

Company No. 6219884

THE COMPANIES ACTS 1985 to 2006

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PRIVATE COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

of

**ICE CLEAR EUROPE LIMITED**

Incorporated 19 April 2007

[Amended by Special Resolution 25 April 2008](#)

[Amended by Special Resolution 10 September 2009](#)

[Amended by Special Resolution 19 April 2013](#)

[Amended by Special Resolution 2 February 2017](#)

PRELIMINARY

1. The regulations contained in [regulations 1 to 35 of](#) Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 (SI 1985 No. 805) as amended before the date of incorporation of the Company so far as it relates to private companies limited by shares (such Table being hereinafter called "**Table A**") (as attached at Schedule 1) shall apply to the Company save in so far as they are excluded or varied hereby and such regulations (save as so excluded or varied) and the Articles hereinafter contained shall be the Articles of Association of the Company.
2. In these Articles the expression "**the Acts**" means the Companies Act 1985 and the Companies Act 2006, as appropriate, but so that any reference in these Articles to any provision of the Acts shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.
3. (A) In these Articles:  
"**Articles**" means the articles of the Company;

"Audit Committee" means the Company's audit committee operating in accordance with the Audit Committee's terms of reference;

"Board Resolution" means the board resolution entitled 'Tiered Decision Making Process' passed by the board of directors;"

"Board Risk Committee" or "BRC" means the Company's Board Risk Committee operating in accordance with the Board Risk Committee's terms of reference;

"CDS" means credit default swap;

"CDS Contract" means a Contract that is a CDS as specified in accordance with the Rules;

"CDS Clearing Member" means a Clearing Member that is authorised by the Clearing House to become party to CDS Contracts;

"CDS Director" means a person, reasonably acceptable to the board and approved by the [FSA Bank of England](#), with appropriate experience of credit derivatives and the credit default swaps marketplace, and further experience including, but not limited to, corporate governance, management oversight and financial markets, who is appointed by the board, pursuant to Article 27, as a non-executive director of the Company who has been nominated by the Risk Committee with responsibility for CDS;

"clear days" in relation to a period of notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

"Clearing House" or "the Company" means ICE Clear Europe Limited;

"Clearing Member" means a member of the Clearing House;

"Committees" means the Audit Committee, Board Risk Committee, Compensation Committee, Nominations Committee, and Risk Committee(s);

"Compensation Committee" means the Company's Compensation Committee operating in accordance with the Compensation Committee's terms of reference;

"Contract" means a contract between the Clearing House and a Clearing Member arising in accordance with the Rules;

"executed" means any mode of execution;

"group" means the group of companies headed by IntercontinentalExchange, Inc. a New York Stock Exchange listed company;

"**Independent Director**" means a person who is independent of the Company and of the Clearing House and who is appointed as a non-executive director of the Company;

"**Nominations Committee**" means the Company's Nominations Committee operating in accordance with the Nominations Committee's terms of reference;

"**office**" means the registered office of the Company;

"**Risk Committee**" means a product specific committee of the directors charged with setting the Company's risk policies in accordance with such Risk Committee's terms of reference;

"**Rules**" means the rules, regulations, contract terms, conditions and procedures as described in article 24;

"**secretary**" means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary; "

"**Senior Independent Director**" means an Independent Director appointed in line with the UK Corporate Governance Code published by the Financial Reporting Council, as may be amended from time to time;

"**Super-Quorum Matters**" means those aspects of the Rules that relate to: CDS Clearing Members; CDS contracts; the structure, size or application of the CDS guaranty fund; the methodology for calculating a CDS Clearing Member's CDS guaranty fund contribution or the components thereof; permitted cover for CDS guaranty fund contributions; powers of assessment in respect of CDS Clearing Members; the time period for, or means by which, CDS margin is returned to a CDS Clearing Member; the methodology for determining the rate of return on the CDS guaranty fund; the use, rehypothecation or investment of the CDS guaranty fund; the terms of reference for the CDS Risk Committee; and, the subject and content of the Board Resolution; and,

"**United Kingdom**" means Great Britain and Northern Ireland.

References to a "meeting" shall not be taken as requiring more than one person to be present if the quorum requirement for such meeting can be satisfied by one person.

