

Annex 2



TENGKU DATO' SRI ZAFRUL TENGKU ABDUL AZIZ  
DIRECTOR  
CIMB BANK BERHAD

THE COMPANIES ACT, 2016

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COMPANY LIMITED BY SHARES

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CONSTITUTION  
OF  
**CIMB BANK BERHAD**

- (1) The name of the Company is CIMB BANK BERHAD.
- (2) The registered office of the Company will be situated in Malaysia.

**INTERPRETATION**

- (3) In this Constitution, unless inconsistent with the subject or context, the words standing in the first column of the table next hereinafter contained shall bear the meaning set opposite to them respectively in the second column thereof.

Words	Meanings
The Company	CIMB Bank Berhad.
The Act	The Companies Act, 2016 of Malaysia (Act 777) or any statutory notification amendment or re-enactment thereof for the time being in force.
The Banking Act	The Financial Services Act, 2013 or any statutory notification, amendment or re-enactment thereof for the time being in force concerning banking and affecting the Company.
This Constitution	this Constitution, as originally framed or as from time to time altered by Special Resolution and "Article" means any one article contained in this Constitution.
Chairman	The Chairman of the Board of Directors.
Dividend	Includes bonus.
Directors	The Directors for the time being of the Company or such number of them as has authority to act for the Company and includes any person duly appointed and acting for the time being as Alternate Director.
Market Day	Any day from Monday to Friday (all inclusive) which is not a public holiday or a day on which The Kuala Lumpur Stock Exchange is closed for trading.

Words	Meanings
Members	Any registered holder of shares or stocks in the Company.
Month	Calendar month
Office	The registered office of the Company for the time being.
Paid-up	Includes credited as paid-up.
Seal	The Common Seal of the Company or in appropriate cases the official Seal or duplicate Common Seal.
Secretary	The Secretary or joint Secretaries appointed under these Articles shall include any person appointed to perform the duties of Secretary temporarily.
Senior Member	The person whose name stands first in the Register of Members with respect to any registered share to which two or more persons are jointly entitled.
The Stock Exchange	The Stock Exchange upon which the Company is listed.
In writing	Written or produced by any substitute for writing or partly one and partly another.
Year	Calendar year.

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 gender.

Words importing persons shall include corporations and associations of persons.


The expression "debenture" and "debenture-holder" shall include "debenture-stock" and "debenture-stock-holder".

Save as aforesaid, any words or expressions defined in the Act shall, if not inconsistent with the subject or context, bear the same meaning in these presents. The marginal notes are inserted for convenience only and shall not affect the construction of these presents.

- (4) The objects for which the Company is established are:
- (a) to establish and carry on the business of a bank, whereof the head office or place of business shall be in Malaysia with such branches or agencies as may from time to time be determined;
  - (b) (i) To carry on the business of Banking in all its Branches and Departments wherever located including the borrowing, raising or taking up of money, the lending or advancing of money either upon or without security and either in the form of cash credits, overdrafts, demand and term loans, instalment credits or otherwise, the buying and selling of foreign

exchange, the drawing, making, accepting, discounting, buying and selling of, collecting and dealing in; or exchange, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments and securities whether transferable or negotiable or otherwise, the granting and issuing of letters of credit, marginal letters of credit, traveller's cheques and circular notes, the buying and selling of and dealings in bullion and specie and foreign bank notes, the engaging and entering into operations in foreign exchange, the acquiring, holding, issuing on commission, underwriting, and dealing in stock, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds, the purchasing and selling of bonds, scrips or other forms of securities on behalf of constituents, others, the negotiating of loans and advances, the receiving of money and all kinds of bonds, scrips or valuables on deposit or for safe custody or otherwise, the collecting and transmitting of money and securities, the managing of property and the transacting of all kinds of agency business commonly transacted by bankers;

- (ii) To involve in derivatives activities, including in the KLIBOR Futures activities.
- (c) to carry on the business of godown keepers or warehousesmen and to hire, purchase, erect or otherwise to acquire a warehouse or godown or warehouse or godowns for any of the purposes of the Company;
- (d) to issue on commission, subscribe for, take acquire, and hold, sell, exchange, and deal in shares, stocks, bonds, obligations, or securities of any government authority or company;
- (e) to form, promotes, subsidise, and assist companies, syndicates, and partnership of all kinds;
- (f) to give any guarantee for the payment of money or the performance of any obligation or undertaking;
- (g) to act as agents for any government or other authority or person;
- (h) to undertake and execute any trusts the undertaking whereof may seem desirable, and also to undertake the office of executor, administrator, receiver, treasurer, registrar or auditor, and to keep for any company, government authority, or body, any register relating to any stocks, funds, shares, or securities, or to undertake, funds, shares, or securities, or to undertake any duties in relation to the registration of transfers and the issue of certificates;
- (i) to acquire, improve, manage work, develop, exercise all rights in respect of, lease, mortgage, sell, dispose of, turn to account, and otherwise deal with, property of all kinds, and in particular land, buildings, concessions, patents, business concerns and undertaking;

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- (j) to enter into any arrangement with any government or authorities supreme, municipal, local or otherwise, that may seem conducive to the Company's objects, or any of them, and to obtain from any such government or authority, any rights, privileges, and concessions which the Company may think it desirable to obtain, and to carry out, exercise, and comply with any such arrangements, rights, privileges, and concessions;
  - (k) to take or concur in taking all such steps and proceedings as may seem best calculated to uphold and support the credit of the Company, and to obtain and justify public confidence, and to avert or minimise financial disturbances which might affect the Company;
  - (l) to promote any company or companies for the purpose of acquiring all or any of the property, rights and liabilities of this Company, or for any other purpose which may seem directly or indirectly calculated to benefit this Company;
  - (m) to promote, effect, insure, guarantee, underwrite, participate in, manage and carry out any issue, public or private, or other loans or shares, stocks, debentures, or debenture stocks of any company, corporation or association and to lend money for the purpose of any such issue;
  - (n) to promote or finance or assist in promoting or financing any business undertaking or industry, either existing or new, and to develop or form the same either through the instrumentality of syndicates or otherwise;
  - (o) to manage, sell and realise all property movable and immovable which may come into the possession of the company in satisfaction or part satisfaction of any of its claims;
  - (p) to acquire and hold and generally deal with any property and any right, title to, interest in any property movable or immovable which may form part of the security for any loans or advance or which may be connected with any such security;
  - (q) to acquire, construct, maintain and alter any building or works necessary or convenient for the purposes of the company;
  - (r) to amalgamate with any company having objects altogether or in part similar to those of this Company and to enter into partnership or into any arrangement for sharing profits, union of interest, co-operation, joint adventure or reciprocal concession, with any person or company carrying on or engaged in, or about to carry on or engage in any business or transaction which this Company is authorised to carry on or engage in, or any business or transaction capable of being conducted so as directly or indirectly to benefit this Company; and to lend money to, guarantee the contracts of, or otherwise assist, any such person or company, and to take, or otherwise acquire shares and securities of any such company, and to sell, hold, re-issue, with or without guarantee, or otherwise deal with the same;

- (s) subject always to the proviso lastly hereinafter contained to carry on or be interested in all kinds of insurance business, hire purchase and deferred payment business, or other undertakings or operations commonly carried on or undertaken by bankers, capitalists, promoters, financiers or concessionaries, and any other business of any kind whatsoever which may seem to the Company capable of being conveniently carried on in connection with any business of the Company or calculated directly or indirectly to enhance the value of or facilitate the realisation of the development of, or render profitable, any of the Company's property or rights and to manage real and personal properties and investments either for the Company or for others;
- (t) to take, or otherwise acquire, and hold shares in any other company local or foreign having objects altogether or in part similar to those of this company, or carrying on any business capable of being conducted so as directly or indirectly to benefit this Company;
- (u) to acquire and undertake the whole or any part of the business, property and liabilities of any person or company carrying on any business capable of being conducted so as directly or indirectly to benefit this Company;
- (v) to pay for any property or rights to be acquired by the Company either in cash or shares with or without preferred or deferred rights or by any securities which the Company has power to issue, and generally on such terms as the Company may determine;
- (w) to obtain, or in any way assist in obtaining any ordinance, enactment or any legislative authority, for enabling this or any other company to carry any of its objects into effect, or for effecting any modification of this or any other company's constitution, or for any other purpose, and to oppose any legislation, proposals, proceedings, schemes or applications whether indicated in this paragraph or not which may seem calculated directly or indirectly to prejudice this or any other company, and to procure this or any other company to be legalised, registered, or incorporated, if necessary, in accordance with the laws of any country or state in which it may, or may propose to carry on operations;
- (x) to invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined;
- (y) to borrow or raise or secure the payment of money in such manner as the Company shall think fit, and in particular by the issue of debentures, or debenture stock perpetual or otherwise, charged upon all or any of the Company's property both present and future including its uncalled capital, and to purchase, redeem or pay off any such securitise;
- (z) to sell or dispose of the undertaking of the Company or any part thereof or any property or rights of the Company for such consideration as the Company may think fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of this Company;

- (aa) to establish and support or aid in the establishment and support of associations, institutions, funds, trust and conveniences to benefit employees or ex-employees of the Company or the dependants or connections of such person, and to grant pensions and allowances, and to make payments towards insurance, and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition, or for any public, general or useful objects;
- (bb) to pay all, or any part of the expenses of and preliminary and incidental to the promotion, formation, establishment and registration of the Company or of any other company promoted, formed, established or registered by or on behalf of the Company, and all commission, brokerage, discount underwriting and other expenses lawfully payable which may be deemed expedient for taking placing or underwriting all or any of the shares or debentures or other obligations of the Company, or of any Company so promoted, formed, established or registered by the Company;
- (cc) to do all or any of the above things in any part of the world, and as principals, agents, contractors, trustees or otherwise and either alone or by or through trustees, agents or otherwise, or in conjunction with others;
- (dd) to do all such other things as are incidental or conducive to the attainment of the above objects or any of them;
- (ee) to distribute any of the property of the Company among the members in specie or otherwise.

AND IT IS HEREBY DECLARED that the word "company" in this clause shall be deemed to include any partnership or other body of persons, whether incorporated or not incorporated, and whether domiciled in Malaysia or elsewhere, and the intention is that the objects specified in each sub-clause of this paragraph shall except where otherwise expressed in such sub-clause of this paragraph shall except where otherwise expressed in such sub-clause be in no wise limited or restricted by reference to or inference from the terms of any other sub-clause or the name of the Company, and the Company shall have full power to exercise all or any of the objects conferred by this Constitution in any part of the world PROVIDED ALWAYS that nothing in this Constitution contained shall empower the Company to carry on the business of Life Assurance or to reinsure any risks under any class of assurance business to which any act relating thereto applies.

- (5) The Company shall be capable of exercising all the functions of a body corporate and have the full capacity to carry on or undertake any business or activity permitted by the law.
- (6) The shares in the original capital or increased capital 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 dividend, capital, voting or otherwise.

## **BUSINESS**

### **Any branch of business, either expressly or by implication authorised may be undertaken by Directors**

- (7) (a) Any branch or kind of business which by the Memorandum of Association of the Company, or these Articles, is either expressly or by implication authorised to be undertaken by the Company may be undertaken by the Directors at such time or times as they think fit, and further may be suffered by them to be in abeyance, whether such branch or kind of business may have been actually commenced or not, so long as the Directors may deem it expedient not to commence or proceed with such branch or kind of business.

### **Office situation**

- (b) The Office shall be at such place as the Board shall from time to time appoint.

### **Purchase of Company's shares**

- (8) No part of the funds of the Company or any subsidiary thereof shall be employed by the Directors of the Company in the purchase of the Company's shares except in circumstances permitted under the Act and the Banking Act.

### **Offer of Company's shares to the public**

- (9) (a) No allotment shall be made of any shares of the Company offered to the public or offered for subscription or purchase or where an invitation to subscribe for or purchase shares is made under a prospectus that is registered under the Capital Markets and Services Act 2007 unless the minimum subscription has been subscribed and the sum payable on application for the shares so subscribed has been received by the Company and the Company shall comply with the provisions of Section 78 and 186 of the Act.

### **Minimum subscription**

- (b) The minimum subscription shall be calculated on the offer price of each share, and reckoned exclusively of any amount payable otherwise than in cash.

### **Minimum payable on application**

- (c) The amount payable on application on each share offered to the public shall not be less than five (5) per centum of the offer price of the share.

## **Issue of Shares / Redeemable Preference Shares**

- (10) Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, any share in the Company may be issued with such preferred, deferred or other special rights, or such restrictions, whether in regard to dividend, return of capital, voting or otherwise, as the Company may from time to time by Special Resolution determine, and subject to the provisions of the Act the Company may issue preference shares which are, or at the option of the Company are liable, to be redeemed on such terms and in such manner as the Company before the issue thereof may be Special Resolution determine.

## **Rights of preference shareholders as regards notices of meeting**

- (11) Notwithstanding for foregoing Article on any issue of preference shares, preference shareholders will be deemed to have the same rights as ordinary shareholders as regards the receiving of notice, reports and balance sheets and the attending of General Meetings of the Company. Preference shareholders shall also have the right to vote at any meeting convened for the purpose of reducing the capital or winding up or sanctioning a sale of the undertaking or where the proposal to be submitted to the meeting directly affects their rights and privileges or when the dividend on the preference shares is more than six months in arrears.

## **Issue of Preference Shares**

- (12) The total nominal value of issue preference shares shall not at any time exceed the total nominal value of the issued ordinary shares.

### **(13) Rights And Restrictions Of Perpetual Preference Shares**

(a) Definition

In these Articles, "Perpetual Preference Shares" means the perpetual preference shares each in the capital of the Company subject to the terms specified herein.

(b) Rights attached to Perpetual Preference Shares

Subject to the Act, the rights and restrictions attached to the Perpetual Preference Shares are set out in these Articles.

(c) No right to Dividend

Unless otherwise sanctioned by a resolution passed at a general meeting of the Company, a Perpetual Preference Share does not confer on the holder ("PPS Holder") the right to be paid any dividend.



(d) No Redemption or Buy Back

The Company may not redeem or buy back any portion of the Perpetual Preference Shares save and except for by way of capital reduction in accordance with the Act and the approval of Bank Negara Malaysia.

(e) Rights of PPS Holder

A Perpetual Preference Share confers on the PPS Holder the right, on a winding up or other return of capital, to receive repayment in full of the capital paid up or credited as paid up on the Perpetual Preference Share in priority to the holders of ordinary shares but shall rank pari passu with the holders of the other classes of preference shares.

(f) Preference Rights

The PPS Holder has the right to receive the payment referred to in Article 13(e) in priority to any payments to be made to the holders of ordinary shares in the capital of the Company but shall rank pari passu with the holders of the other classes of preference shares.

(g) Right to Vote on Matters Concerning Rights of the holder of Perpetual Preference Share

A PPS Holder has the right, on a poll at any general meeting of the Company, to one vote for each Ringgit Malaysia One (RM1.00) or part of a Ringgit Malaysia One (RM1.00) that is paid up on each Perpetual Preference Share held by him:

- (i) Upon any resolution which varies the rights attached to the Perpetual Preference Shares as set out under Article 12 (k); and
- (ii) Upon any resolution for the winding up of the Company.

(h) No right to Vote at General Meetings of Ordinary Shareholders

Except as provided in Article 12(g), a PPS Holder has no right to vote at general meetings of the holders of ordinary shares of the Company.

(i) Transfer of Perpetual Preference Share

A PPS Holder may not transfer his Perpetual Preference Share or any interest (whether legal, equitable, contingent, future or partial) in any of his Perpetual Preference Shares except as permitted under these Articles.

(j) Rank of Perpetual Preferences Shares amongst themselves

The Perpetual Preference Shares shall rank pari passu among themselves.

(k) Variation of rights

Any act varying or affecting the enjoyment or value of any right attached to the Perpetual Preference Shares must be done with the consent or sanction of the PPS Holder.

(l) No Conversion Rights

The Company may not convert any Perpetual Preference Share into an ordinary share of the Company.

(14) (a) Variation with consent

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-quarters in nominal value of the issued shares of that class, or with the sanction of a resolution passed at a separate meeting of the holders of the shares of the class.

(b) General Provisions of meetings of shareholders of a particular class

The provisions of these Articles relating to general meetings apply so far as they are capable of application and with any necessary changes to every such separate meeting except that:

- (i) A quorum is constituted by two persons present in person or by proxy; and
- (ii) Any holder of shares of the class, present in person or by proxy, may demand a poll,

And in the case where there is only one party who is the holder of a particular class of shares, the law, regulation and policies in force at the material time, (including without limitation, the provisions of the Act in respect of meetings) and deliver on behalf of the Company all such documents and do all such acts as they may in their absolute discretion deem necessary or expedient in order to finalise, implement and give full effect to and complete the proposals with full power to approve and assent to any amendment, alterations, modification and/or variation to the proposals and/or such relevant documents.

(15) **Rights and restrictions of Redeemable Preference Shares**

(a) Definition

In these Articles "Redeemable Preference Shares" means the fully paid up redeemable preference shares in the capital of the Company subject to the terms as specified herein.

(b) Features of the Redeemable Preference Shares

Subject to the Act, the rights attached to the Redeemable Preference Shares are set out in these Articles. The Redeemable Preference Shares will be fully paid up upon issue and allotment and will not be earmarked to any particular asset or banking activities. The Redeemable Preference Shares will be able to absorb the losses occurring in the course of on-going business and will not represent any fixed charge on the earnings of the Company.

(c) Right to Dividend

A Redeemable Preference Share confers on a holder the right to be paid non-cumulative gross dividend at the rate of 3.6% per annum on issue price of the Redeemable Preference Share ("RPS Dividend") payable annually in arrears on the anniversary of the issue date ("RPS Dividend Date") subject to the restrictions as described under paragraph (d) "Mandatory Deferral of Dividends".

(d) Dividend Payment

The payment of the RPS Dividend is at the Company's discretion.

(e) Dividend Period

The Dividend Period shall be the period from (and including) the issue date for the Redeemable Preference Shares to (but excluding) the first dividend payment date and each period from (and including) a dividend payment date to (but excluding) the next succeeding dividend payment date.

(f) Mandatory Deferral of Dividends

The Company may not pay or make any payment in respect of any dividend if at any time:

- (i) the Company is prevented by applicable Malaysian banking regulations or other requirements of Bank Negara Malaysia ("BNM") from making payment in full of dividends on the Redeemable Preference Shares or other distributions when due on Parity Obligations;
- (ii) either: (a) the Company's unconsolidated Tier 1 capital ratio falls below 5%; or (b) the Company is in breach of or is unable to make such payment of dividends on the Redeemable Preference Shares or other

distributions on Parity Obligations without causing a breach of, the BNM consolidated or unconsolidated capital adequacy requirements from time to time applicable to the Company;

- (iii) the aggregate of the amount of such dividend (if paid in full) together with the sum of any other dividends and other distributions originally scheduled to be paid (whether or not paid in whole or in part) during the Company's then-current fiscal year on the Redeemable Preference Shares and the Parity Obligations, would exceed the Distributable Reserves as of the relevant Dividend Determination Date.

If on a dividend payment date, dividend cannot be paid in full on the Redeemable Preference Shares due to one of the limitations described above but the Company has Distributable Reserves, then each Redeemable Preference Share will entitle its holder to receive the Relevant Proportion (as defined below) of such Distributable Reserves.

Unless otherwise stated the following terms in this Article 14 shall have following meanings:

"Dividend Determination Date" means the fifth Market Day prior to a dividend payment date.

