

BYE-LAWS

of

INFIGEN ENERGY (BERMUDA) LIMITED~~**BABCOCK &
BROWN WIND PARTNERS (BERMUDA) LIMITED**~~

I HEREBY CERTIFY that the within-written Bye-laws are a true copy of the Bye-laws of the Company as amended ~~subscribed~~ by resolution of the Members of~~subscribers to~~ the Memorandum of Association ~~and approved~~ at the Statutory Meeting of the Company on the day of _____, 20095.

Secretary

*Prepared by
Cox Hallett Wilkinson
Barristers and Attorneys
Milner House, 18 Parliament Street
Hamilton, Bermuda*

Bye-Laws

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1 Registered Office

- 1.1 The Registered Office shall be at such place in Bermuda as the Directors shall from time to time appoint.

2 Share capital and variation of rights

2.1 Share capital

The share capital of the Company at the date of adoption of these Bye-laws is AS\$500 divided into 500,000,000 shares having par value of AS\$0.000001 each which, subject as otherwise provided in these Bye-laws, shall rank pari passu with each other in all respects.

2.2 Power of Directors to issue shares

The issue of shares in the Company is under the control of the Directors who:

- (a) may issue or dispose of shares to any person at any time and on any terms and conditions and having attached to them any preferred, deferred or other special rights or restrictions, whether with regard to dividend, voting, return of capital or otherwise, as the Directors think fit;
- (b) may grant to any person an option over shares or pre-emptive rights at any time and for any consideration as they think fit; and
- (c) have the right to settle the manner in which fractions of a share, however arising, are to be dealt with,

subject to the Stapling Provisions, the Companies Act, the Listing Rules and any special rights conferred on the holders of any shares or class of shares.

2.3 Issue of further shares - no variation

The rights conferred on the holders of the shares of any class are not to be taken as varied by the issue of further shares ranking equally with the first-mentioned shares unless:

- (a) expressly provided by the terms of issue of the first-mentioned shares; or
- (b) required by the Companies Act or, while the Company remains on the official list of ASX, the Listing Rules.

2.4 Variation of class rights

It at any time the capital of the Company is divided into different classes of shares, the special rights for the time being attached to any class of shares on issue may from time to time (whether or not the Company is being wound up) be varied subject to any necessary additional requirement to comply with the provisions of the Companies Act and the Listing Rules:

- (a) in such manner (if any) as may be provided by those rights; or
- (b) in the absence of any such provision, with the consent in writing of the holders of three quarters in nominal value of the issued shares in that class, or with the sanction of a Special Resolution passed at a separate meeting of the holders of the shares of that class,

but not otherwise.

2.5 Class Meetings

The provisions of these Bye-laws relating to general meetings apply so far as they are capable of application and with any necessary changes to every separate meeting of the holders of a class of shares held under the Companies Act except that:

- (a) a quorum is constituted by at least two persons who hold or represent the holders of shares of the class (unless only one person holds all of the shares of the class, in which case that person constitutes a quorum); and
- (b) any holder of shares of the class, present in person or by proxy, or attorney, may demand a poll.

2.6 Non-recognition of interests

Except as required by law, the Company is not required to recognise:

- (a) a person as holding a share on any trust; or
- (b) any other interest in any share or any other right in respect of a share except an absolute right of ownership in the registered holder, whether or not it has notice of the interest or right.

2.7 Joint holders of shares

Where two or more persons are registered as the joint holders of shares then they are taken to hold the shares as joint tenants with rights of survivorship, but the Company is not bound:

- (a) to register more than three persons as joint holders of a share; or
- (b) to issue more than one certificate or holding statement in respect of shares jointly held.

2.8 Ordinary Shares

The holders of the Ordinary Shares are:

- (a) entitled to receive notice of and attend any meeting of the Company and are entitled to vote on all matters;
- (b) entitled to such dividends as may be declared by the Directors from time to time; and
- (c) in the event of the winding up or dissolution of the Company, whether voluntary or involuntary or for the reorganisation or otherwise or upon the distribution of capital, after the capital paid up on the preference shares in issue, if any, has been paid to the holders of such shares, entitled pari passu to receive a distribution of capital paid up on the Ordinary Shares and to share pari passu in the surplus assets of the Company.

3 Issue of [BBWIFN](#) Stapled Securities

3.1 Paramountcy

The provisions of this bye-law 3 apply notwithstanding the provisions of bye-law 2.

3.2 Stapling

From the Stapling Commencement Date, each Ordinary Share will, subject to bye-law 26.11, be Stapled to one Stapled Trust Unit (and any other Attached Securities that are from time to time Stapled to the Ordinary Share) to form a [BBWIFN](#) Stapled Security.

Each Ordinary Share (if any) allotted and issued before Stapling applies will, subject to bye-law 26.11, from the Stapling Commencement Date become Stapled to one Stapled Trust Unit to form (along with any other Attached Securities that are from time to time Stapled to the Ordinary Share) a [BBWIFN](#) Stapled Security.

If further Attached Securities are from time to time Stapled to the Ordinary Shares the intention is that, so far as the law permits, an Ordinary Share and one of each of the Attached Securities which are stapled together shall be treated as one security ([BBWIFN](#) Stapled Security).

While Stapling applies, the number of issued Ordinary Shares must equal the number of issued Attached Securities of each category at that time.

This bye-law 3 does not restrict the issue of shares which are not Ordinary Shares. Only Ordinary Shares will be stapled to Stapled Trust Units or other Attached Securities.

3.3 Registration

The Stapled Securities must be registered in the [BBWIFN](#) Stapled Security Register and, subject to bye-laws 3.5 and 3.6, the Company must issue a certificate, or a holding statement in accordance with the requirements of the CS Facility in respect of the [BBWIFN](#) Stapled Securities, identifying the [BBWIFN](#) Stapled Securities to which the certificate or holding statement relates.

3.4 No issue without corresponding issue of Attached Securities

The Directors may not allot or issue an Ordinary Share unless there is an issue at the same time of an Attached Security of each category to the same person to form a [BBWIFN](#) Stapled Security.

3.5 Partly-paid shares

The Directors may allot or issue any share on the basis that the issue price is payable by instalments. If an Ordinary Share is to be issued as part of a [BBWIFN](#) Stapled Security and the Attached Securities are to be partly paid the Ordinary Share must be issued with terms for the making and payment of calls and forfeiture which are compatible with the terms of issue of the Attached Securities.

3.6 Shares to remain Stapled

Subject to bye-law 26.11, each issued Ordinary Share will remain Stapled for so long as those shares remain on issue.

While Stapling applies:

- (a) the Directors and the Company must neither do any act, matter or thing nor refrain from doing any act, matter or thing if to do so or refrain from doing so, as the case may be, which would result directly or indirectly in any Ordinary Share no longer being Stapled to the relevant Attached Securities to form a [BBWIFN](#) Stapled Security;
- (b) without limiting paragraph (a), the Directors and the Company must not re-organise any Ordinary Shares unless at the same time there is a corresponding re-organisation of the relevant Attached Securities that

are Stapled to those shares to form [BBWIFN](#) Stapled Securities so that the person holding Ordinary Shares holds an equal number of Attached Securities of each category.

For the purposes of this bye-law 3.6, the term “re-organise” has the meaning given in Listing Rules 7.18 to 7.24 (inclusive) and the term “re-organisation” has a corresponding meaning and includes any consolidation, division, cancellation, subdivision, buy back or reduction of any share capital.