(B) Unless the context otherwise requires, words or expressions contained in the Articles bear the same meaning as in the Acts.

(C) Where an ordinary resolution of the Company is expressed to be required for any purpose, a special ~~or extraordinary resolution is also effective for that purpose, and where an extraordinary resolution is expressed to be required for any purpose, a special~~ resolution is also effective for that purpose.

(D) Words importing persons (except the word 'individual') shall include corporations and firms. The masculine shall include the feminine and the neuter and the singular shall include the plural and vice-versa as the context shall admit or require.

4. ~~No~~Save as provided in Article 1, no regulations contained in any statute or subordinate legislation, including but not limited to the regulations contained in Table A or Table C in the schedule to the Companies (Table A to F) Regulations 1985 (as amended), apply as the regulations or Articles of association of the Company.

#### GENERAL MEETINGS

5. All general meetings other than annual general meetings shall be called extraordinary general meetings.
6. The directors may call general meetings and, on the requisition of members pursuant to the provisions of the Acts, shall forthwith proceed to convene an extraordinary general meeting for a date not later than 28 days after receipt of the requisition. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any member may call a general meeting.

#### NOTICE OF GENERAL MEETINGS

7. Subject to ~~article 8, an annual~~Article 6, a general meeting ~~and an extraordinary general meeting called for the passing of a special resolution or an elective resolution shall be called by at least 21 clear days' notice. All other extraordinary general meetings~~ shall be called by at least 14 clear days' notice.
8. The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, ~~in the case of an annual general meeting, shall specify the meeting as such but~~ a general meeting may be called by shorter notice if it is so agreed by the sole member, in accordance with the provisions of the Acts.
9. Subject to the provisions of the Articles the notice shall be given to the sole member, and to the directors and auditors.
10. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

#### PROCEEDINGS AT GENERAL MEETINGS

11. No business shall be transacted at any meeting unless a quorum is present. A duly authorised representative of the sole member, or a proxy for the sole member, shall be a quorum.
12. If such a quorum is not present within ~~half~~ 15 minutes from the time appointed for the meeting, or if during a meeting a quorum ceases to be present, the meeting shall

stand adjourned to the same day in the next week, at the same time and place or to such day and at such time and place as the directors may determine.

13. The ~~chairman~~chair, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as ~~chairman~~chair of the meeting, but if neither the ~~chairman~~chair nor such other director (if any) is present within 15 minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be ~~chairman~~chair and, if there is only one director present and willing to act, he shall be ~~chairman~~chair.
14. If no director is willing to act as ~~chairman~~chair, or if no director is present within 15 minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be ~~chairman~~chair.
15. A director shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting.
16. The ~~chairman~~chair 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 business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for 14 days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
17. A resolution put to the vote of the meeting shall be decided on a show of hands and a proxy for the sole member may vote on a show of hands.
18. A declaration by the ~~chairman~~chair that a resolution has been carried or lost and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact.
19. A resolution in writing duly executed by or on behalf of the sole member shall be as effectual as if it had been passed at a general meeting duly convened and held. If a resolution in writing is described as a special resolution or as an extraordinary resolution, it has effect accordingly.

#### VOTES OF MEMBERS

20. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the ~~chairman~~chair whose decision shall be final and conclusive.
21. An instrument appointing a proxy shall be in writing in any usual form or in any other form which the directors may approve and shall be executed by or on behalf of the appointor.
22. The instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the

directors may be left at or sent by post or by facsimile transmission to the office or such other place within the United Kingdom 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 any time before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote. An instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

23. A vote given by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting unless notice of the determination was received by the Company at the office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given

#### REGULATIONS

24. Rules, regulations, contract terms, conditions and procedures (in these Articles called "the Rules") may from time to time be adopted by the Clearing House for the purposes of acting as a central counterparty and clearing house and for regulating the conduct of business of the Clearing House pursuant to the Financial Services and Markets Act 2000 (as amended or superseded), including provision for issue, suspension, and withdrawal of clearing rights and appeals in connection therewith, for the charging of subscriptions, levies and other imposts, for facilitating the conduct of clearing on, and guaranteeing or undertaking the carrying out of contracts (including option contracts) traded on terminal and other markets and exchanges, for purposes connected with recognition of the Company for the relevant statutory purposes and such other purposes as the Company may think fit. The Rules may be adopted, added to, revoked or amended:

- (a) by the directors (or any committee appointed by them for such purpose) subject to the provisions of these Articles;
- (b) by the directors (or any committee appointed by them for such purpose) pursuant to any express power conferred upon them by the Rules; or
- (c) in such other manner as may be expressly provided for in the Rules.