"Parity Obligations" means:

- (i) any preference shares or other preferred securities issued by the Company ranking *pari passu* with the Company's obligations under the Redeemable Preference Shares that:
  - (A) constitute Tier 1 capital of the Company on an unconsolidated basis; or
  - (B) have characteristics that could enable them to qualify as Tier 1 capital of the Company on an unconsolidated basis; or
- (ii) any preference shares or other preferred securities issued by any of the Company's subsidiary and entitled to the benefit of a guarantee or other support agreement of the Company ranking *pari passu* with the Redeemable Preference Shares, that:
  - (A) constitute Tier 1 capital of the Company on an unconsolidated or consolidated basis; or
  - (B) have characteristics that could enable them to qualify as Tier 1 capital of the Company on an unconsolidated or consolidated basis.

"Distributable Reserves" means, at any time, the amounts for the time being which are available to the Company for distribution as a dividend in compliance with Section 365 Act as of the date of the Company's latest audited balance sheet.

"Relevant Proportion" means:

- (i) in relation to any partial payment of a dividend, the amount of Distributable Reserves as of the relevant Dividend Determination Date divided by the sum of:
  - (A) the full amount originally scheduled to be paid by way of dividend (whether or not paid in whole or part) during the Company's then-current fiscal year; and
  - (B) the sum of the full amount of any dividends or other distribution or payments in respect of the Parity Obligations originally scheduled to be paid (whether or not paid in whole or part) during the Company's then-current fiscal year,

converted where necessary at the prevailing exchange rate as determined by the Calculation Agent in its discretion into the same currency in which Distributable Reserves are calculated by the Company; and

- (ii) in relation to any partial payment of any Liquidation Distribution (as defined under "Rights upon Liquidation"), the total amount available under applicable law for any such payment and for making any liquidation distribution on any Parity Obligations divided by the sum of:
  - (A) the full Liquidation Distribution (before any reduction or abatement under the these Articles); and
  - (B) the sum (before any reduction or abatement under these Articles) of the full liquidation distributions on any Parity Obligations,

converted where necessary at the prevailing exchange rate as determined by the Calculation Agent in its discretion into the same currency in which liquidation payments are made to creditors of the Company.

- (g) Dividend Stopper

If the Company has not paid any due and payable dividends in full on the Redeemable Preference Shares during a Dividend Period, it will not during the same Dividend Period:

- (i) pay any dividends or other distributions in respect of its ordinary shares or any other security or obligation of the Company ranking junior to the Redeemable Preference Shares; or
- (ii) effect any repurchase or redemption of its ordinary shares, any other security or obligation of the Company ranking junior to the Redeemable Preference Shares or any Parity Obligations (except pro rata payments on Parity Obligations as described above under "Mandatory Deferral of Dividends").

(h) Rights Upon Liquidation

In the event of the dissolution or winding-up of the Company, each holder of the Redeemable Preference Shares will, subject to certain limitations and applicable law, be entitled to receive Liquidation Distribution out of the assets of the Company available for distribution.

The Liquidation Distribution will be made after the claims (if any) of all other creditors of the Company which are not subordinated to the Redeemable Preference Shares.

Unless otherwise stated in this Article 14, the following terms shall have the following meanings:

"Liquidation Distribution" means, upon a dissolution or winding-up of the Company:

- (i) the Liquidation Preference; and
- (ii) an amount equal to any accrued but unpaid dividend (whether or not declared) in respect of a Dividend Period (or part thereof) falling in the 12 months prior to the date of the dissolution or winding-up.

"Liquidation Preference" means the total value of the Redeemable Preference Shares.

Notwithstanding the availability of sufficient assets of the Company to pay any Liquidation Distribution to holders of the Redeemable Preference Shares as aforesaid, if, at the time such Liquidation Distribution is to be paid, proceedings have been commenced for the voluntary or involuntary liquidation, dissolution or winding-up of the Company other than pursuant to a Permitted Reorganisation, the Liquidation Distribution payable for each Redeemable Preference Shares shall be ranked:

- (i) junior in the following order to (i) the claims of all depositors of BCB, (ii) all statutorily preferred payments, and (iii) the claims of all creditors of the Company ranking in seniority to the Redeemable Preference Shares;
- (ii) *pari passu* with Parity Obligations, if any, issued by the Company and any guarantee or support agreement or other instrument of the Company ranking *pari passu* with the Redeemable Preference Shares, and
- (iii) senior to Junior Share Capital.

"Permitted Reorganisation" means a solvent reconstruction, amalgamation, reorganization, merger or consolidation whereby all or substantially all the business, undertakings and assets of the Company are transferred to a successor entity which assumes all the obligations of the Company under the subordinated guarantee.

“Junior Share Capital” means ordinary shares of the Company, together with any other securities or obligations which rank or are expressed to rank junior to the Parity Obligations and to any preference shares issued in substitution for any such Parity Obligations or the Redeemable Preference Shares.

In the event of an order being made for the liquidation, dissolution or winding-up of the Company (other than pursuant to a Permitted Reorganisation) or a declaration being made that the Company is insolvent, the amount for each Redeemable Preference Share to which holders of the Redeemable Preference Share will be entitled as a Liquidation Distribution will be as described above. If in such event, a Liquidation Distribution cannot be paid in full on the Redeemable Preference Shares due to insufficient funds being available to the Company, then each Redeemable Preference Share will entitle its holder to receive such Relevant Proportion of such Distributable Reserves. However, no payment will be made by, or may be claimed from the Company in respect of any Liquidation Distribution or portion thereof to the extent that it is not paid due to the reason aforesaid.

“Calculation Agent” means such entity as the Board of Directors of the Company or an authorized committee thereof shall appoint to act as calculation agent and notified to the holders of the Redeemable Preference Shares.

(i) Rank of Redeemable Preference Shares

The Redeemable Preference Shares shall rank *pari passu* amongst themselves and rank senior only to the Company's ordinary shares.

(j) No Right to Vote at General Meeting of Ordinary Shareholders

A holder of Redeemable Preference Shares has no right to vote at any general meeting of the ordinary shareholders of the Company save and except for the right on a poll at any general meeting of the Company to one vote for each fully paid up Redeemable Preference Share held by him to vote upon:

- (i) any resolution which varies the rights attached to the Redeemable Preference Shares as set out under Article 14; and
- (ii) any resolution for the winding up of the Company.

(k) Rights of Redeemable Preference Share Holder

A Redeemable Preference Share confers on its holder the right with respect to the repayment of capital on a winding-up, liquidation or dissolution the right to rank in priority to the holders of ordinary shares of the Company but shall rank *pari passu* with the holders of the other classes of preference shares.

(l) Preference Right

The holder of Redeemable Preference Share has the right to receive the repayment referred to in Article 14(k) in priority to any payments to be made

to the holders of ordinary shares in the capital of the Company but shall rank *pari passu* with the holders of the other classes of preference shares.

(m) Tenure and Redemption

The Redeemable Preference Shares shall be permanently available. Nevertheless, the Company may at its option redeem any portion of the Redeemable Preference Shares at the Redemption Value subject to the approval of Bank Negara Malaysia at any time from the issue date.

(n) Redemption Value

The Redeemable Preference Shares may only be redeemed at the option of the Company but not the holders of the Redeemable Preference Shares, at the Issue Price subject to approval of Bank Negara Malaysia at any time from the issue date of the Redeemable Preference Share where not less than 3 Market Days' notice or such shorter notice as the holder of the Redeemable Preference Share may agree in writing must be given and Replacement Capital (as defined below) with aggregate proceeds to the Company equal to or greater than the aggregate Liquidation Preference of the Redeemable Preference Shares has been raised within 6 months prior to the relevant redemption date. If redemption is not on the RPS Dividend Date, then the amount of dividend payable shall be pro-rated for the period since the last RPS Dividend Date.

For the purposes of this Article:

"Replacement Capital" means either:

- (i) ordinary shares of the Company;
- (ii) any security issued by the Company, ranking *pari passu* with or junior to the Redeemable Preference Shares; or
- (iii) any other instruments issued by a subsidiary of the Company and entitled to the benefit of guarantee or other support agreement of the Company that constitutes Tier 1 capital of the Company on an unconsolidated or consolidated basis or have characteristics that could enable them to so qualify.

(o) Transfer of Redeemable Preference Shares

A holder of Redeemable Preference Shares may not transfer his Redeemable Preference Share or any interest (whether legal, equitable, contingent, future or partial) in any of his Redeemable Preference Shares to any party.

(p) Convertibility of Redeemable Preference Shares

The Redeemable Preference Shares are not convertible to ordinary shares.



(q) No Listing of Redeemable Preference Shares

The Redeemable Preference Shares will not be listed on any Stock Exchange.

(r) Variation with consent

Any act varying or affecting the enjoyment or value of any right attached to the Redeemable Preference Share must be done with the consent in writing of the holders of the Redeemable Preference Share."

(16) Rights and restriction of 6.62% Non-Cumulative Redeemable Preference Shares

The 6.62% non-cumulative redeemable preference shares (the "Preference Shares") referred to in Article 15 shall have attached thereto the following rights privileges and restrictions, that is to say:

(a) Denomination

Each Preference Share will be RM0.10, with an issue price and liquidation preference of USD1,000 (the "Liquidation Preference").

(b) Dividends

(i) Subject to sub-paragraphs (8) and (9) below, each Preference Share will entitle the Holder thereof to receive a non-cumulative preferential cash dividend on the Liquidation Preference calculated on the bases set out in sub-paragraphs (4) and (5) below. The dividend will be payable semi-annually in arrears on 2 May and 2 November in each year up to and including 2 November 2015 (the "First Optional Redemption Date") and thereafter quarterly in arrears on 2 February, 2 May, 2 August and 2 November in each year (each a "Dividend Date") when, as and if declared by the Board of Directors of the Company (or an authorised committee thereof), provided that the first dividend will be paid in respect of the period from, and including, the Dividend Date immediately preceding the date on which the Preference Shares are issued (the "Issue Date") to, but excluding, the first such Dividend Date after issue. If any Dividend Date would otherwise fall on a day which is not a Business Day, payment of the Dividend otherwise payable on such date will be postponed to the next day which is a Business Day.

(ii) Any further issuances by the Company of any shares in its capital from time to time as Preference Shares subject to and in accordance with Malaysian law and the Articles shall have such rights and shall bear such designation as the Board of Directors of the Company (or an authorised committee thereof) shall prescribe prior to their issue. All of the Preference Shares will rank pari passu with each other with respect to participation in profits and assets. The Preference Shares will rank as regards participation in profits pari passu with all other shares to the extent that they are expressed to rank pari passu therewith and in priority to the Company's ordinary shares. In the event of a winding up of the

Company, the Preference Shares would rank junior to the USD200,000,000 6.125 per cent. Subordinated Notes due 2014 and RM300,000,000 8.0% 10-year non-callable 5- year Subordinated Bonds due 2012, each issued by the Company. The Company shall not issue any other preference shares ranking, as to participation in the profits or the assets of the Company, senior or in priority to the Preference Shares or any other Parity Obligations of the Company (as defined below), unless approved by the Holders of the Company, acting as a single class in accordance with paragraph (v) – “Voting” below.

- (iii) For the purposes of this Article, “Dividend Period” means the period from, and including, where the Preference Shares are issued in substitution for preference shares issued by a subsidiary of the Company, the dividend date with respect to such preference shares immediately preceding the Issue Date to, but excluding, the First Dividend Date and each successive period from, and including, a Dividend Date to, but excluding, the next succeeding Dividend Date; “Business Day” means, a day other than a Saturday or Sunday on which commercial banks are open for general business in New York City and Kuala Lumpur, provided that, in the case of a day on which payments in United States dollars are to be made, it shall mean a day other than a Saturday or Sunday on which commercial banks and foreign exchange markets settle payments in United States dollars and are open for general business in London and New York City.
- (iv) Each Preference Share in issue on or prior to the First Optional Redemption Date will entitle the Holder thereof to receive for each Dividend Period ending on or prior to the First Optional Redemption Date dividends, payable in United States dollars at a fixed rate per annum of 6.620% of the Liquidation Preference thereof, calculated on the basis of the number of days in the relevant period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months and in the case of an incomplete month the number of days elapsed).
- (v) Each Preference Share in issue after the First Optional Redemption Date will entitle the Holder thereof to receive on each Dividend Date falling after the First Optional Redemption Date dividends payable in United States dollars at a floating rate per annum equal to three-month LIBOR in effect during the relevant Dividend Period plus 2.53%, calculated on the basis of the actual number of days in the relevant period divided by 360.

“three-month LIBOR” means, in respect of any Dividend Period, the rate for deposits in U.S. dollars determined by any calculation agent appointed by the Board of Directors from time to time which appears on page 3750 of Telerate as of approximately 11 a.m., London time, on the second London business day prior to the first day of such Dividend Period; provided that, if, at such time, no such rate appears or the relevant Telerate page is unavailable, such calculation agent will request appropriate quotations and will determine the arithmetic mean of the rates at which deposits in U.S. dollars are offered by three major banks (or, if fewer than three rates are so quoted, two major banks, or, if fewer than

two rates are so quoted, one major bank) in the London interbank market, selected by such calculation agent, at approximately 11 a.m. London time on the second London business day prior to the first day of such Dividend Period to prime banks in the London interbank market for a period of three months and in an amount that is representative for a single transaction in the relevant market at the relevant time.

- (vi) Any decision regarding the declaration or payment of any dividend on Preference Shares will be at the sole discretion of the Board of Directors of the Company and, subject to sub-paragraph (7) below, nothing herein contained will impose on the Board of Directors of the Company any requirement or duty to resolve to distribute in respect of any fiscal year or period the whole or any part of the profits of the Company available for distribution.
- (vii) If, during any fiscal year of the Company, the Company pays or makes or proposes to pay or make:
  - (A) any distribution in the form of a dividend in compliance with Section 365 of the Companies Act or any other distribution or payment in respect of the ordinary share capital issued by the Company or Parity Obligation with respect to the Preference Shares; or
  - (B) a partial distribution or payment in respect of any Parity Obligation with respect to the Preference Shares,

the Company will be required, subject to sub-paragraph (8) below, to pay on the date falling five Business Days following the date of such dividend distribution, other distribution or payment an amount equal to the unpaid amount (if any) of Dividends in respect of Dividend Periods (or part thereof) falling in the 12 months immediately preceding the date of such dividend distribution, other distribution or payment.

"Parity Obligations" means (i) any preference shares or other preferred securities of the Company that (a) constitute Tier-1 capital of the Company on an unconsolidated basis or (b) have characteristics that could enable them to qualify as Tier-1 capital of the Company on an unconsolidated basis and are not expressly stated to rank in all material respects senior or junior to the Company's obligations under the Preference Shares or (ii) any other preference securities (not constituting debt obligations) having in all material respects the same ranking as preference shares, issued by any subsidiary of the Company, that (a) constitute Tier-1 capital of the Company on an unconsolidated basis or (b) have characteristics that could enable them to qualify as Tier-1 capital of the Company on an unconsolidated basis and are not expressly stated to rank in all material respects senior or junior to the Preference Shares.

- (viii) The Company will not be obligated to pay any Dividends on the relevant Dividend Date if:

- (A) the Company is prevented by applicable Malaysian banking regulations or other requirements of BNM from making payment in full of dividends or other distributions when due on Parity Obligations; or
  - (B) the Company is unable to make such payment of dividends or other distributions on Parity Obligations without a not insubstantial risk of causing a breach of BNM's published consolidated or unconsolidated capital adequacy requirements from time to time applicable to the Company; or
  - (C) the aggregate of the amount of such Dividends (if paid in full), together with the sum of any other dividends and other distributions originally scheduled to be paid (whether or not paid in whole or part) during the Company's then-current fiscal year on the Preference Shares or Parity Obligations, would exceed the Distributable Reserves as of the Dividend Determination Date.
- (ix) If, whether by reason of the provisions of sub-paragraph (8) above or any equivalent article or term of a Parity Obligation, on the relevant Dividend Date, a Dividend is not paid in full or dividends or other distributions are not paid in full on any Parity Obligations, but on such Dividend Date there are Distributable Reserves, then each Holder will be entitled to receive the Relevant Proportion of any such Dividend. No Holder shall have any claim in respect of any Dividend or part thereof not payable as a result of the limitations set out in sub-paragraph (8) above. Accordingly, such amount will not accumulate for the benefit of the Holders or entitle such Holders to any claim in respect thereof against the Company.

"Distributable Reserves" means, at any time, the amounts for the time being of the Company which are available to the Company for distribution as a dividend in compliance with Section 365 of the Companies Act ("Available Amounts") as of the date of the Company's latest audited balance sheet; provided that if the Board of Directors of the Company reasonably believes that Available Amounts as of any Dividend Determination Date with respect to a Dividend are (i) lower than Available Amounts as of the date of the latest audited balance sheet and (ii) are insufficient to pay such Dividend and payments on Parity Obligations on the relevant Dividend Date then (a) two Directors of the Board shall be required to provide a certificate, on or prior to such Dividend Determination Date, to the Holders of Preference Shares (accompanied by a certificate of the Company's auditors) of the Available Amounts as of such Dividend Determination Date (which certificate of the two Directors shall be binding absent manifest error), and (b) Distributable Reserves as of such Dividend Determination Date for purposes of such Dividend shall mean the Available Amounts as set forth in such certificate.

"Relevant Proportion" means, (i) in relation to any partial payment of a Dividend, the amount of Distributable Reserves as of the Dividend Determination Date divided by the sum of (x) the full amount originally scheduled to be paid by way of Dividend (whether or not paid in whole or

part) during the Company's then-current fiscal year and (y) the sum of any dividends or other distribution or payments in respect of Parity Obligations originally scheduled to be paid (whether or not paid in whole or part) during the Company's then-current fiscal year, converted where necessary into the same currency in which Distributable Reserves are calculated by the Company; and (ii) in relation to any partial payment of any Liquidation Distribution, the total amount available for any such payment and for making any liquidation distribution on any Parity Obligations divided by the sum of (x) the full Liquidation Distribution (as defined below) before any reduction or abatement under the Articles and (y) the amount (before any reduction or abatement under the Articles) of the full liquidation distribution on any Parity Obligations, converted where necessary into the same currency in which liquidation payments are made to creditors of the Company.

- (x) Payments of preferential dividends shall be made to Holders on the register at any date selected by the Board of Directors of the Company up to five Business Days prior to the relevant Dividend Date. The Preference Shares will carry no further right as regards participation in the profits of the Company.
- (xi) In the event any Dividend is not paid in full for any reason, the Company will not (a) declare or pay any dividends or other distributions in respect of its ordinary shares or any other security of the Company ranking to the Preference Shares or any Parity Obligation or (b) (if permitted) effect any repurchase or redemption of its ordinary shares or any other security of the Company ranking junior to the Preference Shares or any Parity Obligation (or contribute any moneys to a sinking fund for the redemption of any such shares, securities or obligations) in each case unless (i) and until (A) Dividends in respect of Dividend Periods (or part thereof) falling in the 12 months from and including the date such Dividends were due have been paid in full (or an amount equivalent to the Dividends in respect of Dividend Period (or part thereof) falling in the 12 months from and including the date such Dividends were due has been irrevocably set aside in a separately designated trust account for payment to the Holders of Preference Shares) or (B) an optional dividend is paid equal to the unpaid amount (if any) of Dividends in respect of Dividend Periods (or part thereof) falling in the 12 months immediately preceding the date such Dividends were due; or (ii) a special resolution of the Holders has been passed approving any such action in (a) or (b) above, and BNM does not otherwise object.
- (xii) Any dividend unclaimed after a period of six years from the date of declaration of such dividend will be forfeited and revert to the Company. No dividends or other moneys payable on or in respect of a Preference Share shall bear interest against the Company.
- (c) Liquidation Distributions
  - (i) In the event of the commencement of any dissolution or winding up of the Company (other than pursuant to a Permitted Reorganisation) before any

redemption of the Preference Shares, the Preference Shares will be subordinated to (i) firstly, the claims of all depositors of the Company; (ii) secondly, all statutorily preferred payments; (iii) thirdly, the claims of all creditors of the Company ranking in seniority to the Preference Shares, but shall not be subordinated to the claims of all creditors of the Company whose claims rank or are expressed to rank pari passu with or junior to the Preference Shares or any other of the Company's obligations which rank pari passu with or junior to the Preference Shares. On such a winding up, each Preference Share will be entitled to receive in United States dollars an amount equal to the Liquidation Distribution.

