolving credit plans other than credit cards.....	RCON N093	RCON N094	RCON N095	RCON N096	RCON N097	RCON N098	RCON N099
	0	0	0	0	25,000	363,000	1
i. Consumer leases.....	RCON N108	RCON N109	RCON N110	RCON N111	RCON N112	RCON N113	RCON N114
	0	0	0	0	0	0	0
j. Total.....	RCON N123	RCON N124	RCON N125	RCON N126	RCON N127	RCON N128	
	5,000	2,000	2,000	0	162,000	2,586,000	

1. For PDs derived using scores and default rate mappings provided by a third-party vendor, enter 1; for PDs derived using an internal approach, enter 2; for PDs derived using third-party vendor mappings for some loans within a product type and an internal approach for other loans within the same product type, enter 3. If the total reported in Column N for a product type is zero, enter 0.

Schedule RC-P—1–4 Family Residential Mortgage Banking Activities

Schedule RC-P is to be completed by banks at which either 1–4 family residential mortgage loan originations and purchases for resale ⁽¹⁾ from all sources, loan sales, or quarter-end loans held for sale or trading exceed \$10 million for two consecutive quarters.

Dollar Amounts in Thousands		RCON	Amount	
1. Retail originations during the quarter of 1–4 family residential mortgage loans for sale ⁽¹⁾	HT81		0	1.
2. Wholesale originations and purchases during the quarter of 1–4 family residential mortgage loans for sale ⁽¹⁾	HT82		0	2.
3. 1–4 family residential mortgage loans sold during the quarter.....	FT04		0	3.
4. 1–4 family residential mortgage loans held for sale or trading at quarter-end (included in Schedule RC, Items 4.a and 5).....	FT05		0	4.
5. Noninterest income <i>for the quarter</i> from the sale, securitization, and servicing of 1–4 family residential mortgage loans (included in Schedule RI, items 5.c, 5.f, 5.g, and 5.i).....	RIAD			
	HT85		0	5.
	RCON			
6. Repurchases and indemnifications of 1–4 family residential mortgage loans <i>during the quarter</i>	HT86		0	6.
7. Representation and warranty reserves for 1–4 family residential mortgage loans sold:				
a. For representations and warranties made to U.S. government agencies and government-sponsored agencies.....	L191		0	7.a.
b. For representations and warranties made to other parties.....	L192		0	7.b.
c. Total representation and warranty reserves (sum of items 7.a and 7.b).....	M288		0	7.c.

1. Exclude originations and purchases of 1–4 family residential mortgage loans that are held for investment.

Schedule RC-Q—Assets and Liabilities Measured at Fair Value on a Recurring Basis

Schedule RC-Q is to be completed by banks that:

- (1) Have elected to report financial instruments or servicing assets and liabilities at fair value under a fair value option with changes in fair value recognized in earnings, or
- (2) Are required to complete Schedule RC-D, Trading Assets and Liabilities.

	(Column A) Total Fair Value Reported on Schedule RC		(Column B) LESS: Amounts Netted in the Determination of Total Fair Value		(Column C) Level 1 Fair Value Measurements		(Column D) Level 2 Fair Value Measurements		(Column E) Level 3 Fair Value Measurements		
	Dollar Amounts in Thousands		RCON	Amount	RCON	Amount	RCON	Amount	RCON	Amount	
	RCON	Amount	RCON	Amount	RCON	Amount	RCON	Amount	RCON	Amount	
Assets											
1. Available-for-sale debt securities and equity securities with readily determinable fair values not held for trading ⁽¹⁾	JA36	375,000	G474	0	G475	375,000	G476	0	G477	0	1.
2. Not applicable											
3. Loans and leases held for sale.....	G483	0	G484	0	G485	0	G486	0	G487	0	3.
4. Loans and leases held for investment.....	G488	0	G489	0	G490	0	G491	0	G492	0	4.
5. Trading assets:											
a. Derivative assets.....	3543	0	G493	0	G494	0	G495	0	G496	0	5.a.
b. Other trading assets.....	G497	0	G498	0	G499	0	G500	0	G501	0	5.b.
(1) Nontrading securities at fair value with changes in fair value reported in current earnings (included in Schedule RC-Q, item 5.b above).....	F240	0	F684	0	F692	0	F241	0	F242	0	5.b.(1)
6. All other assets.....	G391	440,000	G392	4,000	G395	0	G396	444,000	G804	0	6.
7. Total assets measured at fair value on a recurring basis (sum of items 1 through 5.b plus item 6).....	G502	815,000	G503	4,000	G504	375,000	G505	444,000	G506	0	7.
Liabilities											
8. Deposits.....	F252	0	F686	0	F694	0	F253	0	F254	0	8.
9. Not applicable											
10. Trading liabilities:											
a. Derivative liabilities.....	3547	0	G512	0	G513	0	G514	0	G515	0	10.a.
b. Other trading liabilities.....	G516	0	G517	0	G518	0	G519	0	G520	0	10.b.
11. and 12. Not applicable											
13. All other liabilities.....	G805	563,000	G806	4,000	G807	0	G808	567,000	G809	0	13.
14. Total liabilities measured at fair value on a recurring basis (sum of items 8 through 13).....	G531	563,000	G532	4,000	G533	0	G534	567,000	G535	0	14.

1. The amount reported in item 1, column A, must equal the sum of Schedule RC, items 2.b and 2.c.

Schedule RC-Q—Continued

	(Column A)		(Column B)		(Column C)		(Column D)		(Column E)		
	Total Fair Value Reported on Schedule RC		LESS: Amounts Netted in the Determination of Total Fair Value		Level 1 Fair Value Measurements		Level 2 Fair Value Measurements		Level 3 Fair Value Measurements		
	RCON	Amount	RCON	Amount	RCON	Amount	RCON	Amount	RCON	Amount	
Dollar Amounts in Thousands											
Memoranda											
1. All other assets (itemize and describe amounts included in Schedule RC-Q, item 6, that are greater than \$100,000 and exceed 25 percent of item 6):											
a. Mortgage servicing assets.....	G536	0	G537	0	G538	0	G539	0	G540	0	M.1.a.
b. Nontrading derivative assets.....	G541	433,000	G542	4,000	G543	0	G544	437,000	G545	0	M.1.b.
c. <small>TEXT</small> G546	G546	0	G547	0	G548	0	G549	0	G550	0	M.1.c.
d. <small>TEXT</small> G551	G551	0	G552	0	G553	0	G554	0	G555	0	M.1.d.
e. <small>TEXT</small> G556	G556	0	G557	0	G558	0	G559	0	G560	0	M.1.e.
f. <small>TEXT</small> G561	G561	0	G562	0	G563	0	G564	0	G565	0	M.1.f.
2. All other liabilities (itemize and describe amounts included in Schedule RC-Q, item 13, that are greater than \$100,000 and exceed 25 percent of item 13):											
a. Loan commitments (not accounted for as derivatives).....	F261	0	F689	0	F697	0	F262	0	F263	0	M.2.a.
b. Nontrading derivative liabilities.....	G566	563,000	G567	4,000	G568	0	G569	567,000	G570	0	M.2.b.
c. <small>TEXT</small> G571	G571	0	G572	0	G573	0	G574	0	G575	0	M.2.c.
d. <small>TEXT</small> G576	G576	0	G577	0	G578	0	G579	0	G580	0	M.2.d.
e. <small>TEXT</small> G581	G581	0	G582	0	G583	0	G584	0	G585	0	M.2.e.
f. <small>TEXT</small> G586	G586	0	G587	0	G588	0	G589	0	G590	0	M.2.f.

Schedule RC-Q—Continued

Memoranda—Continued

Dollar Amounts in Thousands	RCON	Amount	
3. Loans measured at fair value (included in Schedule RC-C, Part I, items 1 through 9):			
a. Loans secured by real estate:			
(1) Secured by 1–4 family residential properties.....	HT87	0	M.3.a.(1)
(2) All other loans secured by real estate.....	HT88	0	M.3.a.(2)
b. Commercial and industrial loans.....	F585	0	M.3.b.
c. Loans to individuals for household, family, and other personal expenditures (i.e., consumer loans) (includes purchased paper).....			
	HT89	0	M.3.c.
d. Other loans.....	F589	0	M.3.d.
4. Unpaid principal balance of loans measured at fair value (reported in Schedule RC-Q, Memorandum item 3):			
a. Loans secured by real estate:			
(1) Secured by 1–4 family residential properties.....	HT91	0	M.4.a.(1)
(2) All other loans secured by real estate.....	HT92	0	M.4.a.(2)
b. Commercial and industrial loans.....	F597	0	M.4.b.
c. Loans to individuals for household, family, and other personal expenditures (i.e., consumer loans) (includes purchased paper).....			
	HT93	0	M.4.c.
d. Other loans.....	F601	0	M.4.d.