#### COMPOSITION OF THE BOARD AND BOARD COMMITTEES

25. The number of directors shall be not less than ~~two~~six and not more than twelve. At least two and not more than four Independent Directors (excluding the ~~chairman~~chair for these purposes) shall be appointed to serve in such capacity at any one time in accordance with the terms hereof. Two CDS Directors shall be appointed to serve in such capacity at any one time in accordance with the terms hereof. The president of the Company shall be appointed as a director in accordance with the terms below, and shall for so long as he holds such position, continue to be a director.
26. Subject to the Articles, and following recommendation by the Nominations Committee as appropriate, the Company may, at any time, by ordinary resolution appoint persons

who are willing to act as directors, either to fill a vacancy or as an addition to the board.

27. Subject to the Articles, and provided it is satisfied that the appointment of such persons would not prejudice the Company's status as a "Recognised Clearing House" under the Financial Services and Markets Act 2000 (as amended or superseded) or any other recognition or status granted to or being sought by the Company pursuant to any law or regulation, the board may appoint such persons as it sees fit and who are willing to act as directors, either to fill a vacancy or as an addition to the board. The board will, in addition, appoint the president as a director and shall from time to time appoint such number of Independent Directors and CDS Directors as shall from time to time ensure compliance with Article 25, it being understood that with regard to the appointment of CDS Directors the board shall take into account nominations of the relevant Risk Committee as appropriate.
28. Subject to the Acts, the board may appoint one or more of its body to hold employment or executive office (including, without limitation, that of president) with the Company for such term (subject to the Acts) and on any other conditions the board thinks fit. The board may revoke or terminate an appointment, without prejudice to a claim for damages for breach of contract or otherwise.
29. Subject to the Acts, the board shall appoint one of its body to act as Senior Independent Director. The board may revoke or terminate such appointment at its discretion.
30. No person other than a director retiring (by rotation or otherwise) may be appointed or reappointed a director at a general meeting otherwise than pursuant to Article ~~30~~26.
- ~~29. At each annual general meeting of the Company commencing with the first annual general meeting, one third of the directors who are not CDS Directors and who are subject to retirement by rotation or, if their number is not three or a multiple of three, the number nearest to but not less than one third, shall retire from office. If there are fewer than three directors who are subject to retirement by rotation, one shall retire from office. Notwithstanding the above, if any one or more directors who are subject to retirement by rotation were last appointed or reappointed three years or more prior to the meeting or were last appointed or reappointed at the third immediately preceding annual general meeting, he or they shall retire from office and shall be counted in obtaining the number required to retire at the meeting.~~
- 330A. A CDS Director shall retire on each anniversary of the first appointment of a CDS Director. Subject to the Acts and the Articles, the CDS Director to retire on an anniversary of the first appointment of a CDS Director shall be, first, a CDS Director who wishes to retire and not offer himself for reappointment, and, second, the CDS Director who has been longest in office since such CDS Director's last appointment or reappointment. As between two or more who have been in office an equal length of time, the CDS Director to retire shall, in default of agreement between them, be determined by lot. A CDS Director who has retired shall not be prevented from being

re-appointed as a CDS Director of the Company.