"Liquidation Distribution" means, upon a dissolution or winding up of the Company, the Liquidation Preference together with, subject to the restrictions in sub-paragraph 8 under Paragraph (ii) – "Dividends" above, any accrued but unpaid Dividend (whether or not declared) from, and including, the commencement of the Dividend Period in which the date of the dissolution or winding up falls to and including the date of actual payment;

"Permitted Reorganisation" means a solvent reconstruction, amalgamation, reorganization, merger or consolidation whereby all or substantially all the business, undertaking and assets of the Company are transferred to a successor entity which assumes all the obligations of the Company under the Preference Shares;

- (ii) If, upon any such winding up, the amounts available for payment are insufficient to cover the Liquidation Distribution and any liquidation distributions of any Parity Obligation, but there are funds available for payment so as to follow payment of part of the Liquidation Distribution, then each Holder will be entitled to receive the Relevant Proportion of the Liquidation Distribution.
- (iii) After payment of the Liquidation Distribution, no Preference Share will confer any right or claim to any of the remaining assets of the Company.

(d) Redemption

- (i) The Company may, at its option, redeem in whole, but not in part, the Preference Shares on the First Optional Redemption Date and on each Dividend Date thereafter (each an "Optional Redemption Date"), subject to the satisfaction of the Redemption Conditions and to Malaysian law.

"Redemption Conditions" means (i) that the prior written consent of BNM to the redemption, if then required, has been obtained and that any conditions that BNM may impose at the time of any consent, if then required, have been satisfied and (ii) that the Distributable Reserves of the Company as at the date for redemption equals at least the full amount of any accrued but unpaid Dividend (whether or not declared) in respect of the Dividend Period in which the relevant redemptions falls.

- (ii) If at any time a Tax Event has occurred and is continuing, then the Preference Shares may be redeemed, in whole but not in part, at the option of the Company, subject to (i) the satisfaction of the Redemption Conditions and (ii) the Company delivering to the Registrar, prior to the publication of any Redemption Notice (as defined in sub-paragraph (5) below), a certificate signed by two Directors of the Company stating that the Company is entitled to effect such redemption and an opinion of legal counsel to the Company experienced in such matters to the effect that a Tax Event has occurred. The delivery of such opinion shall constitute conclusive evidence of the occurrence of a Tax Event for all purposes of the Articles.

"Tax Event" means that, as a result of any change after the date of issuance of the Preference Shares in, or amendment to, any law or regulation of Malaysia or any political subdivision or any authority thereof or therein having power to tax, or any change in the general application or official interpretation of any law or regulation by any relevant body in Malaysia, payment to Holders would be subject to deduction or withholding for or on account of tax or would give rise to any obligation of the Company to account for any tax in Malaysia at a rate in excess of the rate in effect immediately prior to such issuance and such obligation cannot be avoided by the Company taking reasonable measures available to it.

- (iii) If at any time a Regulatory Event has occurred and is continuing, then the Preference Shares may be redeemed, in whole but not in part, at the option of the Company, subject to (i) the satisfaction of the Redemption Conditions, and (ii) the Company delivering to the Registrar prior to the publication of any Redemption Notice (as defined in sub-paragraph (5) below), a certificate signed by two Directors of the Company stating that the Company is entitled to effect such redemption and an opinion of legal counsel to the Company experienced in such matters to the effect that a Regulatory Event has occurred. The delivery of such opinion shall constitute conclusive evidence of the occurrence of a Regulatory Event for all purposes of the Articles.

"Regulatory Event" means for any reason there is more than an insubstantial risk that for the purposes of BNM's published consolidated or unconsolidated capital adequacy requirements from time to time applicable to the Company the Preference Shares may not be included in the Tier-1 capital of the Company on a consolidated or unconsolidated basis.

- (iv) Any redemption of the Preference Shares will be for cash.
- (v) If the Preference Shares are to be redeemed, a notice of redemption (a "Redemption Notice") will be mailed to each Holder of Preference Shares, not less than 30 days nor more than 60 days prior to the relevant Optional Redemption Date or Tax Event Redemption Date or Regulatory Event Redemption Date, as applicable, in accordance with Paragraph (ix) – "Notice or other Documents" below. Each Redemption Notice will specify,

inter alia, (i) the Optional Redemption Date, Tax Event Redemption Date or Regulatory Event Redemption Date, as applicable, (ii) the Redemption Price (as defined below) and (iii) the place or places where Holders may surrender share certificates (if applicable) in respect of the Preference Shares and obtain payment of the Redemption Price. No defect in the Redemption Notice or in its mailing will affect the validity of the redemption proceedings.

"Tax Event Redemption Date" means any date designated for redemption of the Preference Shares following the occurrence of a Tax Event pursuant to the provisions of sub-paragraph (2) above.

"Regulatory Event Redemption Date" means any date designated for redemption of the Preference Shares following the occurrence of a Regulatory Event pursuant to the provisions of sub-paragraph (3) above.

- (vi) The cash amount payable on redemption (the "Redemption Price") (i) in the case of a redemption pursuant to sub-paragraphs (1) or (2) above, is an amount equal to the Liquidation Preference, together with an amount equal to any accrued but unpaid Dividends (whether or not declared) in respect of Dividend Periods (or part thereof) falling in the 12 months prior to the date of the relevant redemption (except to the extent such Dividends have already been paid pursuant to the provisions of sub-paragraph (ii)(11) above) and (ii) in the case of a redemption pursuant to sub-paragraph (3) above, an amount equal to (x) for any redemption prior to the First Optional Redemption Date, an amount equal to the higher of (a) the Liquidation Preference (together with an amount equal to any accrued but unpaid Dividend (whether or not declared) in respect of Dividend Periods (or part thereof) falling in the 12 months prior to the date of the relevant redemption (except to the extent such Dividends have already been paid pursuant to the provisions of sub-paragraph (ii)(11) above)) and (b) the Make Whole Amount (if any) and, (y) for any other redemption of the Preference Shares, means the Liquidation Preference (together with an amount equal to any accrued but unpaid Dividend (whether or not declared) in respect of Dividend Periods (or part thereof) falling in the 12 months prior to the date of such relevant redemption (except to the extent such Dividends have already been paid pursuant to the provisions of sub-paragraph (ii)(11) above)). Any such redemption will not prejudice the rights of the Holder of Preference Share to be so redeemed to receive any accrued but unpaid, dividend on the Preference Share payable on the Redemption Date.

"Make Whole Amount" means, at any time prior to the First Optional Redemption Date, an amount equal to the sum of:

- (A) the present value of the Liquidation Preference; and
- (B) the present value of the remaining scheduled Dividends, to and including the First Optional Redemption Date;



in each case discounted to the relevant Regulatory Event Redemption Date, at a rate equal to the sum of (x) 0.50%; and (y) the U.S. Treasury Yield whose maturity corresponds to the remaining term to the First Optional Redemption Date expressed on a semi-annual compounding basis (rounded to four decimal places) and at 3:00 p.m. (New York Time) on the fifth Business Day prior to such Regulatory Event Redemption Date.

“U.S. Treasury Yield” means the yield determined by a calculation agent appointed by the Company, under the heading which represents the average for the immediately preceding week, appearing the most recently published statistical release designated “H.15(519)” or any successor publication which is published weekly by the Federal Reserve and which establishes yields on actively traded U.S. Treasury securities adjusted to constant maturity under the caption “Treasury Constant Maturities,” for the maturity most closely corresponding to 2 November 2015.

- (vii) Payments in respect of the amount due on redemption of a Preference Share will be made by cheque or upon the written request of the Holder or all joint Holders not later than the date specified for the purpose in the Redemption Notice by transfer to a United States dollar account maintained by the payee with a bank in New York City or such other method as the Directors may specify in the Redemption Notice. Payment will be made against presentation and surrender of the relevant share certificate (if any) at the place or one of the places specified in the Redemption Notice.
  - (viii) A receipt given by the Holder (or in the case of joint Holders by the first-named joint Holder) in respect of the amount payable on redemption of the Preference Share will constitute an absolute discharge of the Company.
- (e) Voting
  - (i) Except as provided below, Holders of Preference Shares will not be entitled to attend and vote at general meetings of shareholders of the Company. Holders of Preference Shares will be entitled to attend a class meeting of Holders of Preference Shares and Holders of Preference Shares will be entitled to vote as a single class at such meeting. Every Holder of Preference Shares who is present in person at a class meeting of a Holders of Preference Shares will have one vote on a show of hands and on a poll every Holder of Preference Shares who is present in person or by proxy will have one vote for every Preference Share of which he is the Holder.
  - (ii) If dividends in respect of Dividend Periods (or part thereof) falling in the 12 months immediately preceding any Dividend Date (x) have not been paid in full when due or (y) were not paid (whether or not due) solely because the Board of Directors of the Company failed, if required, to declare and pay such dividends, then the Holders of Preference Shares shall have the right to receive notice of, attend, speak and vote at such

general meeting on all such matters, including the winding-up of the Company, and such right shall continue until after dividends in respect of Dividend Periods (or part thereof) falling in the 12 months from and including the date such dividends were due have been paid in full or an amount equivalent to the dividends in respect of Dividend Periods (or part thereof) falling in the 12 months from and including the date such dividends were due have been irrevocably set aside in a separately designated trust account for payment to the Holders of Preference Shares.

(f) Purchases

The Company may at any time and from time to time exercise any powers conferred by applicable Malaysian law in purchasing the Preference Shares. No repurchase of any Preference Shares will be made without the prior consent of BNM (for so long as the Company is required to obtain such consent).

(g) Variations of Rights and Further Issues

- (i) The consent in writing of the Holders of at least a majority in Liquidation Preference of the outstanding Preference Shares or the sanction of a special resolution, passed at a separate general meeting by Holders of at least a majority in Liquidation Preference of the outstanding Preference Shares present in person or by proxy, shall be required in order to give effect to any variation or abrogation of the rights, preferences and privileges of the Preference Shares by way of amendment of the Articles or otherwise (including, without limitation, the authorisation or creation of any securities or ownership interests of the Company ranking, as to participation in the profits or assets of the Company, senior to the Preference Shares) (unless otherwise required by applicable law). No such consent or sanction shall be required if the change is solely of a formal, minor or technical nature, or is to correct an error or cure an ambiguity; provided that, the change does not reduce the amounts payable to the Holders, impose any material obligation on the Holders or materially and adversely affect their voting rights; and provided, further that the rights of a Holder relating to the amount of Dividends, Liquidation Distributions or Additional Amounts or the amount received upon redemption of the Preference Share or the date of the First Optional Redemption Date may not be varied or abrogated without the written consent of such Holder; and provided, further that no provision of Preference Shares may be amended without the prior written consent of BNM if such amendment would result in the Preference Shares not being treated as Tier-1 capital of the Company on a consolidated or unconsolidated basis.
- (ii) Notwithstanding the foregoing, no vote of the Holders will be required for the redemption or cancellation of the Preference Shares in accordance with the Articles.

- (iii) Any Preference Share at any time held by the Company or any entity of which the Company, either directly or indirectly, owns 20% or more of the voting shares or similar ownership interests, shall not carry a right to vote in a meeting of Holders of Preference Shares and shall, for voting purposes, be treated as if it were not in issue.
  - (iv) The Company will cause a notice of any meeting at which Holders of any Preference Shares are entitled to vote and any voting forms to be mailed to each Holder, in accordance with sub-paragraph (ix) "Notices or Other Documents" below. Each such notice will include a statement setting forth (a) the date, time and place of such meeting, (b) a description of any resolution to be proposed for adoption at such meeting on which such Holders are entitled to vote and (c) instructions for the delivery of proxies.
  - (v) The special rights or privileges attached to the Preference Shares will not be deemed to be varied, modified or abrogated by the creation or issue of further shares ranking *pari passu* therewith, or by the purchase or redemption by the Company of its own shares.
- (h) Transfer of Shares
  - (i) An instrument of transfer of a share which is in certificated form must be in writing in any usual form or other form approved by the Directors of the Company and must be executed by or on behalf of the transferor and by or on behalf of the transferee. The transferor will remain the Holder of the shares transferred until the name of the transferee is entered in the register of members of the Company in respect thereof.
  - (ii) The Directors of the Company may in the case of shares in certificated form, in their absolute discretion and without assigning any reason therefore, refuse to register any transfer of a share (not being a fully paid share) provided that, where any such shares are listed on the Labuan International Financial Exchange Inc. (the "LFX") and the SGX-ST or any other stock exchange or quotation system, such discretion may not be exercised in such a way as to prevent dealings in the shares of that class from taking place on an open and proper basis, and any transfer of a share on which the Company has a lien. The Directors of the Company may also decline to register a transfer unless (i) the instrument of transfer is duly stamped (if so required), (ii) the transfer is in respect of only one class of shares and (iii) the transfer is in favor of not more than four persons as the transferee.
  - (iii) The Preference Shares are in registered form. The registration of share transfers may be suspended at such time and for such periods as the Directors may, determine not exceeding 30 days in any year.
- (i) Notices or Other Documents

Any notice or other document may be served by the Company upon any Holder of the Preference Shares, *inter alia*, personally, by sending it through the post in

a prepaid envelope to such Holder at its registered address, and by leaving it at that address in accordance with the Articles."

(17) Rights and restrictions of the Redeemable Preference Shares

(a) Definition

Unless otherwise stated in these Articles the following terms shall bear the following meanings,

"Redeemable Preference Shares" means the fully paid up Redeemable Preference Shares in the capital of the Company.

(b) Denomination

The issue price of each Redeemable Preference Share will be 1 sen.

(c) Features of the Redeemable Preference Shares

Subject to the Act, the rights attached to the Redeemable Preference Shares are set out in this Article. The Redeemable Preference Shares will be fully paid up upon issue and allotment and will not be earmarked to any particular asset or banking activities. The Redeemable Preference Shares will not represent any fixed charge on the earnings of the Company.

(d) Right to Dividend

The Redeemable Preference Shares will not carry any fixed dividend rights but will rank senior to the Company's ordinary shares or any other security or obligation of the Company ranking junior to the Redeemable Preference Shares, in the event of any dividends or other distributions as determined by the Board of Directors of the Company.

(e) Rights Upon Liquidation

In the event of the dissolution or winding-up of the Company, each holder of the Redeemable Preference Shares will, subject to certain limitations and applicable law, be entitled to receive out of the assets of the Company available for distribution the Liquidation Distribution.

The Liquidation Distribution will be made after the claims (if any) of all other creditors of the Company which are not subordinated to the Redeemable Preference Shares.

Notwithstanding the availability of sufficient assets of the Company to pay any Liquidation Distribution to holders of the Redeemable Preference Shares as aforesaid, if, at the time such Liquidation Distribution is to be paid, proceedings have been commenced for the Voluntary or involuntary liquidation, dissolution or winding-up of the Company other than pursuant to a Permitted Reorganisation,

the Liquidation Distribution payable per Redeemable Preference Shares shall be ranked:

- (i) junior to (i) firstly, the claims of all depositors of the Company; (ii) secondly, all statutorily preferred payments; (iii) thirdly, the claims of all creditors of the Company ranking in seniority to the Redeemable Preference Shares;
- (ii) *pari passu* with Parity Obligations, if any, issued by the Company and any guarantee or support agreement or other instrument of the Company ranking *pari passu* with the Redeemable Preference Shares; and
- (iii) senior to Junior Share Capital of the Company.

**“Junior Share Capital”** means ordinary shares of the Company, together with any other securities or obligations which rank or are expressed to rank junior to the Parity Obligations and to any preference shares issued in substitution for any such Parity Obligations or the Redeemable Preference Shares.

**“Liquidation Distribution”** means the total value of the Redeemable Preference Shares.

**“Permitted Reorganisation”** means a solvent reconstruction, amalgamation, reorganization, merger or consolidation whereby all or substantially all the business, undertakings and assets of the Company are transferred to a successor entity which assumes all the obligations of the Company.

**“Parity Obligations”** means:

- (i) any preference shares or other preferred securities issued by the Company that:
  - (A) constitute Tier 1 capital of the Company on an unconsolidated basis; or
  - (B) have characteristics that could enable them to qualify as Tier 1 capital of the Company on an unconsolidated basis; or
- (ii) any preference shares or other preferred securities issued by any of the Company's subsidiary and entitled to the benefit of a guarantee or other support agreement of the Company that:
  - (A) constitute Tier 1 capital of the Company on an unconsolidated or consolidated basis; or
  - (B) have characteristics that could enable them to qualify as Tier 1 capital of the Company on an unconsolidated or consolidated basis.

(f) Status of the Redeemable Preference Shares

With respect to the payment of amounts upon liquidation, dissolution or winding-up of the Company, the holders of the Redeemable Preference Shares will rank in priority to the holders of ordinary shares of the Company.

(g) Rank of the Redeemable Preference Shares

The Redeemable Preference Shares shall rank pari passu amongst themselves and rank senior to the ordinary shares of the Company.

(h) No Right to Vote at General Meeting of Ordinary Shareholders

The Redeemable Preference Shares shall carry no right to vote at any general meeting of the ordinary shareholders of the Company.

(i) Tenure

The Redeemable Preference Shares shall be permanently available until redemption subject to BNM's approval at the option of the Company (but not the holder) at par.

(j) Redemption Value

The Redeemable Preference Shares may only be redeemed subject to BNM's approval, at the option of the Company (but not the holder) at any time from the issue date where not less than 3 Business Days' notice or such shorter notice as the holder may agree in writing must be given.

**"Business Day"** means a day (excluding Saturdays, Sundays and public holidays) of which banks are open for business in Kuala Lumpur.

(k) Transfer of the Redeemable Preference Shares

The Redeemable Preference Shares are transferable by the holder of the Redeemable Preference Shares to any party.

(l) Convertibility of the Redeemable Preference Shares

The Redeemable Preference Shares are not convertible to ordinary shares of the Company.

(m) No Listing of the Redeemable Shares

The Redeemable Preference Shares will not be listed on any Stock Exchange.

(n) Governing Law

The laws of Malaysia.

(18) Terms and Conditions of the Non-Cumulative Perpetual Preference Shares

The non-cumulative perpetual preference shares ("NCPPS") referred to in Article 17 shall have attached thereto the following rights, privileges and restrictions. That is to say:

(a) Share Capital

(i) Denomination

The issue price of each of NCPPS will be S\$250,000.

(ii) Title

Title to the NCPPS passes only by registration in the Share Register. The registered holder of any NCPPS will (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any interest or any writing on, or the theft or loss of, the Share Certificate issued in respect of it) and no person will be liable for so treating the NCPPS Holder. In these sections, NCPPS Holder means the person in whose name a NCPPS is registered in the Share Register.

(iii) Share Registrar

The Bank's company secretarial department will maintain the Share Register and the Bank will act as the Share Registrar.

(b) Form and Transfers of Preference Share

(i) Form

(A) A share certificate (each a Share Certificate) will be issued to each NCPPS Holder in respect of its registered holding of the NCPPS. Each Share Certificate will be numbered serially with an identifying number which will be recorded on the relevant Share Certificate and in the Share Register which the Bank will procure to be kept by the Share Registrar.