3.7 [BBWIFN](#) Stapled Security Register

The Directors must maintain or cause to be maintained the [BBWIFN](#) Stapled Security Register which records the names and addresses of the Members holding Ordinary Shares, the number of Ordinary Shares held, the number of relevant Attached Securities held by the Members and any additional information required by the Companies Act, the Listing Rules or by the Directors from time to time. The Directors may establish and maintain a Register jointly with:

- (a) the register of Stapled Trust Unitholders; and
- (b) if applicable, the register of holders of other Attached Securities.

The [BBWIFN](#) Stapled Security Register will, for so long as Stapling applies, be deemed to constitute part of the Register of Members, and in this case all other provisions of these Bye-laws applicable to the Register of Members will apply only to any part of the Register of Members kept in addition to the [BBWIFN](#) Stapled Security Register.

The Directors must maintain in accordance with the Companies Act a Register of Members recording details of any class of shares other than Ordinary Shares.

3.8 Amendment to Stapling Provisions

Without limitation to the provisions of these Bye-laws or the Companies Act, no Stapling Provision (including this bye-law 3.8) may be deleted or amended without the approval of a Special Resolution of the Stapled Trust Unitholders.

4 Lien

4.1 Lien on share

The Company has a first and paramount lien on every share for:

- (a) all due and unpaid calls and instalments in respect of that share;
- (b) all money which the Company has been called on by law to pay, and has paid, in respect of that share;
- (c) interest at the Prescribed Interest Rate on the amount due from the date it becomes due until payment, such interest being calculated daily and payable monthly in arrears; and
- (d) reasonable expenses of the Company in respect of the default on payment.

4.2 Lien on loans under employee incentive schemes

The Company also has a first and paramount lien on each share registered in the name of the Member for all money payable to the Company by the Member under loans made under an employee incentive scheme.

4.3 Lien on distributions

A lien on a share under bye-law 4.1 (“Lien on share”) or 4.2 (“Lien on loans under employee incentive schemes”) extends to all distributions in respect of that share, including dividends.

4.4 Exemption from bye-law 4.1 or 4.2

The Directors may at any time exempt a share wholly or in part from the provisions of bye-law 4.1 (“Lien on share”) or 4.2 (“Lien on loans under employee incentive schemes”).

4.5 Extinguishment of lien

The Company’s lien on a share is extinguished if a transfer of the share is registered without the Company giving notice of the lien to the transferee.

4.6 Company’s rights to recover payments

A Member must reimburse the Company on demand in writing for all payments the Company makes to a government or taxing authority in respect of the Member, the death of a Member or the Member’s shares or any distributions on the Member’s shares, including dividends, where the Company is either:

- (a) obliged by law to make the relevant payment; or
- (b) advised by a lawyer qualified to practice in the jurisdiction of the relevant government or taxing authority that the Company is obliged by law to make the relevant payment.

The Company is not obliged to advise the Member in advance of its intention to make the payment.

4.7 Reimbursement is a debt due

The obligation of the Member to reimburse the Company is a debt due to the Company as if it were a call on all the Member's shares, duly made at the time when the written demand for reimbursement is given by the Company to the Member. The provisions of these Bye-laws relating to non-payment of calls, including payment of interest and sale of the Member's shares under lien, apply to the debt.

4.8 Sale under lien

Subject to bye-law 4.9 ("Limitations on sale under lien"), the Company may sell, in any manner the Directors think fit, any share on which the Company has a lien and an equal number of Attached Securities.

4.9 Limitations on sale under lien

A share on which the Company has a lien may not be sold by the Company unless:

- (a) an amount in respect of which the lien exists is presently payable; and
- (b) the Company has, not less than 14 days before the date of sale, given to the registered holder of the share or the person entitled to the share by reason of the death or bankruptcy of the registered holder, a notice in writing setting out, and demanding payment of, the amount which is presently payable in respect of which the lien exists.

4.10 Transfer on sale under lien

For the purpose of giving effect to a sale under bye-law 4.8 ("Sale under lien"), the Company may receive the consideration, if any, given for the share and the Attached Securities so sold and may execute a transfer of the share and the Attached Securities sold in favour of the purchaser of the share and the Attached Securities, or do all such other things as may be necessary or appropriate for it to do to effect the transfer. The purchaser is not bound to see to the application of the purchase money.

4.11 Irregularity or invalidity

The title of the purchaser to the share and the Attached Securities is not affected by any irregularity or invalidity in connection with the sale or disposal of the share and the Attached Securities.

4.12 Proceeds of sale

The proceeds of a sale under bye-law 4.8 (“Sale under lien”) must be applied by the Company in payment of the amount in respect of which the lien exists as is presently payable, and the residue, if any, must be paid to the person entitled to the share immediately before the sale.

5 Calls on shares

5.1 Directors to make calls

The Directors may:

- (a) make calls on a Member in respect of any money unpaid on the shares of that Member, if the money is not by the terms of issue of those shares made payable at fixed times;
- (b) make a call payable by instalments; and
- (c) revoke or postpone a call.

5.2 Time of call

A call is taken to be made at the time when the resolution of the Directors authorising the call is passed.

5.3 Members’ liability

Each Member must upon receiving not less than 30 business days’ notice specifying the time or times and place of payment, pay to the Company at the time or times and place so specified the amount called on that Member’s shares.

5.4 Joint holders’ liability

The joint holders of a share are jointly and severally liable to pay all calls in respect of the share.

5.5 Non-receipt of notice

The non-receipt of a notice of any call by, or the accidental omission to give notice of a call to, a Member does not invalidate the call.

5.6 Interest on default

If a sum called in respect of a share is not paid before or on the day appointed for payment of the sum, the person from whom the sum is due must pay interest on the sum to the time of actual payment at the Prescribed Interest Rate, calculated daily and payable monthly in arrears. The Directors may waive payment of that interest wholly or in part.

5.7 Fixed instalments

Subject to any notice requirements under the Listing Rules, any sum that, by the terms of issue of a share, becomes payable on issue of the share or at a fixed date, is to be taken to be a call duly made and payable on the date on which by the terms of issue the sum becomes payable. In case of non-payment, all the relevant provisions of these Bye-laws as to payment of interest and expenses, forfeiture or otherwise apply as if the sum had become payable by virtue of a call duly made and notified.

5.8 Differentiation between Members as to calls

The Directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.

5.9 Prepayment of calls and interest

The Directors may:

- (a) accept from a Member the whole or a part of the amount unpaid on a share although no part of that amount has been called; and
- (b) authorise payment by the Company of interest on the whole or any part of an amount so accepted, until the amount becomes payable, at such rate, not exceeding the Prescribed Interest Rate, as is agreed on between the Directors and the Member paying the sum.

5.10 Payment of calls

While Stapling applies any issue of partly paid Ordinary Shares shall be upon the basis that a call will not be regarded as having been validly paid unless any amount payable at the same time in relation to the partly paid Attached Securities is also paid.

6 Transfer of shares

6.1 Forms of instrument of transfer

Subject to these Bye-laws and the Listing Rules, a share in the Company is transferable:

- (a) as provided by the Operating Rules of a CS Facility if applicable; or
- (b) by any other method of transfer which is required or permitted by the Companies Act and ASX.

6.2 Execution and delivery of transfer

If an instrument of transfer:

- (a) is used to transfer a share in accordance with by-law 6.1(b); and
- (b) is left for registration at the share registry of the Company, accompanied by any information that the Directors properly require to show the right of the transferor to make the transfer,

the Company must, subject to the powers vested in the Directors by these Bye-laws, register the transferee as the holder of the share.

6.3 Effect of registration

Except as provided by any applicable Operating Rules of a CS Facility, a transferor of a share remains the holder of the share transferred until the transfer is registered and the name of the transferee is entered in the Register in respect of the share.

