



MARINER



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16 MAY 2014

MARINER FINANCE P.L.C.

C-31514

Nineteen Twenty Three, Valletta Road, Marsa, MRS3000

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Extract of an Extraordinary Resolution of the Shareholders of the Company:

22nd April 2014

The Shareholders of the Company, hereby resolve:

- a. to abrogate the current memorandum and article of association of the Company and substitute the same *in toto* by the memorandum and articles of association annexed to this resolution.
- b. that the Secretary of the Company be and is hereby authorised;
  - i. to issue copies of this resolution and to certify that such copies are true and in full force and effect;
  - ii. to deliver to the Registrar of Companies a copy of this resolution for registration and to make the necessary filing and returns and to update the Company's records as necessary; and
  - iii. to do all that is necessary to put into effect the provisions of the above resolutions.

Certified true extract of the original

Edward Hili

Director

MARINER



**MARINER FINANCE P.L.C.**

**Memorandum & Articles of Association  
Companies Act (Cap. 386 of the Laws of Malta)**

**MEMORANDUM OF ASSOCIATION  
OF  
MARINER FINANCE P.L.C.**

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**Name**

1. The name of the Company shall be **Mariner Finance p.l.c.**

**Registered Office**

2. The registered office of the Company shall be at Nineteen Twenty Three, Valletta Road, Marsa MRS 3000, Malta, or at such other address as the Board of Directors may from time to time determine.

**Objects**

- 3.1 The objects for which the Company is constituted are:
  - (a) to act as a holding company and invest and hold share participations and debentures in any other company, partnership or business;
  - (b) to provide management, administration, technical, financial and professional services and to provide human resources to its subsidiary and, or associated companies of other companies relative and incidental to its business;
  - (c) to purchase, take on lease, exchange or acquire, moveable or immoveable property, by any title including emphyteusis and sub-emphyteusis or otherwise deal in and hold, develop or improve any freehold, leasehold or other property whether for investment or resale;
  - (d) to carry on the business of a finance and investment company including but not limited to the ownership, development, operation, construction and financing of Ports or port operations, including and in particular but without prejudice to the generality of the foregoing the financing or re-financing of the funding requirements of the business of its subsidiaries and, or associated companies and any related activities as may from time to time be ancillary or complimentary to any of the foregoing, including those outside Malta;
  - (e) to finance building operations of every description; to construct, reconstruct, renovate, alter, improve, decorate, finish and maintain buildings or other properties, as aforesaid; to sell or let the same on lease or by agreement or otherwise, either furnished or unfurnished, and to do everything that may enhance the value of such property;
  - (f) to acquire and hold, buy and, or sell shares, membership interests, rights, stocks, bonds, debentures or securities of or in any company, partnership or body of persons (whether such shares, interests or other securities be fully paid or not) where the so doing may seem desirable in the interests of the

Company, and in such manner as may from time to time be determined, solely in the name of, for and on behalf of the Company;

- (g) to invest the capital and other moneys of the Company in the purchase or subscription of any stocks, shares, debentures, bonds or other securities;
- (h) to sell, lease or otherwise dispose of the whole or any part of the property, assets or undertaking of the Company;
- (i) to promote any other company or companies for the purpose of its or their acquiring all or any property and rights and undertaking any business of this Company and to pay all the expenses of and incidental to such promotion;
- (j) to carry on any other trade or business whatsoever which can be advantageously carried on by the Company in conjunction with or ancillary to any of the above business of the Company;
- (k) to receive, from any assets held by the company pursuant to any of the provisions of this Clause, dividends, capital gains, interest, and any other income derived from investments including income or gains on their disposal, rents, royalties and similar income whether arising in or outside Malta, and profits or gains attributable to a permanent establishment (including a branch) whether situated in or outside Malta.
- (l) to do all such other things which are incidental or conducive to the attainment of the above objects or of any of them.

3.2 In attaining its objects, the Company shall have the following powers:

- (a) to issue bonds, commercial paper or other instruments creating or acknowledging indebtedness and the sale or offer thereof to the public;
- (b) to appoint agents of the Company in any part of the world;
- (c) to enter into partnerships, conduct any joint venture, or enter into any arrangement for sharing profits, enter into any union of interests, reciprocal concession, or co-operation with any person or company carrying on, or engaged in, or about to carry on or engage in, any business or transaction which the Company is authorised to carry on or engage in, and to take, or otherwise acquire, and hold, shares or stock in, or securities of, any such company, and to subsidise or otherwise assist any such person or company;
- (d) to amalgamate with any other company whose objects are similar to those of this Company, whether by sale or purchase (for fully or partly paid up shares or otherwise) of the undertaking, subject to the liabilities, of this or any such other company as aforesaid, with or without winding up, or by sale or purchase (for fully or partly paid shares or otherwise) of all of, or a controlling interest in, the shares or stock of this or any such other company as aforesaid, or by partnership, or by any arrangement of the nature of partnership, or in any other manner;
- (e) to employ any number of workers for the purposes for which the Company is established and to remunerate any person, firm or company rendering

services to this Company, whether by cash payment or by the allotment to him or them of shares or securities of the Company, credited as paid up in full or in part or otherwise;

- (f) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;
- (g) to guarantee the payment of moneys whether due by the Company or by any third party, or to guarantee the performance of any contract or obligation in which the Company or any subsidiary of the Company or any associated company of the Company may be interested, even by hypothecation of the Company's property present and future;
- (h) to purchase, take on lease, exchange or acquire movable or immovable property by any title including emphyteusis and sub-emphyteusis for the purposes of its business, and to to sell, lease or otherwise dispose of the whole or any part of the property, assets or undertaking of the Company;
- (i) to acquire and undertake the whole or any part of the business, goodwill and assets of any person, firm or company carrying on, or proposing to carry on, any of the businesses which this Company is authorised to carry on, and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company, or to acquire an interest in, amalgamate with, or enter into any arrangement for sharing profits, or for co-operation, or for mutual assistance, with any such person, firm or company, and to give or accept, as consideration for any of the aforesaid acts or things or property acquired, any shares, debentures, debenture stock or securities that may be agreed on, and to hold and retain, or sell, mortgage and deal with, any shares, debentures, debenture stock or securities so received;
- (j) to lend and advance money, or give credit to such persons, on such terms as the Company's directors may consider expedient to the Company, only where necessary and in relation to the business of the Company;
- (k) to obtain loans, overdrafts, credits and other financial and monetary facilities without limited and otherwise borrow or raise money in such a manner as the Company shall think fit and to secure the repayment of any money borrowed, raised or owing by privilege, hypothec, mortgage or charge upon the whole or any part of the Company's property and assets (whether present or future) including all or any of the uncalled capital for the time being of the Company, and also by similar privilege, hypothec, mortgage or charge to secure and guarantee the performance of the Company of any contracts, obligations or liabilities it may undertake;
- (l) to enter into any agreement or make any arrangement in connection with the Company's business, with any government department or other authority, corporation, company or person which is in the interest of the Company.

The objects and powers set forth in this clause shall not be restrictively construed but the widest interpretation shall be given thereto. None of the above described objects and powers shall be deemed subsidiary or ancillary to any other object or power mentioned therein. The company shall have full power to exercise all or any of the powers and to achieve or to endeavour to achieve all or any of the objects conferred by and provided in any one or more of the said sub-clauses.

Nothing in the foregoing shall be construed as enabling or empowering the company to carry on any business or other activity which requires a licence or other authorisation under the Banking Act (Cap. 370 of the laws of Malta), the Financial Institutions Act (Cap. 376 of the laws of Malta) and the Investment Services Act (Cap. 370 of the laws of Malta), the Insurance Business Act (Cap. 403 of the laws of Malta) and the Insurance Intermediaries Act (Cap. 487 of the laws of Malta) without a licence or other appropriate authorisation from the respective competent authority, to exercise investment discretions on behalf of another party, or manage or give advice relating to any investment portfolio belonging to another party or to buy, sell, hold, market, advertise, subscribe for, underwrite or otherwise handle any security or investment vehicle as agent or to act in the capacity of insurance agent or broker, or to be engaged in the business of banking, or to carry on the activities of a collective investment scheme, or to act as manager or custodian of such a scheme.