(B) The Bank will cause to be kept at the specified office of the Share Registrar, the Share Register on which shall be entered the names and addresses of the NCPPS Holders and the particulars of the NCPPS held by them and of all transfers of the NCPPS. Each NCPPS Holder shall be entitled to receive only one Share Certificate in respect of its entire holding of the NCPPS.

(ii) Transfers

(A) Each NCPPS will be stapled to a Subordinated Note. Each NCPPS and Subordinated Note together will constitute a stapled security. Until an Assignment Event occurs and the Subordinated

Notes have been transferred to the Assignment Right Holder pursuant to the provisions of the Note Assignment Deed and the Conditions of the Subordinated Notes, the NCPPS cannot be transferred by the transferor of the NCPPS without the Subordinated Notes also being transferred to the same transferee of the NCPPS.

- (B) Subject to Article 17(b)(ii)(A) above, a NCPPS may be transferred by depositing the Share Certificate issued in respect of that NCPPS, with the form of transfer on the back duly completed and signed, at the specified office of the Share Registrar. No transfer of a NCPPS will be valid unless and until entered on the Share Register.

(iii) Delivery of new share certificates

- (A) Each new Share Certificate to be issued upon transfer of any NCPPS will, within five Business Days of receipt by the Share Registrar of the duly completed form of transfer endorsed on the relevant Share Certificate, if so requested in the form of transfer, be made available for collection at the specified office of the Share Registrar or, if so requested in the form of transfer, be mailed by uninsured mail at the risk of the NCPPS Holder entitled to the NCPPS to the address specified in the form of transfer.
- (B) Where some but not all of the NCPPS in respect of which a Share Certificate is issued are to be transferred, a new Share Certificate in respect of the NCPPS not so transferred will, within five Business Days of receipt by the Share Registrar of the original Share Certificate, be made available for collection during normal business hours at the specified office of the Share Registrar or, if requested by the NCPPS Holder, be mailed by uninsured mail at the risk of the NCPPS Holder to the address of such NCPPS Holder appearing on the Share Register or as specified in the form of transfer.

(iv) Formalities free of charge

Registration of transfer of NCPPS will be effected without charge by or on behalf of the Bank but upon payment (or the giving of such indemnity as the Bank and/or the Share Registrar may require) in respect of any tax or other governmental charges (including stamp duty) which may be imposed in relation to such transfer.

(v) Closed periods

Registrations of transfers of NCPPS may be suspended at such times and for such period as the Bank's Board may determine provided that any such suspension shall not exceed 30 days in any year.



(c) Liquidation Preference

- (i) In the event of the commencement of any dissolution or winding up of the Bank before the redemption of the NCPPS, each NCPPS will rank: (i) senior to the Bank's ordinary shares; (ii) *pari passu* among themselves and with all of the Bank's other equal ranking instruments, being the Bank's most junior preference shares on the Issue Date, and other instruments that the Bank may issue in the future that rank *pari passu* with the NCPPS; and (iii) junior to any securities or instruments that rank senior to the NCPPS and to all the Bank's debts and liabilities to the Bank's depositors and all other creditors, other than indebtedness that by its terms ranks *pari passu* with or junior to the NCPPS.
- (ii) On the dissolution or winding up of the Bank, and subject to the Articles, the holder of each NCPPS will be entitled to receive in Singapore Dollars an amount equal to the Liquidation Preference.
- (iii) If, upon any such dissolution or winding up, and subject to the Articles, the amounts available for payment are insufficient to cover the liquidation preference of any preference shares, but there are funds available for payment so as to allow payment of part of the Liquidation Preference, then each NCPPS Holder will be entitled to receive the Relevant Proportion of the Liquidation Preference. After payment of the Liquidation Preference or, as the case may be, the Relevant Proportion of the Liquidation Preference, subject to the Articles, no NCPPS will confer any right or claim to any of the remaining assets of the Bank.

(d) Dividend

(i) Dividend rights

- (A) Subject to Article 17(d)(ii) below, Dividends shall accrue with respect to the NCPPS from (and including) the Interest Payment Date immediately prior to the Assignment Date and shall be payable semi-annually in arrear on each Dividend Payment Date when, as and if declare and authorised by the Bank's Board. When any Dividend is required to be calculated in respect of any Preference Share for a period other than a Dividend Period, such Dividend shall be calculated by applying the Rate of Dividend to the Liquidation Preference of the Preference Share, multiplying such sum by the Dividend Day Count Fraction and rounding the resultant figure to the nearest cent (half a cent being rounded upwards) or otherwise in accordance with applicable market convention. If the Bank's Board does not declare a dividend payable on a Dividend Payment Date, then, subject to the rights of the NCPPS Holders and as otherwise provided herein, the right of such NCPPS Holders to receive a Dividend for the period ending on the relevant Dividend Payment Date shall be lost and the Bank shall have no obligation to pay the Dividend accrued for such

period or to pay any interest thereon whether or not Dividends are declared for any future period.

- (B) Subject as provided in Articles 17(d)(i)(A) and d(ii), Dividends in respect of any period will be payable at the Rate of Dividend on the Liquidation Preference of each NCPPS. Subject to Article 17(d)(ii)(E), Dividends will be non-cumulative.

(ii) Limitations on payment of dividend

- (A) Dividends will only begin to accrue after the occurrence of an Assignment Event.
- (B) If the Bank (A) is, on a Dividend Payment Date, in breach of BNM's minimum capital adequacy ratio requirements applicable to the Bank; or (B) would, immediately after a Dividend Payment Date, be in breach of BNM's minimum capital adequacy ratio requirements applicable to the Bank as result of the payment of a Dividend on that Dividend Payment Date, the right of such NCPPS Holders to receive such Dividend shall be lost and the Bank shall have no obligation to pay the NCPPS Holders the Dividend which would otherwise have been payable on such Dividend Payment Date.
- (C) Subject to Article 17(d)(ii)(B), if the Payment Limitation Condition is met: (A) on the 15th Business Day prior to any Dividend Payment Date, and (B) continues to be met from such prior 15th Business Day to (and including) Such Dividend Payment Date, the Bank may, at its option, cancel the Dividend payable on such Dividend Payment Date, by giving not less than three nor more than 15 days' notice to the NCPPS Holders (in accordance with Article 17(k)) and the Share Registrar (which notice shall be irrevocable and shall oblige the Bank to cancel payment of the Dividend which, but for the Payment Limitation Condition, was payable on such Dividend Payment Date). Any such cancellation will not constitute or be deemed a default by the Bank for any purpose whatsoever and subject to Article 17(d)(ii)(E), the Bank's obligations to make payment of such Unpaid Dividend Amount shall cease to exist and payment of such Unpaid Dividend Amount shall no longer be due and payable.
- (D) No NCPPS Holders shall have any claim in respect of any Unpaid Dividend Amount or part thereof not payable as a result of the limitations set out in Articles 17(d)(ii)(B) and (d)(ii)(C). Accordingly, subject to Article 17(d)(ii)(E) such amount will not accumulate for the benefit of the NCPPS Holders or entitle such NCPPS Holders to any claim in respect thereof against the Bank.
- (E) Notwithstanding Articles 17(d)(ii)(A), (d)(ii)(B), (d)(ii)(C) and (d)(ii)(D) above, if:

- (aa) the NCPPS no longer qualify as Non-Innovative Tier 1 Capital of the Bank for the purposes of BNM's minimum capital adequacy requirements under any applicable regulations, and such disqualification has been confirmed in writing by BNM; and
- (bb) the Bank is not in breach of BNM's minimum capital adequacy ratio requirements applicable to the bank,

the Unpaid Dividend Amounts shall become cumulative and compounding at the Rate of Dividend. In such Circumstances, any Unpaid Dividend Amounts together with accrued amounts relating to the compounding of such Unpaid Dividend Amounts, will become due and payable upon Redemption of the NCPPS.

(iii) Dividend stopper and capital stopper

- (A) Following an Assignment Event, if the Bank has not made a full payment of any Dividend, whether in accordance with Article 17(d) or otherwise, then:
  - (aa) the Bank shall not declare and/or pay any dividend to its shareholders or make any interest payment or distribution on any securities or instruments ranking pari passu with or junior to the NCPPS (the **Dividend Stopper**); and
  - (bb) the Bank shall not redeem, purchase, reduce or otherwise acquire any of its ordinary shares, preference shares securities or instruments ranking pari passu with or junior to the NCPPS, or any securities of any of its subsidiary undertakings benefiting from a guarantee from the Bank, ranking, as to the right of redemption of principal, or in the case of any guarantee, as to the payment of sums under such guarantee, pari passu with or junior to the NCPPS (the **Capital Stopper**).
- (B) Such Dividend Stopper or Capital Stopper shall continue to apply, as the case may be, until either Articles 17(d)(iii)(B)(aa), (d)(iii)(B)(bb) or (d)(iii)(B)(cc) below is satisfied:
  - (aa) the Bank has paid the full Dividends due (without regard to Article 1(d)(ii)) on the next two Dividend Payment Dates;
  - (bb) the Bank has irrevocably set aside in a separately designated trust account of the Bank for payment to the NCPPS Holders, an amount sufficient to provide for the full Dividends due (without regard to Article 17(d)(ii)) on the next two Dividend Payment Dates and if upon determination of the amount of each of such Dividend there is a shortfall in the amounts set aside with reference to the amounts so determined, an amount at least equal to

such shortfall shall be paid or irrevocably set aside in the same manner; or

- (cc) an Optional Dividend has, at the option of the Bank (subject to the Bank's receipt of BNM's written approval), been paid by the Bank to the NCPPS Holders equal to, without duplication of amounts previously paid to the NCPPS Holders, amounts outstanding (if any) on the Subordinated Notes or the NCPPS which were scheduled to be paid in the 12 months before the date of payment of the Optional Dividend.

(e) Payments

(i) Payments in respect of the NCPPS

- (A) Payments of any amounts in respect of the Redemption Amount and any Dividends will be made by direct transfer to the registered account of the NCPPS Holder or by Singapore Dollar Cheque drawn on a bank that processes payments in Singapore Dollars mailed to the registered address of the NCPPS Holder if it does not have a registered account. Payments of amount due otherwise than on a Dividend Payment Date will only be made against presentation and surrender of the relevant Share Certificate at the specified office of the Share Registrar. Dividends on the NCPPS due on a Dividend Payment Date will be paid to the NCPPS Holder shown on the Share Register at the close of business on the date (the **record date**) being the fifteenth day before the relevant Dividend Payment Date.
- (B) For the purposes of this Article 17(e), a NCPPS Holder's registered account means the account maintained by or on behalf of it with a bank that processes payments in Singapore Dollars, details of which appear on the Share Register at the close of business, in the case of any amounts due otherwise than on a Dividend Payment Date, on the second Business Day (as defined below) before the due date for payment and, in the case of Dividends due on a Dividend Payment Date, on the relevant record date, and a NCPPS Holder's **registered address** means its address appearing on the Share Register at that time.

(ii) Payment on business days

Where payment is to be made by transfer to a registered account, payment instructions (for value on the date due or, if that is not a Business Day, for value on the next Business Day) will be initiated and, where payment is to be made by cheque, the cheque will be mailed, on the Business Day preceding the due date for payment or, in the case of a payment of the Redemption Amount due otherwise than on a Dividend Payment Date, if later, on the Business Day on which the relevant Share Certificate is surrendered at the specified office of the Share Registrar.

NCPPS Holders will not be entitled to any interest or other payment for any delay after the due date in receiving the amount due if the due date is not a Business Day, if the NCPPS Holder is late in surrendering its Share Certificate (if required to do so) or if a cheque mailed in accordance with this Article 17(e) arrives after the due date for payment.

(f) Redemption and Purchase

The NCPPS are perpetual securities with no fixed final redemption date and NCPPS Holders have no rights at any time to call for the redemption of the NCPPS. Subject to the provisions in this Article 18(f), any redemption of NCPPS shall require only a resolution of the Bank's Board.

(i) Redemption at the option of the Bank

Subject to Article 17(f)(vi), on any Optional Redemption Date, the Bank may, at its option Redeem the NCPPS (in whole, but not in part) at the Redemption Amount by giving not less than 30 nor more than 60 days' notice to the NCPPS Holders (in accordance with Article 17(k)) and the Share Registrar (which notice shall be irrevocable and shall oblige the Bank to Redeem the NCPPS on the relevant Optional Redemption Date at such Redemption Amount).

(ii) Redemption for tax reasons

(A) If there is more than an insubstantial risk that the Bank:

(aa) either:

- I. has or will become obliged to pay Additional Amounts as provided or referred to in Article 17(g) and/or any Taxes other than Additional Amounts (if any), in relation to the NCPPS; or
- II. has or will become obliged to pay Additional Amounts pursuant to the Conditions of the Subordinated Notes and/or any Taxes other than the Additional Amounts (if any), in relation to the Subordinated Notes; or
- III. would no longer obtain tax deductions for the purposes of Malaysian corporation tax for any payment of interest in respect of the Subordinated Notes pursuant to the Conditions of the Subordinated Notes; and

(bb) any of Articles 17(f)(ii)(A)(aa)I, 17(f)(ii)(A)(aa)II or 17(f)(ii)(A)(aa)III above was the result of any change in, or amendment to, the laws or regulations of Malaysia or any political subdivision or any authority thereof or therein

having power to tax, or any change in the application or official interpretation of such laws or regulations (including a holding by a court of competent jurisdiction), which change or amendment becomes effective on or after the Issue Date and such obligation referred to in 17(f)(ii)(A)(aa)I, 17(f)(ii)(A)(aa)II or 17(f)(ii)(A)(aa)III above cannot be avoided by the Bank taking reasonable measures available to it,

then the Bank may, subject to Article 17(f)(vi), at its option Redeem the NCPPS (in whole but not in part) at the Redemption Amount by giving not less than 30 no more than 60 days' notice to the NCPPS Holders in accordance with Article 17(k) and the Share Registrar (which notice shall be irrevocable and shall oblige the Bank to Redeem the NCPPS on the next Dividend Payment Date<sup>0</sup>, provided however, that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Bank would be obliged to pay such Additional Amounts or would be obliged to make such withholding or deduction if a payment in respect of the NCPPS were then due or would no longer obtain tax deductions for the purposes of Malaysian corporation tax for the payment of interest in respect of the Subordinated Notes.

(B) Prior to giving any notice of redemption pursuant to this Article 17(f)(ii), the Bank shall deliver or procure that there is delivered to the Share Registrar:

- (aa) a certificate signed by two directors of the Bank stating that the circumstances referred to in this Article 17(f)(ii) prevail (including the requirements, if any, of Article 17(f)(vi) and setting out the details of such circumstances; and
- (bb) an opinion in form and substance satisfactory to the Share Registrar of independent legal or tax advisers of recognised standing to the effect that the Bank has paid, or that there is more than an insubstantial risk that the Bank will become obliged to pay, such Additional Amounts or that there is more than an insubstantial risk that the Bank no longer obtains, or will no longer obtain, tax deductions for the purposes of Malaysian corporation tax for the payment of interest in respect of the Subordinated Notes.

The Share Registrar shall be entitled to accept such certificate and opinion as conclusive evidence of the satisfaction of the circumstances set out in this Article 17(f)(ii), in which event they shall be conclusive and binding on the NCPPS Holders. Upon the expiry of any notice period satisfying this Article 17(f)(ii), the Bank shall be

bound to Redeem the NCPPS in accordance with this Article 17(f)(ii).

(iii) Redemption for regulatory reasons.

- (A) Subject to Article 17(f)(vi), if the NCPPS no longer qualify as Non-Innovative Tier 1 Capital of the Bank for the purposes of BNM's capital adequacy requirements under any regulations applicable to the Bank, then the Bank may, at its option, Redeem the NCPPS (in whole but not in part) at the Redemption Amount on the next whole but not in part) at the Redemption Amount on the next Dividend Payment Date by giving not less than 30 nor more than 60 days' notice to the NCPPS Holders (in accordance with Article 17(k) and the Share Registrar (which notice shall be irrevocable and shall oblige the Bank to Redeem the NCPPS on the next Dividend Payment Date).
- (B) Prior to giving any notice of redemption pursuant to this Article 17(f)(iii), the Bank shall deliver or procure that there is delivered to the Share Registrar:
  - (aa) a certificate signed by two directors of the Bank stating that the circumstances referred to in this Article 18(f)(iii) prevail (including the requirements, if any, of Article 17(f)(vi) and setting out the details of such circumstances; and
  - (bb) an opinion in form and substance satisfactory to the Share Registrar of independent legal advisers of recognised standing to the effect that the NCPPS no longer qualify as Non-Innovative Tier 1 Capital of the Bank for the purposes of BNM's capital adequacy requirements under regulations applicable to the Bank.

The Share Registrar shall be entitled to accept such certificate and opinion as conclusive evidence of the satisfaction of the circumstances set out in this Article 17(f)(iii), in which event they shall be conclusive and binding on the NCPPS Holders. Upon the expiry of any notice period satisfying this Article 17(f)(iii), the Bank shall be bound to Redeem the NCPPS in accordance with this Article 17(f)(iii).

(iv) Special event redemption

- (A) Subject to Article 17(f)(iii), if there is more than an insubstantial risk that as a result of a change in any applicable Malaysian law or regulations (or in the Malaysian tax authorities practical application thereof) which comes into effect on or after the Issue Date, the payment of Dividends will affect the Bank's ability to pay Franked Dividends pursuant to Section 108 of the Malaysian Income Tax Act on other shares issued by the Bank and the Bank is unable, by taking reasonable measures available to it, to avoid

the loss in the utilization of tax credits available to it under Section 108 of the Malaysian Income Tax Act, the Bank may, at its option, Redeem the NCPPS (in whole but not in part) at the Redemption Amount on the next Dividend Payment Date by giving not less than 30 nor more than 60 days' notice to the NCPPS Holders (in accordance with Article 17(k) and the Share Registrar (which notice shall be irrevocable and shall oblige the Bank to Redeem the NCPPS on the next Dividend Payment Date).

(B) Prior to giving any notice of redemption pursuant to this Article 17(f)(iv), the Bank shall deliver or procure that there is delivered to the Share Registrar:

(aa) a certificate signed by two directors of the Bank stating that the circumstances referred to in this Article 17(f)(iv) prevail (including the requirements, if any, of Article 17(f)(iv) and setting out the details of such circumstances; and

(bb) an opinion in form and substance satisfactory to the Share Registrar of independent legal or tax advisers of recognized standing to the effect that the payment of dividends on the NCPPS will or that there is more than an insubstantial risk that the payment of dividends on the NCPPS will affect the Bank's ability to pay franked dividends pursuant to Section 108 of the Malaysian Income Tax Act on other shares issued by the Bank.

The Share Registrar shall be entitled to accept such certificate and opinion as conclusive evidence of the satisfaction of the circumstances set out in this Article 17(f)(iv), in which event they shall be conclusive and binding on the NCPPS Holders. Upon the expiry of any notice period satisfying this Article 17(f)(iv), the Bank shall be bound to redeem the NCPPS in accordance with this Article 17(f)(iv).

(v) Cancellation

All NCPPS which are redeemed or purchased by the Bank will forthwith, subject to the prior approval of BNM, be cancelled and accordingly may not be reissued or resold.

(vi) Conditions for redemption of NCPPS

The Bank shall not Redeem any of the NCPPS pursuant to Articles 17(f)(i), (f)(ii), (f)(iii) or (f)(iv) unless and until the Redemption Conditions shall have been satisfied. Prior to any redemption pursuant to this Article 17(f), the Bank shall deliver to the Share Registrar a certificate confirming that the Bank is entitled to effect the redemption and setting out a statement of facts confirming that the Redemption Conditions have each been and continue to be satisfied, and attaching thereto a copy of the



requisite approval of BNM and a certified English translation thereof as well as a certificate, executed by two directors of the Bank and a certified English translation thereof, certifying that the Bank is Solvent. Such certificates and attachments shall be made available for inspection by the NCPPS Holders.

