

**THE COMPANIES ACT 2016  
MALAYSIA**

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**PUBLIC COMPANY LIMITED BY SHARES**

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**CONSTITUTION**

**OF**

**YTL DIGITAL BANK BERHAD  
[Registration No. 202201037182 (1482879-P)]**

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**Incorporated on the 6th day of October 2022**

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COMPANIES ACT 2016  
(ACT 777)

## CERTIFICATE OF INCORPORATION ON CHANGE OF NAME OF COMPANY

This is to certify that

**SEA CAPITAL SERVICES BERHAD**  
**202201037182 (1482879-P)**

which was, on the 6<sup>th</sup> day of October 2022, incorporated under the Companies Act 2016, as a public company, on the 20<sup>th</sup> day of August 2024 changed its name to

**YTL DIGITAL BANK BERHAD**

and that the company is a public company, and is a company limited by shares.

Dated at **KUALA LUMPUR** this 22<sup>nd</sup> day of August 2024.



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**DATUK NOR AZIMAH ABDUL AZIZ**  
REGISTRAR





SURUHANJAYA SYARIKAT MALAYSIA  
COMPANIES COMMISSION OF MALAYSIA  
( Agensi di bawah KPDNHEP )



**COMPANIES ACT 2016  
(ACT 777)**

**CERTIFICATE OF INCORPORATION  
OF PUBLIC COMPANY**

This is to certify that

**SEA CAPITAL SERVICES BERHAD  
202201037182 (1482879-P)**

is, on and from the 6<sup>th</sup> day of October 2022, incorporated under the Companies Act 2016, and that the company is a company limited by shares and that the company is a public company.

Dated at **KUALA LUMPUR** this 6<sup>th</sup> day of October 2022.



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**DATUK NOR AZIMAH ABDUL AZIZ**  
REGISTRAR OF COMPANIES  
MALAYSIA



**THE COMPANIES ACT, 2016**  
**PUBLIC COMPANY LIMITED BY SHARES**  
**CONSTITUTION**  
**OF**  
**YTL DIGITAL BANK BERHAD**

**Company Name**

1. The name of the Company is **YTL DIGITAL BANK BERHAD**.

**Registered Office**

2. The registered office of the Company is situated in Malaysia.

**Members' Liability**

3. The liability of the Members is limited.

**Powers of the Company**

The Company shall be capable of exercising all the functions of a body corporate and have full capacity to carry on or undertake any business or activity, do any act which it may do or enter into transactions with full rights, powers and privileges as contained in Section 21 of the Companies Act 2016, subject always that the businesses or activities are approved, or not otherwise objected to by BNM or other applicable authorities.

**Interpretation**

4. In this Constitution:

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

“**Adjourned Board Meeting**” has the meaning ascribed to it in Article 36.

“**Adjourned Shareholders Meeting**” has the meaning ascribed to it in Article 42.

“**Affiliates**” means with respect to a person (“**First Person**”) another person that, directly or indirectly through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, the First Person.

“**BNM**” means Bank Negara Malaysia.

“**Board**” means the board of Directors of the Company and where the context permits or require, shall mean the Directors whose number is not less than the required quorum acting as a board of Directors.

**“Board Reserved Matters”** means those matters set out in Part 1 of Schedule 1 of the Shareholders Agreement.

**“Business Day(s)”** means a day (other than a Saturday and Sunday) on which commercial banks in Kuala Lumpur, Malaysia and Singapore are open for business.

**“Business Plan”** means the business plan of the Company as agreed and approved in writing by the Members pursuant to, and in accordance with the Shareholders Agreement.

**“Control”** means:

- (a) the ownership or control (directly or indirectly) of more than fifty per cent (50%) of the issued share capital or charter capital of the relevant person; or
- (b) the ability to direct (directly or indirectly) the casting of more than fifty per cent (50%) of the votes exercisable at general meetings of the relevant person on all, or substantially all matters; or
- (c) the right to appoint or remove (directly or indirectly) directors or the equivalent decision-making body of the relevant person holding a majority of the voting rights at meetings of the board on all, or substantially all, matters,

and **“Controlled”** and **“Controlling”** shall be construed accordingly.

**“Directors”** mean the directors for the time being of the Company.

**“Electronic Communications”** means that a document or information is sent or supplied by electronic communication if it is sent initially and received at its destination by means of electronic equipment for the processing (which expression include digital compression) or storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means.