~~All directors save for the chairman, the president, each of the Independent Directors and the CDS Directors shall be subject to retirement by rotation. Subject to the Acts and the Articles, the directors to retire by rotation at an annual general meeting include, so far as necessary to obtain the number required, first, a director who wishes to retire and not offer himself for reappointment, and, second, those directors who have been longest in office since their last appointment or reappointment. As between two or more who have been in office an equal length of time, the director to retire shall, in default of agreement between them, be determined by lot. The directors to retire on each occasion (both as to number and identity) shall be determined on the basis of the composition of the board at the start of business on the date of the notice convening the annual general meeting, disregarding a change in the number or identity of the directors after that time but before the close of the meeting.~~

31. Retirement of directors by rotation will be considered at a general meeting of the Company to be held each year, at which, at the discretion of the Nominations Committee, the two longest serving Independent Directors (who are not CDS Directors) must retire from office and may offer themselves for reappointment for a three year term by the members (provided that an Independent Director will be eligible for retirement only if he has served at least three consecutive years on the board).

32. If an Independent Director is reappointed at a general meeting, such Independent Director may, in consultation with the Nominations Committee, be reappointed for a further term at a subsequent general meeting. An Independent Director may be reappointed a maximum of two times, unless the Company by ordinary resolution resolves otherwise.

~~3033.~~ A director ~~who retires at an annual~~whose term of office ends at a general meeting ~~(whether by rotation or otherwise)~~ may, if willing to act, be reappointed. If he is not reappointed or deemed reappointed, he may retain office until the meeting appoints someone in his place or, if it does not do so, until the end of the meeting.

~~3134.~~ Without prejudice to the provisions for retirement (by rotation or otherwise) contained in the Articles, the office of a director is vacated if:

- (i) He resigns by notice delivered to the secretary at the office or tendered at a board meeting; or
- (ii) where he has been appointed for a fixed term, the term expires; or
- (iii) he ceases to be a director by virtue of a provision of the Acts, is removed from office pursuant to the Articles or pursuant to an ordinary resolution of the sole member under the Acts or becomes prohibited by law from being a director; or

- (iv) he, or a company clearing at the Clearing House of which he is a director or an employee, is found guilty of a serious disciplinary offence under the Rules of the Clearing House or under the rules of any other regulatory body; or
- (v) he is found guilty of any criminal offence which or becomes subject to any judgement which, in the opinion of the board, adversely affects his fitness and properness to act as a director of the Company, or, if he is also a director of the Company, the directors of the Company have determined on the same basis that he be removed as a director of that company; or
- (vi) he becomes bankrupt or compounds with his creditors generally; or
- (vii) ~~he is or has been suffering from mental ill health or becomes a patient for the purpose of any statute relating to mental health and the board resolves that his office be vacated;~~ or a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months; or or
- (viii) he is absent, without the permission of the board, from board meetings for ~~six~~three consecutive meetings and the board resolves that his office be vacated; or
- (ix) he is removed from office by notice addressed to him at his last-known address and signed by all his co-directors (without prejudice to a claim for damages for breach of contract or otherwise); or
- (x) he ceases to be president of the Company and is not otherwise entitled to remain as a director; or
- (xi) his co-directors reasonably resolve that as a result of his continuing as a director, the Company's status as a "Recognised Clearing House" under the Financial Services and Markets Act 2000 (as amended or superseded) or any other recognition or status granted to or being sought by the Company pursuant to any law or regulation) could be endangered or materially adversely affected or compromised as a result of his membership of the board; or
- (xii) his co-directors reasonably resolve that he is no longer a fit and proper person to act as the director of a "Recognised Clearing House" under the Financial Services and Market Act 2000 (as amended or superseded); or
- (xiii) he ceases to be eligible for appointment as a director.

3235. A resolution of the board declaring a director to have vacated office under the terms of this Article is conclusive as to the fact and grounds of vacation stated in the resolution.

~~33~~36. If the office of a director is vacated for any reason, he shall cease to be a member of any committee of the board.

37. The directors shall appoint the members of each of the Committees as may be required by the respective Terms of Reference and each Committee shall each operate in accordance with its own Terms of Reference.

#### POWERS OF DIRECTORS

~~34~~38. The business of the Company and the Clearing House shall be managed by the directors who, subject to the provisions of the Acts, the memorandum and the Articles and to any directions given by special resolution, may exercise all the powers of the Company and the Clearing House and regulate and decide all matters concerning the Company and the Clearing House as are not herein or by any other article or any regulation provided for. No alteration of the memorandum or 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~~Article shall not be limited by any special power given to the directors by these Articles and a meeting of the directors at which a quorum or super-quorum is present may exercise all powers exercisable by the directors as appropriate in accordance with the relevant quorum provisions as stated in Article ~~54~~57.