AND IT IS HEREBY DECLARED that the objects and powers of the Company as specified in each of the foregoing paragraphs of this Clause (except only if and so far as otherwise provided in any paragraph) shall be separate and distinct objects and powers of the Company and shall not in any way be limited by reference to any other paragraph or the order in which the same occur or the name of the Company.

#### Share Capital

- 4.1 The authorised share Capital of the Company is five hundred thousand euros (€500,000) divided into fifty thousand (50,000) shares of ten euro (€10) each share.
- 4.2 The issued share capital of the Company is five hundred thousand euros (€500,000) divided into fifty thousand (50,000) shares of ten euro (€10) each share, which have been subscribed for, allotted and fully paid up as follows:-

Marin Hill ID Card: 190257(M) 44, Main Street, St. Julian's STJ1018, Malta	1 Ordinary Share
Mariner Capital Limited C11890 44, Main Street, St. Julian's STJ1018, Malta	49,999 Ordinary Shares

#### Public Company

5. The company is a public limited liability company and the provisions of the Companies Act (Cap 386 of the Laws of Malta) shall be applicable accordingly.

#### Directors

- 6 The affairs of the Company shall be managed by a Board of Directors composed of not less than three (3) directors and not more than seven (7) directors appointed in

accordance with the provisions of clause 55 of the Articles of Association of the Company. The current directors of the Company are:

Marin Hili (ID190257M)	44, Main Street, St. Julian's STJ1018, Malta
Edward Hili (ID149486M)	44, Main Street St. Julian's STJ1018, Malta
Michela Borg (ID 301784M)	"Oxonia", 6 Sir Temi Zammit Avenue, Ta' Xbiex, XBX1011 Malta
Kevin Saliba (ID 444074M)	"Amba Uork", Triq is-Siegh, Ibragg, Swieqi, SWQ2406 Malta
Lawrence Zammit (ID 12456M)	The Corner House, 26 Triq il-Bramel Swieqi, SWQ3230, Malta

#### **Legal and Judicial Representation**

- 7.1 Legal representation of the Company shall be vested in: the director appointed as Chairman of the Board of Directors from time to time or any other two (2) directors acting jointly; or in addition, and without prejudice to the aforesaid, in any other person or persons authorised and deputed by the Board from time to time.
- 7.2 The Judicial representation of the Company shall be vested in any one director, provided that no proceedings may be instituted by the Company without the prior sanction of the board of directors. Nothing herein contained shall prevent the board of directors from ratifying any judicial action taken in anticipation of its approval.
- 7.3. Without prejudice to the provisions of clauses 7.1 and 7.2 above, the Directors shall have the power to appoint any person to be the attorney of the Company for such purposes and with such powers (including the judicial and/or legal representation of the Company), authorities and discretions (not exceeding those vested in them) and for such periods and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with such attorney as the Directors may deem fit, and may also authorise any such attorney to delegate all or any of his powers, authorities and discretions vested in him.

#### **Duration of the Company**

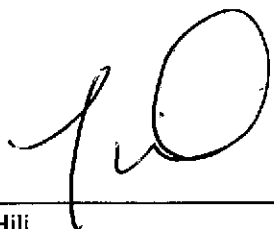
8. The Company is incorporated for an indefinite term.

#### **Limited Liability**

9. The liability of the members is limited to the amount, if any, remaining unpaid on shares held by them.

**Company Secretary**

10. The company secretary is Mr. Kevin Saliba, holder of identity card number 444074(M), residing at "Amba Uork", Triq is-Siegh, Ibragg, Swieqi SWQ2406, Malta.



Marin Hili



Mariner Capital Limited



**ARTICLES OF ASSOCIATION  
OF  
MARINER FINANCE P.L.C.**

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1. The following regulations shall be the sole Articles of Association of the Company, and Part I of the First Schedule of the Act shall not apply to the Company.

**INTERPRETATION**

2. In the Company's Memorandum of Association (the "Memorandum") and in the Articles of Association the following terms shall have the meanings set out hereunder unless the context requires otherwise:
  - (a) "Act" or "CA" means the Companies Act, Cap. 386 of the Laws of Malta;
  - (b) "Articles" means these Articles of Association as currently applicable or as may from time to time be in force;
  - (c) "Company" means Mariner Finance p.l.c.;
  - (d) "Debt Securities" means debentures, including debenture stock, loan stock, bonds and other instruments creating or otherwise acknowledging indebtedness of the Company, but excluding such instruments that are issued as debt securities but that afford the holder thereof an option or right to convert such instruments into Equity Securities of the Company;
  - (e) "Directors" means the persons appointed as directors of the Company from time to time;
  - (f) "Equity Securities" means shares in the Company of whatever class and other securities of the Company affording the holder thereof a right to subscribe for, or to convert the securities into, shares in the Company;
  - (g) "Exchange" means the Malta Stock Exchange as established by Cap. 345 of the Laws of Malta or a primary or second tier of any jurisdiction in which the Company obtains a listing of its Equity Securities and/or Debt Securities;
  - (h) "listed" means listed or quoted on an Exchange;
  - (i) "Malta" has the same meaning as assigned to it by article 124 of the Constitution of Malta;
  - (j) "Member" means a person registered by the Company as the holder of Equity Securities other than preference shares;
  - (k) "Office" means the registered office of the Company from time to time;

- (l) "person" includes natural persons, trusts, firms or partnerships, companies, corporations or other entities which are given, or are recognised as having, legal personality by the law of any country or territory, unincorporated bodies and associations (including, without limitation, joint ventures and consortia), any emanation of a sovereign state or its government, whether national, provincial, local or otherwise, any international organisation or body or any other juridical entity, in each case wherever resident, incorporated or formed;
- (m) "Subsidiary" of any person means any corporation, partnership, limited liability company, joint venture, association or other legal entity of which such person (either alone or together with any other subsidiary), owns, directly or indirectly, more than 50% of the stock or other equity interests, the holders of which are generally entitled to vote for the election of the board of directors or other governing body of such corporation or other legal entity.

Defined terms may be used in the singular or plural as required by the context.

The article headings in these Articles are inserted for convenience of reference only and are to be ignored in construing these Articles.

## SHARE CAPITAL AND RIGHTS

- 3.1 Without prejudice to any special rights previously conferred on the holders of any of the existing Equity Securities or class thereof, any Equity Security in the Company may be issued with such preferred, deferred, or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise as the Members may from time to time determine by extraordinary resolution. Furthermore, any resolution to issue Equity Securities shall be subject to a separate vote for each class of Equity Securities whose rights are affected by the said resolution. Such separate vote shall require the consent of three-fourths of the Members holding Equity Securities affected by the said resolution.
- 3.2 Subject to the provisions of the Act, all Equity Securities from time to time unissued shall be at the disposal of the Members in general meeting, which may by means of an extraordinary resolution of the Members offer, allot, grant options over or otherwise dispose of them to such persons, at such times and on such terms as may be determined.
- 3.3 The Directors may if they so deem fit, cause any of the Equity Securities or Debt Securities of the Company, irrespective of their class, whether issued or to be issued pursuant to these Articles, to be quoted and listed on the Exchange.
- 4. Subject to the provisions of the Act any preference shares may, with the sanction of an extraordinary resolution of the Members, be issued on the terms that they are, or at the option of the Company are liable, to be redeemed on such terms and in such manner as the Members, before the issue, may by extraordinary resolution determine.
- 5. The rights attached to any class of Equity Securities, as is currently in force, or other classes of Equity Securities that may be created in the future, (unless otherwise provided by the terms of issue of the Equity Securities of that class) may, whether or not the Company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued Equity Securities of that class,

or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the Equity Securities of that class. To every such separate general meeting the provisions of these regulations relating to general meetings shall apply.