6.4 Company to register forms without charge

The Company must register all registrable transfer forms, split certificates, renunciations and transfers, issue certificates and transmission receipts and mark or note transfer forms without imposing a charge except where a charge is permitted by the Listing Rules.

6.5 Power to refuse to register

If permitted to do so by the Listing Rules the Directors may:

- (a) request any applicable CS Facility Operator to apply a holding lock to prevent a transfer of shares in the Company from being registered on the CS Facility's subregister; or
- (b) refuse to register a transfer of shares in the Company to which paragraph (a) does not apply.

6.6 Obligation to refuse to register

The Directors must:

- (a) request any applicable CS Facility Operator to apply a holding lock to prevent transfer of shares in the Company from being registered on the CS Facility's subregister; or
- (b) refuse to register any transfer of shares in the Company to which paragraph (a) does not apply,

if:

- (c) the Listing Rules require the Company to do so;
- (d) bye-law 6.10(b) requires the Directors not to register the transfer; or
- (e) the transfer is in breach of the Listing Rules or a Restriction Agreement.

6.7 Written notice to security holder of holding lock or refusal

If in the exercise of their rights under bye-laws 6.5 and 6.6 the Directors request application of a holding lock to prevent a transfer of shares in the Company or refuse to register a transfer of shares they must give written notice of the request or refusal to the holder of the shares, the transferee and the broker lodging the transfer, if any. Failure to give such notice does not invalidate the decision of the Directors.

6.8 Company to retain instrument of transfer

The Company must retain every instrument of transfer which is registered for such period as the Directors determine.

6.9 Refusal to register

If the Directors refuse registration of a transfer, the transfer must be returned to the person who deposited it if demand is made by that person within 12 months of the giving of notice of refusal to register unless there has been an allegation of fraud concerning the transfer or the transaction to which it relates.

6.10 Effect of Stapling

- (a) A transfer of an Ordinary Share will only be accepted as a proper transfer in registrable form if, in addition to the requirements of this bye-law 6 or bye-law 7, as the case may be, the transfer relates to or is accompanied by a transfer or a copy of a transfer of the relevant Attached Securities to which the share is Stapled in favour of the same transferee.
- (b) Subject to the Operating Rules and the Listing Rules, the Directors must not register a transfer of an Ordinary Share unless the relevant Attached Securities are also to be transferred, or are capable of transfer, simultaneously.
- (c) A transfer of an Ordinary Share which is not accompanied by a transfer referred to in bye-law 6.10(a) or a copy of such a transfer of the relevant Attached Securities to which the share is Stapled will

be taken to authorise the Company as agent for the transferor to effect in accordance with the provisions of the relevant constitution or constitutions, a transfer of the Attached Securities, to the same transferee.

7 Transmission of shares

7.1 Transmission of shares on death of holder

If a Member who does not own shares jointly dies, the Company will recognise only the personal representative of the Member as being entitled to the Member's interest in the shares.

7.2 Information given by personal representative

If the personal representative gives the Directors the information they reasonably require to establish the representative's entitlement to be registered as a holder of the shares:

- (a) the personal representative may:
 - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
 - (ii) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (b) the personal representative is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.

On receiving an election under paragraph (a)(i), the Company must register the personal representative as the holder of the shares.

A transfer under paragraph (a)(ii) is subject to the Bye-laws that apply to transfers generally.

7.3 Death of joint owner

If a Member who owns shares jointly dies, the Company will recognise only the survivor as being entitled to the Member's interest in the shares. Neither the estate of the Member nor the survivor is released from any liability in respect of the shares.

7.4 Transmission of shares on bankruptcy

If a person entitled to shares because of the bankruptcy of a Member gives the Directors the information they reasonably

require to establish the person's entitlement to be registered as holder of the shares, the person may:

- (a) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; or
- (b) by giving a completed transfer form to the Company, transfer the shares to another person.

On receiving an election under paragraph (a), the Company must register the person as the holder of the shares.

A transfer under paragraph (b) is subject to the Bye-laws that apply to transfers generally.

This bye-law has effect subject to the Bankruptcy Act 1989.

7.5 Transmission of shares on mental incapacity

If a person entitled to shares because of the mental incapacity of a Member gives the Directors the information they reasonably require to establish the person's entitlement to be registered as the holder of the shares:

- (a) the person may:
 - (i) by giving a written and signed notice to the Company, elect to be registered as the holder of the shares; and
 - (ii) by giving a completed transfer form to the Company, transfer the shares to another person; and
- (b) the person is entitled, whether or not registered as the holder of the shares, to the same rights as the Member.

On receiving an election under paragraph (a)(i), the Company must register the person as the holder of the shares.

A transfer under paragraph (a)(ii) is subject to the Bye-laws that apply to transfers generally.

7.6 Stapling

Notwithstanding any other provision of these Bye-laws, no person under this bye-law 7 may become a registered holder of Ordinary Shares unless that person is also entitled to become the registered holder of each category of Attached Securities to which those shares are Stapled.

8 Increase, alteration and reduction of capital

8.1 Increase of Capital

- (a) The Company may from time to time increase its capital by such sum to be divided into shares of such par value as the Company by Resolution shall prescribe.
- (b) The Company may, by Resolution increasing the capital, direct that the new shares or any of them shall be offered in the first instance either at par or at a premium or (subject to the provisions of the Companies Act) at a discount to all the holders for the time being of shares of any class or classes in proportion to the number of such shares held by each of them or make any other provision as to the issue of the new shares.
- (c) The new shares shall be subject to all the provisions of these Bye-laws with reference to lien, the payment of calls, forfeiture, transfer, transmission and otherwise.

8.2 Alteration of Capital

The Company may, subject to bye-law 2.4, from time to time by Resolution:

- (a) Divide its shares into several classes and attach thereto any preferential deferred, qualified or special rights, privileges or conditions;
- (b) Consolidate and divide all or any of its share capital into shares of larger par value than its existing shares;
- (c) Sub-divide its shares or any of them into shares of smaller par value than is fixed by its Memorandum so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;
- (d) Make provision for the issue and allotment of shares which do not carry any voting rights;
- (e) Cancel shares which, at the date of the passing of the Resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled; and
- (f) Change the currency of denomination of its share capital.

Where any difficulty arises in regard to any division, consolidation or subdivision under this bye-law 8.2, the directors may settle the same as they think expedient and, in particular, may arrange for the sale of the shares representing fractions and the distribution of the net proceeds of sale in due proportion amongst the Members who would have been entitled to the fractions, and for this purpose the Directors may authorise some person to transfer the shares representing fractions to the purchaser thereof, who shall not be bound to see to the application of the purchase money nor shall the purchaser's title to the shares be affected by any irregularity or invalidity in the proceedings relating to the sale.

While Stapling applies, the Company may not effect an alteration of capital pursuant to this bye-law 8.2 (save for bye-law 8.2(f)) that affects a shares in the Company that is a component of a ~~BBWIFN~~ Stapled Security unless there is a similar alteration by each other Stapled Security.

8.3 Reduction of Capital

- (a) Subject to the Companies Act, its Memorandum, the Listing Rules and any confirmation or consent required by law or these Bye-laws, the Company may from time to time by Resolution authorise the reduction of its issued share capital (including by the purchase of its own shares) or any capital redemption reserve fund or any share premium or contributed surplus account in any manner;
- (b) In relation to any such reduction, the Company may by Resolution determine the terms upon which such reduction is to be effected including, in the case of a reduction of part only of a class of shares, those shares to be affected; and
- (c) While the Stapling applies, the Company may not effect a reduction of capital unless there is a similar reduction of capital in each Stapled Entity to which the shares are Stapled.