(g) Taxation

(i) Payment without withholding

All payments in respect of the NCPPS by or on behalf of the Bank shall be made without withholding or deduction for, or on account of, Taxes imposed, levied, collected, withheld or assessed by or within any Relevant Jurisdiction, unless the withholding or deduction of the Taxes is required by law. In that event, the Bank will pay such Additional Amounts as may be necessary in order that the net amounts received by the NCPPS Holders after the withholding or deduction shall equal the respective amounts which would have been receivable in respect of the NCPPS in the absence of the withholding or deduction; provided that no such Additional Amounts shall be payable in respect of any of the NCPPS:

- (A) to or on behalf of a NCPPS Holder who is (A) treated as a resident of the Relevant Jurisdiction or a permanent establishment in the Relevant Jurisdiction for tax purposes; or (B) who is liable for such Taxes in respect of the NCPPS by reason of his, her or its being connected with the Relevant Jurisdiction other than by reason only of the holdings of any of the NCPPS, the receipt of Dividends or the Redemption Amount; or
- (B) to the extent that such Taxes would not have been required to be deducted or withheld but for the failure, to comply, by the NCPPS Holder, with a request of the Bank addressed to such NCPPS Holder to make any declaration of non-residence or other similar claim, which is required or imposed by a statute, treaty or administrative practice of the Relevant Jurisdiction, as the case may be, as a precondition to exemption from all or part of such Taxes.

(ii) Additional amounts

Any reference in these provisions of Article 17 to any amounts in respect of the NCPPS shall be deemed also to refer to any additional amounts which may be payable under this Article 17(g).

(h) Prescription

Any Dividends, Redemption Amount or, as the case may be, Liquidation Preference unclaimed for ten years after having been declared may be forfeited and shall revert to the Bank and after such forfeiture no NCPPS Holder or other person shall have any right to or claim in respect of any such payments. For the avoidance of doubt, no interest will accrue on any Dividends, Redemption

Amount or Liquidation Preference which are claimed during such ten year periods.

(i) Enforcement Events; Limited Rights to Accelerate

If an Enforcement Event occurs in respect of any NCPPS, the NCPPS Holder may, at its discretion and without further notice, institute proceedings in Malaysia (but not elsewhere) for the winding up of the Bank; provided that such NCPPS Holder shall have no right to accelerate payment of such NCPPS in the case of such default in the payment of dividends on, or other amounts owing under, such NCPPS or a default in the performance of any other covenant of the Bank in such NCPPS or under the Articles.

If a Winding Up Proceeding commences in respect of the Bank or an effective resolution of the shareholders of the Bank is passed for a Winding Up Proceeding in respect of the Bank, any NCPPS Holder may, at such NCPPS Holder's option, by written notice to the Bank (with a copy to the Share Registrar), declare the relevant Redemption Amount immediately due and payable, whereupon the relevant Redemption Amount shall become and be immediately due and payable.

(j) Replacement of Share Certificates

Should any Share Certificate be lost, stolen, mutilated, defaced or destroyed it may be replaced at the specified office of the Share Registrar, subject to all applicable laws, upon payment by the claimant of the expenses incurred in connection with the replacement and on such terms as to evidence and indemnity as the Bank and/or the Share Registrar may require. Mutilated or defaced Share Certificates must be surrendered to the Share Registrar at the specified office of the Share Registrar before replacements will be issued.

(k) Notices

All notices to the NCPPS Holders will be mailed to such NCPPS Holder of record at their respective addresses in the Share Register and shall be deemed to have been given on the weekday (being a day other than a Saturday or a Sunday) after the date of mailing. In proving service of such notice, it shall be sufficient to prove the time of delivery or that delivery was made or that the envelope containing the notice or communication was properly addressed and set by registered post to such NCPPS Holder.

(l) Variations of Rights and Further Issues; Voting

(i) Voting rights

Subject to the applicable law and except as provided in Article 17(l)(ii), the NCPPS Holders will not be entitled to receive notices of general meetings, reports and financial statements or attend or vote at general meetings of a Bank or to participate in the management of the Bank. The NCPPS Holder will be entitled to attend a class meeting of all NCPPS Holders. Every NCPPS Holder who is present in person at a class

meeting of the NCPPS will have one vote on a show of hands and on a poll every NCPPS Holder who is present in person or by proxy will have one vote for every Preference Share of which they are the holder.

(ii) Variation of rights and further issues

- (A) A resolution in writing signed by or on behalf of NCPPS Holders of at least a majority in Liquidation Preference of the outstanding Preference Shares or the sanction of a resolution, passed at a meeting by NCPPS Holders of at least a majority in the Liquidation Preference of the outstanding NCPPS present in person or by proxy, shall be required in order to give effect to any variation or abrogation of the rights, preferences and privileges of NCPPS by way of amendment of the Articles or otherwise. For the avoidance of doubt, no such prior consent of the NCPPS Holders will be required in relation to any authorization or issuance of any debt securities, tier 1 or tier 2 capital securities or any other instrument of obligation by the Bank ranking, as to participation in the profits or assets of the Bank on a liquidation or otherwise, junior to, *pari passu* or senior to the NCPPS (unless otherwise required by applicable law), subject to the restrictions set out in Articles 17(l)(ii)(F) on issues of Further Shares (as that term is defined in Article 17(l)(ii)(F)).
- (B) No such consent or sanction shall be required if the change is solely of a formal, minor or technical nature, or is it to correct an error or cure an ambiguity, provided that, the change does not reduce the amounts payable to any NCPPS Holder, impose any material obligation on the NCPPS Holders or materially and adversely affect their voting rights; and provided, further, that the rights of each NCPPS Holder relating to the amount of Dividends, Liquidation Preference or for the avoidance of doubt, any Additional Amounts or the amount received upon redemption of the Preference Shares may not be varied or abrogated without the written consent of such NCPPS Holder; and provided further, that no provision of the NCPPS may be amended without the prior written consent of BNM if then required.
- (C) Notwithstanding the foregoing, no vote of the NCPPS Holders will be required for the redemption, purchase or cancellation of the NCPPS in accordance with the Articles.
- (D) The Bank will cause a notice of any meeting at which any NCPPS Holders are entitled to vote and any voting forms to be mailed at each NCPPS Holder in accordance with Article 17(k). Each such notice will include a statement setting forth (aa) the date, time and place of such meeting, (bb) a description of any resolution to be proposed for adoption at such meeting on which such NCPPS Holders are entitled to vote, and (cc) instructions for the delivery of proxies. The rules for meetings of ordinary shareholders of the

Bank shall apply mutatis mutandis to the meetings of the NCPPS Holders.

- (E) Any Preference Share at any time owned by the Bank or any entity (aa) of which the Bank either directly or indirectly, owns 20 per cent or more of the voting shares or similar ownership interests or (bb) which is a Subsidiary of the Bank, shall not carry a right to vote either by written resolution or in a meeting of NCPPS Holders and shall, for voting purposes, be treated as if it were not on issue.
- (F) The special rights or privileges attached to the NCPPS will not be deemed to be varied, modified or abrogated by the purchase of redemption by the Bank of its own shares or the creation or issuance of further shares having terms and conditions the same of those of the NCPPS and raking pari passu therewith, (the "Further Shares") provided that any such creation or issuance of Further Shares can only occur prior to an Assignment Event. The Bank shall simultaneously with the creation or issuance of the Further Shares create or issue to the same subscriber of the Further Shares an equal amount of further notes in accordance with the provisions under the Agency Agreement, having terms and conditions the same as those of the Subordinated Notes, or the same except for the amount of the first payment of interest, which may be consolidated and form a single series with the outstanding Subordinated Notes.

(m) Governing Law

The NCPPS are governed by, and shall be construed in accordance with, Malaysian law.

(n) Interpretation

For the purpose of the provisions of this Article 17:

"Additional Amounts" means any additional amounts payable by the Bank as a result of withholding or deduction for, or on account of, any present or future Taxes as required by law.

"Agency Agreement" means the Agency Agreement dated on or about the Issue Date (as amended, supplemented and/or restated from time to time) entered into in relation to the NCPPS and the Subordinated Notes between the Bank and The Bank of New York Mellon in its capacity as the fiscal agent and principal paying agent, and the Bank of New York Mellon as the SN Registrar.

"Assets" means the unconsolidated gross assets of the Bank, all as shown in the latest published audited balance sheet of the Bank, but adjusted for contingent assets and for subsequent events, all in such manner as the directors or the auditors of the Bank or the liquidator (as the case may be) may determine.

“Assignment Date” means, the date of the occurrence of the relevant Assignment Event as specified in the notice to be provided by the Bank to the SN Holders pursuant to Condition 8 of the Conditions of the Subordinated Notes.

“Assignment Event” means the occurrence of any of the following events:

- (a) the Assignment Right Holder in its absolute discretion elects that an Assignment Event occurs;
- (b) BNM in its absolute discretion elects that an Assignment Event occurs;
- (c) the Business Day immediately before the Maturity Date in respect of the Subordinated Notes;
- (d) the Redemption of the NCPPS by the Bank pursuant to Article 17(f);
- (e) the deferral of payment of any Interest Amount pursuant to Conditions 5(b)(i) or 5(b)(ii) of the Conditions of the Subordinated Notes;
- (f) the breach by the Bank of BNM's minimum capital adequacy ratio requirements applicable to the Bank;
- (g) the commencement of a Winding Up Proceeding in respect of the Bank;
- (h) the appointment of an administrator in connection with the restructuring or similar arrangements involving the Bank or all or substantially all of its properties;
- (i) the occurrence of an SN Enforcement Event in respect of the Subordinated Notes.

“Assignment Right Holder” means CIMB Bank (L) Limited and shall include any successor, transferee and assign as may be approved by BNM and/or any other relevant government authorities in Malaysia if then required.

“Bank” means CIMB Bank Berhad and shall include any successor thereto.

“Bank's Board” means the board of directors of the Bank for the time being.

“BNM” means Bank Negara Malaysia and shall include any successor organisation responsible for the supervision of banks in Malaysia.

“Business Day” means a day (other than a Saturday, Sunday or a public holiday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in London, Singapore and Malaysia.

“Calculation Agent” means such entity as the Bank's Board shall appoint to act as calculation agent and notified to the NCPPS Holders in the manner described in Article 17(k).

"Capital Stopper" has the meaning given to that term in Article 17(d)(iii)(A)(bb).

"Conditions of the Subordinated Notes" means the terms and conditions of the Subordinated Notes as set out in the Agency Agreement.

"Dividend" means the dividend payable on the NCPPS on each Dividend Payment Date. For the avoidance of doubt, the first Dividend will include an amount calculated from (and including) the Interest Payment Date falling immediately prior to the Assignment Date.

"Dividend Calculation Period" means the period from (and including) the most recent Dividend Payment Date (or, if none, the Interest Payment Date immediately prior to the Assignment Date) to (but excluding) the relevant payment date.

"Dividend Day Count Fraction" means the actual number of days in the Dividend Calculation Period divided by 365.

"Dividend Payment Date" means the date on which Dividend will be payable as set out in the Share Certificate and commencing on the first Dividend Payment Date immediately after the Assignment Date.

"Dividend Period" means the period from (and including) the Interest Payment Date immediately prior to the Assignment Date to (but excluding the first Dividend Payment Date) and each successive period from (and including) a Dividend Payment Date to (but excluding) the next succeeding Dividend Payment Date.

"Dividend Stopper" has the meaning given to that term in Article 17(d)(iii)(A)(aa).

"Enforcement Event" means the occurrence of either:

- (a) a failure to pay any Redemption Amount of the NCPPS on the due date for payment thereof; or
- (b) a failure to pay any Dividend (including any Additional Amount) on the NCPPS within 14 days of the due date for payment thereof (other than non-payment of Dividends in accordance with Article 17(d)(ii)).

"Franked Dividend" means a payment which is treated by the Bank as a dividend paid, credited or distributed under deduction of income tax pursuant to Section 108 of the Malaysian Income Tax Act.

"Interest Amount" means, in respect of the Subordinated Notes, the interest amount payable on the Subordinated Notes on each Interest Payment Date.

"Interest Payment Date" means, in respect of the Subordinated Notes, the date on which Interest Amount will be payable under the Conditions of the Subordinated Notes.

“Issue Date” means the date on which such NCPPS are issued and is further set out in the Share Certificate.

“Liabilities” means the unconsolidated gross liabilities of the Bank, all as shown in the latest published audited balance sheet of the Bank, but adjusted for contingency liabilities and for subsequent events, all in such manner as the directors or the auditors of the Bank or the liquidator (as the case may be) may determine.

“Liquidation Preference” means S\$250,000 per Preference Share.

“Malaysian Companies Act” means the Companies Act 1965 (Act 125) of Malaysia, as amended, updated or repealed.

“Malaysian Income Tax Act” means the Income Tax Act 1967 (Act 53) of Malaysia, as amended, updated or repealed.

“Maturity Date” means, in respect of the Subordinated Notes, a date falling 50 years from the Issue Date.

“NCPPS” means the non-cumulative perpetual preference shares of par value RM1.00 per share of the Bank.

“NCPPS Holder” means a holder of any of the NCPPS.

“Non-Innovative Tier 1 Capital” has the meaning ascribed to it in BNM’s published capital adequacy requirements from time to time.

“Note Assignment Deed” means the assignment deed dated on or about the Issue Date (as amended, supplemented and/or restated from time to time) entered into in respect of the transfer and assignment of the rights, title and interests in relation to the Subordinated Note between the Bank, the Assignment Right Holder and ELM B.V. as the initial SN Holder.

“Optional Dividend” means an amount determined by the Calculation Agent, equal to the sum of:

- (a) any due and unpaid Interest Amount in respect of the Subordinated Notes; and
- (b) any due and unpaid Dividend in respect of the NCPPS,

each scheduled to have been paid during the 12 month period immediately preceding the date on which the Bank shall pay the Optional Dividend pursuant to Article 17(d).

“Optional Redemption Date” means the date as set out in the Share Certificate and being a date no earlier than the 5th anniversary of the Issue Date or any Dividend Payment Date thereafter.

“Payment Limitation Condition” means that during the 12 month period immediately preceding any Dividend Payment Date, (a) the Bank did not declare and/or pay any dividend to its shareholders, or make any interest payment or distribution, on any securities or instruments ranking pari passu with or junior to the NCPPS; and (b) the Bank did not redeem, purchase, reduce or otherwise acquire any of its ordinary shares, preference shares, securities or instruments ranking pari passu with or junior to the NCPPS, or any securities of any of its subsidiary undertakings benefiting from a guarantee from the Bank, ranking, as to the right of redemption of principal, or in the case of any such guarantee, as to the payment of sums under such guarantee, pari passu with or junior to the NCPPS.

“Rate of Dividend” means the rate of per annum stated in the Share Certificate.

“Redeem” means:

- (a) redeem or purchase the NCPPS for the Redemption Amount; or
  - (b) procure an entity to purchase the NCPPS for the Redemption Amount,
- and “Redemption” and “Redeemed” shall have corresponding meanings.

“Redemption Amount” means:

- (a) in respect of a redemption pursuant to Article 17(f)(i), (f)(ii) or (iii), an amount equal to 100 per cent of the Liquidation Preference together with accrued but unpaid Dividends (if any) relating to the then current Dividend period up to (and excluding) the date on which the NCPPS are Redeemed; and
- (b) in respect of a redemption pursuant to Article 17(f)(iv), an amount as set out in the Share Certificate and being no more than 130 per cent of the Liquidation Preference.

“Redemption Condition” means:

- (a) the Bank is Solvent at the time of any Redemption of the NCPPS and immediately thereafter;
- (b) the Bank is not in breach of BNM’s minimum capital adequacy ratio requirements applicable to the Bank; and
- (c) the Bank has obtained the written approval of BNM prior to Redemption of the NCPPS.

“Relevant Jurisdiction” means Malaysia or any political subdivision or any authority thereof or therein having power to tax or any other jurisdiction or any political subdivision or any authority thereof or therein having power to tax to



which the Bank becomes subject in respect of payments made by it on the NCPPS.

“Relevant Proportion” means the total amount available for any payment and for making any liquidation distribution on any preference shares divided by the sum of: (a) the full Liquidation Preference before any reduction or abatement as contemplated by Article 17(c)(iii); and (ii) the amount (before any reduction or abatement as contemplated by Article 17(c)(iii) of the full liquidation distribution on any other preference shares, converted where necessary into the same currency in which liquidation payments are made to creditors of the Bank.

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

“Share Certificate” has the meaning given to that term in Article 17(b)(i)(A).

“Share Register” means the register of the NCPPS Holders maintained at the specified office of the Share Registrar on behalf of the Bank.

“Share Registrar” means the Bank or such other entity as the Bank’s Board shall appoint in each case notified to the NCPPS Holders in the manner described in Article 17(k).

“Singapore Dollars” or “S\$” means Singapore Dollars, the lawful currency of Singapore.

“SN Enforcement Event” means, in respect of the Subordinated Notes, the occurrence of either:

- (a) a failure to pay any principal amount of the Subordinated Notes on the due date for payment thereof; or
- (b) a failure to pay any Interest Amount (including any Additional Amount) on the due date for payment thereof, which default continues for 14 days (other than non-payment of interest in accordance with Conditions 5(b)(i) and 5(b)(ii) under the Conditions of the Subordinated Notes).

“SN Holder” means a holder of any of the Subordinated Notes.

“Solvent” means that the Bank’s Assets exceed its Liabilities.

“Subordinated Notes” means the Subordinated Notes of the Bank due on a date falling 50 years from the Issue Date and any further notes issued pursuant to Condition 16 under the Conditions of the Subordinated Notes and forming a single series with the Subordinated Notes.

“Subsidiary” means any entity which is for the time being a subsidiary of the Bank (within the meaning given to this term in the Malaysian Companies Act).

“Taxes” means any present or future taxes, duties, assessments or governmental charges of whatever nature.

“Unpaid Dividend Amount” means any Dividend which is cancelled by the Bank pursuant to Article 17(d)(ii).

“Winding Up Proceeding” means either:

- (a) a court or agency or supervisory authority in Malaysia having jurisdiction in respect thereof shall have instituted a proceeding or entered a decree or order for the appointment of a receiver or liquidator in any insolvency, rehabilitation, readjustment of debt, marshalling of assets and liabilities, or similar arrangements involving the Bank or all or substantially all of its properties, or for the winding up of or liquidation of its affairs and such proceeding, decree or order shall not have been vacated or shall have remained in force undischarged or unstayed for a period of 60 days; or

the Bank shall have filed a petition to take advantage of any insolvency statute.

## **VARIATION OF RIGHTS**

### **How special rights of shares may be varied**

- (19) Whenever the share capital of the Company is divided into different classes of shares, the special rights attached to any class may, subject to the provisions of the Act, be varied or abrogated, and preference capital may be repaid if agreed to by the holders of majority of the preference shares at a General Meeting called for the purpose. To every such General Meeting all the provisions of these presents relating to General Meetings of the Company, or to the proceedings thereat, shall mutatis mutandis apply, except that the necessary quorum shall be two persons at least holding or representing by proxy one-third issued shares of the class. [Provided that where the necessary majority for such a Special Resolution is not obtained at the meeting, consent in writing, if obtained from the holders of three-fourths of the preference shares concerned within two months of the meeting, shall be as valid and effectual as a Special Resolution carried at the meeting.]

### **Creation or issue of further shares with special rights**

- (20) The Special Rights attached to any class of shares having preferential rights shall not unless otherwise expressly provided by the terms of issue thereof be deemed to be varied by the creation or issue of further shares ranking as regards participation in the profits or assets of the Company in some or all respects pari passu therewith but in no respect in priority thereto.