6. The Company may exercise the power of paying commissions or of making discounts or allowances provided it complies with the requirements of the Act. Such commission/s may be satisfied by the payment of cash or the allotment of Equity Securities, whether partly or fully paid up, or a combination of both.
- 7.1 In respect of an Equity Security held jointly by several persons the joint holders may nominate one of them as their representative and his name will be entered in the register of members. Such person shall for all intents and purposes be deemed, vis-à-vis the Company, to be the registered holder of the Equity Security so held. In the absence of such nomination, and until such nomination is made the person first named on the register in respect of such Equity Securities shall for all intents and purposes be deemed to be the registered holder of the Equity Securities so held.
- 7.2 In respect of a debenture held jointly by several persons the joint holders may nominate one of them as their representative and his name will be entered in the register of debentures. Such person for all intents and purposes be deemed, vis-à-vis the Company, to be the registered holder of the debenture so held. In the absence of such nomination, and until such nomination is made the person first named on the register in respect of such debentures shall for all intents and purposes be deemed to be the registered holder of the debentures so held.
- 8.1 Subject to the provisions of this article and unless the Members in General Meeting approve by means of an extraordinary resolution, on a fresh issue of Equity Securities of each class, such shares shall be offered in the first place to the members holding shares of that class, as closely as possible in the same proportion as the number of shares of that class already held by them respectively. The offer shall be made by notice in writing specifying the number of Equity Securities offered and their value and stating a time, being not less than twenty eight (28) days, within which the offer, if not accepted, shall be deemed to have been declined.
- 8.2 Any Equity Securities not taken up by a Member to whom they were initially offered shall then be offered as aforesaid to the other Members of that class who shall have taken up their whole offer and, if the requests for Equity Securities from such other Members shall exceed the number of Equity Securities on offer and not taken up, they shall be allotted as closely as possible in proportion to the number of Equity Securities held by them respectively prior to the said fresh issue of Equity Securities. Any remaining Equity Securities shall then be offered as aforesaid to the Members of the other class of Equity Securities as closely as possible in proportion to the number of Equity Securities held by them respectively. If the requests for Equity Securities from such Members shall exceed the number of Equity Securities on offer and not taken up, they shall be allotted as closely as possible in proportion to the number of Equity Securities held by them respectively prior to the said fresh issue of Equity Securities. Any remaining shares may then be offered to non-Members on terms and conditions which shall not be more favourable than the offer made to the Members.

- 8.3 No Director shall be eligible to participate in the issue or allotment of Equity Securities offered to the employees of the Company without the prior approval of the shareholders in General Meeting.
- 9.1 Whenever there are preference shares in issue, the holders thereof, shall have the same rights as holders of ordinary Equity Securities in receiving notices, reports, balance sheets and in attending General Meetings.
- 9.2 Without prejudice to any rights that may be granted to persons holding preference shares in the relative terms of issue, such persons shall not, as holders of preference shares, have the right to vote at General Meetings except on a resolution:
- (a) for the purpose of reducing the capital of the Company; or
  - (b) for the purpose of winding up of the Company; or
  - (c) for the purpose of any proposal submitted to the meeting which directly affects their rights and privileges; or
  - (d) for the purpose of effecting the dividend on preference shares when the dividend on their shares is in arrears for more than six (6) months.
- 9.3 Unless otherwise provided in the terms of issue of preference shares, on any resolution where, in terms of the provisions of Article 9.2, Members holding preference shares are entitled to vote, each preference share shall entitle its holder to one vote.
- 10.1 The Company may, subject to such restrictions, limitations and conditions contained in the Act, acquire its Equity Securities.
- 10.2. The Company shall not issue Equity Securities in a way that such issue would dilute a substantial interest without prior approval of the shareholders in general meeting.

## **CERTIFICATES**

- 11.1 With the exception of listed Equity Securities and listed Debt Securities of the Company, every person whose name is entered as a Member in the register of Members shall be entitled to receive free of payment, within two (2) months after allotment or lodgement of a transfer duly stamped, or within such other period as the terms and conditions of issue may provide, a certificate for all his Equity Securities in a particular class, or several certificates, each for one or more Equity Securities, upon payment of eleven euro (€11) (or such other sum as the Directors shall from time to time determine) for every certificate after the first. Provided that in the event of a Member transferring part of the Equity Securities represented by the same share certificate in his name, a new certificate in respect of the balance thereof shall be issued in his name without payment. In the event of joint holders, the Company shall not be bound to issue more than one certificate, and delivery of one certificate for an Equity Security to any one of the several joint holders thereof shall be deemed to constitute sufficient delivery to all. Every certificate shall be signed by the secretary or another person nominated by the Directors for the purpose, and shall specify and denote the number of Equity Securities and class, if any, to which it relates and the nominal value thereof.

- 11.2 The provisions of Article 11.1 shall *mutatis mutandis* apply to certificates required to be issued by the Act or other applicable law in connection with other securities, including Debt Securities, issued by the Company.
- 12.1 In the event that any certificate shall be worn out, defaced, destroyed or lost, it may be renewed on such evidence being produced and such indemnity (if any) being given as the Directors shall require, and in the case of wearing out, or defacement, on delivery of the old share certificate, and in the case of destruction or loss, on the execution of such indemnity as is considered necessary by the Directors, and in any case upon the payment of eleven euro (€11) or such other sum as the Directors shall from time to time determine. In case of destruction or loss, the person to whom such renewed certificate is given shall also bear and pay to the Company all expenses incidental to the investigation by the Company of the evidence of such destruction or loss and to such indemnity.
- 12.2 For listed Debt Securities or listed Equity Securities of the Company, the holder thereof, with or without the assistance of the Company, may request the competent securities depository of the applicable jurisdiction for a document evidencing his registration as a Member or as the holder of Debt Securities of the Company in the number of Equity Securities or Debt Securities held, or such other evidence as may from time to time be prescribed by or under any applicable rules or regulations.

## **CALLS ON EQUITY SECURITIES**

- 13.1 The Directors may from time to time make calls upon the Members in respect of any monies unpaid on the Equity Securities held by them (unless the terms of issue of such Equity Securities prescribe fixed payment times), provided that no call shall be payable at less than one (1) month from the date fixed for the payment of the last preceding call, and each Member shall (subject to receiving at least fourteen (14) days notice specifying the time/s and place for payment) pay to the Company at such time/s and place so specified, the amount called on his Equity Securities. A call may, at the option of the Directors, be made payable by instalments.
- 13.2 A call shall be deemed to have been made at the time when the resolution of the Directors authorising such call was passed.
14. The joint holders of an Equity Security shall be jointly and severally liable for the payment of calls thereon.
15. If a sum called in respect of an Equity Security is not paid before or on the date appointed for the payment thereof, the person from whom the sum called is still due shall pay interest thereon from the day appointed for payment thereof to the time of actual payment at such rate, not exceeding the maximum rate allowed by law, as the Directors may from time to time determine. The Directors shall however be at liberty to waive, whether in whole or in part, the payment of such interest.
- 16.1 Any sum which by the terms of issue of an Equity Security becomes payable on allotment or at any fixed date, whether on account of the nominal value of the

Equity Security or by way of premium, shall for the purposes of the Articles 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 Articles 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.

- 16.2 The Directors may not differentiate between the holders of Equity Securities of a class in respect of which a call or calls are, or are to be, made as to the amount of calls to be paid and the times of payment.
- 16.3 The Directors may, if they think fit, receive from any Member willing to advance the same, all or any part of the moneys uncalled and unpaid upon any Equity Securities held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become payable) pay interest at such annual rate, not exceeding the maximum rate allowed by law, as may be agreed upon between the Directors and the Member paying such sum in advance.
17. The entitlement to receive any dividend and/or the right to exercise any privilege as a Member, including the right to vote at general meetings, shall be suspended until the said Member shall have paid all calls for the time being due and payable on every Equity Security held by him, together with interests and expenses, if any.