Schedule RC-R—Regulatory Capital

Part I. Regulatory Capital Components and Ratios

Part I is to be completed on a consolidated basis.

	Dollar Amounts in Thousands	RCOA	Amount	
Common Equity Tier 1 Capital				
1. Common stock plus related surplus, net of treasury stock and unearned employee stock ownership plan (ESOP) shares.....		P742	3,063,000	1.
2. Retained earnings ⁽¹⁾		KW00	6,702,000	2.
a. Does your institution have a CECL transition election in effect as of the quarter-end report date? (enter "0" for No; enter "1" for Yes with a 3-year CECL transition election; enter "2" for Yes with a 5-year 2020 CECL transition election.).....				
		RCOA	JJ29	0
3. Accumulated other comprehensive income (AOCI).....				
		RCOA	B530	Amount
				(37,000)
a. AOCI opt-out election (enter "1" for Yes; enter "0" for No.)				
		0=No	RCOA	
		1=Yes	P838	0
4. Common equity tier 1 minority interest includable in common equity tier 1 capital.....				
		RCOA	P839	Amount
				0
5. Common equity tier 1 capital before adjustments and deductions (sum of items 1 through 4).....				
		P840	9,728,000	5.
Common Equity Tier 1 Capital: Adjustments and Deductions				
6. LESS: Goodwill net of associated deferred tax liabilities (DTLs).....				
		P841	0	6.
7. LESS: Intangible assets (other than goodwill and mortgage servicing assets (MSAs)), net of associated DTLs.....				
		P842	2,000	7.
8. LESS: Deferred tax assets (DTAs) that arise from net operating loss and tax credit carryforwards, net of any related valuation allowances and net of DTLs.....				
		P843	1,000	8.
9. AOCI-related adjustments (if entered "1" for Yes in item 3.a, complete only items 9.a through 9.e; if entered "0" for No in item 3.a, complete only item 9.f):				
a. LESS: Net unrealized gains (losses) on available-for-sale debt securities (if a gain, report as a positive value; if a loss, report as a negative value).....				
		P844	NA	9.a.
b. Not applicable				
c. LESS: Accumulated net gains (losses) on cash flow hedges (if a gain, report as a positive value; if a loss, report as a negative value).....				
		P846	NA	9.c.
d. LESS: Amounts recorded in AOCI attributed to defined benefit postretirement plans resulting from the initial and subsequent application of the relevant GAAP standards that pertain to such plans (if a gain, report as a positive value; if a loss, report as a negative value).....				
		P847	NA	9.d.
e. LESS: Net unrealized gains (losses) on held-to-maturity securities that are included in AOCI (if a gain, report as a positive value; if a loss, report as a negative value).....				
		P848	NA	9.e.
f. To be completed only by institutions that entered "0" for No in item 3.a: LESS: Accumulated net gain (loss) on cash flow hedges included in AOCI, net of applicable income taxes, that relates to the hedging of items that are not recognized at fair value on the balance sheet (if a gain, report as a positive value; if a loss, report as a negative value).....				
		P849	0	9.f.

1. Institutions that have elected to apply the 3-year or the 5-year 2020 CECL transition provision should include the applicable portion of the CECL transitional amount or the modified CECL transitional amount, respectively, in this item.

Schedule RC-R—Continued

Part I—Continued

	Dollar Amounts in Thousands		
	RCOA	Amount	
10. Other deductions from (additions to) common equity tier 1 capital before threshold-based deductions:			
a. LESS: Unrealized net gain (loss) related to changes in the fair value of liabilities that are due to changes in own credit risk (if a gain, report as a positive value; if a loss, report as a negative value).....	Q258	0	10.a.
b. LESS: All other deductions from (additions to) common equity tier 1 capital before threshold-based deductions.....	P850	0	10.b.
11. Not applicable			
12. Subtotal (item 5 minus items 6 through 10.b.).....	P852	9,725,000	12.
13. LESS: Investments in the capital of unconsolidated financial institutions, net of associated DTLs, that exceed 25 percent of item 12.....	LB58	0	13.
14. LESS: MSAs, net of associated DTLs, that exceed 25 percent of item 12.....	LB59	0	14.
15. LESS: DTAs arising from temporary differences that could not be realized through net operating loss carrybacks, net of related valuation allowances and net of DTLs, that exceed 25 percent of item 12.....	LB60	0	15.
16. Not applicable			
17. LESS: Deductions applied to common equity tier 1 capital due to insufficient amounts of additional tier 1 capital and tier 2 capital ⁽¹⁾ to cover deductions.....	P857	0	17.
18. Total adjustments and deductions for common equity tier 1 capital (sum of items 13 through 17).....	P858	0	18.
19. Common equity tier 1 capital (item 12 minus item 18).....	P859	9,725,000	19.
Additional Tier 1 Capital			
20. Additional tier 1 capital instruments plus related surplus.....	P860	0	20.
21. Non-qualifying capital instruments subject to phase-out from additional tier 1 capital.....	P861	0	21.
22. Tier 1 minority interest not included in common equity tier 1 capital.....	P862	0	22.
23. Additional tier 1 capital before deductions (sum of items 20, 21, and 22).....	P863	0	23.
24. LESS: Additional tier 1 capital deductions.....	P864	0	24.
25. Additional tier 1 capital (greater of item 23 minus item 24, or zero).....	P865	0	25.
Tier 1 Capital			
26. Tier 1 capital (sum of items 19 and 25).....	8274	9,725,000	26.
Total Assets for the Leverage Ratio			
27. Average total consolidated assets ⁽²⁾	KW03	34,998,000	27.
28. LESS: Deductions from common equity tier 1 capital and additional tier 1 capital (sum of items 6, 7, 8, 10.b, 13 through 15, 17, and certain elements of item 24 - see instructions).....	P875	3,000	28.
29. LESS: Other deductions from (additions to) assets for leverage ratio purposes.....	B596	0	29.
30. Total assets for the leverage ratio (item 27 minus items 28 and 29).....	A224	34,995,000	30.

1. An institution that has a CBLR framework election in effect as of the quarter-end report date is neither required to calculate tier 2 capital nor make any deductions that would have been taken from tier 2 capital as of the report date.
2. Institutions that have elected to apply the 3-year or the 5-year 2020 CECL transition provision should include the applicable portion of the CECL transitional amount or the modified CECL transitional amount, respectively, in item 27.

Schedule RC-R—Continued

Part I—Continued

Leverage Ratio*

31. Leverage ratio (item 26 divided by item 30).....

RCOA	Percentage
7204	27.7897%

 31.

a. Does your institution have a community bank leverage ratio (CBLR) framework election in effect as of the quarter-end report date? (enter "1" for Yes; enter "0" for No).....

0=No	RCOA	
1=Yes	LE74	0

 31.a.

If your institution entered "1" for Yes in item 31.a:

- Complete items 32 through 37 and, if applicable, items 38.a through 38.c.
- Do not complete items 39 through 55.b, and
- Do not complete Part II of Schedule RC-R.

If your institution entered "0" for No in item 31.a:

- Skip (do not complete) items 32 through 38.c.
- Complete items 39 through 55.b, as applicable, and
- Complete Part II of Schedule RC-R.

Item 31.b is to be completed only by non-advanced approaches institutions that elect to use the Standardized Approach for Counterparty Credit Risk (SA-CCR) for purposes of the standardized approach and supplementary leverage ratio.

b. Standardized Approach for Counterparty Credit Risk opt-in election (enter "1" for Yes; leave blank for No).....

RCOA
NC99

 31.b.

Qualifying Criteria and Other Information for CBLR Institutions*

	Column A		Column B		
	RCOA	Amount	RCOA	Percentage	
Dollar Amounts in Thousands					
32. Total assets (Schedule RC, item 12); (must be less than \$10 billion)	2170	NA			32.
33. Trading assets and trading liabilities (Schedule RC, sum of items 5 and 15). Report as a dollar amount in column A and as a percentage of total assets (5% limit) in column B.....	KX77	NA	KX78	NA	33.
34. Off-balance sheet exposures:					
a. Unused portion of conditionally cancellable commitments.....	KX79	NA			34.a.
b. Securities lent and borrowed (Schedule RC-L, sum of items 6.a and 6.b).....	KX80	NA			34.b.
c. Other off-balance sheet exposures	KX81	NA			34.c.
d. Total off-balance sheet exposures (sum of items 34.a through 34.c). Report as a dollar amount in column A and as a percentage of total assets (25% limit) in column B.....	KX82	NA	KX83	NA	34.d.
Dollar Amounts in Thousands					
35. Unconditionally cancellable commitments.....			S540	NA	35.
36. Investments in the tier 2 capital of unconsolidated financial institutions.....			LB61	NA	36.
37. Allocated transfer risk reserve.....			3128	NA	37
38. Amount of allowances for credit losses on purchased credit-deteriorated assets:					
a. Loans and leases held for investment.....			JJ30	NA	38.a.
b. Held-to-maturity debt securities.....			JJ31	NA	38.b.
c. Other financial assets measured at amortized cost.....			JJ32	NA	38.c.