## **ALTERATION OF CAPITAL**

### **Power to increase capital**

- (21) The Company may from time to time by special Resolution increase its share capital by such sum to be divided into shares of such amounts as the Resolution shall prescribe.

## **Rights and liabilities attached to new shares**

- (22) The new shares shall be issued upon such terms and conditions and with such rights and privileges annexed thereto as the General Meeting resolving upon the creation thereof shall direct and subject to any direction to the contrary any share shall before they are issued be offered to such persons as at the date of offer are entitled to receive notices from the Company to general meetings in proportion as nearly as the circumstances admit to the amount of the existing shares to which they are entitled.

## **Status of new shares**

- (23) Except so far as otherwise provided by the conditions of issue or by these presents any capital raised by the creation of new shares shall be considered part of the original capital and shall be subject to the provisions herein contained with reference to the payment of calls and instalment transfer and transmission forfeiture lien and otherwise.
- (24) The Company may by Special Resolution:

### **Power to consolidate shares**

- (a) Consolidate and divide all or any of its 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;

### **Power to cancel shares**

- (b) Convert all or any of its paid-up shares into stock and may reconvert that stock into paid-up shares;

### **Power to subdivide shares**

- (c) Sub-divide its existing shares, or any of them 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, and so that the 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 only such preferred or other special rights over, or may have such deferred rights or be subject to any such restrictions as compared with the others as the Company has power to attach to unissued or new shares.

### **Cancel shares**

- (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 capital by the amount of the shares so cancelled.

### **Power to reduce capital**

- (25) Subject to confirmation by the Court, the Company may by Special Resolution reduced its share capital in any manner.

## **SHARES**

### **Controlling interest and discount**

- (26) No shares shall be issued which shall have the effect off transferring a controlling interest without the prior approval of the Members in General Meeting and Bank Negara Malaysia.

### **Disposal of misused shares**

- (27) Subject to Article 25 and save as the Company may by Special Resolution otherwise direct, 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 be 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 also 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.

### **Renunciation of Allotment**

- (28) Nothing in these presents shall preclude the Directors from recognising a renunciation of the allotment of any shares by the allottee in favour of some other person.

### **Allotment to Directors**

- (29) No Director shall participate in an issue of shares to employees unless shareholders in General Meeting have approved of the specific allotment to be made to such Director and unless he holds office in an executive capacity provided always that a Director not holding office in an executive capacity may so participate in an issue of shares pursuant to a public offer or a public issue.

### **Power to pay commissions and brokerage**

- (30) The Company may exercise the powers of paying commissions conferred by the Act. The rate per centum or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by the Act, and such commission shall not exceed ten (10) per centum of the price at which the shares in respect of which the commission is paid are issued, or an amount, equivalent to such percentage, and that the requirements

of Section 80 of the Act shall be observed. The Company may also on any issue of shares pay such brokerage as may be lawful.

### **Power to charge interest to capital**

- (31) Subject to the conditions and restrictions mentioned in Section 130 of the Act, if any shares of the Company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a long period, the Company may, subject to the conditions and restrictions mentioned in the Act, pay interest or returns on the amount of such share capital as is for the time being paid up, and charge the interest or returns paid to share capital as part of the cost of construction of the works, buildings or plant.

### **Exclusion of equities**

- (32) Subject to Article 32, no person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or compelled in any way to recognise any equitable, contingent, future or partial interest in any shares, or any interest in any way, fractional part of a share, or (except only as by these presents or by law otherwise provided) any other right in respect of any share, except an absolute right to the entirety thereof in the registered holder, save in consequence of the Order of Court of competent jurisdiction.
- (33) (a) The Company may by notice in writing require any Member of the Company within such reasonable time as is specified in the notice:
- (i) to inform the Company whether he holds any voting shares in the Company as beneficial owner or as trustee; and
  - (ii) if he holds them as trustee, to indicate so far as he can the persons for whom he holds them by name and by other particulars sufficient to enable those persons to be identified and the nature of their interest.
- (b) Where the Company is informed in pursuance of a notice given to any person under subsection (a) hereof or under this subsection that any other person has an interest in any of the voting shares in the Company, the Company may by notice in writing require that other person within such reasonable time as is specified in the notice:
- (i) to inform it whether he holds that interest as beneficial owner or as trustee; and
  - (ii) if he holds it as trustee, to indicate so far as he can the persons for whom he holds it by name or by other particulars sufficient to enable them to identify and the nature of their interest.
- (c) The Company may by notice in writing require a Member of the Company to inform it, within such reasonable time as is specified in the notice, whether any of the voting rights carried by any voting shares in the company held by him are the subject of an agreement or arrangement

under which another person is entitled to control his exercise of those rights and. If so, to give particulars of the agreement or arrangement and the parties to it.

### **Joint holders**

- (34) The Company shall not be bound to register more than three (3) persons as the holders of any share except in the case executors or administrators or trustees of the estate of a deceased member.

## **CERTIFICATES**

### **Issue of certificates**

- (35) Every Member shall be entitled to receive share certificates in reasonable denomination for his holding and without payment within ten (10) Market Days after allotment of fifteen (15) Market Days after lodgement of transfer to receive a certificate, certifying the shares allotted or transferred to him and the amount paid-up thereon, provided that in the case of joint holders the Company shall not be bound to issue more than one certificate to all the joint holders, and delivery of such certificate to any of them shall be sufficient delivery to all. If any Member shall require more than one certificate in respect of the shares registered in his name he shall pay such fee not exceeding RM3/- per certificate for every additional certificate required as the Directors may from time to time determine. Every certificate shall be issued under the Seal and bear the signature or such other person as may be authorised by the Directors or a Director and the Secretary or such other person as may be authorised by the Directors, and shall specify the shares to which it relates and the amount paid up thereon. In the case of a share held jointly by several persons, the Company shall not be bound to issue more than one certificate thereof and delivery of a certificate to one of such persons shall be sufficient delivery to all.

### **Renewal of certificates**

- (36) Subject to the provisions of the Act, if any share certificate shall be defaced, worn out, damaged, destroyed, lost or stolen, a duplicate certificate shall be issued on payment of a fee not exceeding fifty (50) ringgit on evidence being produced and a Letter of Indemnity (if required) being given by the shareholder, transferee, person entitled or the purchaser and the Directors may in their sole discretion accept an indemnity given by any member firm or member company of any Stock Exchange on which the shares of the Company are listed on behalf of any such shareholder, transferee, person entitled or purchaser as aforesaid and (in case of defacement, wearing out or damage) on delivery of the old certificate, and (to the extent permitted by law and if listed thereon, by the Stock Exchange governing the Register concerned) on payment of the amount of any costs and expenses which the Company has incurred in connection with the matter plus the amount of the expenses which the Company has incurred in connection with the matter plus the amount of the proper duty, levy or taxes with which each certificate is chargeable under any law for the time being in force and generally on such terms as the

Directors may from time to time require. In case of destruction, loss or theft and the cost of obtaining all evidence in connection therewith and shall bear any loss that may be incurred by the Company as a results of the Company issuing such renewed certificate to such person.

### **“Split” share certificate**

- (37) Every such Member shall be entitled to receive “split” share certificates in such denominations as he may require for his holdings and where a charge is made for certificates, such shall not exceed such fee as the Directors may from time to time determine and which the Company may be permitted to charge by law and by the appropriate Stock Exchange governing the Register concerned, plus any stamp duty levied by the Government concerned from time to time.

## **CALLS ON SHARES**

### **Calls and Notice of call**

- (38) The Directors may from time to time make calls upon the Members in respect of any moneys unpaid on their shares and not be the terms of issue thereof made payable at fixed times, and each Member shall (subject to receiving at least fourteen (14) days’ notice specifying the time or 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.

### **Time when made**

- (39) 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 made payable by instalments.

### **Liability of joint holders**

- (40) The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

### **Interest on calls**

- (41) If a sum called in respect of a share is not paid before or on the day appointed 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 eight (8) per centum per annum, as the Directors may determine, but the Directors shall be at liberty to waive payment of such interest wholly or in part thereof.

### **Sum due on allotment to be treated as calls**

- (42) Any sum which by the terms of issue of a share becomes payable upon allotment or at any fixed date, shall 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 the Act as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

### **Payment in advance of calls**

- (43) The Directors may, if they think fit, receive from any Member willing to advance the payment all or any part of the moneys uncalled and unpaid upon the shares held by the Member, and such payment in advance of calls shall extinguish, so far as the same shall extend, the liability upon the shares in respect of which it is made, and upon the money so received or so much thereof as from time to time exceeds the amount of the calls then made upon the shares concerned, the Company may pay interest or return at such rate (not exceeding five (5) per centum per annum) as the Member paying such sum and the Directors agree upon, unless the Company in a general meeting otherwise directs. Capital paid on shares in advance of calls shall not, whilst carrying interest confer a right to participate in profits.

### **FORFEITURE AND LIEN**

#### **Notice requiring payment of calls**

- (44) If a Member fails to pay in full any call or instalment of a call within the stipulated time, the Directors may serve a notice on him or on the person entitled to the share by transmission requiring payment of the amount unpaid, together with any interest or compensation and expenses which may have accrued.

#### **Notice of state time and place for payment**

- (45) The notice shall specify a date on or before which and the place where the payment is required to be made, and shall state that in the event of non-payment on or before the specified date the shares on which the call was made will be liable to be forfeiture.

#### **Forfeiture on non-compliance with notice**

#### **Surrender in lieu of forfeiture**

- (46) If the requirements of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given shall be forfeited by a resolution of the Directors to the effect, unless the payment as required by the notice has been made before such resolution. Such forfeitures shall include all dividends declared in respect of the forfeited share and not actually paid before forfeiture. The Directors may accept a surrender of any share liable to be forfeited hereunder.

#### **Sale of shares forfeited or surrendered**

- (47) A share so forfeited or surrendered shall become the property of the Company and may be sold, re-allotted or otherwise disposed of, either to the person who was before such forfeiture or surrender the holder thereof or entitled thereto, or to any other person, upon such terms and in such manner as the Directors, shall think fit, and at any time before a



sale, re-allotment or disposition the forfeiture or surrender may be cancelled on such terms as the Directors think fit. The Directors may, if necessary, authorise some person to transfer a forfeited or surrendered share to any such other person as aforesaid.

### **Rights and liabilities of members whose shares have been forfeited or surrendered**

- (48) A Member whose shares have been forfeited or surrendered shall cease to be a Member in respect of the forfeited shares, but shall notwithstanding the forfeiture or surrender remain liable to pay to the Company all moneys which at the date of forfeiture or surrender were presently payable by him to the Company in respect of the shares, with interest or compensation thereon at the rate of eight (8) per centum per annum from the date of forfeiture or surrender on the money for the time being unpaid, if the directors think fit to enforce payment of the interest or compensation, and the liability shall cease if and when the company receives in full of all such money in respect of the shares but the Directors may waive payment of such interest or compensation either wholly or in part and the Directors may enforce payment without any allowance for the value of the shares at the time of forfeiture or surrender.

### **Company's lien**

- (49) The Company shall be entitled to a lien, in priority to any other claim, on every share (not being fully paid share) for all moneys, whether presently or not, called or payable at a fixed time in respect of such share, and for all moneys due by the shareholder to the Company by way of money called or payable at a fixed date. The Company's lien (if any) on a share shall extend to all dividends payable thereon. The Directors may resolve that any share shall for some specified period be exempt from the provisions of this Article.

### **Sale of shares subject to lien**

- (50) 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 (14) 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 or bankruptcy.

### **Application of Proceeds of such sale**

- (51) The net proceeds of sale shall be received by the Company and applied in or towards payment or satisfaction of such part of the amount in respect of which the lien exists, so far as the same is presently payable and any residue shall be paid to the person entitled to the shares at the date of the sale, subject to a similar lien for sums not presently payable which exists over the shares before the sale. For giving effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser.



### **Title of shares forfeited or sold to satisfy a lien**

- (52) A statutory declaration in writing by a Director of the Company 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 stated therein as against all persons claiming to be entitled to the share, and such declaration and the receipt of the Company for the consideration (if any), given for the shares on the sale, re-allotment or disposal thereof, together with the certificate of proprietorship of the share under seal 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**

#### **Transfers in writing and no restriction on transfer of fully paid shares**

- (53) Subject to the restriction of this Constitution any Member may transfer all of any of his shares by a duly executed and stamped instrument of transfer in accordance with Section 105 of the Act, and lodging the transfer with the Company, or if its shares are listed thereon, in any other form approved by the appropriate Stock Exchange governing the Register concerned or, in any other form which the Directors may approve.

#### **Execution**

- (54) The instrument of transfer of a share shall be signed by or on behalf of the transferor and transferee and such other persons as may be required by the Stock Exchange 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 in respect thereof.

#### **Persons under disability**

- (55) No share shall in any circumstances to any infant, bankrupt or person of unsound mind.

#### **Free transferability of shares**

- (56) There shall be no restriction on the transfer of fully paid securities of the Company which are quoted or are to be quoted except where required by law.
- (57) The Directors may decline to recognise the instrument of transfer unless:

##### **Fee payable**

- (a) The instrument of transfer is duly stamped and such fee, not exceeding RM3/- per transfer is paid to the Company in respect thereof or such sum as the Company may be permitted by law and by the Stock Exchange governing the registration of transfer of securities; and

### **Deposit of Transfer**

- (b) The instrument of transfer is deposited at the office or at such other place (if any) as the Directors may appoint accompanied by the certificates 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 and if the instrument of transfer is executed by some other person on his behalf, the authority of the person so to do; and
- (c) The instrument of transfer is in respect of only one class of share.

The Directors may, within thirty (30) days from the receipt of the instrument of transfer, pass a resolution to refuse or delay the registration of the transfer, setting out in full the reasons for refusing or delaying the registration. If the Directors refuse or delay to register a transfer of any shares they shall give to the lodging broker, the transferor and the transferee the notice of the resolution and precise reasons thereof within seven (7) Market Days after the date on which the resolution was passed. All instruments of transfer which are registered may be retained by the Company.

### **Register of Transfer may be closed**

- (58) The Register of Transfers may be closed during the fourteen (14) days immediately preceding every Annual General Meeting of the Company, and at such other times (if any) and for such period as the Directors may from time to time determine, provided always that it shall not be closed for more than thirty (30) days in the aggregate in any year.

### **Fee for registration of probate etc.**

- (59) There shall be paid to the Company 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, such fees, not exceeding RM3/- as the Directors may from time to time require or prescribe.

## **TRANSMISSION OF SHARES**

### **Transmission on death**

- (60) 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 or only surviving holder, shall be the only persons recognised by the Company as having any title to his interest in the shares, but nothing in the Article shall release the estate of a deceased Member (whether sole or joint) from any liability in respect of any share held by him.

## **Registration of executors and trustees in bankruptcy**

- (61) Any person becoming entitled to a share in consequence of the death or bankruptcy of a Member may, subject as hereinafter provided, elect either to be registered himself as holder of the share upon giving to the Company notice in writing of his desire, or transfer such share to some other person. All the limitations, restrictions and provisions of this Constitution 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 of transfer were a transfer executed by such Member.

## **Rights of unregistered executors and trustees**

- (62) Save as otherwise provided by or in accordance with these presents, a person becoming entitled to a share by transmission in consequence of the death or bankruptcy of a Member 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 be entitled in respect thereof to exercise any right conferred by membership in relation to meetings of the Company until the registration of the transmission of shares in accordance with the Act and this Constitution.

## **STOCK**

### **Power to convert into stock**

- (63) The Company may by Special Resolution convert any paid-up shares into stock, and may from time to time by like resolution reconvert any stock into paid-up shares of any denomination.

### **Transfer of stock**

- (64) The holder of stock may transfer the shares or any part thereof in the same manner, and subject to the same regulations as and subject to which the shares from which the stock arose might previously to conversion have been transferred, or as nearest thereto as circumstances admit, but no stock shall be transferable except in such units as the Directors may from time to time determine, provided that such units shall not be greater than the [•] amount of the shares from which the stock arose.

### **Rights of stock-holders**

- (65) 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 as regards dividend and return of capital) shall be conferred by an amount or part of stock which would not, if existing in shares, have conferred such privilege or advantage.

## **Interpretation**

- (66) All such of the provisions of these presents as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall included "stock" and "stockholder".

## **GENERAL MEETING**

### **Annual General Meeting**

- (67) (a) The Company shall in each year hold a General Meeting as its Annual General Meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notice calling it. The Annual General Meeting must be held within six (6) months of the Company's financial year end and not more than fifteen (15) months shall elapse between the date of one Annual General Meeting of the Company and that of the next (unless approved by the Registrar of Companies to extend the period) to transact (a) laying of audited financial statements and the reports of the directors and auditors, (b) the election of directors in place of those retiring, (c) the appointment and the fixing of the fee of directors and (d) any resolution or other business of which notice is given in accordance with the Act and this Constitution, but so long as a Company holds its first annual general meeting within eighteen (18) months of its incorporation, it need not hold any other annual general meeting in the year of its incorporation or in the year following its incorporation. The Annual General Meeting shall be held at such time and place as the Directors shall determine. Every notice of an annual general meeting shall specify the meeting as such and every meeting convened for passing a Special Resolution shall state the intention to propose such resolution as a Special Resolution.
- (b) All General Meetings other than Annual General Meetings shall refer to meetings of members.

### **Extraordinary General Meeting**

- (68) The Directors may whenever they think fit, and shall on requisition in accordance with the Act, proceed to convene a meeting of members.

## **NOTICE OF GENERAL MEETINGS**

### **Notice**

- (69) Subject to the provisions of the Act as to Special Resolutions and resolutions requiring special notice, in the case of an annual general meeting, twenty-one (21) days' notice, or in any other case, at least fourteen (14) days' notice in writing (excluding both of the day on which the notice is served or deemed to be served and of the day for which the notice is given) of every General Meeting specifying the place, the day and the hour of meeting and in the case of special business the effect of any proposed resolution in respect of such business shall be given in the manner hereinafter mentioned to such persons (including the Auditors) as are under the provisions herein contained entitled to receive notices from the Company. But the accidental omission to give any such notices or the non-receipt of notice by any person entitled to receive the same shall not invalidate or otherwise affect the proceedings at any such meeting. If its shares are listed on any

Stock Exchange at least fourteen (14) days' notice of every such meeting shall also be given by advertisement in the daily press and in writing to each of such Stock Exchange. Every notice convening an Annual General Meetings of the Company shall describe the meeting as an Annual General Meeting and every notice of a General Meeting shall comply with any requirements of the Act as regards the notification to members of their rights as to the appointment of proxies. Provided always that the requirements as to notice to persons entitled to receive the same may be varied in accordance with the Act.

### **Special Business**

- (70) All business shall be deemed special that is transacted at a a meeting of members, and all that is transacted at an Annual General Meeting shall also be deemed special, with the exception of sanctioning a dividend, the consideration of the accounts and balance sheets and the reports of the Directors and Auditors, and any other documents, accompanying or annexed to the balance sheets, the fixing of the fees of the Directors, the election of Directors in place of those retiring and the appointment and fixing of the remuneration of the Auditors.

### **Waiver from Exchange for convening EGM for new issue of shares**

- (71) Notwithstanding Article 26, the Company may apply to the Stock Exchange to waive the convening of a meeting of members to obtain shareholders' approval for further issues of which in any one financial year do not exceed ten (10) per centum of the issued capital.

- (72) Quorum

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, two (2) members present in person shall be a quorum. For all purpose of this regulation "Member" includes a person attending as a proxy or as a representative of a corporation which is a member."