## **TRANSFER AND TRANSMISSION OF SECURITIES**

- 18.1 Notwithstanding the provisions of article 18.2 and 19, any listed Equity Securities and listed Debt Securities shall be freely transferable but shall be subject to the rules and regulations of the relevant Exchange from time to time.
- 18.2 An Equity Security other than listed Equity Security may be transferred by an instrument in writing and by following the procedure set out in article 19 hereof. The instrument of transfer of any such Equity Security shall be executed by or on behalf of the transferor and the transferee, and the transferor shall be deemed to remain a holder of the Equity Security until the name of the transferee is entered in the register of Members in respect thereof. In no case may a part of an Equity Security constitute the object of a transfer.
- 18.3 The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine, provided always that such registration shall not be suspended for more than thirty (30) days in any year.
- 19.1 If any Member (hereinafter referred to as the "Transferring Member") wishes to transfer his Equity Securities or any of them, he shall inform the Directors by a notice in writing (hereinafter referred to as the "Transfer Notice") specifying the number of Equity Securities to be transferred, the name of the proposed transferee and the sum estimated by the Transferring Member to be the value of such Equity Securities;

The Transferring Member may, in giving the Transfer Notice, indicate that he is only prepared to sell the Equity Securities mentioned in the Transfer Notice on condition that the buyer shall simultaneously with the conclusion of the transfer, release the Transferring Member or cause him to be released, from all or any

obligations and/or guarantees and/or securities which the Transferring Member may have entered into or made in any way in the interest of the Company, in particular, but without prejudice to the generality of the foregoing, in connection with the financing of the Company where the Company is the principal debtor and the Transferring Member a surety in respect thereof. In the event that such condition is imposed by the Member desiring to sell his Equity Securities, the Transfer Notice shall detail the same and shall indicate that the Members entitled to pre-emption rights in respect of the Equity Securities therein mentioned will need to assume the obligations and/or guarantees and/or securities contemporaneously with the transfer, and if they fail so to do their pre-emption rights in respect of such offer shall be deemed to have lapsed.

The Transferring Member shall not be entitled to revoke a Transfer Notice without the consent in writing of the directors.

19.2 The receipt by the Directors of a Transfer Notice shall constitute an authority to them to offer for sale the Equity Securities specified therein at a fair valuation to be ascertained as follows:

- (a) At the Transferring Member's estimated valuation, if considered by the directors to be a fair one;
- (b) If the Directors, at their discretion shall not approve the value estimated by the Transferring Member, they shall request in agreement with the Transferring Member, or if no such agreement is possible by nomination of the President of the Chamber of Commerce, an appropriate person to make, in writing, a valuation of the then current value of the Equity Securities, and the value so determined shall be a fair value which shall be binding and final and not subject to appeal.

19.3 When a fair value of the Equity Securities and subject to the conditions as may have been imposed by the Transferring Member has been determined the Directors shall, within thirty (30) days from receipt of the Transfer Notice, by notice in writing inform the Transferring Member and shall cause a notice to be sent to every other Member holding Equity Securities in the Company of the same category as those included in the Transfer Notice, stating the number and the fair value and subject to the condition as may have been imposed by the Transferring Member, inviting them to state, in writing within thirty (30) days, what number of Equity Securities, if any, they are willing to purchase.

19.4 On the expiration of the thirty (30) days referred to in article 19.3, the Board of Directors shall allocate the said Equity Securities to Members willing to purchase, provided that if the Member desiring to sell shall have imposed the conditions mentioned in clause 19.1 hereof, the Directors shall only allocate Equity Securities to those Members who shall have complied in full with such conditions within the aforesaid thirty days; and provided further that in the event that a Member or Members shall have indicated a willingness to acquire Equity Securities but shall fail to comply with the said condition, such Member or Members shall, upon the lapse of the aforesaid thirty days, be deemed to have waived their pre-emption rights in respect of such offer. If the requests for Equity Securities exceed the number for sale, the Directors shall apportion the Equity Securities to the Members who hold Equity Securities in the class of Equity Securities being sold in proportion to the purchasing Member's existing Equity Securities of the same class. Where no Members within the same class are willing to purchase then the Directors shall allocate the said Equity Securities

amongst Members holding other classes of Equity Securities in proportion to the purchasing Members' existing holding of Equity Securities in other classes.

- 19.5 The Transferring Member shall complete and execute transfer instruments of the said Equity Securities in accordance with the allocation by the Directors and shall surrender to the Company any certificates issued with respect to the Equity Securities.
- 19.6 If the Board of Directors shall be unable, within three (3) months of receipt of the Transfer Notice, to find the purchasers for all of the Equity Securities amongst the Members, the Board shall notify the Transferring Member who shall be entitled to sell all the said Equity Securities to the person named in the Transfer Notice even though such person is not a Member of the Company and at any price which may be agreed by the Transferring Member and the said person.
- 19.7 No restriction on the transfer of Equity Securities shall apply and Equity Securities may be freely transferred in the following three cases:
- (a) Where a Member intends to transfer shares to his or her spouse or direct descendants;
  - (b) Where the proposed transfer of Equity Securities is approved in writing by all the other Members;
  - (c) Where the corporate Members intend to transfers or otherwise dispose of any Equity Security held by them in the Company to an associated company provided however that such Equity Securities shall forthwith be re-transferred to the corporate Members of the transferee ceases to be an associated company. For the purposes of this article an "associated company" means a company in which any corporate Member of the Company holds shares conferring in excess of fifty per centum (50%) of the votes as aforesaid in such corporate member.
- 19.8 The transfer of shares, in any corporate Member, conferring voting rights in excess of fifty per centum (50%) of the votes which may be cast on a poll at a general meeting of such corporate Member shall for all intents and purposes of law amount to the Transfer Notice sent in accordance with this article 19, in which even the voting powers attached to the Equity Securities of such corporate Member shall be immediately suspended and the Equity Securities of such corporate Member shall be immediately on offer, at the "fair value" according to the provisions of this article 19, to the other Members of the Company. This Article 19.8 shall not apply in the following two cases:
- (a) Where a Member intends to transfer shares to his/her spouse or direct descendants;
  - (b) Where the shareholders of the corporate Member intend to transfer or otherwise dispose of any shares in the Corporate Member to an associated company provided however that such shares shall forthwith be re-transferred to the corporate Member if the transferee ceases to be an associated company. For the purpose of this article, "associated company" means a company in which any corporate Member of the Company holds shares conferring in excess of fifty per centum (50%) of the votes which may be cast on a poll at a General Meeting of such company; or a company holding in excess of fifty per centum (50%) of the votes as aforesaid in such corporate Member.



19.9 Where, in virtue of the provisions of articles 19.7(c) and 19.8, a Member transfers his shares to a company substantially owned or controlled by him, such Member and the transferee company shall make appropriate arrangements to the satisfaction of the Board of the Company to the effect that the said transferee company shall not, without the authorisation in writing of the Board, cease to be a company substantially owned or controlled by the transferring Member or by persons to whom shares in the transferee company could be freely transferred had they been Equity Securities in the Company pursuant to this article 19. The same principle shall have effect *mutatis mutandis* in respect of the second and further transfers.

19.10 Failure to make the appropriate arrangements referred to in article 19.9 shall be deemed to be a variation of the rights vested in the holders of the Equity Securities of other classes in the Company entitling such holders, without prejudice to any remedy that may be open to them at law, to enforce the pre-emption of the Equity Securities in the Company affected by an unauthorised transfer of Equity Securities or a transfer made before the Board has expressed its satisfaction as aforesaid. Such pre-emption shall be enforceable at the net asset value of the Equity Securities pre-empted. Pre-emption may be enforced by any or all the other Members of the Company in proportion to their respective holding of Equity Securities.

20.1 Equity Securities which are not listed may be freely transmitted "causa mortis" only in the following cases:

- (a) In favour of any other Member;
- (b) In favour of the spouse of the deceased Member;
- (c) In favour of any descendant or ascendant in the direct line of the deceased Member;
- (d) Where the deceased is a spouse of a Member, and the Equity Securities formed part of the Community of Acquests between the spouses, in favour of any descendant in the direct line of the Members whose spouse has died.