* Report each ratio as a percentage, rounded to four decimal places, e.g., 12.3456.

Schedule RC-R—Continued

Part I—Continued

If your institution entered "0" for No in item 31.a, complete items 39 through 55.b, as applicable, and Part II of Schedule RC-R.
If your institution entered "1" for Yes in item 31.a, do not complete items 39 through 55.b or Part II of Schedule RC-R.

		Dollar Amounts in Thousands		
		RCOA	Amount	
Tier 2 Capital ⁽¹⁾				
39.	Tier 2 capital instruments plus related surplus.....	P866	0	39.
40.	Non-qualifying capital instruments subject to phase-out from tier 2 capital.....	P867	0	40.
41.	Total capital minority interest that is not included in tier 1 capital.....	P868	0	41.
42.	Adjusted allowances for credit losses (AACL) includable in tier 2 capital ⁽²⁾	5310	18,000	42.
43.	Not applicable			
44.	Tier 2 capital before deductions (sum of items 39 through 42).....	P870	18,000	44.
45.	LESS: Tier 2 capital deductions.....	P872	0	45.
46.	Tier 2 capital (greater of item 44 minus item 45, or zero).....	5311	18,000	46.
Total Capital				
47.	Total capital (sum of items 26 and 46).....	3792	9,743,000	47.
Total Risk-Weighted Assets				
48.	Total risk-weighted assets (from Schedule RC-R, Part II, item 31).....	A223	18,737,000	48.
Risk-Based Capital Ratios *				
		RCOA	Percentage	
49.	Common equity tier 1 capital ratio (item 19 divided by item 48).....	P793	51.9027%	49.
50.	Tier 1 capital ratio (item 26 divided by item 48).....	7206	51.9027%	50.
51.	Total capital ratio (item 47 divided by item 48).....	7205	51.9987%	51.
Capital Buffer*				
52.	Institution-specific capital buffer necessary to avoid limitations on distributions and discretionary bonus payments:			
a.	Capital conservation buffer.....	H311	43.9987%	52.a.
b.	Institutions subject to Category III capital standards only: Total applicable capital buffer.....	RCOW		
		H312	2.5000%	52.b.
		RCOA	Amount	
53.	Eligible retained income ⁽³⁾	H313	NA	53.
54.	Distributions and discretionary bonus payments during the quarter ⁽⁴⁾	H314	NA	54.
Supplementary Leverage Ratio*				
55.	Institutions subject to Category III capital standards only: Supplementary leverage ratio information:			
a.	Total leverage exposure ⁽⁵⁾	H015	37,625,000	55.a.
b.	Supplementary leverage ratio.....		Percentage	
		H036	25.8472%	55.b.

* Report each ratio as a percentage, rounded to four decimal places, e.g., 12.3456.

1. An institution that has a CBLR framework election in effect as of the quarter-end report date is neither required to calculate tier 2 capital nor make any deductions that would have been taken from tier 2 capital as of the report date.
2. Institutions that have elected to apply the 3-year or the 5-year 2020 CECL transition provision should subtract the applicable portion of the AACL transitional amount or the modified AACL transitional amount, respectively, from the AACL, as defined in the regulatory capital rule, before determining the amount of AACL includable in tier 2 capital. See instructions for further detail on the CECL transition provisions.
3. Non-advanced approaches institutions other than Category III institutions must complete item 53 only if the amount reported in item 52.a above is less than or equal to 2.5000 percent. Category III institutions must complete item 53 only if the amount reported in item 52.a above is less than or equal to the amount reported in item 52.b above.
4. Non-advanced approaches institutions other than Category III institutions must complete item 54 only if the amount reported in Schedule RC-R, Part I, item 52.a, in the Call Report for the previous calendar quarter-end report date was less than or equal to 2.5000 percent. Category III institutions must complete item 54 only if the amount reported in Schedule RC-R, Part I, item 52.a, in the Call Report for the previous calendar quarter-end report date was less than or equal to the amount reported in Schedule RC-R, Part I, item 52.b, in the Call Report for that previous report date.
5. Institutions that have elected to apply the 3-year or the 5-year 2020 CECL transition provision should include the applicable portion of the CECL transitional amount or the modified CECL transitional amount, respectively, in item 55.a.

Schedule RC-R—Continued

Part II. Risk-Weighted Assets

Institutions that entered "1" for Yes in Schedule RC-R, Part I, item 31.a, do not have to complete Schedule RC-R, Part II.
Institutions are required to assign a 100 percent risk weight to all assets not specifically assigned a risk weight under Subpart D of the federal banking agencies' regulatory capital rules (1) and not deducted from tier 1 or tier 2 capital.

	(Column A) Totals From Schedule RC	(Column B) Adjustments to Totals Reported in Column A	(Column C)	(Column D)	(Column E)	(Column F)	(Column G)	(Column H)	(Column I)	(Column J)
			Allocation by Risk-Weight Category							
			0%	2%	4%	10%	20%	50%	100%	150%
Dollar Amounts in Thousands	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount
Balance Sheet Asset Categories (2)										
1. Cash and balances due from depository institutions.....	RCON D957 14,542,000	RCON S396 0	RCON D958 14,509,000				RCON D959 33,000	RCON S397 0	RCON D960 0	RCON S398 0
2. Securities:										
a. Held-to-maturity securities (3).....	RCON D961 0	RCON S399 0	RCON D962 0	RCON HJ74 0	RCON HJ75 0		RCON D963 0	RCON D964 0	RCON D965 0	RCON S400 0
b. Available-for-sale debt securities and equity securities with readily determinable fair values not held for trading.....	RCON JA21 375,000	RCON S402 0	RCON D967 375,000	RCON HJ76 0	RCON HJ77 0		RCON D968 0	RCON D969 0	RCON D970 0	RCON S403 0
3. Federal funds sold and securities purchased under agreements to resell:										
a. Federal funds sold.....	RCON D971 0		RCON D972 0				RCON D973 0	RCON S410 0	RCON D974 0	RCON S411 0
b. Securities purchased under agreements to resell.....	RCON H171 4,920,000	RCON H172 4,920,000								
4. Loans and leases held for sale:										
a. Residential mortgage exposures.....	RCON S413 0	RCON S414 0	RCON H173 0				RCON S415 0	RCON S416 0	RCON S417 0	
b. High volatility commercial real estate exposures.....	RCON S419 0	RCON S420 0	RCON H174 0				RCON H175 0	RCON H176 0	RCON H177 0	RCON S421 0

1. For national banks and federal savings associations, 12 CFR Part 3; for state member banks, 12 CFR Part 217; and for state nonmember banks and state savings associations 12 CFR Part 324.
2. All securitization exposures held as on-balance sheet assets of the reporting institution are to be excluded from items 1 through 8 and are to be reported instead in item 9.
3. Institutions should report held-to-maturity securities net of allowances for credit losses in item 2.a, column A. Institutions should report as a negative number in item 2.a, column B, those allowances for credit losses eligible for inclusion in tier 2 capital, which excludes allowances for credit losses on purchased credit-deteriorated assets.

Schedule RC-R—Continued

Part II—Continued

	(Column K)	(Column L)	(Column M)	(Column N)	(Column O)	(Column P)	(Column Q)	(Column R)	(Column S)
	Allocation by Risk-Weight Category							Application of Other Risk-Weighting Approaches ⁽¹⁾	
	250%	300%	400%	600%	625%	937.5%	1250%	Exposure Amount	Risk-Weighted Asset Amount
Dollar Amounts in Thousands	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount
Balance Sheet Asset Categories (continued)									
1. Cash and balances due from depository institutions.....									1.
2. Securities:									
a. Held-to-maturity securities.....									2.a.
b. Available-for-sale debt securities and equity securities with readily determinable fair values not held for trading		RCON S405		RCON S406				RCON H271	RCON H272
		0		0				0	0
3. Federal funds sold and securities purchased under agreements to resell:									
a. Federal funds sold.....									3.a.
b. Securities purchased under agreements to resell.....									3.b.
4. Loans and leases held for sale:									
a. Residential mortgage exposures.....								RCON H273	RCON H274
								0	0
b. High volatility commercial real estate exposures.....								RCON H275	RCON H276
								0	0

1. Includes, for example, investments in mutual funds/investment funds, exposures collateralized by securitization exposures or mutual funds, separate account bank-owned life insurance, and default fund contributions to central counterparties.