**“Electronic Form”** means that a document or information sent by Electronic Communication or by any other means while in digital or electronic form whereby a recipient of such document or information would be able to retain a copy.

**“Financial Investor”** means the individual investor so named in the Shareholders Agreement or any person(s) to whom he sells, transfers or otherwise disposes his Shares in accordance with this Constitution and the Shareholders Agreement.

**“Financial Year”** means the financial year of the Company ending on 31<sup>st</sup> December or any other financial year agreed by the Board.

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

**“Member”** or **“Members”** means any person for the time being registered in the Register of Members as the holder of one or more Shares in the Company.

**“Register of Members”** means the register of Members to be kept pursuant to the Act.

“**Regulatory Approval**” means the approval of BNM and/or the Minister of Finance pursuant to the FSA, BNM guidelines, orders, directives and/or requirements of BNM and/or other regulatory requirements, as the case may be.

“**RM**” means Ringgit Malaysia, the lawful currency of Malaysia.

“**Sea**” means SeaMoney Holding MY Limited (Registration No. 377236).

“**Seal**” means the common seal of the Company.

“**Secretary**” or “**Secretaries**” means any person or persons appointed to perform the duties of the secretary of the Company and shall include a joint, temporary, assistant or deputy secretary.

“**Shareholders Agreement**” means the amended and restated shareholders agreement dated 4 September 2024 executed among YTL, Sea, the Financial Investor and the Company, and any amendments made thereto.

“**Shareholders Reserved Matters**” mean those matters set out in Part 2 of Schedule 1 of the Shareholders Agreement.

“**Shares**” mean the shares of the Company in issue from time to time.

“**YTL**” means YTL Digital Capital Sdn. Bhd. (Registration No. 202101017513 (1417813-X)).

Expressions referring to writing shall include printing, lithography, photography and any other mode or modes of representing or reproducing words, symbols or other information which may be displayed in a visible form or in any manner, whether in physical document or in Electronic Form sent by way of an Electronic Communication or otherwise in a form that allows the document and/or information to be easily accessible and reproduced into written, electronic or visible form.

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

Words importing the masculine gender only shall include the feminine and neuter genders, and vice versa.

Words importing persons shall include corporations.

Unless otherwise defined in this Constitution or unless the context otherwise requires, words and expressions contained in this Constitution shall be interpreted in accordance with the provisions of or, as the case may be, have the same meanings as in the Interpretation Act, 1948 and 1967 (Consolidated and Revised 1988) and the Act.

The headings are inserted for convenience and shall not affect the construction or interpretation of this Constitution.

Any reference in this Constitution to a numbered Article shall be construed as a reference to the Article bearing that number in this Constitution.

Unless otherwise defined or the context shall otherwise require, words and expressions in the Shareholders Agreement shall have the same meaning when used in this Constitution.

### **Share Capital**

5. The Company's share capital shall be maintained in accordance with the Shareholders Agreement and the applicable Articles.
6. Subject to the terms of the Shareholders Agreement and Article 47 (Shareholders Reserved Matters), existing Shares or any increased capital in the Company may be divided into several classes, and there may be attached thereto respectively any preferential, deferred or other special rights, privileges, conditions or restrictions as to dividends, capital, voting or otherwise.
7. Without prejudice to any special rights conferred on the holders of any existing Shares or class of Shares and subject to the Shareholders Agreement, this Constitution, the Act, the FSA and the provisions of resolution of the Company (as applicable), the Board may allot or issue such Shares to such person at such price, on such terms and conditions, with such preferred, deferred or other special rights and subject to such restrictions and at such times as the Board may determine.
8. All Shares that are issued as fully paid up or credited as fully paid up from time to time by the Company shall unless otherwise mutually agreed by the Members, rank *pari passu* with the then existing issued and fully paid up Shares of the Company.
9. No person shall be recognised by the Company as holding any Share upon any trust and 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 any other rights in respect of any Share other than an absolute right to the entirety thereof in the registered holder, except only as otherwise permitted by this Constitution or as the Act or applicable law otherwise provides or requires.
10. Every person whose name is entered as a Member in the Register of Members of the Company shall be entitled, without payment, to receive a share certificate in accordance with the Act. In respect of a Share or Shares held jointly by more than one (1) person, the Company shall not be bound to issue more than one (1) certificate. The delivery of a share certificate to any one (1) of the joint holders of Share would be deemed as sufficient delivery to all such holders.