In the case of the death of a Member, his Equity Securities shall devolve upon his successors by will or by operation of law as the case may be, but nothing herein contained shall release the person or persons to whom the Equity Securities shall devolve from any liability in respect of any Equity Security held by him or them or to which he or they are entitled.

20.2 Where the Equity Securities are subject to usufruct the provisions of article 20.1 shall only apply if both usufructuary and bare owner are beneficiaries from the relative transmission with the terms of the said article.

20.3 Where Equity Securities, which can be freely transmitted in terms of this article 20 are subject to usufruct the right to attend and vote at General Meetings and the right to receive notice for meetings shall vest only in the usufructuary.

20.4 Transmissions of Equity Securities "causa mortis" not falling under articles 20.1 to 20.3 shall be regulated, *mutatis mutandis*, in the manner set out in article 19 hereof as if the Equity Securities, which cannot be freely transmitted, were Equity Securities which cannot be freely transferred.

- 21.1 Any person becoming entitled to a listed Equity Security in consequence of the death of a Member shall, upon producing such evidence of his entitlement as the Exchange may from time to time require, have the right to be registered himself as the holder of the Equity Security.
- 21.2 Any person becoming entitled to an Equity Security other than a listed Equity Security in consequence of the death of a Member shall, upon producing such evidence of his entitlement as the Directors may from time to time require, have the right to be registered himself as the holder of the Equity Security or to make such transfer thereof as the deceased Member would himself have been entitled to make.
- 21.3 In the case of Equity Securities other than listed Equity Securities, if a person becoming so entitled shall elect to be registered as a Member, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered he shall evidence his election by executing to that person a transfer of the Equity Securities. All the provisions relating to the transfer of Equity Securities in the Articles shall be applicable to such transfer. PROVIDED that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the Equity Securities, and if the notice is not complied with within ninety (90) days, the Directors may thereafter withhold payments of all dividends, bonuses or other moneys payable in respect of the Equity Securities until the requirements of the notice have been complied with.
22. Subject to the provisions of Article 20 and to the proviso to Article 21.3, a person becoming entitled to an Equity Security by reason of the death of the holder thereof shall be entitled to the same dividends and other rights and advantages to which he would be entitled if he were the registered holder of the Equity Security, except that he shall not before being registered as a Member in respect of the Equity Security be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company.

## **FORFEITURE OF EQUITY SECURITIES**

23. If a Member fails to pay any call or instalment of a call on the day appointed for payment thereof, the Directors may, at any time thereafter during such time as any call or part thereof remains unpaid, require payment of so much of the call or instalment as is unpaid, together with any interests which may have accrued, by means of a notice which shall also name a further day (not earlier than the expiration of fourteen (14) days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before, the time appointed, the Equity Securities in respect of which the call was made will be liable to forfeiture.
24. If the requirements of such notice as aforesaid are not complied with, any Equity Security in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect. The Member shall however retain the right to all dividends declared before the call was made and which have not been paid, as well as the right to dividends declared after the call but before the date of forfeiture, in which latter case, however, his right shall only extend proportionately up to the amount actually paid by him. Provided this shall be

without prejudice to any subtraction, from such dividend/s due to him, of all sums of money payable by him to the Company on account of calls or otherwise in relation to Equity Securities of the Company as provided in the Articles.

25. A forfeited Equity Security may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and the Company may receive the consideration, if any, given for the Equity Security on any sale or disposal thereof and may execute a transfer in favour of the person to whom the Equity Security is sold or disposed of, who shall thereupon be registered as a holder of the Equity Security. At any time before a sale or disposal, the forfeiture may be cancelled on such terms as the Directors may deem fit.

PROVIDED that while forfeited Equity Securities remain with or under the control of the Company they shall be subject to the provisions of section 109 of the Act.

26. A person who shall have forfeited Equity Securities shall cease to be a Member in respect of the forfeited Equity Securities, but shall, notwithstanding, remain liable to pay to the Company all the moneys which, at the date of the forfeiture were due and payable by him to the Company in respect of the Equity Securities. His liability shall however cease if and when the Company shall have received payment in full of all such moneys in respect of the Equity Securities.

## CONVERSION OF EQUITY SECURITIES INTO STOCK

27. The Company may by extraordinary resolution convert any paid-up Equity Securities into stock, and re-convert any stock into paid-up Equity Securities of any denomination, provided that in the case of listed Equity Securities it shall comply with the rules and regulations of the Exchange as in force from time to time in making any such conversion or re-conversion.
28. The holders of stock may transfer the same, or any part thereof, in the same manner and subject to the same regulations as and subject to which the Equity Securities from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances permit; and the Directors may from time to time fix the minimum amount of stock transferable but so that such minimum shall not exceed the nominal amount of the Equity Securities from which the stock arose.
29. The holders of stock shall, according to the amount of 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 Equity Securities from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the Company and in the assets upon a winding up) shall be conferred by any amount of stock which would not, if existing in Equity Securities, have conferred that privilege or advantage.
30. Such of the Articles as are applicable to paid up Equity Securities shall apply to stock, and the terms Equity Security and Member therein shall include "stock" and "stockholder".

## **PLEDGING OF EQUITY SECURITIES AND DEBT SECURITIES**

- 31.1 Subject to the provisions of the Act and unless otherwise provided in the applicable terms of issue, any listed Equity Securities and/or listed Debt Securities of the Company may be pledged by the registered holder thereof in favour of any person as security for any obligation.
- 31.2 Equity Securities and Debt Securities of the Company which are not listed may not be pledged by the holder in favour of any person as security for any obligation.

## **REGISTER OF MEMBERS**

- 32.1 Unless otherwise provided for in any law, rule or regulation, the register of Members for listed Equity Securities or any other register for listed Equity Securities and/or listed Debt Securities shall be kept at the Exchange and/or the Office.
- 32.2 The register of Members for Equity Securities other than listed Equity Securities and any other register to which Article 32.1 does not apply shall be kept at the Office.
- 32.3 Any register referred to in articles 32.1 and 32.2 shall be available for inspection in terms of law.

## **GENERAL MEETINGS**

- 33.1 Subject to the provisions of the Act the annual general meetings of the Company shall be held at such time and place as the Directors shall appoint.
- 33.2 All general meetings other than annual general meetings shall be called extraordinary general meetings.
34. The Directors may convene an extraordinary general meeting whenever they think fit. If at any time there are not sufficient Directors capable of acting to form a quorum for a meeting of the Directors, any one Director, or any two Members of the Company holding in aggregate at least ten per cent (10%) of the Equity Securities conferring a right to attend and vote at general meetings of the Company, may convene an extraordinary general meeting in the same manner, as nearly as possible, as that in which meetings may be convened by the Directors, and shall give notice thereof as provided below. Furthermore, the conduct of the said meeting shall be as provided below.
35. A general meeting of the Company shall be deemed not to have been duly convened unless at least fourteen (14) days notice shall have been given in writing to all Members entitled to receive such notice. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it was given, and shall specify the place, the day and the hour of the meeting, and in case of special business, the general nature of that business, and shall be accompanied by a statement regarding the effect and scope of any proposed resolution in respect of such special business.

36.1 Notice of every general meeting shall be given to:

- (a) every registered Member except Members who (having no registered address in Malta) have not supplied the Company an address for the giving of notices to them, and
- (b) the Directors, and
- (c) the auditor or auditors for the time being of the Company.

Without prejudice to the provisions of Article 9 of the Articles, no other persons shall be entitled to receive notice of general meetings.

36.2 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings of a meeting.

37. All business shall be deemed special that is: transacted at an extraordinary general meeting; transacted at an annual general meeting with the exception of declaring a dividend, the consideration of the accounts, balance sheets and the reports of the Directors and the auditors, the election of Directors, the appointment of auditors and the fixing of the remuneration of Directors and the auditors.