Schedule RC-R—Continued

Part II—Continued

	(Column A) Totals From Schedule RC	(Column B) Adjustments to Totals Reported in Column A	Allocation by Risk-Weight Category							
			(Column C)	(Column D)	(Column E)	(Column F)	(Column G)	(Column H)	(Column I)	(Column J)
			0%	2%	4%	10%	20%	50%	100%	150%
Dollar Amounts in Thousands	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount
4. Loans and leases held for sale (continued):										
c. Exposures past due 90 days or more or on nonaccrual (1).....	RCON S423	RCON S424	RCON S425	RCON HJ78	RCON HJ79	RCON S426	RCON S427	RCON S428	RCON S429	
	0	0	0	0	0	0	0	0	0	0 4.c.
d. All other exposures.....	RCON S431	RCON S432	RCON S433	RCON HJ80	RCON HJ81	RCON S434	RCON S435	RCON S436	RCON S437	
	0	0	0	0	0	0	0	0	0	0 4.d.
5. Loans and leases held for investment: (2)										
a. Residential mortgage exposures.....	RCON S439	RCON S440	RCON H178			RCON S441	RCON S442	RCON S443		
	2,470,000	0	1,000			0	2,358,000	111,000		5.a.
b. High volatility commercial real estate exposures.....	RCON S445	RCON S446	RCON H179			RCON H180	RCON H181	RCON H182	RCON S447	
	0	0	0			0	0	0	0	0 5.b.
c. Exposures past due 90 days or more or on nonaccrual (3).....	RCON S449	RCON S450	RCON S451	RCON HJ82	RCON HJ83	RCON S452	RCON S453	RCON S454	RCON S455	
	0	0	0	0	0	0	0	0	0	0 5.c.
d. All other exposures.....	RCON S457	RCON S458	RCON S459	RCON HJ84	RCON HJ85	RCON S460	RCON S461	RCON S462	RCON S463	
	14,170,000	0	107,000	0	0	503,000	127,000	12,390,000	1,043,000	5.d.
6. LESS: Allowance for credit losses on loans and leases.....	RCON 3123	RCON 3123								
	16,000	16,000								6.

1. For loans and leases held for sale, exclude residential mortgage exposures, high volatility commercial real estate exposures, or sovereign exposures that are past due 90 days or more or on nonaccrual.
2. Institutions should report as a positive number in column B of items 5.a through 5.d, as appropriate, any allowances for credit losses on purchased credit-deteriorated assets reported in column A of items 5.a through 5.d, as appropriate.
3. For loans and leases held for investment, exclude residential mortgage exposures, high volatility commercial real estate exposures, or sovereign exposures that are past due 90 days or more or on nonaccrual.

Schedule RC-R—Continued

Part II—Continued

Dollar Amounts in Thousands	(Column K)	(Column L)	(Column M)	(Column N)	(Column O)	(Column P)	(Column Q)	(Column R) (Column S)	
	Allocation by Risk-Weight Category							Application of Other Risk-Weighting Approaches (1)	
	250%	300%	400%	600%	625%	937.5%	1250%	Exposure Amount	Risk-Weighted Asset Amount
Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount
4. Loans and leases held for sale (continued):									
c. Exposures past due 90 days or more or on nonaccrual (2):								RCON H277	RCON H278
d. All other exposures:								0	0
5. Loans and leases held for investment:									
a. Residential mortgage exposures:								RCON H279	RCON H280
b. High volatility commercial real estate exposures:								0	0
c. Exposures past due 90 days or more or on nonaccrual (3):								RCON H281	RCON H282
d. All other exposures:								0	0
c. Exposures past due 90 days or more or on nonaccrual (3):								RCON H283	RCON H284
d. All other exposures:								0	0
c. Exposures past due 90 days or more or on nonaccrual (3):								RCON H285	RCON H286
d. All other exposures:								0	0
c. Exposures past due 90 days or more or on nonaccrual (3):								RCON H287	RCON H288
d. All other exposures:								0	0
6. LESS: Allowance for credit losses on loans and leases									

1. Includes, for example, investments in mutual funds/investment funds, exposures collateralized by securitization exposures or mutual funds, separate account bank-owned life insurance, and default fund contributions to central counterparties.
2. For loans and leases held for sale, exclude residential mortgage exposures, high volatility commercial real estate exposures, or sovereign exposures that are past due 90 days or more or on nonaccrual.
3. For loans and leases held for investment, exclude residential mortgage exposures, high volatility commercial real estate exposures, or sovereign exposures that are past due 90 days or more or on nonaccrual.

Schedule RC-R—Continued

Part II—Continued

	(Column A) Totals From Schedule RC	(Column B) Adjustments to Totals Reported in Column A	(Column C)	(Column D)	(Column E)	(Column F)	(Column G)	(Column H)	(Column I)	(Column J)
			Allocation by Risk-Weight Category							
			0%	2%	4%	10%	20%	50%	100%	150%
Dollar Amounts in Thousands	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount
	RCON D976	RCON S466	RCON D977	RCON HJ86	RCON HJ87		RCON D978	RCON D979	RCON D980	RCON S467
7. Trading assets	0	0	0	0	0		0	0	0	0
	RCON D981	RCON S469	RCON D982	RCON HJ88	RCON HJ89		RCON D983	RCON D984	RCON D985	RCON H185
8. All other assets (1, 2, 3)	2,459,000	887,000	131,000	0	0		100,000	1,000	857,000	16,000
a. Separate account bank-owned life insurance										
b. Default fund contributions to central counterparties										

- Includes premises and fixed assets; other real estate owned; investments in unconsolidated subsidiaries and associated companies; direct and indirect investments in real estate ventures; intangible assets; and other assets.
- Institutions that have elected to apply the 3-year or the 5-year 2020 CECL transition provision should report as a positive number in item 8, column B, the applicable portion of the DTA transitional amount as determined in accordance with the 3-year or the 5-year 2020 CECL transitional amount, respectively.
- Institutions that have reported any assets net of allowances for credit losses in item 8, column A, should report as a negative number in item 8, column B, those allowances for credit losses eligible for inclusion in tier 2 capital, which excludes allowances for credit losses on purchased credit-deteriorated assets.

Schedule RC-R—Continued

Part II—Continued

	(Column K)	(Column L)	(Column M)	(Column N)	(Column O)	(Column P)	(Column Q)	(Column R)	(Column S)
	Allocation by Risk-Weight Category							Application of Other Risk-Weighting Approaches ⁽¹⁾	
	250%	300%	400%	600%	625%	937.5%	1250%	Exposure Amount	Risk-Weighted Asset Amount
Dollar Amounts in Thousands	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount
7. Trading assets.....		RCON H186	RCON H290	RCON H187				RCON H291	RCON H292
		0	0	0				0	0
	RCON H293	RCON H188	RCON S470	RCON S471				RCON H294	RCON H295
								0	0
8. All other assets ⁽²⁾	467,000	0	0	0					
a. Separate account bank-owned life insurance.....								RCON H296	RCON H297
								0	0
b. Default fund contributions to central counterparties.....								RCON H298	RCON H299
								0	0

1. Includes, for example, investments in mutual funds/investment funds, exposures collateralized by securitization exposures or mutual funds, separate account bank-owned life insurance, and default fund contributions to central counterparties.

2. Includes premises and fixed assets; other real estate owned; investments in unconsolidated subsidiaries and associated companies; direct and indirect investments in real estate ventures; intangible assets; and other assets.