~~35~~39. All monies, bills and notes belonging to the Clearing House shall be paid to or deposited with the Clearing House's bankers to an account or accounts to be opened in the name of the Clearing House by the president or at the direction of the president as appropriate. Cheques on the Clearing House's bankers shall be signed in a manner from time to time resolved upon by the president. The Clearing House's banking account or accounts shall be kept with such banker or bankers as the directors shall from time to time determine.

~~36~~40. The directors may exercise all the powers of the Company and the Clearing House to borrow money, and to mortgage or charge its undertaking and property or any part thereof and to issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company and the Clearing House or of any third party.

~~37~~41. For the avoidance of doubt, it is hereby declared that the directors shall have such other powers as are vested in them by the Rules.

~~38~~42. The directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company or the Clearing House for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

#### DELEGATION OF DIRECTORS' POWERS

~~39~~43. The directors may delegate any of their powers to any committee consisting of one or more directors or any other persons or people as the board of directors may decide, and in accordance with this power shall appoint: Risk Committee(s), as required, to

set the Company's risk policy; an Audit Committee; a Board Risk Committee; a Nominations Committee; and a Compensation Committee, as appropriate, together with such further committees as may be required. They may also delegate to any president or any director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of its own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the provisions of the Articles regulating the proceedings of directors so far as they are capable of applying. Where a provision of the Articles refers to the exercise of a power, authority or discretion by the directors and that power, authority or discretion has been delegated by the directors to a committee, the provision shall be construed as permitting the exercise of the power, authority or discretion by the committee.

~~40~~44. The president, or his appropriately appointed delegate, is delegated the power to set and call margin payments from Clearing Members in accordance with the powers reserved to the Clearing House under the Rules, and further to transfer funds to and from the Clearing Members as such transfers are required to be completed in accordance with the Rules.

~~41~~45. The president, or his appropriately appointed delegate, is delegated the power to take such steps, or procure that such steps are taken, as are reserved to the Clearing House under the Rules on the occurrence of an Event of Default (as such term is defined under the Rules) with respect to a Clearing Member. It being understood that in the event that an Event of Default does occur with respect to a Clearing Member, causing the president, or his appropriately appointed delegate, to take such steps, or procure that such steps are taken, as are required under the Rules, the president shall ensure that the directors are informed of the relevant circumstances, and actions taken, as soon as practicable subsequent to such Event of Default.

#### REMUNERATION OF DIRECTORS

~~42~~46. The directors shall be entitled to such remuneration as the Company determines in accordance with group policy and practice.

~~43~~. A director who, at the request of the directors, goes or resides abroad, makes a special journey or performs a special service on behalf of the Company may be paid such reasonable additional remuneration (whether by way of salary, percentage of profits or otherwise) and expenses as the directors may decide.

#### DIRECTORS' EXPENSES

~~44~~47. The directors may, subject to the approval of the board, be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings or separate meetings of the Company or otherwise in connection with the discharge of their duties.

## DIRECTORS' APPOINTMENTS AND INTERESTS

48. Independent Directors must disclose any other directorships to the board before they are appointed and any changes to such directorships shall be reported to the board as they arise.

4549. Subject to the provisions of the Acts, the directors may appoint one of their body to the office of president and one or more of their body to any other executive office under the Company, and may enter into an agreement or arrangement with any director for his employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the directors determine and they may remunerate any such director for his services as they think fit. Any appointment of a director to an executive office shall determine if he ceases to be a director but without prejudice to any claim to damages for breach of the contract of service between the director and the Company.