38. No business shall be transacted at any general meeting unless a quorum of Members is present, in person or by proxy, at the time when the meeting proceeds to business; save as herein otherwise provided Members holding in the aggregate not less than 51% of the nominal value of the issued Equity Securities entitled to attend and vote at the meeting, shall constitute a quorum.

39. If within half an hour from the time appointed for the commencement of the meeting a quorum is not present, the meeting, howsoever called, 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 the adjourned meeting a quorum is not yet present within half an hour from the time appointed for the meeting, the Member or Members present shall constitute a quorum.

40.1 The Chairman of the board of Directors shall preside as chairman at every general meeting of the Company or, if there is no such Chairman, or if he shall not be present within twenty (20) minutes from the time appointed for the commencement of the meeting, or is unwilling to act, the Directors present shall elect one of their number to be chairman of the meeting.

40.2 At the commencement of any general meeting, whether annual or extraordinary, the chairman may set the procedure which shall be adopted for the proceedings of that meeting. Such procedure shall be binding on the Members.

40.3 If at any meeting no Director is willing to act as chairman or if no Director is present within thirty (30) minutes after the time appointed for the commencement of the meeting, the Members shall choose one of their number to be chairman of the meeting.

- 41.1 A general meeting may consist of a conference between Members, some or all of whom are in different places, on condition that each Member who participates is able (i) to hear each of the other participating Members attending the meeting; and (ii) if he so wishes, to address all of the other participating Members simultaneously, whether directly, by conference telephone or by any other form of communications equipment (whether in use when these Articles are adopted or not) or by a combination of those methods. A quorum is deemed to be present at such meeting if those conditions are satisfied in respect of the Members required to form a quorum in terms of these Articles. A meeting held in this way is deemed to take place at the place where the largest group of participating Members is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates. A resolution put to the vote of a meeting will be decided by each Member indicating to the Chairman (in such manner as the Chairman may direct) whether the Member votes in favour of or against the resolution or abstains. References in this Article 41.1 to Members includes their duly appointed proxies and, in the case of corporate Members, their duly authorised representatives.
- 41.2 Subject to the provisions of the Act, a resolution in writing signed by all the Members for the time being entitled to receive notice of and to attend at general meetings shall be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held. Assent given by facsimile or telex or jointly or severally by the Members shall be sufficient for the purposes of this Article.
42. The chairman may, with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unattended or unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting.
43. At any general meeting a resolution put to the vote shall be determined and decided by a show of hands, unless a poll is demanded before or on the declaration of the result of a show of hands by: the chairman of the meeting; or by any Shareholder or Shareholders present in person or by proxy and representing not less than one tenth of the total voting rights of all the Shareholders having the right to vote at the meeting; or by at least two Shareholders present in person or by proxy; or by a Shareholder or Shareholders 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 one tenth of the total sum paid on all the Shares conferring that right.

Unless a poll be so demanded a declaration by the chairman of the meeting that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution:

Provided that where a resolution requires a particular majority in value, the resolution shall not be deemed to have been carried on a show of hands by the required majority unless there be present at that meeting, whether in person or by proxy, a number of shareholders holding in the aggregate the required majority as aforesaid.

The demand for a poll may be withdrawn.

44. Except as provided in Article 46, if a poll is duly demanded it shall be taken in such manner as the chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
45. In the case of equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall have no second or casting vote.
46. A poll demanded on the election of the chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll. No notice need be given of a poll not taken immediately.
47. Subject to any special rights or restrictions as to voting attached by or in accordance with these Articles to any class of Equity Securities (if any), on any vote, however conducted (whether on a show of hands or on a poll or otherwise), every Member who (being an individual) is present in person or (being a body corporate) is present by a duly authorized representative not being himself a person entitled to vote in person, or by proxy (whether an individual or a body corporate) shall have one vote for every Equity Security of which he is the holder.
48. No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of Equity Securities have been paid.
49. No objection shall be raised to the qualifications of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
50. The instrument appointing a proxy shall be deposited at the Office or at any other place in Malta as may be specified for that purpose in the notice convening the meeting not less than forty-eight (48) hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than forty-eight (48) hours before the time appointed for the taking of the poll. In default of the aforesaid, the instrument of proxy shall not be treated as valid.
51. A form of instrument of proxy shall be in the following form or in such form as near thereto as circumstances permit:

*"Mariner Finance p.l.c.*

*I/we \_\_\_\_\_ of \_\_\_\_\_ being a Member/Members of the above-named company, hereby appoint \_\_\_\_\_ of \_\_\_\_\_ or failing him*

\_\_\_\_\_ of \_\_\_\_\_ as my/our proxy to vote for me/us on my/our behalf at the annual/extraordinary general meeting of the company, to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ and at any adjournment thereof.

*This form is to be used in favour of/against the resolution\**

*Unless otherwise instructed, the proxy will vote as he thinks fit.*

*\* Delete whichever is inapplicable."*

- 52.1 The instrument appointing the proxy shall be deemed to confer authority to demand or join in demanding a poll.
- 52.2 Where a Member specifies in the proxy form how his proxy is to vote, the proxy form itself shall constitute the vote.
53. An extraordinary resolution shall be a resolution which complies with Article 135 of the Act, namely a resolution which:
- (i) has been taken at a general meeting of which notice specifying the intention to propose the text of the resolution as an extraordinary resolution and the principal purpose thereof has been duly given; and
  - (ii) has been passed by a Member or Members having the right to attend and vote at the meeting holding in the aggregate not less than seventy-five per cent (75%) in nominal value of the Equity Securities represented and entitled to vote at the meeting and at least fifty one per cent (51%) in nominal value of all the Equity Securities entitled to vote at the meeting:

Provided that, if one of the aforesaid majorities is obtained but not both, another meeting shall be convened within thirty (30) days in accordance with the provisions for the calling of meetings to take a fresh vote on the proposed resolution. At the second meeting the resolution may be passed by a Member or Members having the right to attend and vote at the meeting holding in the aggregate not less than seventy-five per cent (75%) in nominal value of the Equity Securities represented and entitled to vote at the meeting. However, if more than fifty per cent (50%) in nominal value of all the Equity Securities having the right to vote at the meeting is represented at that meeting, a simple majority in nominal value of such Equity Securities so represented shall suffice.

## **DIRECTORS**

- 54.1 The administration and management of the Company shall be conducted by Board of Directors.
- 54.2 All Directors of the Company shall be individuals.
- 55.1 The Board of Directors shall consist of such number of Directors as specified in the Memorandum.



- 55.2 The Directors of the Company shall be appointed by means of an ordinary resolution of the shareholders of the Company in general meeting. An election of Directors shall take place every year at the Company's annual general meeting. All directors, except a managing director (if any), shall retire from office every three (3) years, but shall be eligible for re-election.
- 55.3 In the case of Directors appointed by a particular class of Equity Securities such appointment shall be made by a Member or Members holding in aggregate more than fifty per centum (50%) in nominal value of the Equity Securities represented and entitled to vote at the meeting of the holders of the Equity Securities of that class. All other directors shall be appointed by means of an ordinary resolution of the shareholders of the Company in general meeting. Should any Equity Securities of the Company be listed on an Exchange then the Directors of the Company shall be nominated and appointed in accordance with the provisions of articles 55.4.
- 55.4 Should any Equity Securities of the Company be listed on an Exchange, the procedure for the appointment of Directors shall be as follows:
- 55.4.1 Any Member or number of Members who in the aggregate hold not less than 100,000 shares having voting rights in the Company shall be entitled to nominate a fit and proper person for appointment as a Director of the Company;
- 55.4.2 In addition to the nominations that may be made by Members pursuant to the provisions of Article 55.4.1, the Directors themselves or a committee appointed for the purpose by the Directors, may make recommendations and nominations to the Members for the appointment of Directors at the next following annual general meeting.
- 55.4.3 For the purpose of enabling the shareholders to make nominations in accordance with the provisions of Article 55.4.1, the Company shall grant a period of at least fourteen (14) days to the Members to nominate candidates for appointment as Directors. Such notice may be given by the publication of an advertisement in at least two (2) daily newspapers. All such nominations, including the candidate's acceptance to be nominated as director, shall on pain of disqualification be made on the form to be prescribed by the Directors from time to time and shall reach the Office (or such other place determined by the Directors) not later than fourteen (14) days after the publication of the said notice (the "Submission Date") PROVIDED THAT the Submission Date shall not be less than fourteen (14) days prior to the date of the meeting appointed for such election. Nominations to be made by the Directors or any sub-committee of the Directors appointed for that purpose shall also be made by not later than the date established for the closure of nominations to shareholders pursuant to this Article.
- 55.4.4 In the event that there are either less nominations than there are vacancies on the Board or if there are as many nominations made pursuant to either Article 55.4.1 or 55.4.2 as there are vacancies on the Board, then each person so nominated shall be automatically appointed a Director.