Schedule RC-R—Continued

Part II—Continued

	(Column A)	(Column B)	(Column Q)	(Column T)		(Column U)
	Totals	Adjustments to Totals Reported in Column A	Allocation by Risk-Weight Category (Exposure Amount)	Total Risk-Weighted Asset Amount by Calculation Methodology		
			1250%	SSFA ⁽¹⁾	Gross-Up	
	Amount	Amount	Amount	Amount	Amount	
Dollar Amounts in Thousands						
Securitization Exposures: On- and Off-Balance Sheet						
9. On-balance sheet securitization exposures:						
a. Held-to-maturity securities ⁽²⁾ :						
RCON S475	RCON S476	RCON S477	RCON S478	RCON S479		
0	0	0	0	0	0	9.a.
RCON S480	RCON S481	RCON S482	RCON S483	RCON S484		
0	0	0	0	0	0	9.b.
b. Available-for-sale securities:						
RCON S485	RCON S486	RCON S487	RCON S488	RCON S489		
0	0	0	0	0	0	9.c.
c. Trading assets:						
RCON S490	RCON S491	RCON S492	RCON S493	RCON S494		
0	0	0	0	0	0	9.d.
d. All other on-balance sheet securitization exposures:						
RCON S495	RCON S496	RCON S497	RCON S498	RCON S499		
0	0	0	0	0	0	10.
10. Off-balance sheet securitization exposures:						

1. Simplified Supervisory Formula Approach.

2. Institutions should report held-to-maturity securities net of allowances for credit losses in item 9.a, column A. Institutions should report as a negative number in item 9.a, column B, those allowances for credit losses eligible for inclusion in tier 2 capital, which excludes allowances for credit losses on purchased credit-deteriorated assets.

Schedule RC-R—Continued

Part II—Continued

	(Column A) Totals From Schedule RC	(Column B) Adjustments to Totals Reported in Column A	(Column C)	(Column D)	(Column E)	(Column F)	(Column G)	(Column H)	(Column I)	(Column J)	
			Allocation by Risk-Weight Category								11.
			0%	2%	4%	10%	20%	50%	100%	150%	
Dollar Amounts in Thousands	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	
11. Total balance sheet	RCON 2170	RCON S500	RCON D987	RCON HJ90	RCON HJ91		RCON D988	RCON D989	RCON D990	RCON S503	
assets (1).....	38,920,000	5,791,000	15,123,000	0	0		636,000	2,486,000	13,358,000	1,059,000	

	Dollar Amounts in Thousands	(Column K)	(Column L)	(Column M)	(Column N)	(Column O)	(Column P)	(Column Q)	(Column R)	
		Allocation by Risk-Weight Category								Application of Other Risk- Weighting Approaches
		250%	300%	400%	600%	625%	937.5%	1250%	Exposure Amount	
11. Total balance sheet	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	
assets (1).....	RCON S504	RCON S505	RCON S506	RCON S507			RCON S510	RCON H300		
	467,000	0	0	0			0	0	0	

1. For each of columns A through R of item 11, report the sum of items 1 through 9. For item 11, the sum of columns B through R must equal column A. Item 11, column A, must equal Schedule RC, item 12.

Schedule RC-R—Continued

Part II—Continued

	(Column A) Face, Notional, or Other Amount	CCF ⁽¹⁾	(Column B) Credit Equivalent Amount ⁽²⁾	(Column C)	(Column D)	(Column E)	(Column F)	(Column G)	(Column H)	(Column I)	(Column J)
	Amount		Amount	Allocation by Risk-Weight Category							
				0%	2%	4%	10%	20%	50%	100%	150%
Dollar Amounts in Thousands	Amount		Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount
Derivatives, Off-Balance Sheet Items, and Other Items Subject to Risk Weighting (Excluding Securitization Exposures) ⁽³⁾											
12. Financial standby letters of credit.....	RCON D991 244,000	1.0	RCON D992 244,000	RCON D993 0	RCON HJ92 0	RCON HJ93 0		RCON D994 4,000	RCON D995 3,000	RCON D996 237,000	RCON S511 0
13. Performance standby letters of credit and transaction-related contingent items.....	RCON D997 104,000	0.5	RCON D998 52,000	RCON D999 0				RCON G603 1,000	RCON G604 1,000	RCON G605 50,000	RCON S512 0
14. Commercial and similar letters of credit with an original maturity of one year or less.....	RCON G606 0	0.2	RCON G607 0	RCON G608 0	RCON HJ94 0	RCON HJ95 0		RCON G609 0	RCON G610 0	RCON G611 0	RCON S513 0
15. Retained recourse on small business obligations sold with recourse.....	RCON G612 0	1.0	RCON G613 0	RCON G614 0				RCON G615 0	RCON G616 0	RCON G617 0	RCON S514 0

1. Credit conversion factor.
2. Column A multiplied by credit conversion factor. For each of items 12 through 21, the sum of columns C through J plus column R must equal column B.
3. All derivatives and off-balance sheet items that are securitization exposures are to be excluded from items 12 through 21 and are to be reported instead in item 10.

Schedule RC-R—Continued

Part II—Continued

Dollar Amounts in Thousands	(Column A) Face, Notional, or Other Amount	CCF ⁽¹⁾	(Column B) Credit Equivalent Amount ⁽²⁾	(Column C)	(Column D)	(Column E)	(Column F)	(Column G)	(Column H)	(Column I)	(Column J)		
	Amount		Amount	Allocation by Risk-Weight Category						Amount	Amount	Amount	Amount
				0%	2%	4%	10%	20%	50%				
16. Repo-style transactions ⁽³⁾	RCON S515		RCON S516	RCON S517	RCON S518	RCON S519		RCON S520	RCON S521	RCON S522	RCON S523		
	50,000	1.0	50,000	0	0	0		0	0	50,000	0	16.	
17. All other off-balance sheet liabilities.....	RCON G618		RCON G619	RCON G620				RCON G621	RCON G622	RCON G623	RCON S524		
	0	1.0	0	0				0	0	0	0	17.	
18. Unused commitments (exclude unused commitments to asset-backed commercial paper conduits):													
a. Original maturity of one year or less.....	RCON S525		RCON S526	RCON S527	RCON HJ96	RCON HJ97		RCON S528	RCON S529	RCON S530	RCON S531		
	20,000	0.2	4,000	0	0	0		0	0	4,000	0	18 a.	
b. Original maturity exceeding one year.....	RCON G624		RCON G625	RCON G626	RCON HJ98	RCON HJ99		RCON G627	RCON G628	RCON G629	RCON S539		
	2,122,000	0.5	1,061,000	77,000	0	0		105,000	90,000	783,000	6,000	18 b.	
19. Unconditionally cancelable commitments.....	RCON S540		RCON S541										
	0	0.0	0									19.	
20. Over-the-counter derivatives.....			RCON S542	RCON S543	RCON HK00	RCON HK01	RCON S544	RCON S545	RCON S546	RCON S547	RCON S548		
			157,000	0	0	0	0	157,000	0	0	0	20.	
21. Centrally cleared derivatives.....			RCON S549	RCON S550	RCON S551	RCON S552		RCON S554	RCON S555	RCON S556	RCON S557		
			889,000	0	889,000	0		0	0	0	0	21.	
22. Unsettled transactions (failed trades) ⁽⁴⁾	RCON H191			RCON H193				RCON H194	RCON H195	RCON H196	RCON H197		
	0			0				0	0	0	0	22.	

1. Credit conversion factor.
2. For items 16 through 19, column A multiplied by credit conversion factor.
3. Includes securities purchased under agreements to resell (reverse repos), securities sold under agreements to repurchase (repos), securities borrowed, and securities lent.
4. For item 22, the sum of columns C through Q must equal column A.

Schedule RC-R—Continued

Part II—Continued

	(Column O)	(Column P)	(Column Q)	(Column R)	(Column S)	
	Allocation by Risk-Weight Category			Application of Other Risk-Weighting Approaches ⁽¹⁾		
	625%	937.5%	1250%	Credit Equivalent Amount	Risk-Weighted Asset Amount	
	Amount	Amount	Amount	Amount	Amount	
Dollar Amounts in Thousands						
16. Repo-style transactions ⁽²⁾				RCON H301	RCON H302	16.
				0	0	
17. All other off-balance sheet liabilities.....						17.
18. Unused commitments (exclude unused commitments to asset-backed commercial paper conduits):						
a. Original maturity of one year or less.....				RCON H303	RCON H304	18.a.
				0	0	
b. Original maturity exceeding one year.....				RCON H307	RCON H308	18.b.
				0	0	
19. Unconditionally cancelable commitments.....						19.
20. Over-the-counter derivatives.....				RCON H309	RCON H310	20.
				0	0	
21. Centrally cleared derivatives.....						21.
22. Unsettled transactions (failed trades) ⁽³⁾	RCON H198	RCON H199	RCON H200			22.
	0	0	0			

1. Includes, for example, exposures collateralized by securitization exposures or mutual funds.

2. Includes securities purchased under agreements to resell (reverse repos), securities sold under agreements to repurchase (repos), securities borrowed, and securities lent.