4650. Subject to the provisions of the Acts, and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;
- (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and
- (c) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

4751. For the purposes of Article 50:

- (a) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified; and
- (b) an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

4852. Without prejudice to the obligation of a director to disclose his interest in accordance with section 182177 Companies Act 2006, a director may not vote on or be counted in the quorum in relation to a resolution of the board or of a committee of the board

concerning a contract, arrangement, transaction or proposal to which the Company is or is to be a party and in which he has a duty or an interest ~~which is, to his knowledge, a material interest~~ (otherwise than by virtue of his interests in shares or debentures or other securities of or otherwise in or through the Company), but this prohibition does not apply (i) where the Company by ordinary resolution disapplies the provision of the Articles which would otherwise prevent a director from being counted as participating in the decision-making process for quorum and voting purposes (ii) where a director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest and (iii) to a resolution concerning any of the following matters:

- (a) the giving of a guarantee, security or indemnity in respect of money lent or obligations incurred by him or any other person at the request of or for the benefit of the Company or any of its subsidiary undertakings;
- (b) the giving of a guarantee, security or indemnity in respect of a debt or obligation of the Company or any of its subsidiary undertakings for which he himself has assumed responsibility in whole or in part, either alone or jointly with others, under a guarantee or indemnity or by the giving of security;
- (c) a contract, arrangement, transaction or proposal concerning an offer of shares, debentures or other securities of the Company or any of its subsidiary undertakings for subscription or purchase, in which offer he is or may be entitled to participate as a holder of securities or in the underwriting or sub-underwriting of which he is to participate;
- (d) a contract, arrangement, transaction or proposal to which the Company is or is to be a party concerning another company (including a subsidiary undertaking of the Company) in which he is interested (directly or indirectly) whether as an officer, shareholder, creditor or otherwise (a "**relevant company**"), if he does not to his knowledge hold an interest in shares ~~(as that term is used in sections 793 of the Companies Act 2006)~~ representing one per cent. or more of either any class of the equity share capital of or the voting rights in the relevant company;
- (e) a contract, arrangement, transaction or proposal for the benefit of the employees of the Company or any of its subsidiary undertakings (including any pension fund or retirement, death or disability scheme) which does not award him a privilege or benefit not generally awarded to the employees to whom it relates; and
- (f) a contract, arrangement, transaction or proposal concerning the purchase or maintenance of any insurance policy under which he may benefit.

~~(e)~~  
53. Without prejudice to the directors' duties set out in Chapter 2 of Part 10 of the Companies Act 2006, if a situation (a relevant situation) arises in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict,

with the interests of the company (including, without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the company could take advantage of it, but excluding any situation which cannot reasonably be regarded as likely to give rise to a conflict of interest) (a Conflict) the following provisions shall apply if the Conflict did not arise in relation to a transaction or arrangement with the company:

(a) if the relevant situation arises from the appointment or proposed appointment of a person as a director of the company:

(i) the directors (other than the director, and any other director with a similar interest, who shall not be counted in the quorum at the meeting and shall not vote on the resolution, though any director, including the director, and any other director with a similar interest, may propose the resolution); or

~~(d)~~

(ii) the shareholders (by ordinary resolution or by notice in writing given to the company by the holders of a majority of the shares),

~~(e)~~

may resolve to authorise the appointment of the director and the relevant situation on such terms as they may determine;

~~(f)~~

(b) if the relevant situation arises in circumstances other than in paragraph (a) above:

(i) the directors (other than the director, and any other director with a similar interest, who shall not be counted in the quorum at the meeting and shall not vote on the resolution, though any director, including the director, and any other director with a similar interest, may propose the resolution); or

(ii) the shareholders (by ordinary resolution or by notice in writing given to the company by the holders of a majority of the shares),

may resolve to authorise the relevant situation and the continuing performance by the director of his duties on such terms as they may determine.

(c) For the purposes of Articles 53(a)(i) and 53(b)(i), if there are insufficient directors eligible to vote and therefore to form a quorum, the eligible director(s) may take decisions in relation to the relevant matter without regard to any of the provisions of the Articles relating to directors' decision-making.

(d) Any reference in Article 53 to a Conflict includes a conflict of interest and duty and a conflict of duties.