### **Adjournment if quorum not present**

- (73) If within held an hour from the time appointed for the meeting as quorum is not present, the meeting, if convened on 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, or to such other day and at such other time and place as the Directors may determine, and if at such adjourned meeting a quorum is not present within fifteen (15) minutes from the time appointed for holding the meeting, the Members present shall be a quorum and may transact the business for which the meeting was called but no notice of any such adjournment as aforesaid shall be required to be given to the Members.

### **Chairman and Deputy-Chairman**

- (74) The Chairman of the Board of Directors shall preside as Chairman at every General Meeting and in his absence, the Deputy-Chairman shall preside as Chairman at every General Meeting. If at any meeting the Chairman or the Deputy-Chairman be not present within fifteen (15) minutes after the time appointed for holding the meeting or be unwilling to act, the Members present shall choose one of the Directors to be the

chairman of the Meeting, or, if no Directors be present or if all the Directors present decline to take the Chair, one of their number present to be chairman.

## **Adjournments**

### **Notice of Adjournments**

- (75) 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 except business which might have been transacted at the meeting from which the adjournment, took place. When a meeting is adjourned for ten (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.

### **Method of voting**

- (76) At any General Meeting a resolution put to the vote of the meeting shall be decided on a show hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by either:

#### **Who can demand a poll**

- (a) The chairman of the meeting;
- (b) A Member or Members present in person or by proxy and representing not less than ten (10) per centum of the total voting rights of all the Members, having the right to vote at the Meeting;
- (c) 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 ten (10) per centum of the total paid up shares conferring that right; or
- (d) at least three members present in person or by proxy.

#### **Result of voting**

A demand for a poll may be withdrawn. Unless a poll be so demanded (and the demand be not withdrawn), an a vote on a resolution at a meeting on a show of hands, a declaration by the Chairman that a resolution has been passed, or passed unanimously, or passed by a particular majority, or lost and an entry to that effect in the minutes of the proceeding, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against such resolution.



### **Votes counted in error**

- (77) If any votes shall be counted which ought not to have been counted, or might have been rejected, the error shall not vitiate the result of the voting unless it be pointed out at the same meeting or at any adjournment thereof, and not in that case unless it shall in the opinion of the Chairman be of sufficient magnitude.

### **How poll to be taken**

- (78) If a poll be duly demanded (and the demand be not withdrawn), it shall be taken in such manner (including the use of ballot or voting papers or tickets) as the Chairman may direct, and the result of a poll shall be deemed to be the resolution of the meeting at which a poll was demanded. The Chairman may (and if so requested shall) appoint scrutineers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.

### **Chairman's casting vote**

- (79) In the case of an equality of votes, whether on a show of hands or 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 casting vote.

### **Time for taking a poll**

- (80) No poll shall be demanded on the election of a Chairman or on a question of adjournment. A poll demanded on any other question shall be taken either immediately or at such subsequent time (not being more than thirty (30) days from the date of the meeting) and place as the Chairman may direct. No notice need be given of a poll not taken immediately.

### **Continuance of business after demand for poll**

- (81) Subject to section 332 of the Act, 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 the poll has been demanded.

## **VOTES OF MEMBERS**

### **Voting rights of members**

- (82) Subject to Article 85 and to any special rights or restrictions as to voting attached to any class of shares hereinafter issued on a show of hands every Member who is present in person or by proxy shall have one vote and on a poll every Member present in person or by proxy shall have one vote for every share of which he is the holder.



### **Voting rights of joint holders**

- (83) In the case of joint holders of shares, any one of such persons may vote, but if more than one of such persons be present at a meeting, the persons whose name stands first on the Register of Members shall alone be entitled to vote.

### **Voting rights of shares of different monetary denomination**

- (84) Where the capital of the company consist of shares of different monetary denominations, voting rights shall be prescribed in such a manner that a unit of capital in each class, when reduced to a common denominator, shall carry the same voting power when such right is exercisable.

### **Voting rights of lunatic members**

- (85) 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, curator bonis or other persons in the nature of a committee, curator bonis appointed by such Court (who may appoint a proxy), provided that such evidence as the Directors may require of the authority of the person claiming to vote shall have been deposited at the office not less than forty-eight hours before the time appointed for holding the meeting.

### **Right to vote**

- (86) Every Member shall be entitled to be present and to vote at any General Meeting either personally or by proxy and to be reckoned in a quorum in respect of shares fully paid and upon which all calls due to the Company have been paid.

### **Objections**

- (87) 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, any every vote not disallowed at such meeting shall be valid for all purpose. Any such objection made in due time shall be referred to the Chairman of the meeting whose decision shall be final and conclusive.

### **Votes on a poll**

- (88) On a poll, votes may be given either personally or by proxy, and a person entitled to more than one vote need not use all the votes or cast all the votes he uses in the same way.

### **Execution of proxies**

- (89) Subject to section 334 of the Act, an instrument appointing a proxy shall be in writing and:  
(a) In the case of an individual shall be signed by the appointer or by his attorney;

- (b) In the case of corporation shall be either under its common seal or signed by its attorney or by an officer on behalf of the corporation;
- (c) The signature to an instrument appointing a proxy executed outside Malaysia shall be attested by a solicitor, notary public, consul or magistrate, but the Directors may from time to time waive or modify this requirement either generally or in a particular case or cases.

The Directors may, but shall not be bound to require evidence of the authority of any such attorney or officer.

### **Proxy need not be a member**

- (90) A proxy need not be a member of the Company.

### **Deposit of proxies**

- (91) An 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 or such other place within Malaysia (if any) as is specified for the purpose in the notice convening the meeting not less than forty-eight (48) hours before the time appointed for the holding of the meeting or adjourned meeting (or in the case of a poll, not less than twenty-four (24) hours before the time appointed for the taking of the poll) at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

### **Form of proxies**

- (92) An instrument appointing a proxy may be in the following form or a form as near thereto as circumstances shall admit or in such other form as the Directors may accept, and shall be deemed to include the right to demand or join in demanding a poll. An instrument appointing a proxy shall unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates and need not be witnessed.

### **CIMB BANK BERHAD**

I (We).....NRIC  
 No.....  
 of.....  
 .....being a member (members) of the abovenamed Company, hereby  
 appoint.....NRICNo.....of.....  
 .....or failing him.....  
 NRIC  
 No.....of.....  
 .... as my (our) proxy to vote for me (us) on my (our) behalf at the Annual/  
 General Meeting or any other General Meeting (as the case may be) of the

Company to be held on the.....day  
of.....20.....and at any adjournment thereof.

As witness my hand, this.....day of.....20.....

Signed by the said..... in the presence of  
.....

### **Intervening or insanity of principal not to revoke proxy**

- (93) 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 of the authority under which the proxy was executed, or the transfer of the share in respect of which the proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the Company at the Office (or at such other place as may be specified for the deposit of instruments appointing proxies) before the commencement of the meeting or adjourned meeting (or in the case of poll before the time appointed for the taking of the poll) at which the proxy is used.

### **CORPORATION ACTING BY REPRESENTATIVE**

#### **Representative**

- (94) (a) 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 such corporation as the corporation could exercise if it were an individual Member of the Company.
- (b) If the corporation authorizes more than one person and more than one of the representatives purport to exercise the power under sub-article (a)-
- (i) if the representatives purport to exercise the power in the same way, the power is treated as exercised in that way; or
  - (ii) if the representatives do not purport to exercise the power in the same way, the power is treated as not exercised.
- (c) A certificate of authorization by the corporation shall be prima facie evidence of the appointment or the revocation of the appointment, as the case may be, of a representative under this section.

### **DIRECTORS**

#### **Number of Directors**

- (95) Subject to the provisions of Section 196 of the Act, the number of Directors shall not be less than five (5) nor unless otherwise determined by a General Meeting more than fourteen (14) in number. The Company may by Special Resolution from time to time

increase or reduce the maximum or minimum number of Directors. No one other than a natural person shall be a Director of the Company.

### **No qualification**

- (96) A Director shall not be required to hold any share qualification.

### **Remuneration of Directors**

- (97) The remuneration of the Directors shall from time to time be determined by an Ordinary Resolution of the Company, and shall (unless such resolution otherwise provides) be divisible amongst the Directors as they shall determine. Any Director who shall hold office for part only of the period of the period in respect of which such remuneration is payable shall be entitled only to rank in such division for a proportion of remuneration related to the period during which he has held office. Such remuneration shall so far as non-executive directors are concerned be by way of a fixed sum and not by way of a commission on or percentage of profits or turnover.

### **Fees**

- (98) Fees payable to Directors shall not be increased except pursuant to a resolution passed at a General Meeting where notice of the proposed increase has been given in the notice convening the Meeting.

### **Expenses**

- (99) The Company may repay to any Director all such reasonable expenses as he may incur in attending and returning from meetings of the Directors, or of any committee of the Directors, or General Meetings, or otherwise in or about the business of the Company.

### **Extra remuneration**

- (100) Any Director, who is appointed to any executive office or 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, percentage of profits or otherwise (but not a commission on or percentage of profits or turnover) as the Directors may determine.

### **Pension**

- (101) (a) The Directors may pay pension or allowances (either revocable or irrevocable and either subject or not subject to any terms or conditions) to any full-time Directors (as hereinafter defined) on or at any time after his retirement from his office or employment under the Company or under any associated company or on or after his death to his widow or other dependents.
- (b) The Directors shall also have power and shall be deemed always to have had power to establish and maintain and to concur with associated companies in establishing and maintaining any schemes or funds for providing pensions,

sickness or compassionate allowance life assurances or other benefits for staff (including any Director for the time being holding any executive office or any office of profit) or employees of the Company or Director or former Director of the Company or of any such associated company and for the widows or other dependants of such persons and to make contributions out of the Company's moneys for any such schemes or funds.

- (c) In this Article the expression "full-time Director" shall mean and include any Director who has for a continuous period of not less than five (5) years been engaged substantially whole-time in the business of the Company or any associated company in any executive office or any office of profit or partly in one or partly in another, and the expression "associated company" shall include any company which is the holding company of the Company or a subsidiary of the Company or of any such holding company or which in the opinion of the Directors can properly be regarded as being connected with the Company or with any such company as aforesaid.

#### **Power of Directors to hold office of profit and to contract with Company**

- (102) 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 is in any way interested be liable to be avoided, nor shall any Director so contracting or being so interested be liable to be avoided, nor shall any Company for any profit realized by any such contract or arrangement by reason of such Director holding that office, or of the fiduciary relation thereby established, provided that such disclosure is made as is required by Article 117 of these presents.

#### **Holding of concurrent office**

- (103) A Director may be or become a Director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as a shareholder or otherwise, and unless otherwise agreed shall not be accountable for any remuneration or other benefits received by him as a Director or officer of by or virtue of his interest in such other Company.

### **MANAGING DIRECTOR AND EXECUTIVE DIRECTOR**

#### **Power to appoint Managing Director and Executive Directors**

- (104) The Directors may from time to time appoint one or more of their body to be:
  - (a) The Managing Director and whilst acting as such shall be the Chief Executive Officer of the Company,
  - (b) Executive Directors

## **Term of office and remuneration of Managing Director and Executive Directors**

- (105) Where any such appointment is for a fixed period, such period shall not exceed five (5) years and upon such terms as they think fit at such remuneration and upon such terms as to the duties to be performed, the powers to be exercised, and all other matters as the Directors think fit, but so that no appointee shall be invested with any powers or entrusted with any duties which the directors themselves could not have exercised or performed. The remuneration of a Managing Director or Executive Director may be by way of salary.

## **Exemption of Managing Director and Executive Directors from retirement by rotation**

- (106) A Managing Director or an Executive Director shall not, while he continues to hold such office be subject to retirement by rotation and he shall not be taken into account in determining the rotation and he shall not be taken into account in determining the rotation or retirement of Directors but without prejudice to any claim he may have for damages for breach of any contract of service between him and the Company, he shall, subject to the provisions as to resignation and removal from office as the other Directors of the Company and if he shall cease to hold the office of Director he shall ipso facto and immediately cease to be a Managing Director or an Executive Director.

## **APPOINTMENT AND RETIREMENT OF DIRECTORS**

### **Vacation of office of Director**

- (107) The office of a Director shall be vacated in any of the following events, namely :
- (a) If he becomes disqualified by law from acting as a Director;
  - (b) If (not being an Executive Director holding office as such for a fixed term) he gives two (2) months' notice in writing to the Company at its registered office of his desire to resign;
  - (c) If he has a receiving order made against him or suspends payment or compound with his creditors generally;
  - (d) If he becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the Mental Health Act 2001;
  - (e) If he be absent from meetings of the Directors for three (3) months without leave;
  - (f) If he be removed by the Company in General Meeting pursuant to Article 122 of these presents;
  - (g) If he retired in accordance to the Act and this Constitution, but is not re-elected;
  - (h) If he is removed from office in accordance to the Act and this Constitution; or
  - (i) If he dies.

### **Retirement of Directors by rotation**

- (108) Subject to Article 103 of these presents, at each Annual General Meeting one-third of the Directors for the time being, or, if their number is not a multiple of three (3), the number nearest to one-third with a minimum of one (1), shall retire from office. A Director retiring at a meeting shall retain office until the close of the meeting, whether adjourned or not.

### **Selection of Directors to retire**

- (109) The Directors to retire in every year shall be those who, being subject to retirement by rotation, have been longest in office since the Directors' last election or appointment, but as between persons who became or were last re-elected Directors on the same day those to retire shall (unless they otherwise agree amongst themselves) be determined by lot. A retiring Director shall be eligible for re-election as if he is not disqualified under the Act.

### **Filing vacated**

- (110) The Company at the meeting at which a Director retires under any provisions of these presents may by Ordinary Resolution appoint any person who is not disqualified to fill up the vacated office. If no appointment was made to fill up the vacated office, the retiring Director shall be deemed to have been re-elected, unless :-
- (a) at such meeting it is expressly resolved not to fill up such vacated office, or a resolution for the re-election of such Director is put to the meeting and lost; or
  - (b) such Director has given notice in writing to the Company that he is unwilling to be re-elected, or
  - (c) such Director has attained any retiring age applicable to him as Director.

### **Notice of intention to appoint Director**

- (111) No person other than a Director retiring at the meeting shall, unless recommended by the Directors for re-election be eligible for appointment as a Director at any General Meeting and unless not less than eleven (11) nor more than twenty-one (21) days before the day appointed for the meeting there shall have been left at the meeting for which such notice is given of his intention to propose such person for election, and also notice in writing signed by the person to be proposed of his willingness to be elected. Provided that in the case of a person recommended by the Directors for election nine (9) days' notice only shall be necessary and notice of each and every candidate for election shall be served on all Members at least seven (7) days prior to the meeting at which the election is to take place.

### **Removal of Directors**

- (112) The Company may by Ordinary Resolution requiring special notice has been given or by Special Resolution, remove any Director before the expiration of his period of office, notwithstanding any provision of these presents or of any agreement between the

Company any such Director, but without prejudice to any claim he may have for damages for breach of any such agreement. The Company may by either of the forms of resolution aforesaid appoint another person in place of a Director so removed from office and any person so appointed shall be subject to retirement by rotation at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director. In default of such appointment the vacancy so arising may be filled by the Directors as a casual vacancy.

#### **The Directors' power to fill casual vacancies or appoint additional Directors**

- (113) 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, provided the total number of Directors shall not at any time exceed the maximum number fixed by or in accordance with these presents. Any Director so appointed shall hold office only until the next Annual General Meeting and shall then be eligible for re-election, but shall not be taken into account in determining the number of Directors who are to retire by rotation at such meeting.

#### **Provisions for appointing and removing Alternate Directors**

- (114) Any Director may from time to time appoint any person who is approved by the majority of the other Directors to be an alternate Director. The appointee while he holds office as an alternate Director 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 but his remuneration shall be payable out of the remuneration payable to the Director appointing him and the proportion thereof shall be agreed between them. Any appointment so made may be revoked at any time by the appointor and any appointment or revocation under this Article shall be effected by notice in writing to be delivered to the Secretary of the Company.

### **PROCEEDINGS OF DIRECTORS**

#### **Meetings of Directors / Votes**

- (115) The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be determined by a majority of votes. In the case of an equality of votes the Chairman shall have a second or casting vote except where only two (2) Directors are competent to vote on the question at issue, or at the quorum present at the meeting. A Director may, and the Secretary on the requisition of a Director shall at any time summon a meeting of the Directors. Notice a meeting of Directors shall be given to all the Directors.

#### **Quorum**

- (116) The quorum necessary for the transaction of the business of the Directors shall be three (3). A meeting of the Directors at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors.



### **Declaration of interest**

- (117) 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 in accordance with the provisions of the Act.

### **Restriction on voting**

- (118) Save as by the next following Article otherwise provided, a Director shall not vote in regard to any contract or proposed contract or arrangement in which he has directly or indirectly a personal interest.

### **Relaxation of restrictions on voting**

- (119) 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 office or place of profit under the Company or whereat the Directors resolve to exercise any of the rights of the Company, (whether by the exercise of voting rights or otherwise) to appoint or concur in the appointment of a Director to hold any office or place of profit under any company or whereat the Directors resolve to enter into or make any arrangements with him or on his behalf pursuant to Article 102 of these presents, or whereat the terms of any such appointment or arrangements as hereinbefore mentioned are considered, and he may vote on any such matter other than in respect of the appointment of or arrangements with himself or the fixing of the terms thereof.

### **Proceedings in case of vacancies**

- (120) The continuing Directors may act notwithstanding any vacancies, but if and so long as the number of Directors is reduced below the minimum number fixed by or in accordance with these presents the continuing Directors or Director may act for the purpose of filling up such vacancies or of summoning General Meetings of the Company, but not for any other purpose. If there be no Directors or Director able or willing to act, then any two (2) members may summon a General Meeting for the purpose of appointing Directors.

### **Chairman**

- (121) The Directors may elect a Chairman of their meetings and a Deputy Chairman, who shall preside at any meeting during his absence and determine the period for which they are to hold office. If at any meeting the Chairman and the Deputy Chairman be not present within fifteen (15) minutes after the time appointed for holding the same, the Directors present may choose one of their number to be Chairman of the meeting.

### **Resolutions in writing**

- (122) A resolution in writing signed or approved by letter, or other similar means of communications, by the majority of Directors who may at the time present in Malaysia shall be as effective as a resolution passed at a meeting of the Directors duly convened and held, and may consist of several documents in similar form, each signed by one or more of the Directors subject to the provisions of the Banking Act.



### **Power to appoint committees**

- (123) The Directors may delegate any of their powers to committees consisting of members of their body as they think fit. Any committee so formed shall be even in number and shall in the exercise of the powers so delegated conform to any regulations that may be imposed on them by the Directors.

### **Proceedings at committee meetings**

- (124) The meetings and proceedings of any such committee consisting of two (2) or more members shall be governed by the provisions of these regulating the meetings and proceedings of the Directors, so far as the same are applicable and are not superseded by any regulation made by the Directors under the last preceding Article and Provided Always that the Chairman of such committee shall not have a second or casting vote in the event of an equality of votes unless such Chairman is also the Chairman of the Board.

### **Validity of acts of Directors in spite of some formal defect**

- (125) All acts done at any meeting of Directors, or of a committee of Directors, or by any persons acting as a Director, shall as regards all persons dealing in good faith with the Company, notwithstanding 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 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.

## **BORROWING POWERS**

### **Directors' borrowing powers**

- (126) The Directors shall not borrow any money or mortgage or charge any of the Company's or the subsidiaries' undertaking, property, or any uncalled capital, or to issue debentures and other securities whether outright or as security for any debt, liability or obligation of an unrelated third party.
- (127) Save as otherwise stated in Article 125 above, the Directors may exercise all the powers of the Company to borrow money and to mortgage or charge any of the Company's or its subsidiaries' undertaking, property, and uncalled capital or any part thereof and to issue debentures and/or other securities whether outright or as security for any debt liability or obligations of the Company.