3. For item 22, the sum of columns C through Q must equal column A.

Schedule RC-R—Continued

Part II—Continued

	(Column C)	(Column D)	(Column E)	(Column F)	(Column G)	(Column H)	(Column I)	(Column J)	
Allocation by Risk-Weight Category									
	0%	2%	4%	10%	20%	50%	100%	150%	
Dollar Amounts in Thousands	Amount	Amount	Amount	Amount	Amount	Amount	Amount	Amount	
23. Total assets, derivatives, off-balance sheet items, and other items subject to risk weighting by risk-weight category (for each of columns C through P, sum of items 11 through 22; for column Q, sum of items 10 through 22).....	RCON G630	RCON S558	RCON S559	RCON S560	RCON G631	RCON G632	RCON G633	RCON S561	23.
	15,200,000	889,000	0	0	903,000	2,580,000	14,482,000	1,065,000	
24. Risk-weight factor.....	X 0%	X 2%	X 4%	X 10%	X 20%	X 50%	X 100%	X 150%	24.
25. Risk-weighted assets by risk-weight category (for each column, item 23 multiplied by item 24).....	RCON G634	RCON S569	RCON S570	RCON S571	RCON G635	RCON G636	RCON G637	RCON S572	25.
	0	18,000	0	0	181,000	1,290,000	14,482,000	1,598,000	

Schedule RC-R—Continued

Part II—Continued

	(Column K)	(Column L)	(Column M)	(Column N)	(Column O)	(Column P)	(Column Q)
Allocation by Risk-Weight Category							
	250%	300%	400%	600%	625%	937.5%	1250%
Dollar Amounts in Thousands	Amount	Amount	Amount	Amount	Amount	Amount	Amount
23. Total assets, derivatives, off-balance sheet items, and other items subject to risk weighting by risk-weight category (for each of columns C through P, sum of items 11 through 22; for column Q, sum of items 10 through 22)	RCON S562 467,000	RCON S563 0	RCON S564 0	RCON S565 0	RCON S566 0	RCON S567 0	RCON S568 0
24. Risk-weight factor.....	X 250%	X 300%	X 400%	X 600%	X 625%	X 937.5%	X 1250%
25. Risk-weighted assets by risk-weight category (for each column, item 23 multiplied by item 24).....	RCON S573 1,168,000	RCON S574 0	RCON S575 0	RCON S576 0	RCON S577 0	RCON S578 0	RCON S579 0

Dollar Amounts in Thousands	Totals	
	RCON	Amount
26. Risk-weighted assets base for purposes of calculating the adjusted allowances for credit losses (AACL) 1.25 percent threshold.....	S580	18,737,000
27. Standardized market-risk weighted assets (applicable only to banks that are covered by the market risk capital rules).....	S581	0
28. Risk-weighted assets before deductions for excess AACL (1) and allocated transfer risk reserve (2).....	B704	18,737,000
29. LESS: Excess AACL (1).....	A222	0
30. LESS: Allocated transfer risk reserve.....	3128	0
31. Total risk-weighted assets (item 28 minus items 29 and 30).....	G641	18,737,000

1. Institutions that have elected to apply the 3-year or the 5-year 2020 CECL transition provision should subtract the applicable portion of the AACL transitional amount or the modified AACL transitional amount, respectively, from the AACL, as defined in the regulatory capital rule, before determining the amount of excess AACL.

2. Sum of items 2.b through 20, column S; items 9.a, 9.b, 9.c, 9.d, and 10, columns T and U; item 25, columns C through Q; and item 27 (if applicable).

Schedule RC-R—Continued

Part II—Continued

Memoranda

	Dollar Amounts in Thousands		RCON	Amount			
1. Current credit exposure across all derivative contracts covered by the regulatory capital rules.....			G642	434,000	M.1.		
	With a remaining maturity of						
	(Column A) One year or less		(Column B) Over one year through five years		(Column C) Over five years		
	RCON	Amount	RCON	Amount	RCON	Amount	
2. Notional principal amounts of over-the-counter derivative contracts:							
a. Interest rate.....	S582	122,000	S583	124,000	S584	5,129,000	M.2.a.
b. Foreign exchange rate and gold.....	S585	0	S586	0	S587	0	M.2.b.
c. Credit (investment grade reference asset).....	S588	0	S589	0	S590	0	M.2.c.
d. Credit (non-investment grade reference asset).....	S591	0	S592	0	S593	0	M.2.d.
e. Equity.....	S594	0	S595	0	S596	0	M.2.e.
f. Precious metals (except gold).....	S597	0	S598	0	S599	0	M.2.f.
g. Other.....	S600	0	S601	0	S602	0	M.2.g.
3. Notional principal amounts of centrally cleared derivative contracts:							
a. Interest rate.....	S603	8,078,000	S604	13,487,000	S605	3,767,000	M.3.a.
b. Foreign exchange rate and gold.....	S606	0	S607	0	S608	0	M.3.b.
c. Credit (investment grade reference asset).....	S609	0	S610	0	S611	0	M.3.c.
d. Credit (non-investment grade reference asset).....	S612	0	S613	0	S614	0	M.3.d.
e. Equity.....	S615	0	S616	0	S617	0	M.3.e.
f. Precious metals (except gold).....	S618	0	S619	0	S620	0	M.3.f.
g. Other.....	S621	0	S622	0	S623	0	M.3.g.
	Dollar Amounts in Thousands		RCON	Amount			
4. Amount of allowances for credit losses on purchased credit-deteriorated assets:							
a. Loans and leases held for investment.....			JJ30	0	M.4.a.		
b. Held-to-maturity debt securities.....			JJ31	0	M.4.b.		
c. Other financial assets measured at amortized cost.....			JJ32	0	M.4.c.		

Schedule RC-S—Servicing, Securitization, and Asset Sale Activities

Dollar Amounts in Thousands	(Column A) 1-4 Family Residential Loans		(Column B to Column F) Not applicable		(Column G) All Other Loans, All Leases, and All Other Assets		
	RCON	Amount	RCON	Amount	RCON	Amount	
Bank Securitization Activities							
1. Outstanding principal balance of assets sold and securitized by the reporting bank with servicing retained or with recourse or other seller-provided credit enhancements	B705	0			B711	0	1.
2. Maximum amount of credit exposure arising from recourse or other seller-provided credit enhancements provided to structures reported in item 1.....	HU09	0			HU15	0	2.
3. Not applicable							
4. Past due loan amounts included in item 1:							
a. 30-89 days past due	B733	0			B739	0	4.a.
b. 90 days or more past due.....	B740	0			B746	0	4.b.
5. Charge-offs and recoveries on assets sold and securitized with servicing retained or with recourse or other seller-provided credit enhancements (calendar year-to-date):							
a. Charge-offs	RIAD B747	0			RIAD B753	0	5.a.
b. Recoveries	B754	0			B760	0	5.b.
<i>Item 6 is to be completed by banks with \$10 billion or more in total assets. 1)</i>							
6. Total amount of ownership (or seller's) interest carried as securities or loans.....					RCON HU19	0	6.
7. and 8. Not applicable							
For Securitization Facilities Sponsored By or Otherwise Established By Other Institutions							
9. Maximum amount of credit exposure arising from credit enhancements provided by the reporting bank to other institutions' securitization structures in the form of standby letters of credit, purchased subordinated securities, and other enhancements.....	RCON B776	0			B782	0	9.
<i>Item 10 is to be completed by banks with \$10 billion or more in total assets. 1)</i>							
10. Reporting bank's unused commitments to provide liquidity to other institutions' securitization structures	B783	0			B789	0	10.
Bank Asset Sales							
11. Assets sold with recourse or other seller-provided credit enhancements and not securitized by the reporting bank.....	B790	0			B796	0	11.
12. Maximum amount of credit exposure arising from recourse or other seller-provided credit enhancements provided to assets reported in item 11.....	B797	0			B803	0	12.