9 Forfeiture of shares

9.1 Notice requiring payment of call

If a Member fails to pay a call or instalment of a call on the day appointed for payment of the call or instalment, the Directors may, at any time afterwards during such time as any part of the call or instalment remains unpaid, give a notice on the Member requiring payment of so much of the call or instalment as is unpaid, together with any interest that has accrued and all costs and expenses that may have been incurred by the Company by reason of that non-payment.

9.2 Contents of notice

The notice must name a further day, not earlier than the expiration of 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 must state that, in the event of non-payment at or before the time appointed, the shares in respect of which the call was made and an equal number of Attached Securities to which the shares are Stapled will be liable to be forfeited. If the shares are officially quoted by ASX the notice must contain such other information as is required by the Listing Rules (or ASX under the Listing Rules).

9.3 Forfeiture for failure to comply with notice

A share in respect of which the notice under bye-law 9.1 (“Notice requiring payment of call”) has not been complied with may at any time, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect.

9.4 Dividends and distributions included in forfeiture

A forfeiture under bye-law 9.3 (“Forfeiture for failure to comply with notice”) includes all dividends and other distributions declared or to be made in respect of the forfeited shares and not actually paid or distributed before the forfeiture.

9.5 Sale or re-issue of forfeited shares

Subject to the Companies Act and the Listing Rules:

- (a) a share (other than an Ordinary Share) forfeited under bye-law 9.3 may be sold, re-issued or otherwise disposed of to whom and on such terms as the Directors think fit; and
- (b) an Ordinary Share forfeited under bye-law 9.3 (together with the Attached Securities) may be sold or otherwise disposed of as a fully paid Ordinary Share (together with the Attached Securities) at a price equal to the fair value thereof as determined by the Directors with the balance of the sale price of the [BBWIFN](#) Stapled Security being allocated between the Attached Securities in accordance with the Stapled Trust Constitution.

9.6 Notice of forfeiture

If any share is forfeited under bye-law 9.3 (“Forfeiture for failure to comply with notice”) notice of the forfeiture must be given to the Member holding the share immediately before the forfeiture and an entry of the forfeiture and its date must be made in the Register.

9.7 Surrender instead of forfeiture

The Directors may accept the surrender of any share which they are entitled to forfeit on any terms they think fit and any surrendered share is taken to be a forfeited share.

9.8 Cancellation of forfeiture

At any time before a sale or disposition of a share, the forfeiture of that share may be cancelled on such terms as the Directors think fit.

9.9 Effect of forfeiture on former holder's liability

A person whose shares have been forfeited:

- (a) ceases to be a Member in respect of the forfeited shares and ceases to be a member of each Stapled Entity in respect of the Attached Securities and loses all entitlement to dividends and other distributions or entitlements on the shares and relevant Attached Securities; and
- (b) remains liable to pay the Company all money that, at the date of forfeiture, was payable by that person to the Company in respect of the shares, plus interest at the Prescribed Interest Rate from the date of forfeiture and also reasonable expenses of sale but the former Member's liability ceases if and when the Company receives payment in full of all such money and, if applicable, interest in respect of forfeited shares.

9.10 Evidence of forfeiture

A statement in writing declaring that the person making the statement is a director or a secretary of the Company, and that a share in the Company has been forfeited in accordance with these Bye-laws on the date stated in the statement, is prima facie evidence of the facts stated in the statement as against all persons claiming to be entitled to the share.

9.11 Transfer of forfeited share

The Company may receive the consideration (if any) given for a forfeited share on any sale or disposition of the share and may execute or effect a transfer of the share in favour of the person to whom the share is sold or disposed of. Any surplus remaining after satisfaction of any liability to the Company in respect of the forfeited share (including costs and expenses) must, subject to the terms of issue of the share, be paid to the person who held the share immediately before forfeiture.

9.12 Registration of transferee

On the execution of the transfer, the transferee must be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.

9.13 Irregularity or invalidity

The title of the transferee to the share is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the share.

9.14 Forfeiture applies to non-payment of instalment

The provisions of these Bye-laws as to forfeiture apply in the case of non-payment of any sum that, by the terms of issue of a share, becomes payable at a fixed time, as if that sum had been payable by virtue of a call duly made and notified.

9.15 Attached Securities

Where the share is an Ordinary Share, a reference to a share in this clause is deemed to be a reference to the Ordinary Share and the Attached Securities where applicable.

10 General meetings

10.1 Annual general meeting

Annual general meetings of the Company are to be held in accordance with the Companies Act.

10.2 Convening special general meeting

The Directors may:

- (a) convene and arrange to hold a special general meeting of the Company whenever they think fit and must do so if required to do so under the Companies Act; and
- (b) while Stapling applies, convene a meeting of Members in conjunction with a meeting of the Stapled Trust Unitholders and if applicable, the holders of other Attached Securities and, subject to the Companies Act, make such rules for the conduct of such a meeting as they think fit.

10.2A When meeting of Stapled Entity required under Australian law

While Stapling applies, if members of any Stapled Entity requisition a meeting of the Stapled Entity under the Corporations Act 2001, the Directors must convene a meeting of Members of the Company to be held consecutively or

concurrently with the meeting of members of that Stapled Entity, and the business to be considered at each meeting will be the same in so far as it is applicable to the Company.

10.3 Notice of general meeting

Notice of a meeting of Members must be given in accordance with bye-law 20 and the Companies Act.

10.4 Calculation of period of notice

In computing the period of notice under bye-law 10.3 (“Notice of general meeting”), both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

10.5 Cancellation or postponement of a meeting

Where a meeting of Members (including an annual general meeting) is convened by the Directors they may, whenever they think fit, cancel the meeting or postpone the holding of the meeting to a date and time determined by them or change the place for the meeting. This bye-law does not apply to a meeting convened in accordance with the Companies Act by a single director, by Members or by the Directors on the request of Members or meetings convened by the Court.

10.6 Notice of cancellation or postponement of a meeting

Notice of cancellation or postponement of a general meeting must state the reason for cancellation or postponement and be given:

- (a) to each Member individually; and
- (b) to each other person entitled to be given notice of a meeting of the Company’s Members under the Companies Act.

10.7 Contents of notice of postponement of meeting

A notice of postponement of a general meeting must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

10.8 Number of clear days for postponement of meeting

The number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days notice of the general meeting required to be given by these Bye-laws or the Companies Act.

10.9 Business at postponed meeting

The only business that may be transacted at a general meeting the holding of which is postponed is the business specified in the original notice convening the meeting.

10.10 Proxy or attorney at postponed meeting

Where:

- (a) by the terms of an instrument appointing a proxy or attorney, a proxy or an attorney is authorised to attend and vote at a general meeting to be held on a specified date or at a general meeting or general meetings to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy or power of attorney,

then, by force of this bye-law, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy or power of attorney unless the Member appointing the proxy or attorney gives to the Company at its Registered Office notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

10.11 Non-receipt of notice

The non-receipt of notice of a general meeting or cancellation or postponement of a general meeting by, or the accidental omission to give notice of a general meeting or cancellation or postponement of a general meeting to, a person entitled to receive notice does not invalidate any resolution passed at the general meeting or at a postponed meeting or the cancellation or postponement of a meeting.

10.12 Director entitled to notice of meeting

A Director is entitled to receive notice of and to attend all general meetings and all separate general meetings of the holders of any class of shares in the capital of the Company and is entitled to speak at those meetings.

10.13 Stapling

While Stapling applies, the auditor of each Stapled Entity, the Stapled Trust Manager and representatives of each other Stapled Entity (if any) may attend and speak at any general meeting.