## **GENERAL POWERS OF DIRECTORS**

### **General powers of Directors to manage Company's business**

- (128) The business of the Company shall be managed by Directors who may exercise all such powers of the Company as are not by the Act or by these presents required to be exercised by the Company in General Meeting, subject nevertheless to any regulations of these presents, to the provisions of the Act, and to such regulation, being not

inconsistent with the aforesaid regulations or provisions, as any be prescribed by Special Resolution of the Company, but no regulation so made by the Company shall invalidate any prior act of the Directors which would have been valid if such regulation has not been made. 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 Provided that any sale or disposal by the Directors of the Company's main undertaking shall be subject to ratification by the Members in General Meeting. Provided Always when exercising their powers the Directors shall comply fully with all the terms, conditions and stipulations contained in the Banking Act.

#### **Power to establish local Boards etc.**

- (129) The Directors may establish any local Boards or Agencies for managing any of the affairs of the Company, either in Malaysia or elsewhere, and may appoint any persons to be members of such local Boards, or any Managers or Agents, and may fix their remuneration, and may delegate to any local Boards Manager or Agent any of the powers, authorities and discretions vested in the Directors with powers to sub-delegate and may authorize the members of any Local Boards, or any of them, to fill any vacancies therein and to act notwithstanding vacancies, and any such appointment or 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.

#### **Power to appoint Attorneys**

- (130) The Directors may from time to time and at any time by power of attorney under the Seal appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the Attorney or Attorneys of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these discretions (not exceeding those vested in or exercisable by the Directors under these presents) 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 authorize any such Attorney to sub-delegate all or any of the powers, authorities and discretions vested in him and may from time to time revoke or withdraw such appointment or authorisation.

#### **Power to have a Seal for use abroad**

- (131) The Company may exercise the powers conferred by the Act with regard to having an official seal for use abroad, and such powers shall be vested in the Directors.

#### **Power to keep Branch register**

- (132) The Company, or the Directors on behalf of the Company, may in exercise of the powers in that behalf conferred by the Act cause to be kept, a Branch Register or Registers of Members and the Directors may (subject to the provisions of the Act) make and vary such regulations as they may think fit respecting the keeping of any such register.

### **Signatures of cheques and bills**

- (133) All cheques, promissory notes, drafts, bills of exchange and other negotiable, or transferable instruments and all receipt for moneys 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.

### **SECRETARY**

#### **Appointment of Secretary and Deputy or Assistant Secretary**

- (134) Subject to sections 235 and 236 of the Act, the Secretary shall, and a Deputy or Assistant Secretary may, be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit, and any Secretary, Deputy or Assistant Secretary so appointed may be removed by them, but without prejudice to an claim he may have for damages for breach of any contract of service between him and the Company.

### **THE SEAL**

#### **Formalities for affixing Seal**

- (135) The Directors shall provide for the safe custody of the Seal, which shall only be affixed to any instrument requiring the use thereof in the presence of one Director and the Secretary or by a second Director, or such other persons as may be authorized by the Directors and (subject to the provisions of these presents as to certificates for shares) the persons before whom the Seal is affixed shall sign the said instrument. The Directors may from time to time cause the Seal to be broken up and renew the same or cause another Seal to be substituted therefor.

### **AUTHENTICATION OF DOCUMENTS**

#### **Power to authenticate documents**

- (136) 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 resolution passed by the Company or the Directors, and any books, records, documents, and accounts relating to the business of the Company and to certify copies thereof of 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.

#### **Certified copies of resolution of the Directors**

- (137) A document purporting to be a copy of a resolution of the Directors or an extract from the minutes of a meeting of the Directors which is certified as such in accordance with the provisions of the last preceding Article 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 such extract is a true and accurate record of a duly constituted meeting of the Directors.

## **DIVIDENDS AND RESERVES**

### **Payment of dividends**

- (138) Subject to the provisions of the Banking Act, the Company may by Ordinary Resolution declare dividends but (without prejudice to the powers of the Company to pay interest on share capital as hereinbefore provided) no dividend shall be payable except out of the profits of the Company available if the Company is solvent, or in excess of the amount recommended by the Directors.

### **Apportionment of dividends**

- (139) Subject to the rights of holders of shares with special rights as to dividend (if any), all dividends shall be declared and paid according to the amount paid on the shares in respect whereof the dividend is paid, but (for the purpose of this Article only) no amount paid on a share in advance of calls shall be treated as on the share. All dividends shall be apportioned and paid pro rate according to the amounts paid on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

### **Payment of preference and interim dividends**

- (140) If and so far as in the opinion of the Directors the profits of the Company justify such payments, the Directors may pay the fixed preferential dividends on any class of shares carrying a fixed preferential dividend expressed to be payable on fixed date on the half yearly or other dates (if any) prescribed for the payment thereof by the terms of issue of the shares, and subject thereto may also from time to time pay to the holders of any other class of shares interim dividends thereon of such amounts and on such dates as they think fit subject to the provisions of the Banking Act.
- (141) Subject to the provision of the Act where any assets, business or property is bought by the Company as from a past date upon the terms that the Company shall as from that date take the profits and bear the losses thereof, such profits, or losses as the case may be, shall, at the discretion of the Directors, be credited or debited wholly or in part to revenue account, and in that case the amount so credited or debited shall, for the purpose of ascertaining the fund available for dividend accordingly. Subject as aforesaid, if any shares or securities are purchased cum dividend or interest such dividend or interest when paid may at the discretion of the Directors be treated as revenue, and it shall not be obligatory to capitalize the same or any part thereof.

### **Dividends not to bear interest**

- (142) No dividend or other moneys payable on or in respect of a share shall bear interest against the Company.

### **Deduction of debts due to Company**

- (143) The Directors may deduct from any dividend or other moneys payable to any Member on or in respect of a share all sums of money (if any) presently payable by him to the Company on account of calls or in connection therewith.

### **Retention of dividends on shares subject to lien**

- (144) The Directors may retain any dividends or other moneys 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, liabilities or engagements in respects of which the lien exists.

### **Retention of dividends on shares pending transmission**

- (145) The Directors may retain the dividends payable on shares in respect which any person is under the provisions as to the transmission of shares hereinbefore contained entitled to become a Member, or which any person under those provisions is entitled to transfer, until such person shall become a Member in respect of such shares or shall duly transfer the same.

### **Unclaimed dividends**

- (146) The payment by the Directors of any unclaimed dividend or other moneys payable on or in respect of a share into a separate account shall not constitute the Company a trustee in respect thereof and any dividend unclaimed after a period of one year from the date of declaration of such dividend may be retained until claimed or paid by the Company under any legislation concerning unclaimed money.

### **Payment of dividends in specie**

- (147) The Company may, upon the recommendation of the Directors, by Ordinary Resolution direct payment of a dividend in whole or in part by the distribution of specific assets and in particular of paid-up shares or debentures of any other company or in any one or more of such ways; and the Directors shall give effect to such Resolution, and where any difficulty arises in regards to such distribution, the Directors may settle the same as they think expedient and in particular may issue fractional certificates 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 Member 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.

### **Notice of dividend**

- (148) Notice of any dividend that may have been declared shall be given in manner hereinafter provided to such Members as are entitled under this Constitution to receive notices from the Company.

### **Dividends payable in proportion to amounts paid on shares**

- (149) All dividends shall be declared and paid according to the amounts paid on the shares in respect of which the dividend is paid, but no amount paid on a share in advance of calls shall be treated for the purpose of this Article as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid on the shares during any part or parts of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date, such share shall rank for dividend accordingly.

### **Dividends payable by cheque**

- (150) Any dividend or other moneys 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 thereto, or if several persons are registered as joint holders of the share or are entitled thereto in consequence of the death or bankruptcy of the holder, to any one of such persons or to such persons and such address as such persons may by writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent or to such person as the holder or joint holders or person or persons entitled to the share in consequence of the death or bankruptcy of the holder may direct and payment of the cheque if purporting to be endorsed shall be a good discharge to the Company. Every such cheque or warrant shall be sent at the risk of the person entitled to the money represented thereby.

### **Dividends due to joint holders**

- (151) If several persons are registered as joint holders of any share, or are entitled jointly to share in consequence of the death or bankruptcy of the holder, any one of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.

## **RESERVE AND CAPITALIZATION**

### **Power to carry profit to reserve**

- (152) The Directors may from time to time set aside out of the profits of the Company and carry to reserve such sums as they think proper which, at the discretion of the Directors, shall be applicable for meeting contingencies or for the gradual liquidation of any debt or liability of the Company or for repairing or maintaining the works, plant and machinery of the Company or for special dividends or bonuses or for equalising dividends or for any other purpose to which the profits of the Company may properly be applied and pending such application may either be employed in the business of the Company or be invested. The Directors may divide the reserve into such special funds as they think fit, and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided. The Directors may also without placing the same to reserve carry forward any profits which they may think is not prudent to divide.

## **Capitalisation**

- (153) The Company may upon recommendation by the Directors or any time and from time to time in General meeting by Ordinary Resolution authorise the Directors to capitalise the whole or any part of the undivided profits of the Company not required for the time being for payment of dividends upon any preference shares issued upon any special conditions whether standing to the credit of the reserve fund or funds of the Company or otherwise in the hands of the Company and available for dividend and also to capitalised any accretions to values of profits arising from revaluation or sale of any of the Company's assets and the Directors shall give effect to such resolution accordingly and any profits so capitalised shall be apportioned among the Ordinary shareholders entered on the Register as at such date as the Directors may determine by the allocation and distribution to them in the same proportions as they are entitled to receive dividends at the said date of shares of such class or classes as the Directors may determine credited as fully or partly paid up by means of the profits so capitalised and carrying dividend from such date as the Directors may determine or so that all or any, part of such capitalised funds be applied on behalf of such shareholders in paying up in full or in part any unissued shares of the Company which shall be distributed accordingly or in or towards payment of the uncalled liability on any issued shares or in such manner as the Directors may determine and any such distribution or payment shall be accepted by such shareholders in full satisfaction of their interest in the capitalised funds with power to the Directors to determine all other conditions of any allocation and distribution and to make provision or not for the case of all fractions as they may think expedient and if thought fit to authorise any person on behalf of the Ordinary shareholders to enter into an agreement with the Company providing for the issue and allotment to them of such shares credited as fully or partly paid up as the case may be by means of the profits so capitalised.

## **MINUTES AND BOOKS**

### **Minutes**

- (154) The Directors shall cause minutes to be made in books to be provided for the purpose:
- (a) of all appointments of officers made by the Directors;
  - (b) of the names of the Directors present at each meeting of Directors and of any committee of Directors; and
  - (c) of all resolutions and proceedings at all meetings of the Company and of Directors and of committees of Directors.

### **Keeping of registers, etc.**

- (155) The Directors shall duly comply with the provisions of the Act and in particular the provisions in regard to registration of charges created by or affecting property of the Company, in regard to keeping a register of Directors and Secretaries, a register of members, a register of mortgages and charges, and a register of Directors' share and



debtenture holdings and in regard to the production and furnishing of copies of such registers and of any register of holders of debtenture of the Company.

### **Form of registers, etc**

- (156) Any register, index, minute book, book of accounts or other books required by these presents or by the Act to be kept by or on behalf of the Company may be kept either by making entries in bound books or by recording them in any other manner. In any case in which bound books are not used, the Directors shall take adequate precautions of guarding against falsification and for facilitating its discovery.

### **Directors to keep proper Accounts**

- (157) Subject to the Act and the Banking Act, the Directors and managers of the Company shall:
- (a) cause to be kept the accounting and other records to sufficiently explain the transactions and financial position of the company and enable true and fair profit and loss accounts and balance sheets and any documents required to be attached thereto to be prepared, including such statements and returns with respect to the business dealt with in the records so kept as to enable the preparation of true and fair financial statements and any documents required to be attached to the financial statements; and
  - (b) cause the accounting and other records to be kept in a manner as to enable the accounting and other records to be conveniently and properly audited.

### **Inspection of books**

- (158) The books of accounts shall be kept at the registered office or at such other place within Malaysia as the Directors think fit, and shall always be opened to the inspection of the Directors. No Member (other than a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by the Act or authorised by the Directors or by Ordinary Resolution of the Company.

### **Presentation of Accounts**

- (159) The Directors shall in accordance with the provisions of the Act and the Banking Act cause to be prepared and to be laid before the Annual General Meeting of the Company the audited financial statements, including such profit and loss accounts, balance sheets, group accounts (if any) and reports as may be necessary made within six (6) months of the Company's financial year end.

### **Copies of Accounts**

- (160) Within six (6) months from the close of any financial year, a copy of every balance sheet and profit and loss account for that financial year shall be laid before the Annual General Meeting of the Company (including every document required by law to be annexed thereto) together with a copy of every report of the Auditors relating thereto and of the Directors Report shall not less than fourteen (14) days before the date of the meeting (or

such shorter period as may be agreed in any year for receipt of notice of the meeting pursuant to the first proviso to Article 63 of these presents) be sent to every Member of, and every holder of debentures of the Company and to every other person who is entitled to receive notices from the Company under provisions of the Act or of these presents; provided that this Article shall not require a copy of these documents to be sent to any person whose address the Company is not aware of or to more than one of joint holders, but any Member to whom a copy of these documents has not been sent shall be entitled to receive a copy free of charge on application at the Office. The requisite copies of each such documents shall at the same time be likewise sent to each stock exchange upon which the Company's shares are listed.

### **Particulars of investments**

- (161) Save as may be necessary for complying with the provisions of the Act or as the Company may by Special Resolution otherwise resolve, the Directors shall not be bound to publish any list or particulars of the securities or investments held by the Company or to give any information with reference to the same to any Member.

### **AUDITORS**

#### **Appointment of Auditors**

- (162) Auditors shall be appointed and their duties regulated in accordance with sections 271 to 287 of the Act, and any modification or re-enactment thereof for the time being in force in regard to audit and Auditors shall be observed.

#### **Validity of acts of Auditors in spite of some formal defect**

- (163) Subject to the provisions of the Act all acts done by any person acting as an Auditor shall, as regard all person 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 not qualified for appointment.

#### **Auditor's right to receive notices of and attend and speak at General Meetings**

- (164) The Auditor of the Company or his agent authorised by him in writing 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 meeting which concerns his capacity as Auditor.

### **NOTICES**

#### **How notices to be served on Members**

- (165) A notice may be given to any Member either personally or by sending it by post to him to his registered address or (if he has no registered address within the States of Malaysia) to the address, if any, in the States of Malaysia supplied by him to the Company for the giving of notice to him.

### **Notices to joint holders**

- (166) A notice may be given to the joint holders of share by giving the notice to the Senior Member.

### **Notices to shareholder in case of death or insolvency**

- (167) A notice may be given to the person entitled to a share in consequence of the death or bankruptcy of a Member by sending it through the post addressed to them by name, or by the title of representative of the deceased or trustees of the bankrupt Member, or by any like designation, at the address, if any, within the States of Malaysia supplied for the purpose by the persons claiming to be entitled, or until 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.

### **Members with registered address outside Malaysia not entitled to notice**

- (168) A Member having a registered address outside the States of Malaysia shall not be entitled to any notices from the Company unless he gives to the Company an address for service within the States of Malaysia. Members, being joint holders of a share, shall not be entitled to any notices from the Company in respect of their holdings of that share if the Senior Member named in the Register of Members as a holder of that share, having a registered address outside the States of Malaysia, has not given to the Company an address for service within the States of Malaysia.

### **When notice may be deemed to be duly given**

- (169) Without prejudice to the last preceding Article, a notice exhibited at the Office shall be deemed to have been duly given to any Member or Members as are mentioned in the last preceding Article upon the day it was first exhibited.

### **Service of documents other than notice**

- (170) Any document other than a notice requiring to be served on a Member may be served in like manner as a notice may be given to him under this Constitution, and in the case where notice might be given by exhibiting the same at the Office such document shall be duly served if the same is available for him at the Office and the notice exhibited so states.

### **Notice by post**

- (171) Any notice or documents, if sent by post, shall be deemed to have been given or served twenty-four (24) hours after the letter containing the same is put into the post.

### **Proof of posting**

- (172) A certificate in writing signed by the Manager, Secretary or other officer of the Company that a letter, envelope or wrapper containing a notice was properly addressed and put into the post office or post box shall be conclusive evidence thereof.

## **INDEMNITY**

### **Directors and other officers to be indemnified**

- (173) (a) Subject to the provisions of the Act, the officers or the Auditor of the Company shall be indemnified out of the assets of the Company from and against all actions, proceedings, costs, charges, losses, damages and expenses which they or any of them shall or may incur or sustain by reason of any act done omitted in or about the execution of their duty in their respective offices, including defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under the Act in which relief is granted to him by Court in respect of any negligence, default, breach of duty or breach of trust or where proceedings are discontinued or not pursued, except such (if any) that they shall incur or sustain by or through their own wilful neglect or default respectively.
- (b) Subject to the provisions of the Act, the Company may, with the prior approval of the Directors, effect insurance for every officer and Auditor of the Company in respect of the following:
- (i) civil liability, for any act or omission in his capacity as an officer of the Company;
  - (ii) costs incurred by him in defending or settling any claim or proceeding relating to any such liability; or
  - (iii) costs incurred by him in defending any proceedings that have been brought against him in relation to any act or omission in his capacity as an officer or Auditor which he has been acquitted, granted relief under the Act or where proceedings have been discontinued or not pursued.

The word "officer" referred in this Article shall include:

- (i) any Director, manager, secretary or employee of the Company;
- (ii) a receiver and manager of any part of the undertaking of the Company appointed under a power contained in any instrument; and
- (iii) any liquidator of the Company appointed in a voluntary winding up,

but does not include any receiver who is not also a manager, any receiver and manager appointed by the High Court or any liquidator appointed by the High Court or by the creditors.

## **RECONSTRUCTION**

- (174) On any sale of the undertaking of the Company, the Directors or the liquidators on a winding up may if authorised by a special resolution and any other sanction required by

the Act and/or the Banking Act, accept fully paid or partly paid-up shares, debentures or securities of any other company, either then existing or to be formed for the purchase in whole or in part of the property of the Company, and the Directors (if the profits of the Company permit), or the liquidator (on a winding up), with the like authority and sanction may distribute such shares, securities, or any property of the Company amongst the Members without realisation, or vest the same in trust for them, and any special resolution may provide for the distribution or appropriation of the cash, shares or other securities, benefits or property, otherwise than in accordance with the strict legal rights of the Members or contributories of the Company, and for valuation of any such securities or property at such price and in such manner as the meeting may approve, and all holders of shares shall be bound to accept and shall be bound by any valuation or distribution so authorised, and waive all rights in relation thereto, save only in the case of the Company which is proposed to be or is in the course of being wound up, such statutory rights (if any) under section 457 of the Act as are incapable of being varied or excluded by these presents.

- (175) In the event of winding up of the Company, every Member of the Company shall be bound, within fourteen (14) days, after passing of an effective resolution to wind up the Company voluntarily, or after the making of an order for the winding up of the Company to serve notice in writing on the Company appointing some householder in Malaysia upon whom all summons, notices, process orders and judgments 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 serve upon such appointee, whether appointed by the member or the liquidator shall be deemed to be good personal service on such Member for all purpose, and , where the liquidator makes any such appointment, he shall with all convenient speed give notice thereof to such Member by advertisement in a newspaper circulating in Malaysia, or by a registered letter sent through the post and addressed to such Member at his address as mentioned in the register of Members of the Company, and such notice shall be deemed to be served on the day following that on which the advertisement appears or the letter is posted.