(e) Any terms determined by the directors or the shareholders under Articles 53(a)(a) or 53(b):

(i) shall be in writing, although the authority shall be effective whether or not the terms are so recorded); and

(ii) may be imposed at the time of the authorisation or may be imposed or varied subsequently by either the directors or the shareholders and may include (without limitation):

(A) whether the interested directors may vote (and be counted in the quorum at any meeting) in relation to any decision (whether at a meeting of the directors or otherwise) relating to the relevant situation;

(B) the exclusion of the interested directors from all information and discussion by the company of the relevant situation; and

(C) (without prejudice to the general obligations of confidentiality) the application to the interested directors of a strict duty of confidentiality to the company for any confidential information of the company in relation to the relevant situation, so that where the relevant director obtains (otherwise than through his position as a director of the company) information that is confidential to a third party, the director will not be obliged to disclose that information to the company, or to use or apply the information in relation to the company's affairs, where to do so would amount to a breach of that confidence.

(f) Any authorisation given under Articles 53(a)(a) or 53(b) may be withdrawn by either the directors or the shareholders by giving notice to the director concerned.

(g) An interested director must act in accordance with any terms determined by the directors or the shareholders under Articles 53(a)(a) or 53(b).

(h) Except as specified in Article 53, any proposal made to the directors and any authorisation by the directors in relation to a relevant situation shall be dealt with in the same way as any other matter may be proposed to and decided by the directors in accordance with the Articles.

(i) Any authorisation of a relevant situation given by the directors or the shareholders under Article 53 may provide that, where the interested director obtains (other than through his position as a director of the company) information that is confidential to a third party, he will not be obliged to disclose it to the company or to use it in relation to the

company's affairs in circumstances where to do so would amount to a breach of that confidence.

- (j) A director shall, as soon as reasonably practicable, declare the nature and extent of his interest in a relevant situation within Article 53(a)(a) or 53(b) to the other directors and the shareholders. Failure to comply with this requirement does not affect the underlying duty to make the declaration of interest.

#### DIRECTORS' GRATUITIES AND PENSIONS

- ~~49~~54. The directors may provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any director who has held but no longer holds any executive office or employment with the Company or with any body corporate which is or has been a subsidiary of the Company or a predecessor in business of the Company or of any such subsidiary, and for any member of his family (including a spouse and a former spouse) or any person who is or was dependent on him, and may (as well before as after he ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

#### PROCEEDINGS OF DIRECTORS

- ~~55.~~ Subject to the provisions of the Articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the directors. Every director shall receive notice of a meeting, whether or not he is absent from the United Kingdom. A director may waive the requirement that notice be given to him of a meeting of directors or a committee of directors, either prospectively or retrospectively but not more than seven days after the date on which the meeting is held. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the ~~chairman~~chair shall have a second or casting vote but this does not apply if, in accordance with the Articles, the chair is not to be counted as participating in the decision-making process for quorum or voting purposes.

- ~~50~~56. A director may participate in a meeting of directors or a committee of directors through the medium of conference telephone or similar form of communication equipment if all persons participating in the meeting are able to hear and speak to each other throughout the meeting. A person participating in this way is deemed to be present in person at the meeting and is counted in a quorum and/or super-quorum and entitled to vote. Subject to the Acts, all business transacted in this way by the directors or a committee of directors is for the purposes of the Articles deemed to be validly and effectively transacted at a meeting of the directors or of a committee of directors although fewer than two directors are physically present at the same place. The meeting is deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the ~~chairman~~chair of the meeting then is.

- ~~51~~57. The quorum provisions in relation to the transaction of business shall be as follows:

- (a) in relation to Super-Quorum Matters, a super-quorum shall be required for the transaction of business, which shall be the number equal to a majority of the directors serving on the board at that time including at least one CDS Director;
- (b) in relation to non-Super-Quorum Matters, the quorum necessary for the transaction of business may be decided by the board, but if not so decided, shall be the number equal to a majority of the directors serving on the board at that time;
- (c) in relation to Super-Quorum Matters that need to be resolved in an emergency, the quorum necessary shall be the number equal to a majority of the directors serving on the board at that time.

**5457A.** In the event that no CDS Directors are present at a meeting requiring a super-quorum, consideration of the business relating to relevant Super-Quorum Matters shall be adjourned to a re-convened Board meeting to be called subject to a minimum of two Business Days' notice to the Board, at which transaction of business in relation to the relevant Super-Quorum Matters shall not require a super-quorum and may be transacted by a quorum equal to a majority of the directors serving on the board at that time.