### **Pre-emptive Rights to New Shares**

11. All new Shares to be issued shall be first offered to the existing Members in proportion to their shareholdings at the time of the proposed new issue, subject to the provisions of the Shareholders Agreement and Article 47 (Shareholders Reserved Matters).

### **Transfer of Shares**

12. Except as otherwise permitted under the Shareholders Agreement or this Constitution and subject to Regulatory Approvals (as applicable), no Member shall, directly or indirectly:

- (a) sell, transfer or otherwise dispose of, or grant any option over, any of its Shares or any right over or interest in or derivative of any of its Shares;
  - (b) pledge, lien, mortgage, charge (whether fixed or floating) or otherwise encumber any of its Shares or any right over or interest in or derivative of any of its Shares; or
  - (c) enter into any agreement in respect of any of the votes attached to, or interests in, any of its Shares.
13. Subject to the restrictions provided under the Shareholders Agreement and this Constitution, Shares shall be transferable by a duly executed and stamped instrument of transfer as required by law, and shall be left at the registered office of the Company accompanied by the certificate of the Shares, if applicable, to be transferred. The instrument of transfer of any Share shall be executed by or on behalf of the transferor, and the transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered in the Register of Members of the Company.
14. The Company shall not record any transfer or agreement or arrangement to transfer in its books and shall not recognize or register any equitable or other claim to, or any interest in, such Shares which have been transferred in any manner other than as permitted under the Shareholders Agreement or this Constitution and all such purported transfers shall be void.
15. The Directors may, in their discretion, refuse or delay to register a transfer of any Share not being a fully paid up Share to any person of whom they do not approve, and they may also refuse or delay to register a transfer of any Share on which the Company has a lien. If the Directors refuse or delay to register a transfer, they shall pass a resolution within thirty (30) days after the date on which the instrument of transfer is received by the Company, and the notice of the resolution shall be sent to the transferor and to the transferee within seven (7) days of the resolution being passed as required by the Act. The resolution shall set out in full the reasons for refusing or delaying the registration of the transfer.
16. The Company shall not be entitled to charge a fee on the registration of every transfer.

#### **Alteration of Share Capital**

17. Subject to the Shareholders Agreement and Article 47 (Shareholders Reserved Matters), the Company may from time to time:
- (a) consolidate and divide all or any of its share capital, the proportion between the amount paid and the amount, if any, unpaid on each subdivided Share shall be the same as it was in the case of the Share from which the subdivided Share is derived;
  - (b) convert all or any of its paid-up Shares into stock and may reconvert that stock into paid-up Shares;
  - (c) subdivide its Shares or any of the Shares, whatever is in the subdivision, the proportion between the amount paid and the amount, if any, unpaid on each subdivided Share shall be the same as it was in the case of the Share from which the subdivided Share is derived; or

- (d) reduce its share capital, subject to any authorisation and consent required by law.

**Directors: Appointment, etc.**

- 18. Each Member shall be entitled to nominate and/or propose such number of Directors on the Board subject to the Shareholders Agreement and Regulatory Approval being obtained from BNM.
- 19. Other than the first chairman of the Board whose appointment has been agreed by the Members, the subsequent chairmen of the Board shall be jointly appointed by the Directors from amongst the independent Directors. All such appointments shall be in compliance with all applicable laws including the guidelines, orders, directives and/or requirements of BNM. In the event of equality of votes, the chairman of the Board shall not have a second vote or casting vote.
- 20. Subject to Regulatory Approval and compliance with all applicable laws, including the guidelines, orders, directives and/or requirements of BNM, the power vested in a Member to nominate a non-executive Director shall include the power to fix the period of his appointment and the right of that Member to remove a non-executive Director from office and/or replace such person nominated by that Member.
- 21. The period of appointment for an independent Director shall be two (2) years from the date of his appointment, which term, may be extended by the Board for up to additional two (2) year periods or such other additional period in its discretion, subject at all times to Regulatory Approval and compliance with all applicable laws, including the guidelines, orders, directives and/or requirements of BNM.
- 22. Whenever a Director for any reason whatsoever ceases to be a Director, the Member who nominated such Director shall nominate another Director in his place for Regulatory Approval. A person shall cease to be a Director if he:
  - (a) dies, resigns (including a resignation from his employment with a Member or an Affiliate of a Member, as applicable), is removed by the relevant Member from being a Director in the case of a non-executive Director, is removed by the Board from being a Director in the case of an independent Director, is not reappointed by the nominating Member following the expiry of his term of appointment in the case of a non-executive Director, is not reappointed by the Board following the expiry of his term of appointment in the case of an independent Director, or becomes unable to perform his duties as a Director by reason of incapacity or sickness; or
  - (b) becomes bankrupt or becomes of unsound mind or is convicted of a criminal offence or is otherwise rendered ineligible to act as a Director under the provisions of applicable law.