10.14 Resolutions in writing

- (a) Except in the case of the removal of Auditors and Directors, anything which may be done by resolution of the Company in general meeting or by resolution of a meeting of any class of the Members of the Company may, without a meeting and without any previous notice being required, be done by resolution in writing, signed by all of the Members (entitled to vote thereon) or their proxies, or in the case of a Member (entitled to vote thereon) that is a corporation (whether or not a company within the meaning of the Companies Act) on behalf of such Member, being all of the Members who at the date of the resolution in writing would be entitled to attend a meeting and vote on the resolution.
- (b) Such resolution in writing may be signed by, or in the case of a Member that is a corporation (whether or not a company within the meaning of the Companies Act), on behalf of, all the Members (entitled to vote thereon), or any class thereof, in as many counterparts as may be necessary.
- (c) For the purposes of this bye-law 10.14, the date of the resolution in writing is the date when the resolution is signed by, or in the case of a Member (entitled to vote thereon) that is a corporation (whether or not a company within the meaning of the Companies Act), on behalf of, the last Member to sign and any reference in any enactment to the date of passing of a resolution is, in relation to a resolution in writing made in accordance with this section, a reference to such date.
- (d) A resolution in writing made in accordance with this bye-law 10.14 is a valid as if it has been passed by the Company in general meeting or, if applicable, by a meeting of the relevant class of Members (entitled to vote thereon) as the case may be.
- (e) A resolution in writing made in accordance with this bye-law 10.14 shall constitute minutes for the purposes of the Companies Act and these Bye-Laws.

11 Proceedings at general meetings

11.1 Reference to a Member

Unless the contrary intention appears, a reference to a Member in bye-law 11 means a person who is a Member, a proxy or attorney of that Member.

11.2 Number for a quorum

Subject to bye-law 11.5 (“Adjourned meeting”) two Members present in person or by proxy or attorney are a quorum at a general meeting unless the Company has only one Member entitled to vote, in which case that one Member constitutes a quorum.

11.3 Requirement for a quorum

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it. If a quorum is present at the beginning of a meeting it is taken to be present throughout the meeting unless the chairman of the meeting (on the chairman’s own motion or at the instance of a Member, proxy or attorney who is present) declares otherwise.

11.4 Quorum and time

If within 15 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by the Directors, or by or on requisition of, Members, is dissolved; and
- (b) in any other case stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Directors appoint by notice to the Members and others entitled to notice of the meeting.

11.5 Adjourned meeting

At a meeting adjourned under bye-law 11.4(b) (“Quorum and time”), the Member or Members present in person or by proxy or attorney are a quorum. If no Members are present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

11.6 Appointment and powers of chairman of general meeting

If the Directors have elected one of their number as chairman of their meetings, that person is entitled to preside as chairman at a general meeting.

11.7 Absence of chairman at general meeting

If a general meeting is held and:

- (a) a chairman has not been elected by the Directors; or
- (b) the elected chairman is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the following may preside as chairman of the meeting (in order of precedence):

- (c) the deputy chairman (if any);
- (d) a Director chosen by a majority of the Directors present;
- (e) the only Director present;
- (f) a Member chosen by a majority of the Members present in person or by proxy or attorney.

11.8 Conduct of general meetings

The chairman of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Companies Act, terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairman under this bye-law is final.

11.9 Adjournment of general meeting

The chairman of a general meeting may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place.

In exercising this discretion, the chairman may, but need not, seek the approval of the Members present. Unless required by

the chairman, no vote may be taken or demanded by the Members present in respect of any adjournment.

Only unfinished business is to be transacted at a meeting resumed after an adjournment.

11.10 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

11.11 Demand for a poll

A poll may be demanded by at least 5 Members entitled to vote on the resolution, Members with at least 5% of the votes that may be cast on the resolution on a poll or by the chairman. A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

11.12 Declaration of poll

Unless a poll is properly demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company, is conclusive evidence of the fact. Neither the chairman nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

11.13 Questions decided by majority

Subject to the requirements of the Companies Act and the Listing Rules, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

11.14 Poll

If a poll is properly demanded, it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is the resolution of the meeting at which the poll was demanded.

A poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.

A demand for a poll may be withdrawn.

11.15 Equality of votes - no casting vote for chairman

If at a meeting of Members there is an equality of votes, either on a show of hands or on a poll, the chairman of the meeting is not entitled to a casting vote in addition to any votes to which the chairman is entitled as a Member or proxy or attorney.

11.16 Entitlement to vote

Subject to any rights or restrictions for the time being attached to any class or classes of shares and to these Bye-laws:

- (a) on a show of hands, each Member present in person and each other person present as a proxy or attorney of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote for each fully paid share held by the Member and each person present as proxy or attorney of a Member has one vote for each fully paid share held by the Member that the person represents.

A Member is not entitled to vote at a general meeting in respect of shares which are the subject of a current Restriction Agreement for so long as any breach of that agreement subsists.

11.17 Voting on a poll for partly paid shares

If a Member holds partly paid shares, the number of votes the Member has in respect of those shares on a poll is the proportion that the aggregate amount paid on the shares bears to their aggregate issue price.

To determine the aggregate amount paid on the shares, exclude any amount:

- (a) paid or credited as paid in advance of a call; and
- (b) credited as paid on those shares to the extent that it exceeds the value (ascertained at the time of issue of those shares) of the consideration given or to be given for the issue of those shares.

11.18 Fractions disregarded for a poll

On the application of bye-law 11.17 (“Voting on a poll for partly paid shares”), disregard any fraction which arises so that the number of votes is rounded down.

11.19 Joint Members’ vote

If a share is held jointly and more than one Member votes in respect of that share, only the vote of the Member whose name appears first in the Register counts.

11.20 Vote of Member of unsound mind

If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, then the Member's committee or trustee or any other person who properly has the management of the Member's estate may exercise any rights of the Member in relation to a general meeting as if the committee, trustee or other person were the Member.

11.21 Effect of unpaid call

A Member is not entitled at a general meeting to cast a vote attached to a share on which a call is due and payable and has not been paid.

11.22 Objection to voting qualification

An objection to the right of a person to attend or vote at the meeting or adjourned meeting:

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the chairman of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

11.23 Validity of vote in certain circumstances

A vote cast by a person as a proxy, or attorney is valid even if:

- (a) the previous revocation of that person's authority by the death of the holder of the shares in respect of which the vote is cast or otherwise; or
- (b) the execution of a transfer of those shares by that holder,

unless a notice in writing of the revocation or transfer has been received at the Registered Office or by the chairman of the meeting before the vote is cast.

11.24 Proxy form while Stapling applies

While Stapling applies, unless the Companies Act requires otherwise, the form of proxy used may be the same form as the Member uses to appoint a proxy to vote on their behalf in respect of the Attached Securities which they hold.

11.25 Meetings by technology

A meeting of the Members or any class of Members may be held at two or more venues by means of such telephone, electronic or other communication facilities as permit all persons in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting.

11.26 Joint Meetings

While Stapling applies, meetings of Members may be held in conjunction with meetings of the holders of Attached Securities and, unless the Companies Act requires otherwise, the Directors may make such rules of the conduct of such meetings as the Directors determine.

12 The Directors

12.1 Appointment of Directors

Unless otherwise determined by the Company in general meeting, the number of Directors is to be not less than 32 nor more than 10. The Directors in office at the time of adoption of these Bye-laws continue in office subject to these Bye-laws.

12.2 Change of number of Directors

The Company in general meeting may by resolution increase or reduce the number of Directors, and may also determine the rotation in which the increased or reduced number is to retire from office.