**5258.** The directors may appoint one of their number to be the ~~chairman~~chair of the board of directors and may at any time remove ~~him~~the appointee from that office. Unless he is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he is present. But if there is no director holding that office or if the director holding it is unwilling to preside or is not present within fifteen minutes after the time appointed for the meeting, the directors present may appoint one of their number to be ~~chairman~~chair of the meeting.

**5359.** All acts done by a meeting of 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 a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.

**5460.** A resolution in writing or by email signed or emailed by all the directors for the time being entitled to ~~receive notice of a board~~vote on the matter had it been proposed as a resolution at a meeting of the directors and not being less than a quorum or super-quorum or by such number of members of a committee of the board as the board may decide, is as valid and effectual as a resolution passed at a meeting of the board or a committee of directors as the case may be. The resolution may consist of several documents in ~~thesame~~the same form each signed or emailed by one or more directors or committee members.

**5561.** Under no circumstances may a director appoint an alternate.

## SECRETARY

~~56~~62. Subject to the provisions of the Acts, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they think fit; and any secretary so appointed may be removed by the directors.

## MINUTES

~~57~~.

63. The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

~~The directors shall cause minutes to be made in books kept for the purpose:~~

- ~~(a) of all appointments of officers made by the directors; and~~
- ~~(b) of all proceedings of meetings of the Company, of the sole member of the Company, and of the directors, and of committees of directors, including the names of the directors present at each such meeting.~~

## DISTRIBUTIONS

~~58~~64. Subject to the provisions of the Acts, the Company may by ordinary resolution provide that a distribution be paid to members.

~~59~~65. Subject to the provisions of the Acts, the directors may pay interim distributions if it appears to them that they are justified by the profits of the Company available for distribution. The directors may also pay at intervals settled by them any distribution payable at a fixed rate if it appears to them that the profits available justify the payment.

## NOTICES

~~60~~66. Any notice to be given to or by any person pursuant to the Articles shall be in writing except that a notice calling a meeting of the directors need not be in writing.

~~61~~67. The Company may give any notice to a member either personally or by sending it by post in a prepaid envelope addressed to the member at his registered address or by leaving it at that address. Any member whose registered address is not within the United Kingdom shall be entitled to have notices given to ~~him~~the relevant member at that address.

~~62~~68. A member present, either in person or by proxy, at any meeting of the Company shall be deemed to have received proper notice of the meeting, and, where requisite, of the purposes for which it was called.

## WINDING UP

~~63~~69. If the Company is wound up, the liquidator may, with the sanction of ~~an~~extraordinary special resolution of the Company and any other sanction required by the Acts, divide among the members in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and 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 the assets in trustees upon such trusts for the benefit of the members as he with the like sanction determines, but no member shall be compelled to accept any assets upon which there is a liability.

## INDEMNITY

6470. Subject to the provisions of the Acts, but without prejudice to any indemnity to which he may otherwise be entitled, each person who is a director or secretary of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses and liabilities incurred by ~~him~~the director or secretary in the proper execution of ~~his~~relevant duties or the proper exercise of ~~his~~relevant powers, authorities and discretions including, without limitation, a liability incurred:

- (a) defending proceedings (whether civil or criminal) in which judgment is given in his favour or in which he is acquitted, or which are otherwise disposed of without a finding or admission of material breach of duty on his part; or;
- (b) in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

6571. The directors may exercise all the powers of the Company to purchase and maintain insurance for the benefit of a person who is or was:

- (a) a director, secretary or auditor of the Company or of a company which is or was a subsidiary undertaking of the Company or in which the Company has or had an interest (whether direct or indirect); or
- (b) trustee of a retirement benefits scheme or other trust in which a person referred to in the preceding paragraph is or has been interested,

indemnifying him against liability for negligence, default, breach of duty or breach of trust or other liability which may lawfully be insured against by the Company.

| \_\_\_\_\_

| ~~NAME[S] AND ADDRESS[ES] OF SUBSCRIBER[S]~~

| \_\_\_\_\_

| \_\_\_\_\_

| ~~DATED this [ ] day of [ ]~~

| ~~WITNESS to the above signature[s]:~~

**SCHEDULE 1**

**TABLE A**