1. The \$10 billion asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.

Schedule RC-S—Continued

Memoranda

Dollar Amounts in Thousands	RCON	Amount	
1. Not applicable			
2. Outstanding principal balance of assets serviced for others (includes participations serviced for others):			
a. Closed-end 1–4 family residential mortgages serviced with recourse or other servicer-provided credit enhancement.....	B804	0	M.2.a.
b. Closed-end 1–4 family residential mortgages serviced with no recourse or other servicer-provided credit enhancement.....	B805	0	M.2.b.
c. Other financial assets (includes home equity lines) ⁽¹⁾	A591	0	M.2.c.
d. 1–4 family residential mortgages serviced for others that are in process of foreclosure at quarter-end (includes closed-end and open-end loans).....	F699	0	M.2.d.
<i>Memorandum item 3 is to be completed by banks with \$10 billion or more in total assets. ⁽²⁾</i>			
3. Asset-backed commercial paper conduits:			
a. Maximum amount of credit exposure arising from credit enhancements provided to conduit structures in the form of standby letters of credit, subordinated securities, and other enhancements:			
(1) Conduits sponsored by the bank, a bank affiliate, or the bank's holding company.....	B806	0	M.3.a.(1)
(2) Conduits sponsored by other unrelated institutions.....	B807	0	M.3.a.(2)
b. Unused commitments to provide liquidity to conduit structures:			
(1) Conduits sponsored by the bank, a bank affiliate, or the bank's holding company.....	B808	0	M.3.b.(1)
(2) Conduits sponsored by other unrelated institutions.....	B809	0	M.3.b.(2)
4. Outstanding credit card fees and finance charges included in Schedule RC-S, item 1, column G ^{(2), (3)}	C407	0	M.4.

1. Memorandum item 2.c is to be completed if the principal balance of other financial assets serviced for others is more than \$10 million.
2. The \$10 billion asset-size test is based on the total assets reported on the June 30, 2023, Report of Condition.
3. Memorandum item 4 is to be completed by banks with \$10 billion or more in total assets that (1) together with affiliated institutions, have outstanding credit card receivables (as defined in the instructions) that exceed \$500 million as of the report date, or (2) are credit card specialty banks as defined for Uniform Bank Performance Report purposes.

Schedule RC-T—Fiduciary and Related Services

	RCON	Yes	No	
1. Does the institution have fiduciary powers? (If "NO," do not complete Schedule RC-T.)	A345	x		1.
2. Does the institution exercise the fiduciary powers it has been granted?	A346	x		2.
3. Does the institution have any fiduciary or related activity (in the form of assets or accounts) to report in this schedule? (If "NO," do not complete the rest of Schedule RC-T.)	B867	x		3.

If the answer to item 3 is "YES," complete the applicable items of Schedule RC-T, as follows:

Institutions with total fiduciary assets (item 10, sum of columns A and B) greater than \$250 million (as of the preceding December 31 report date) or with gross fiduciary and related services income greater than 10 percent of revenue (net interest income plus noninterest income) for the preceding calendar year must complete:

- Items 4 through 22 and Memorandum item 3 quarterly,
- Items 23 through 26 annually with the December report, and
- Memorandum items 1, 2, and 4 annually with the December report.

Institutions with total fiduciary assets (item 10, sum of columns A and B) less than or equal to \$250 million (as of the preceding December 31 report date) that do not meet the fiduciary income test for quarterly reporting must complete:

- Items 4 through 13 annually with the December report, and
 - Memorandum items 1 through 3 annually with the December report.
- Institutions with total fiduciary assets greater than \$100 million but less than or equal to \$250 million (as of the preceding December 31 report date) that do not meet the fiduciary income test for quarterly reporting must also complete Memorandum item 4 annually with the December report.

	(Column A)	(Column B)	(Column C)	(Column D)	
	Managed Assets	Non-Managed Assets	Number of Managed Accounts	Number of Non-Managed Accounts	
Dollar Amounts in Thousands	Amount	Amount	Number	Number	
Fiduciary and Related Assets	RCON B868	RCON B869	RCON B870	RCON B871	
4. Personal trust and agency accounts	0	5,000	2	2	4.
5. Employee benefit and retirement-related trust and agency accounts:					
a. Employee benefit—defined contribution	RCON B872	RCON B873	RCON B874	RCON B875	
	10,000	0	2	0	5 a.
b. Employee benefit—defined benefit	RCON B876	RCON B877	RCON B878	RCON B879	
	9,000	0	3	0	5 b.
c. Other employee benefit and retirement-related accounts	RCON B880	RCON B881	RCON B882	RCON B883	
	137,000	0	118	1	5 c.
	RCON B884	RCON B885	RCON C001	RCON C002	
6. Corporate trust and agency accounts	0	74,590,000	0	17,606	6.
7. Investment management and investment advisory agency accounts	RCON B886	RCON J253	RCON B888	RCON J254	
	13,960,000	64,000	2,647	28	7.
8. Foundation and endowment trust and agency accounts	RCON J255	RCON J256	RCON J257	RCON J258	
	637,000	0	39	0	8.
	RCON B890	RCON B891	RCON B892	RCON B893	
9. Other fiduciary accounts	0	0	0	0	9.
10. Total fiduciary accounts (sum of items 4 through 9)	RCON B894	RCON B895	RCON B896	RCON B897	
	14,753,000	74,659,000	2,811	17,637	10.

Schedule RC-T—Continued

	(Column A)	(Column B)	(Column C)	(Column D)	
	Managed Assets	Non-Managed Assets	Number of Managed Accounts	Number of Non-Managed Accounts	
Dollar Amounts in Thousands	Amount	Amount	Number	Number	
11. Custody and safekeeping accounts.....		RCON B898 27,705,000		RCON B899 3,258	11.
12. Not applicable					
13. Individual Retirement Accounts, Health Savings Accounts, and other similar accounts (included in items 5.c and 11).....	RCON J259 133,000	RCON J260 405,000	RCON J261 116	RCON J262 473	13.

	Dollar Amounts in Thousands		
	RIAD	Amount	
Fiduciary and Related Services Income			
14. Personal trust and agency accounts.....	B904	0	14.
15. Employee benefit and retirement-related trust and agency accounts:			
a. Employee benefit—defined contribution.....	B905	0	15.a.
b. Employee benefit—defined benefit.....	B906	0	15.b.
c. Other employee benefit and retirement-related accounts.....	B907	0	15.c.
16. Corporate trust and agency accounts.....	A479	58,000	16.
17. Investment management and investment advisory agency accounts.....	J315	6,000	17.
18. Foundation and endowment trust and agency accounts.....	J316	1,000	18.
19. Other fiduciary accounts.....	A480	0	19.
20. Custody and safekeeping accounts.....	B909	2,000	20.
21. Other fiduciary and related services income.....	B910	0	21.
22. Total gross fiduciary and related services income (sum of items 14 through 21) (must equal Schedule RI, item 5.a).....	4070	67,000	22.
23. Less: Expenses.....	C058	NA	23.
24. Less: Net losses from fiduciary and related services.....	A488	0	24.
25. Plus: Intracompany income credits for fiduciary and related services.....	B911	0	25.
26. Net fiduciary and related services income.....	A491	67,000	26.

Memoranda

	(Column A)		(Column B)		(Column C)		
	Personal Trust and Agency and Investment Management Agency Accounts		Employee Benefit and Retirement-Related Trust and Agency Accounts		All Other Accounts		
	RCON	Amount	RCON	Amount	RCON	Amount	
Dollar Amounts in Thousands							
1. Managed assets held in fiduciary accounts:							
a. Noninterest-bearing deposits.....	J263	NA	J264	NA	J265	NA	M.1.a.
b. Interest-bearing deposits.....	J266	NA	J267	NA	J268	NA	M.1.b.
c. U.S. Treasury and U.S. Government agency obligations.....	J269	NA	J270	NA	J271	NA	M.1.c.
d. State, county, and municipal obligations.....	J272	NA	J273	NA	J274	NA	M.1.d.
e. Money market mutual funds.....	J275	NA	J276	NA	J277	NA	M.1.e.
f. Equity mutual funds.....	J278	NA	J279	NA	J280	NA	M.1.f.
g. Other mutual funds.....	J281	NA	J282	NA	J283	NA	M.1.g.
h. Common trust funds and collective investment funds.....	J284	NA	J285	NA	J286	NA	M.1.h.
i. Other short-term obligations.....	J287	NA	J288	NA	J289	NA	M.1.i.
j. Other notes and bonds.....	J290	NA	J291	NA	J292	NA	M.1.j.
k. Investments in unregistered funds and private equity investments.....	J293	NA	J294	NA	J295	NA	M.1.k.

Schedule RC-T—Continued

Memoranda—Continued

	(Column A) Personal Trust and Agency and Investment Management Agency Accounts		(Column B) Employee Benefit and Retirement-Related Trust and Agency Accounts		(Column C) All Other Accounts		
	RCON	Amount	RCON	Amount	RCON	Amount	
Dollar Amounts in Thousands							
1. i. Other common and preferred stocks.....	J296	NA	J297	NA	J298	NA	M.1.i.
m. Real estate mortgages.....	J299	NA	J300	NA	J301	NA	M.1.m.
n. Real estate.....	J302	NA	J303	NA	J304	NA	M.1.n.
o. Miscellaneous assets.....	J305	NA	J306	NA	J307	NA	M.1.o.
p. Total managed assets held in fiduciary accounts (for each column, sum of Memorandum items 1.a through 1.o).....	J308	NA	J309	NA	J310	NA	M.1.p.