- 55.4.5 In the event that there are more nominations made pursuant to the provisions of Articles 55.4.1 and 55.4.2, then an election shall take place in accordance with the provisions of these Articles.
- 55.5 At the first meeting of the Directors following an annual general meeting the Directors shall appoint one of their number to be Chairman of the Board of Directors.
56. Unless they resign or are removed, Directors shall hold office up until the end of the annual general meeting next following their appointment. Directors whose term of office expires or who resign or are removed are eligible for re-appointment.
57. Any Director may be removed at any time by the Company in General meeting.
58. The Director who is to be removed in accordance with Article 57 shall be given the opportunity of making representations to the general meeting at which a resolution for his removal is to be taken.
59. Without prejudice to the provisions of the Act, the office of a Director shall '*ipso facto*' be vacated:-
- (a) if, by notice in writing to the Company, he resigns from the office of Director; or
  - (b) if he absents himself from the meetings of the Directors for a continuous period of three (3) calendar months without leave of absence from the Directors and the Directors pass a resolution that he has, by reason of such absence, vacated office; or
  - (c) if he violates the declaration of secrecy required of him under the Articles and the Directors pass a resolution that he has so violated the declaration of secrecy; or
  - (d) if he is prohibited by or under any law from being a Director; or
  - (e) if he is removed from office pursuant to the Articles or the Act; or
  - (f) if he becomes of unsound mind, or is convicted of any crime punishable with imprisonment, or is declared bankrupt during his term of office.

A resolution of the Directors declaring a Director to have vacated office as aforesaid, in sub-clauses (b) and (c), shall be conclusive as to the fact and the grounds of vacation stated in the resolution.

60. Any vacancy among the Directors may be filled by the co-option of another person to fill such vacancy. Such co-option shall be made by the Board of Directors. Any vacancy among the Directors filled as aforesaid shall be valid until the conclusion of the next annual general meeting, wherein such person shall be eligible for re-election. 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 the Memorandum as the necessary quorum of Directors, the continuing Directors may act for the purpose of filling such

vacancies or of summoning a general meeting of the Company, but not for any other purpose.

61. A Director may by letter addressed to the Chairman of the board of Directors appoint an alternate director to act instead of him at meetings of the Directors, and may at any time by letter addressed to the Chairman remove such alternate director. An existing Director may be appointed as an alternate to another Director in which case his rights as alternate, including the right to vote, shall be additional to his rights as Director.

The alternate director need not be a serving Director of the Company.

62. The Directors shall have the power to appoint any person to be the attorney of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in them) and for such periods and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may deem fit, and may also authorise any such attorney to delegate all or any of his powers, authorities, and discretions vested in him.

63. The maximum aggregate emoluments of all Directors in any one financial year, and any increases thereto, shall be such amount as may from time to time be determined by the Company in general meeting, and any notice convening the general meeting during which an increase in the maximum limit of such aggregate emoluments shall be proposed, shall contain a reference to such fact.

64. The Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of Directors or other committee appointed under Article 62, or general meetings of the Company or in connection with the business of the Company.

65. A Director shall not be required to have a shareholding qualification, but this notwithstanding, a Director who is not a Member shall be entitled to attend and speak at general meetings of the Company; however, except as provided for in the Articles, he shall not be entitled to vote.

66. Subject to the applicable provisions of the Articles, the Directors may exercise all the powers of the Company to borrow money and to hypothecate or charge its undertaking, property and uncalled capital or any part thereof, and to issue Equity Securities and Debt Securities on such terms, in such manner and for such consideration as they think fit, whether outright or as security for any debt, liability or obligation of the Company or of any third party.

Provided that the Members in general meeting may, from time to time, restrict and limit the aforesaid powers of the Directors, in such manner as they may deem appropriate.

67. The Directors shall exercise their powers: subject to the regulations set out in the Articles and the Act and the rules and regulations of the Exchange or listing authority having competence in respect of the Equity Securities and/or Debt Securities, as may be in force from time to time; and subject to such regulations, not inconsistent with the aforesaid, as may be prescribed by the Company in general meeting. Provided no regulation made by the Company in general

meeting shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.

68. The Directors of the Company shall be obliged to disclose their interest in a contract with the Company in accordance with article 145 of the Act. Furthermore, a Director shall not vote at a meeting of Directors in respect of any contract, arrangement or proposal in which he has a material interest.
69. The Directors shall cause minutes to be kept in books 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 the Directors and of any committee of Directors;
  - (c) of all resolutions and proceedings at all meetings of the Company and of the Directors and of committees of Directors.

## **PROCEEDINGS OF DIRECTORS**

- 70.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their proceedings as they think fit provided that the Board shall meet at least once every three months and no less than four times in each calendar year. The Chairman may at any time summon a meeting of the Directors. The company secretary on the requisition of not less than two (2) Directors summon a meeting of the Directors.
- 70.2 The quorum necessary for the transaction of business shall be such number of Directors as constitutes for the time being a majority of the Directors appointed on the board, present in person or by their alternate. In the event that one or more directors have a conflict of interest and cannot properly act on a certain matter then the quorum necessary for a decision on that matter shall be such number of directors present at that meeting as do not have a conflict of interest
- 70.3 The Directors may from time to time appoint one or more of their body to the office of Chief Executive Officer for such period, not exceeding such director's term of office as a Director, and on such terms and conditions as they deem fit, and subject to any agreement entered into in any particular case, may revoke such appointment. The appointment of a Chief Executive Officer shall be automatically determined if he ceases for any cause to be a Director.
- 70.4 The Directors may entrust to and confer upon a Chief Executive Officer any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit and may from time to time revoke, withdraw, alter or vary all or any of such powers
- 70.5 Questions put to a vote at any meeting of the Directors shall be decided by a majority of votes. In case of an equality of votes the Chairman shall have a casting vote.

71. 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.
72. Notice of every meeting of the board of Directors shall be given to all Directors of the Company and, save as hereinafter provided, shall in no case be of less than three (3) days. Notice of meetings of Directors to any Director for the time being absent from Malta shall be given at his address in Malta (or last known address) and at his address abroad (provided that such Director has duly informed the Company of such latter address.) Such notice shall not be required if (i) it is waived by a decision of all Directors entitled to receive notice of and vote at a meeting of the Directors; (ii) a meeting is called by the Chairman as a matter of urgency, provided that the Chairman shall have noted the urgency of the meeting in the notice and the general nature of the urgent business to be discussed. A Director may give his consent to the waiver of notice in (i) by way of fax, electronic mail, or other means of readable communication.
73. If at any time the Chairman is not present within thirty (30) minutes after the time appointed for a meeting of the Directors, the Directors may choose one of their number to chair the meeting.
74. 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 and not expressly reserved by the Memorandum of Association of the Company or by the Articles to be exercised by the Company in general meeting or by any provision contained in any law for the time being in force.
75. If any meeting of the Directors is inquorate then it will be adjourned for the consideration of the same business until the same time and place the next following week when those Directors present will constitute a quorum.
76. A resolution in writing signed by all the Directors for the time being entitled to receive notice of and to attend and vote at a meeting of the Directors shall be as valid and effectual as a resolution passed at a meeting of the Directors duly convened and held. Any resolution as is mentioned in this Article 76 may consist of several documents in the like form each signed by one or more of the Directors
77. The Directors shall be deemed to meet together if, being in separate locations, they are nonetheless linked by conference telephone or other communication equipment which allows those participating to hear and speak to each other, and any Director or member of a committee participating in a meeting in this manner is deemed to be present in person at such meeting and will be counted when reckoning a quorum.