**Powers and Duties of Directors**

- 23. The business and affairs of the Company shall be managed by, or be under the direction of the Board, and the Board has all the powers necessary for managing and for directing and supervising the management of the business and affairs of the Company in accordance with

the Business Plan and the annual budget of the Company, subject to any limitation or restrictions contained in the Act and the FSA (as applicable).

24. Subject to the Act, Article 38 (Board Reserved Matters) and Article 47 (Shareholders Reserved Matters), the Directors may exercise all the powers of the Company to borrow money and to mortgage, lien 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.
25. The Board shall establish Board committees such as the Board nominations committee, Board remuneration committee, Board risk management committee, and Board audit committee, and may establish other committees that the Board deems fit. The Board may also delegate their responsibilities to the Board committees and Directors, who shall act in accordance with the directions and limits of authority or terms of reference set by the Board.
26. The Board is principally responsible to establish a Board charter, a Code of Ethics, a whistleblowing policy, a conflicts of interest policy, a succession plan, a remuneration policy and other applicable policies for the Company, and to review the Company's exit plan on an annual basis.
27. The Directors may at any time, and from time to time, by power of attorney appoint any person or persons, corporation, firm, 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 authorize any such attorney to delegate all or any of the powers, authorities, and discretions vested in him.
28. 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, in such manner and by such persons as the Directors shall from time to time by resolution determine.
29. The Directors shall cause minutes to be prepared and maintained by the Company for the purposes:
  - (a) of all appointments of officers to be engaged in the management of the Company's affairs;
  - (b) of names of Directors present at all meetings of the Board and board committees; and
  - (c) of all resolutions of the Directors and board committees and proceedings at all meetings of the Board and board committees.

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.

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

#### **Proceedings of the Board**

31. The Directors may meet as often as is necessary for the business of the Company and in any event, on a quarterly basis or at such intervals as the Board or Members may agree upon from time to time, or at the request of a Director, and the Secretary shall summon a meeting of the Board by giving notice in accordance with this Constitution.
32. The quorum necessary for the transaction of business at a meeting of the Board shall at all times, both at the commencement of and throughout the meeting, be a simple majority of the Directors, subject to the provisions of the Shareholders Agreement.
33. The chairman of the Board shall chair the meetings of the Board and of the Members, and in his absence, the Directors shall mutually agree for another Director to chair such meetings, provided that the appointment of such chair shall be in compliance with all applicable laws including the guidelines, orders, directives and/or requirements of BNM and/or the Act. The Secretary of the Company shall be responsible for preparing the minutes of each meeting and shall keep all the official records of the Company.
34. Meetings of the Board may be held by way of video-conference, tele-conference or other electronic means whereby each participant in the meeting can hear and be heard by every other participant. Such participation shall be deemed to be presence in person. The location of such a meeting shall be deemed to be Malaysia. The matters resolved during such meetings shall be subject to confirmation by the signatures of the participating Directors on the minutes taken of such meeting.
35. Not less than ten (10) Business Days' notice with agenda and all relevant information on the resolutions being proposed shall be distributed prior to any meeting of the Board unless it is agreed otherwise by at least two (2) Directors then in office, subject to the provisions of the Shareholders Agreement. Each such notice shall be in writing and given to each Director by (i) electronic mail to the email address so notified by the Director to the Company from time to time, or (ii) if required by such Director, either pre-paid registered post or courier or by facsimile to the last known address so notified by the Director to the Company, from time to time. Notwithstanding this Article 35, the meeting of the Board can be convened earlier provided that at least two (2) Directors, subject to the provisions of the Shareholders Agreement, are present and they agree to convene the meeting of the Board.
36. In the event that there shall not be a quorum at any Board meeting, the Board meeting shall stand adjourned to the same day at the same time and at the same place in the following week ("**Adjourned Board Meeting**"). At the Adjourned Board Meeting, the quorum necessary shall be a simple majority of the Directors, subject to the provisions of the Shareholders Agreement.
37. Subject to the provisions of the Act and save and except in respect of those matters set out in Article 38 (Board Reserved Matters), all resolutions of the Board shall only be passed by:

- (a) a majority of the Directors present in person; or
  - (b) a circular written resolution (consisting of several documents in like form, each signed by one or more of the Directors) signed by a majority of the Directors, subject to the provisions of the Shareholders Agreement, using a secured digital application, hard copies sign-off, digital signatures or such other valid and enforceable means.
38. Subject to the provisions of the Act, all matters listed as “**Board Reserved Matters**” in the Shareholders Agreement shall be approved in accordance with the provisions of the Shareholders Agreement.