12.3 Rotation of Directors

At each annual general meeting there must be an election of Directors. The Directors who must retire from office (but are eligible to stand for re-election) at the annual general meeting are determined as follows:

- (a) each Director (other than the Managing Director exempt from rotation under bye-law 14.20) who has held office (without re-election):
 - (i) beyond the third annual general meeting following the Director's appointment or last election; or
 - (ii) for at least three years,whichever is the longer period;
- (b) each Director who was appointed by the Directors under bye-law 12.8; and

- (c) if none of (a), (b) or (c) is applicable, the Director who has held office longest without re-election.

12.4 Office held until conclusion of meeting

A retiring Director holds office until the conclusion of the meeting at which that Director retires but is eligible for re-election.

12.5 Directors to retire

The Directors to retire at any annual general meeting must be those who have been longest in office since their last election, but, as between persons who were last elected as Directors on the same day, those to retire must be determined by lot, unless they otherwise agree among themselves.

12.6 Directors elected at general meeting

- (a) The Company may, at a general meeting at which a Director retires or otherwise vacates office, by resolution fill the vacated office by electing a person to that office.
- (b) The Company may also, subject to bye-law 12.1, at any general meeting appoint any person nominated by the existing Directors to be an additional Director.

12.7 Eligibility for election as Director

Except for a person who is eligible for election or re-election under bye-law 12.4 (“Office held until conclusion of meeting”) or 12.8 (“Casual Vacancy”), a person is not eligible for election as a Director at a general meeting of the Company unless a consent to nomination signed by the person has been lodged at the Registered Office:

- (a) while the Company is Listed, in the case of a person recommended for election by the Directors, at least 20 business days before the general meeting;
- (b) in any other case while the Company is Listed, at least 30 business days before the general meeting; and
- (c) while the Company is not Listed, at least 1 business day before the general meeting.

12.8 Casual Vacancy

The Directors may at any time appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors, provided the total number of Directors does not exceed the maximum number determined in accordance with bye-law 12.1 (“Number of Directors”) or 12.2 (“Change of number of Directors”).

A Director appointed under this bye-law holds office until the conclusion of the next annual general meeting of the Company but is eligible for election at that meeting.

12.9 Remuneration of Directors

The Directors are entitled to be remunerated for their services as Directors and the total amount or value of the remuneration of the Directors must not in any year exceed in aggregate the amount last fixed by ordinary resolution of Members in general meeting. The remuneration is to be divided among the Directors in the proportion and manner agreed between them or, in default of agreement, equally. This bye-law does not apply to the remuneration of a Managing Director or an Executive Director in either capacity. The Directors' remuneration accrues from day to day.

12.10 Additional or special duties

If a Director at the request of the Directors performs additional or special duties for the Company, the Company may remunerate that Director as determined by the Directors and that remuneration may be either in addition to or in substitution for that Director's remuneration under bye-law 12.9 ("Remuneration of Directors").

12.11 Retirement benefit

Subject to limitations imposed by the Listing Rules and Companies Act, the Company may pay a former Director, or the personal representatives of a Director who dies in office, a retirement benefit in recognition of past services of an amount determined by the Directors. The Company may also enter into a contract with a Director providing for payment of a retirement benefit. A retirement benefit paid under this bye-law is not remuneration to which bye-law 12.9 ("Remuneration of Directors") applies.

12.12 Expenses

A Director is also entitled to be reimbursed out of the funds of the Company such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the business of the Company.

12.13 Director's interests

- (a) Subject to complying with the Companies Act regarding disclosure of and voting on matters involving material personal interests, a Director may:
 - (i) hold any office or place of profit in the Company, except that of auditor;

- (ii) hold any office or place of profit in any other company, body corporate, trust or entity promoted by the Company or in which it has an interest of any kind;
 - (iii) enter into any contract or arrangement with the Company;
 - (iv) participate in any association, institution, fund, trust or scheme for past or present employees or directors of the Company or persons dependent on or connected with them;
 - (v) act in a professional capacity (or be a member of a firm which acts in a professional capacity) for the Company, except as auditor; and
 - (vi) participate in, vote on and be counted in a quorum for any meeting, resolution or decision of the Directors and may be present at any meeting where any matter is being considered by the Directors.
- (b) A Director may do any of the above despite the fiduciary relationship of the Director's office:
- (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
 - (ii) without affecting the validity of any contract or arrangement.
- (c) A reference to the Company in this bye-law is also a reference to each related body corporate of the Company and to each of the Stapled Entities.

12.14 Signing documents

A Director is not disqualified because of a material personal interest from signing or participating in the execution of a document by or on behalf of the Company.

12.15 Vacation of office of Director

In addition to the circumstances in which the office of a Director becomes vacant under the Companies Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

- (b) resigns from the office by notice in writing to the Company; or
- (c) is not present personally or by proxy or represented by an Alternate Director at meetings of the Directors for a continuous period of six months without leave of absence from the Directors.

12.16 Removal of Directors

- (a) The Company may at a special general meeting called for that purpose remove a Director provided notice of any such meeting shall be served upon the Director concerned not less than 14 days before the meeting and he shall be entitled to be heard at that meeting.
- (b) A Director can only be removed at a special general meeting by a resolution of Ordinary Shares. Any vacancy created by that removal may be filled at the meeting by the election of another Director in his or her place or, in the absence of any such election, by the Directors.

13 Powers and duties of Directors

13.1 Directors to manage Company

The business of the Company is to be managed by the Directors, who may exercise all such powers of the Company as are not, by the Companies Act or by these Bye-laws, required to be exercised by the Company in general meeting. To the extent permitted by law, while Stapling applies, the Directors may have regard to the interests of the Stapled Trust Unitholders and, if applicable, the members of any other Stapled Entity and must act in the best interests of ~~the~~ [BBWInfigen Energy](#) as a whole rather than only in the interests of the Company.

13.2 Specific powers of Directors

Without limiting the generality of bye-law 13.1 (“Directors to manage Company”), the Directors may exercise all the powers of the Company to borrow or raise money, to charge any property or business of the Company or all or any of its uncalled capital and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.

13.3 Appointment of attorney

The Directors may, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the purposes and with the powers, authorities and discretions

vested in or exercisable by the Directors for such period and subject to such conditions as they think fit.

13.4 Provisions in power of attorney

Any power of attorney may contain such provisions for the protection and convenience of persons dealing with the attorney as the Directors think fit and may also authorise the attorney to delegate (including by way of appointment of a substitute attorney) all or any of the powers, authorities and discretions vested in the attorney.

13.5 Minutes

The Directors must cause minutes of meetings to be made and kept in accordance with the Companies Act.

13.6 Signing of cheques

Cheques, promissory notes, bankers' drafts, bills of exchange and other negotiable instruments, and receipts for money paid to the Company, must be signed, drawn, accepted, endorsed or otherwise executed in the manner and by the persons as the Directors determine.

14 Proceedings of Directors

General

14.1 Directors' meetings

The Directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they think fit.

14.2 Director may convene a meeting

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors.

14.3 Questions decided by majority

Questions arising at a meeting of Directors are to be decided by a majority of votes of Directors present and entitled to vote. Their decision is for all purposes a decision of the Directors.

14.4 Chairman's Casting Vote

If at a meeting of Directors an equal number of votes is cast for and against a resolution, the chairman of the meeting has a second or casting vote unless (i) only two Directors are entitled to vote; or (ii) the chairman of the meeting is not entitled to vote.

14.5 Director attending and voting by proxy

A Director may attend and vote by proxy at a meeting of the Directors if the proxy:

- (a) is another Director; and
- (b) has been appointed in writing signed by the appointor.

The appointment may be general or for one or more particular meetings. A Director present as a proxy for another Director who would be entitled to vote if present at the meeting has one vote for that other Director and one vote as a Director in that capacity.