	(Column A) Managed Assets		(Column B) Number of Managed Accounts		
	RCON	Amount	RCON	Number	
Dollar Amounts in Thousands					
1. q. Investments of managed fiduciary accounts in advised or sponsored mutual funds.....	J311	NA	J312	NA	M.1.q.

	(Column A) Number of Issues		(Column B) Principal Amount Outstanding		
	RCON	Number	RCON	Amount	
Dollar Amounts in Thousands					
2. Corporate trust and agency accounts:				RCON B928	
a. Corporate and municipal trusteeships.....	B927	NA		0	M.2.a.
				RCON J314	
(1) Issues reported in Memorandum item 2.a that are in default.....	J313	NA		NA	M.2.a.(1)
b. Transfer agent, registrar, paying agent, and other corporate agency.....	B929	NA			M.2.b.

Memorandum items 3.a through 3.h are to be completed by banks with collective investment funds and common trust funds with a total market value of \$1 billion or more as of the preceding December 31 report date.

Memorandum item 3.h only is to be completed by banks with collective investment funds and common trust funds with a total market value of less than \$1 billion as of the preceding December 31 report date.

	(Column A) Number of Funds		(Column B) Market Value of Fund Assets		
	RCON	Number	RCON	Amount	
Dollar Amounts in Thousands					
3. Collective investment funds and common trust funds					
a. Domestic equity.....	B931	3	B932	420,000	M.3.a.
b. International/Global equity.....	B933	1	B934	176,000	M.3.b.
c. Stock/Bond blend.....	B935	0	B936	0	M.3.c.
d. Taxable bond.....	B937	1	B938	96,000	M.3.d.
e. Municipal bond.....	B939	1	B940	174,000	M.3.e.
f. Short-term investments/Money market.....	B941	0	B942	0	M.3.f.
g. Specialty/Other.....	B943	0	B944	0	M.3.g.
h. Total collective investment funds (sum of Memorandum items 3.a through 3.g).....	B945	6	B946	866,000	M.3.h.

Schedule RC-T—Continued

Memoranda—Continued

	(Column A) Gross Losses Managed Accounts		(Column B) Gross Losses Non-Managed Accounts		(Column C) Recoveries		
	RIAD	Amount	RIAD	Amount	RIAD	Amount	
	Dollar Amounts in Thousands						
4. Fiduciary settlements, surcharges, and other losses:							
a. Personal trust and agency accounts.....	B947	NA	B948	NA	B949	NA	M.4. a.
b. Employee benefit and retirement-related trust and accounts.....	B950	NA	B951	NA	B952	NA	M.4. b.
c. Investment management and investment advisory agency accounts.....	B953	NA	B954	NA	B955	NA	M.4. c.
d. Other fiduciary accounts and related services.....	B956	NA	B957	NA	B958	NA	M.4. d.
e. Total fiduciary settlements, surcharges, and other losses (sum of Memorandum items 4.a through 4.d) (sum of columns A and B minus column C must equal Schedule RC-T, item 24).....	B959	NA	B960	NA	B961	NA	M.4. e.

Person to whom questions about Schedule RC-T—Fiduciary and Related Services should be directed:

Scott Iacono, Director
 Name and Title (TEXT B962)

Scott.Iacono@db.com
 E-mail Address (TEXT B926)

212-250-8948
 Area Code / Phone Number / Extension (TEXT B963)

212-797-0541
 Area Code / FAX Number (TEXT B964)

Schedule RC-V—Variable Interest Entities ⁽¹⁾

	(Column A)		(Column B)		
	Securitization Vehicles		Other VIEs		
	RCON	Amount	RCON	Amount	
Dollar Amounts in Thousands					
1. Assets of consolidated variable interest entities (VIEs) that can be used only to settle obligations of the consolidated VIEs:					
a. Cash and balances due from depository institutions	J981	0	JF84	0	1.a.
b. Securities not held for trading	HU20	0	HU21	0	1.b.
c. Loans and leases held for investment, net of allowance, and held for sale.....	HU22	0	HU23	0	1.c.
d. Other real estate owned.....	K009	0	JF89	0	1.d.
e. Other assets	JF91	0	JF90	0	1.e.
2. Liabilities of consolidated VIEs for which creditors do not have recourse to the general credit of the reporting bank:					
a. Other borrowed money	JF92	0	JF85	0	2.a.
b. Other liabilities	JF93	0	JF86	0	2.b.
3. All other assets of consolidated VIEs (not included in items 1.a through 1.e above)					
	K030	0	JF87	0	3.
4. All other liabilities of consolidated VIEs (not included in items 2.a and 2.b above)					
	K033	0	JF88	0	4.
Dollar Amounts in Thousands					
5. Total assets of asset-backed commercial paper (ABCP) conduit VIEs.....					
	JF77	0		0	5.
6. Total liabilities of ABCP conduit VIEs.....					
	JF78	0		0	6.

1. Institutions should report assets net of any applicable allowance for credit losses.

Optional Narrative Statement Concerning the Amounts Reported in the Consolidated Reports of Condition and Income

The management of the reporting bank may, if it wishes, submit a brief narrative statement on the amounts reported in the Consolidated Reports of Condition and Income. This optional statement will be made available to the public, along with the publicly available data in the Consolidated Reports of Condition and Income, in response to any request for individual bank report data. However, the information reported in Schedule RI-E, item 2.g; Schedule RC-C, Part I, Memorandum items 17.a and 17.b; Schedule RC-O, Memorandum items 6 through 9, 14, 15, and 18; and Schedule RC-P, items 7.a and 7.b, is regarded as confidential and will not be made available to the public on an individual institution basis. BANKS CHOOSING TO SUBMIT THE NARRATIVE STATEMENT SHOULD ENSURE THAT THE STATEMENT DOES NOT CONTAIN THE NAMES OR OTHER IDENTIFICATIONS OF INDIVIDUAL BANK CUSTOMERS, REFERENCES TO THE AMOUNTS REPORTED IN THE CONFIDENTIAL ITEMS IDENTIFIED ABOVE, OR ANY OTHER INFORMATION THAT THEY ARE NOT WILLING TO HAVE MADE PUBLIC OR THAT WOULD COMPROMISE THE PRIVACY OF THEIR CUSTOMERS. Banks choosing *not* to make a statement may check the "No comment" box below and should make no entries of any kind in the space provided for the narrative statement; i.e., DO NOT enter in this space such phrases as "No statement," "Not applicable," "N/A," "No comment," and "None."

The optional statement must be entered on this sheet. The statement should not exceed 100 words. Further, regardless of the number of words, the statement must not exceed 750 characters, including punctuation, indentation, and standard spacing between words and sentences. If any submission should exceed

750 characters, as defined, it will be truncated at 750 characters with no notice to the submitting bank and the truncated statement will appear as the bank's statement both on agency computerized records and in computer-file releases to the public.

All information furnished by the bank in the narrative statement must be accurate and not misleading. Appropriate efforts shall be taken by the submitting bank to ensure the statement's accuracy.

If, subsequent to the original submission, *material* changes are submitted for the data reported in the Consolidated Reports of Condition and Income, the existing narrative statement will be deleted from the files, and from disclosure; the bank, at its option, may replace it with a statement appropriate to the amended data.

The optional narrative statement will appear in agency records and in release to the public exactly as submitted (or amended as described in the preceding paragraph) by the management of the bank (except for the truncation of statements exceeding the 750-character limit described above). THE STATEMENT WILL NOT BE EDITED OR SCREENED IN ANY WAY BY THE SUPERVISORY AGENCIES FOR ACCURACY OR RELEVANCE. DISCLOSURE OF THE STATEMENT SHALL NOT SIGNIFY THAT ANY FEDERAL SUPERVISORY AGENCY HAS VERIFIED OR CONFIRMED THE ACCURACY OF THE INFORMATION CONTAINED THEREIN. A STATEMENT TO THIS EFFECT WILL APPEAR ON ANY PUBLIC RELEASE OF THE OPTIONAL STATEMENT SUBMITTED BY THE MANAGEMENT OF THE REPORTING BANK.

Comments?.....

RCON	Yes	No
6979		x

BANK MANAGEMENT STATEMENT (please type or print clearly; 750 character limit):
(TEXT 6980)