## **SECRETARY**

78. Without prejudice to the provisions of the Act regulating the appointment and functions of the secretary of the Company, the appointment or replacement of the secretary and the conditions of holding office shall be determined by the Directors. The secretary shall be responsible for keeping:
  - the minute book of general meetings of the Company;
  - the minute book of meetings of the board of Directors;

- the register of Members;
- the register of debentures; and
- such other registers and records as the secretary may be required to keep by the board of Directors.

The secretary shall apply his best endeavours to:

- ensure that proper notices are given of all meetings; and
- ensure that all returns and other documents of the Company are prepared and delivered in accordance with the requirements of the Act.

## **DIVIDENDS & RESERVES**

79. The Company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Directors.
80. The Directors may from time to time pay to the Members such interim dividends as appear to the Directors to be justified by the profits of the Company.
81. No dividend shall be paid otherwise than out of the profits of the Company available for distribution.
82. Without prejudice to the relevant provisions of the Act, the Directors may, before recommending any dividend, set aside out of the profits of the Company available for distribution any such sum as they think proper as a reserve or reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than Equity Securities of the Company) as the Directors may from time to time think fit. The Directors may also, without placing the same to reserve, carry forward any profits which they think prudent not to divide.
83. Subject to any rights of persons, if any, entitled to Equity Securities with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or credited as paid on the Equity Securities in respect whereof the dividend is paid but no amount paid or credited as paid on the Equity Securities in advance of calls shall be treated for the purpose of this regulation as paid on the Equity Securities. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the Equity Securities during any portion or portions of the period in respect of which the dividend is paid; but if any Equity Security is issued on terms providing that it shall rank for dividend as from a particular date, such Equity Security shall rank for dividend accordingly.
84. The Directors may deduct from any dividend payable to any Member all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in relation to the Equity Securities of the Company.
85. Any dividend or other moneys payable in respect of an Equity Security may be paid by cheque sent through the post and directed to the registered address of the holder or, in the case of an Equity Security held jointly by more than one person, to the registered address of the person named in the register of Members;

PROVIDED that where the address of a Member is not known the dividend is to be kept by the Company for collection by the Member entitled to such dividend or for remittance when the address of the said Member is made known to the Company;

PROVIDED FURTHER that, in the case of an Equity Security held by joint holders, any one of such holders may give an effective and valid receipt for all dividends and payments on account of dividends and payments in respect of such Equity Security. Every such cheque shall be made payable to the person to whom it is sent and payment of the cheque shall be a good discharge to the Company. Every such cheque shall be sent at the risk of the person or persons entitled to the money represented thereby.

- 86.1 No dividend shall bear interest against the Company.
- 86.2 Any amount paid up in advance of calls on any Equity Security may carry interest but will not entitle the holder of the Equity Security to participate in respect of such amount in any dividend.

## ACCOUNTS

- 87.1 The Directors shall from time to time determine whether and to what extent, time and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors. No Member (not being a Director) shall have any right of inspecting any account, or book or document except as conferred by law or authorised by the Directors.
- 87.2 The Directors shall cause a printed copy of the profit and loss account and balance sheet, together with any Directors' and auditors' report attached thereto, to be delivered or sent by post to every Member of the Company and other persons entitled to receive notices of general meetings, at least fourteen (14) days prior to each annual general meeting.

## CAPITALISATION OF PROFITS

- 88. Without prejudice to the relevant provisions of the Act, the Company in general meeting may upon the recommendation of the Directors resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of the Company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the Members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any Equity Securities held by such Members respectively or paying up in full unissued Equity Securities or Debt Securities of the Company to be allotted, distributed and credited as fully paid up to and amongst such Members in the proportion aforesaid, and the Directors shall give effect to such resolution;

PROVIDED that for the purposes of this Article a share premium account and a capital redemption reserve fund may only be applied in the paying up of Equity Securities to be issued to Members as fully paid up Equity Securities;

PROVIDED FURTHER that the Directors may in giving effect to such resolution make such provision by payment in cash or otherwise as they deem fit.

## NOTICE

- 89.1 A notice may be given by the Company to any Member either personally or by sending it by post to his registered address in Malta, or if he has no such registered address in Malta, to the address, if any, supplied by him to the Company to receive notice thereat. Where a notice is sent by post, service of the notice is deemed to be effected by properly addressing, prepaying and mailing a letter containing the notice, and to have been effected at the expiration of twenty-four (24) hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.
- 89.2 A notice may be given to the joint holders of an Equity Security by giving the notice to the holder of such Equity Security first named in the register of Members.
90. Any notice required to be given by the Company to the Members or any of them, and not expressly provided for by the Articles, shall be sufficiently given if given by advertisement.
- 91.1 Any notice required to be or which may be given by advertisement need be advertised not more than once in two daily newspapers, one in the Maltese language and one in the English language.
- 91.2 If postal services in and from Malta shall be curtailed or suspended so that the Company is unable to give effective notice by post of a general meeting, notice may be given by advertisement as provided in the preceding paragraph and shall be deemed to have been given on the day of publication therein mentioned. In such event the Company shall as soon as practicable (and, if able to do so, prior to the date of the general meeting) send notice by post to all the Members entitled to receive notice.
92. The signature to any notice to be given by the Company may be written or printed.

## SECRECY

93. Without prejudice to the provisions of the Professional Secrecy Act, Cap. 377 of the Laws of Malta, every Director, secretary, auditor and employee of the Company shall observe strict secrecy with regard to all dealings, transactions and other matters of a confidential nature of and concerning the Company and with regard to all transactions of the Company with its customers, the state of their accounts and matters relating thereto, except when required or authorised to disclose particulars thereof by the Directors, the person to whom such matters relate, or by law and except in so far as may be necessary in order to comply with any of the provisions of the Articles; and every Director, secretary, auditor or employee shall sign an undertaking to the above effect in such form as the Directors may from time to time prescribe.



## WINDING-UP

- 94.1 All holders of Equity Securities shall rank "pari passu" upon any distribution of assets in a winding up, provided that the holders of preference shares of the Company shall at all times rank prior to the holders of the remaining Equity Securities upon any distribution of assets in a winding up. As between the holders of different issues of preference shares they shall rank in accordance with the relative terms.
- 94.2 Unless the Members in general meeting approve otherwise, upon the voluntary liquidation of the Company, no commission or fee shall be paid to a liquidator. Any amount which the Directors propose to pay to a liquidator shall be notified to all Members at least seven (7) days prior to the meeting at which it is to be considered.

## INDEMNITY

95. Every Director, Chief Executive Officer, agent or secretary, and in general each officer of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings related to the Company's business or affairs, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted.

## TRUST AND NOMINEE RELATIONSHIPS

96. The Company shall not recognise any nominee relationship or trust in respect of any security issued by it and the Company shall not recognise even when having notice thereof any interest or other right in such security, but shall only recognise the registered holder thereof. Notwithstanding the provisions of article 19, no restriction shall apply, if a member wishes to change the name of the registered holder of his Equity Securities or any of them to the person in favour of whom he was acting as nominee when the Equity Securities were issued or allotted and for whom he was acting nominee at all times.

## GENERAL

97. In the event that any of the Company's Equity Securities or Debt Securities are listed, no deletion, amendment or addition to any of the Articles shall have effect unless prior written approval of such deletion, amendment or addition has been sought and obtained from the listing authority having competence in respect of the Equity Securities and/or Debt Securities.

  
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Marin Hili

  
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Mariner Capital Limited