### **General Meetings**

39. The Company shall convene and hold its general meetings in accordance with all applicable laws, the provisions of the Shareholders Agreement and this Constitution. All general meetings as required under the Act shall be called general meetings, Members’ meetings or meetings of Members.
40. Not less than fourteen (14) days’ notice (or where required by law, not less than twenty-one (21) days’ notice or such other notice period specified in the Act) shall be given of any general meeting. Each notice of a general meeting shall be accompanied by a complete agenda for the meeting in question and the text of any resolutions proposed to be adopted at such meeting. A notice of a general meeting shall be in writing and shall be delivered at or sent by (i) electronic mail to the email address so notified by the Members to the Company from time to time, or (ii) if required by such Member, either pre-paid registered post or courier to the last known address so notified by the Members to the Company, from time to time.
41. The quorum for meetings of the Members shall at all times, both at the commencement of and throughout the meeting, be any two (2) Members holding collectively more than seventy per cent (70%) of the voting Shares present in person, by proxy or by their duly authorised representatives.
42. In the event that a general meeting of the Members is duly convened but is unable to be held due to a lack of quorum, such meeting shall stand adjourned to the same day at the same time and at the same place the following week (“**Adjourned Shareholders Meeting**”). At the Adjourned Shareholders Meeting, the quorum necessary shall only be constituted, both at the commencement of and throughout the Adjourned Shareholders Meeting, when two (2) Members holding collectively more than fifty per cent (50%) of the voting Shares are present in person, by proxy or by their duly authorised representatives.
43. Members or their proxies may participate in Members’ meetings by means of videoconference, tele-conference or other electronic means whereby each participant in the meeting can hear and be heard by every other participant. Such participation shall be deemed to be presence in person. The main venue of such meeting shall be in Malaysia. The matters resolved during such meetings shall be subject to confirmation by the signatures of the participating Members on the minutes taken of such meeting. The instrument appointing a proxy shall be in a form as determined by the Company from time to time.
44. Subject to the provisions of the Act and save and except in respect of those matters set out in Article 47 (Shareholders Reserved Matters), all resolutions of the Members shall be decided by

a simple majority-in-interest of the votes attached to the issued Shares by poll in a general meeting.

45. For the purposes of Article 44, at any and all Members' meetings, every Member who is present in person (in accordance with Article 43), by proxy, or by their duly authorised representatives shall have one (1) vote for each Share held by the Member.
46. The chairperson of the Members' meeting shall be the Chairman of the Board and shall not be entitled to any second vote or casting vote.
47. Subject to the provisions of the Act, all matters listed as "**Shareholders Reserved Matters**" in the Shareholders Agreement shall be approved in accordance with the provisions of the Shareholders Agreement.

### **Secretary**

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

### **Seal**

49. The Directors shall provide for the safe custody of the Seal, which shall not be affixed to any instruments except by the authority of a resolution of the Board or board committees, and every instrument to which the seal is affixed shall be signed by a Director and countersigned by a second Director or by the Secretary or by such person(s) authorised by the Board for that purpose.

The Company may exercise the powers conferred by the Act for execution of documents in accordance with Section 66(2) of the Act and such execution shall have the same effect as if the document is executed under the Seal of the Company.

### **Dividends and Reserves**

50. Subject to the Act and Article 38 (Board Reserved Matters), the Directors may from time to time authorise a distribution of dividend to such Members as appear to the Directors to be appropriate by the profits of the Company if the Directors are satisfied that the Company will be solvent immediately after the distribution is made.
51. No dividend shall be paid otherwise than out of profits or shall bear interest against the Company.
52. Subject to the Act and Article 38 (Board Reserved Matters), 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.