14.6 Quorum for Directors' meeting

- (a) The quorum necessary for the transaction of the business of the Directors shall be 2 directors entitled to vote or another number determined by the Directors;
- (b) Unless the Directors determine otherwise, the quorum need only be present at the time the meeting commences.

14.7 Remaining Directors may act

The continuing Directors may act despite a vacancy in their number. If their number is reduced below the minimum fixed by bye-law 12.1("Appointment of Directors"), the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or to convene a general meeting.

14.8 Chairman of Directors

The Directors may elect one of their number as chairman of their meetings and may also determine the period for which the person elected as chairman is to hold that office.

14.9 Absence of chairman at Directors' meeting

If a Directors' meeting is held and:

- (a) a chairman has not been elected under bye-law 14.8 ("Chairman of Directors"); or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the Directors present must elect one of their number to be a chairman of the meeting.

14.10 Directors' committees

The Directors may delegate any of their powers to a committee or committees consisting of at least one Director and such other persons as they think fit.

14.11 Powers delegated to Directors' committees

A committee to which any powers have been delegated under bye-law 14.10 ("Directors' committees") must exercise those powers in accordance with any directions of the Directors. A power exercised by a committee is taken to have been exercised by the Directors. Subject to the terms on which a power of the Directors is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the provisions of these Bye-laws which regulate the meetings and proceedings of Directors.

14.12 Chairman of Directors' committee

The members of a committee may elect one of their number as chairman of their meetings. If a meeting of a committee is held and:

- (a) a chairman has not been elected; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,

the members involved may elect one of their number to be chairman of the meeting.

14.13 Meetings of Directors' committee

A committee may meet and adjourn as it thinks proper.

14.14 Determination of questions

Questions arising at a meeting of a committee are to be determined by a majority of votes of the members involved and voting. The provisions of bye-law 14.4 apply in relation to the chairman of the meeting having a casting vote.

14.15 Circulating resolutions

- (a) The Directors may pass a resolution without a Directors' meeting being held if either:
 - (i) all of the Directors who are then in Australia and entitled to vote on the resolution; or
 - (ii) all of the Directors who are entitled to vote on the resolution:

sign a document containing a statement that they are in favour of the resolution set out in the document. Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs.

- (b) If a resolution in writing is signed by an Alternate Director, it must not also be signed by the appointor of the Alternate Director and vice versa.
- (c) In relation to a resolution in writing:
 - (i) a document generated by electronic means which purports to be a facsimile of a resolution of Directors is to be treated as a resolution in writing; and
 - (ii) a document bearing a facsimile of a signature is to be treated as signed.

14.16 Validity of acts of Directors

All acts done at a meeting of the Directors or of a committee of Directors, or by a person acting as a Director are, even if it is afterwards discovered that:

- (a) there was a defect in the appointment or continuance in office of a person as a Director or of the person so acting; or
- (b) a person acting as a Director was disqualified or was not entitled to vote,

as valid as if the relevant person had been duly appointed or had duly continued in office and was qualified and entitled to vote.

14.17 Participation where Directors interested

- (a) A Director who has a material personal interest in a matter that is being considered at a meeting of Directors must not:
 - (i) be present while the matter is being considered at the meeting;
 - (ii) be present during the consideration of a proposed resolution of a kind referred to in bye-law 14.17(c) in relation to the matter, whether in relation to that or another Director; or

- (iii) vote in respect of that matter or that proposed resolution.
- (b) Despite bye-law 14.17(a), a Director may be present and may vote on a matter if the Director's interest is held:
 - (i) as a Member of the Company; and
 - (ii) in common with other Members of the Company.
- (c) Despite bye-law 14.17(a), a Director may be present and, unless prohibited from voting by the Listing Rules, may vote on a matter if the board of directors has at any time passed a resolution that:
 - (i) specifies the Director, the interest and the matter; and
 - (ii) states that the Directors voting for the resolution are satisfied that the interest should not disqualify the Director from considering and voting on the matter.
- (d) a quorum is not present during the consideration of a matter at a meeting of Directors unless 2 directors are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.
- (e) Despite bye-laws 14.17(c) and 14.17(a) but subject to the Companies Act, a Director may be counted in the quorum and may vote on a resolution proposed by a person other than the Director if:
 - (i) the resolution is in connection with a general meeting of the company dealing with the matter; and
 - (ii) section 195 of the Companies Act would otherwise prevent the proposed resolution from being considered.
- (f) A Director may attest the affixing of the seal to a contract or arrangement entered into by the director or in which the director is, directly or indirectly, interested.

Managing and Executive Directors

14.18 Appointment of Managing and Executive Directors

- (a) The Directors may appoint one of their number to be Managing Director and may likewise remove any

Director so appointed from the office of Managing Director and appoint another in that Director's place.

- (b) The Directors may:
 - (i) appoint one or more of their number as an Executive Director or to any other office, except auditor, of employment by the Company for the period and on the terms they think fit; and
 - (ii) subject to the terms of any contract between the relevant Director and the Company, at any time remove or dismiss any Executive Director from that office and appoint another Director in their place.
- (c) A person removed from the office of Managing Director or Executive Director under this bye-law 14.18 continues to hold office as a Director unless they retire or are removed from that office under another provision of these Bye-laws.

14.19 Ceasing to be Managing or Executive Director

A Managing Director or Executive Director automatically ceases to be a Managing Director or Executive Director on ceasing to be a Director.

14.20 One Managing Director exempt from retirement by rotation

If at any time there is more than one Managing Director appointed under bye-law 14.18(a), only one of their number, nominated by the Directors, is exempt from retirement by rotation and is not counted under bye-law 12.3 ("Rotation of Directors") for determining the number of Directors to retire by rotation.

14.21 Remuneration of Managing and Executive Directors

The remuneration of a Managing Director or an Executive Director may be fixed by the Directors and may be by way of salary or commission or participation in profits or by all or any of those modes, but may not be by a commission on or percentage of operating revenue.

14.22 Powers of Managing and Executive Directors

The Directors may:

- (a) confer on a Managing Director or an Executive Director such of the powers exercisable by them, on such terms and conditions and with such restrictions, as they think fit; and

- (b) withdraw or vary any of the powers conferred on a Managing Director or an Executive Director.

Alternate Directors

14.23 Appointment of Alternate Director

Subject to the Companies Act, a Director may appoint a person, approved by a majority of the other Directors, to be an Alternate Director in the Director's place during such period as the Director thinks fit.

14.24 Alternate Director and meetings

An Alternate Director is entitled to notice of all meetings of the Directors and, if the appointor does not attend a meeting, is entitled to attend and vote in the appointor's place.

14.25 Alternate Director's powers

An Alternate Director may exercise all the powers except the power to appoint an Alternate Director and, subject to the Companies Act, may perform all the duties of the appointor insofar as the appointor has not exercised or performed them.

14.26 Alternate Director or proxy and voting

A person who is present at a meeting of Directors as an Alternate Director or as a proxy for another Director has one vote for each absent Director who would be entitled to vote if present at the meeting and for whom that person is an Alternate Director or proxy and, if that person is also a Director, has one vote as a Director in that capacity.

14.27 Alternate Director responsible for own acts and defaults

Whilst acting as a Director, an Alternate Director is responsible to the Company for the Alternate Director's own acts and defaults and the appointor is not responsible for them.

14.28 Alternate Director and remuneration

An Alternate Director is not entitled to receive from the Company any remuneration or benefit under bye-law 12.9 ("Remuneration of Directors") or 12.11 ("Retirement benefit").

14.29 Termination of appointment of Alternate Director

The appointment of an Alternate Director may be terminated at any time by the appointor even if the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor ceases to be a Director.

14.30 Appointment or termination in writing

An appointment, or the termination of an appointment, of an Alternate Director must be effected by a notice in writing signed by the Director who makes or made the appointment and delivered to the Company.