53. 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 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 clause as paid on the Shares. 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 Shares is issued on terms providing that it shall rank for dividend as from a particular date that share shall rank for dividend accordingly.
54. The Directors may deduct from any dividend payable to any Member all sum 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.
55. Any dividend, interest, or other money payable in cash in respect of Shares may be paid by electronic transfer to the nominated bank account of the holder, cheque or warrant sent through the post direct 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 of Members 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 or more 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.

#### **Capitalisation of Profits**

56. Subject to Article 47 (Shareholders Reserved Matters), the Act and Regulatory Approval, if required, the Directors may 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.
57. Whenever such a resolution as aforesaid has 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 the capitalisation, or (as the case may require) for the payment up 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

58. Subject to the Act or other written law and where the context of any provisions of this Constitution otherwise requires, all notices, demands or other communications required or permitted to be given or made under this Constitution shall be in writing and delivered personally or sent by registered post or by email addressed to the intended recipient thereof at its address or email address set out in the Shareholders Agreement or such other address or email address as may be notified by a Member to the Company from time to time.
- (a) In the case of a notice, demand or other communication given by hand, it shall be deemed to have been duly served when left at the relevant address, with an acknowledgement of receipt.
  - (b) Any notices, demands or other communications given by registered post which is not returned to the sender as undelivered shall be deemed to have been given on the fifth (5th) day after the envelope containing the same was so posted, and proof that the envelope containing any such notice, demand or other communication was properly addressed, sent by registered post, and that it has not been so returned to the sender, shall be sufficient evidence that such notice, demand or other communication has been duly given.
  - (c) For notices, demands or other communications in Articles 58(a) and (b) above, if delivery or receipt of any notice is on a day which is not a Business Day or is after 5.00 p.m., it is taken as given at 9.00 a.m. on the next Business Day.
  - (d) Notwithstanding Article 58(c) above, any notices, demands or other communications sent by email or other forms of Electronic Communication shall be deemed to have been duly sent or served upon transmission of the same to the email or electronic address of the addressee on the date of transmission, unless the sender receives an automated delivery failure notice after the communication has been transmitted.

## Winding Up

59. Subject to the Act, any other written law, the provisions of the Shareholders Agreement, Article 47 (Shareholders Reserved Matters) and Article 64 (Compliance), if the Company is wound up, the appointed 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 in line with fair market value, 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.
60. The liquidator may, subject to Article 47 (Shareholders Reserved Matters) and with the like sanction, vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, thinks fit, but so that no Member shall be compelled to accept any Shares or other securities whereon there is any liability.

### **Indemnity**

61. Every officer or auditor for the time being of the Company may be indemnified out of the assets of the Company against:
- (a) any proceedings relating to any act or omission in his capacity as an officer or auditor, liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, or in which he is granted relief under the Act, or where proceedings are discontinued or not pursued;
  - (b) any liability to any person, other than the Company, for any act or omission in his capacity as officer or auditor and any costs incurred by him in defending or settling any claim or proceedings to any such liability except:
    - (1) any liability of the Director to pay a fine imposed in criminal proceedings or a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature, however arising; or
    - (2) any liability incurred by the Director in defending criminal proceedings in which he is convicted; or in defending civil proceedings brought by the Company, or an associated company, in which judgment is given against him; or
  - (c) in connection with an application for relief under the Act or any other written law,
- provided that no indemnity shall be provided under this Article in respect of any breach of duty under the Act or any other written law.

For the avoidance of doubt, an “**officer**” under this clause shall be as defined under the Act.

### **Authentication of Documents**

62. Any Director (or person appointed by the Directors) or the Secretary shall have the power to authenticate any documents affecting the Constitution of the Company and any resolution passed by the Company or the Directors and any books, records, accounts and/or documents relating to the Company’s business, and to certify copies or extracts thereof as true copies or extracts of the originals.

### **Inconsistencies with the Act or written law**

63. If any part of this Constitution is inconsistent or conflicts with the Act or any other written law (except for any replaceable legal provision that have been changed or replaced by this Constitution), then:
- (a) that part shall be read down to the extent necessary to comply with the Act or other written law; and
  - (b) any such part that is inconsistent with the Act or other written law shall be struck out and deemed not to form part of this Constitution.

**Compliance**

64. If any action or event requires Regulatory Approval, such action or event shall only be undertaken or implemented after such Regulatory Approval has been obtained and in accordance with the terms of such approval and/or other legal or regulatory requirements binding on the Company in undertaking or implementing such action or event.

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