14.31 Alternate Director and number of Directors

An Alternate Director is not to be taken into account separately from the appointor in determining the number of Directors.

15 Secretary and other officers

15.1 Appointment of Secretary

There must be at least one secretary of the Company who is to be appointed by the Directors at such remuneration (if any) and upon such terms as they may think fit.

15.2 Suspension and removal of Secretary

The Directors may suspend or remove a Secretary from that office.

15.3 Powers, duties and authorities of Secretary

The duties of the Secretary shall be those prescribed by the Companies Act together with such other powers, duties and authorities as the Directors may from time to time determine and the Secretary must exercise all such powers and authorities subject at all times to the control of the Directors.

15.4 President or Chairman

- (a) The officers of the Company shall include a president and vice-president or a chairman and a deputy chairman who shall be Directors, provided that the residency for tax purposes of such one or more of them shall not cause the Company to be resident for tax purposes outside Bermuda, and shall be elected by the Directors as soon as possible after the statutory meeting.
- (b) In addition, the Directors may appoint any person whether or not that person is a Director to hold such office as the Directors may from time to time determine.
- (c) Any person elected or appointed pursuant to this By-law 15.4 shall hold office for such period and upon such terms as the Directors may determine and the Directors may revoke or terminate any such election or appointment. Any such revocation or termination shall

be without prejudice to any claim for damage that such officer may have against the Company or the Company may have against such officer of any breach of any contract of service between that person and the Company which may be involved in such revocation or termination. Save as provided in the Companies Act or these Bye-laws, the powers and duties of the officers of the Company shall be such (if any) as are determined from time to time by the Directors.

- (d) Where a meeting of the Directors is held and:
- (i) The chairman is not present at the time appointed for the holding of the meeting; or
 - (ii) The chairman is present but does not wish to chair the meeting;

The Directors present shall elect one of their number to be chairman of the meeting.

15.5 Resident Representative

- (a) A Resident Representative shall be appointed by the Directors at such remuneration (if any) and upon such terms as they may think fit and any Resident Representative so appointed may be removed by the Directors.
- (b) The duties of the Resident Representative shall be those prescribed by the Companies Act together with such other powers, duties and authorities as shall from time to time be determined by the Directors.

16 Seals

16.1 Safe custody of common seals

The Directors must provide for the safe custody of any seal of the Company.

16.2 Use of common seal

If the Company has a common seal or duplicate common seal:

- (a) it may be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise its use; and
- (b) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Directors to countersign that document or a class of documents in which that document is included.

17 Inspection of records

17.1 Inspection by Members

The Directors may determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of Members (other than Directors) but must make them available to the extent required by the Companies Act.

17.2 Right of a Member to inspect

A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

18 Dividends and reserves

18.1 Payment of dividend

Subject to the Companies Act, these Bye-laws and the rights of persons (if any) entitled to shares with special rights to dividend, the Directors may determine that a dividend is payable, fix the amount and the time for payment and authorise the payment or crediting by the Company to, or at the direction of, each Member entitled to that dividend.

18.2 No interest on dividends

Interest is not payable by the Company on a dividend.

18.3 Reserves and profits carried forward

The Directors may, before paying any dividend, set aside out of the profits of the Company such sums as they think proper as reserves, to be applied, at the discretion of the Directors, for any purpose for which the profits of the Company may be properly applied.

Pending any application, the reserves may, at the discretion of the Directors, be used in the business of the Company or be invested in such investments as the Directors think fit.

The Directors may carry forward so much of the profits remaining as they consider ought not to be distributed as dividends without transferring those profits to a reserve.

18.4 Calculation and apportionment of dividends

Subject to the rights of any persons entitled to shares with special rights as to dividend and to the terms of any shares issued to the contrary, the profits of the Company are divisible

among the Members so that, on each occasion on which a dividend is paid:

- (a) the same sum is paid on each share on which all amounts payable have been paid; and
- (b) the sum paid on a share on which all amounts payable have not been paid is the proportion of the sum referred to in paragraph (a) that the amount paid on the shares bears to the total of the amounts paid and payable on the share.

To determine the amount paid on a share, exclude any amount:

- (c) paid or credited as paid in advance of a call; and
- (d) credited as paid on a share to the extent that it exceeds the value (ascertained at the time of issue of the share) of the consideration received for the issue of the share.

18.5 Deductions from dividends

The Directors may deduct from any dividend payable to, or at the direction of, a Member all sums of money (if any) presently payable by that Member to the Company on account of calls or otherwise in relation to shares in the Company.

18.6 Distribution of specific assets

When resolving to pay a dividend, the Directors may:

- (a) resolve that the dividend be satisfied either wholly or partly by the distribution of specific assets to some or all of the persons entitled to the dividend, including fully paid shares in or debentures of the Company or fully paid shares in or debentures of any other body corporate or units in a trust;
- (b) direct that the dividend payable in respect of any particular shares be satisfied wholly or partly by such a distribution and that the dividend payable in respect of other shares be paid in cash; and
- (c) deduct the costs involved in the transfer of those assets from the dividend payable to the Members.

18.7 Resolution of distribution difficulties

If a difficulty arises in regard to a distribution under bye-law 18.6 (“Distribution of specific assets”), the Directors may:

- (a) settle the matter as they consider expedient;

- (b) fix the value for distribution of the specific assets or any part of those assets based on a valuation done within 1 month of the proposed transfer;
- (c) determine that cash payments will be made to, or at the direction of, any Members on the basis of the value so fixed in order to adjust the rights of all parties; and
- (d) vest any such specific assets in trustees as the Directors consider expedient.

If a distribution of specific assets to, or at the direction of, a particular Member or Members is illegal or, in the Directors' opinion, impracticable the Directors may make a cash payment to the Member or Members on the basis of the cash amount of the dividend instead of the distribution of specific assets.

18.8 Payment by cheque and receipts from joint holders

A dividend, interest or other money payable in cash in respect of shares may be paid:

- (a) by cheque sent through the post directed to the address of the holder as shown in the Register or, in the case of joint holders, to the address of the joint holder first named in the Register;
- (b) by cheque sent through the post directed to such other address as the holder or joint holder in writing directs; or
- (c) by some other method of direct credit determined by the Directors to the holder or holders shown on the Register or to such person or place directed by them.

18.9 Unsuccessful payments

- (a) Cheques that are not presented within 6 months of issue may be cancelled and where a cheque which is cancelled was drawn in favour of a Member, the money is to be held by the Company for the Member or paid by the Company in accordance with the legislation relating to unclaimed money unless the Company in its discretion decides to reinvest the money in Ordinary Shares and Attached Securities in which event the provisions of bye-laws 18.11 and 18.12 will apply.
- (b) Where payment is attempted to be made to a Member by electronic transfer of funds or any other means and the transfer is unsuccessful, the money may be held for the Member as a non-interest bearing deposit until it is claimed or required to be dealt with in accordance with applicable laws relating to unclaimed money.

18.10 Effectual receipt from one joint holder

Any one of two or more joint holders may give an effectual receipt for any dividend, interest or other money payable in respect of the shares held by them as joint holders.

18.11 Election to reinvest dividend

The Directors may decide whether to permit or require Members or any class of Members to reinvest cash dividends paid by the Company by subscribing for shares in the Company of the same class on such terms and conditions as the Directors think fit.

18.12 Reinvestment while Stapling applies

While Stapling applies:

- (a) no reinvestment by Members holding Ordinary Shares may occur unless at the same time the Member acquires an identical number of each category of Attached Securities which when issued or acquired are Stapled to the additional Ordinary Shares;
- (b) the Directors may make provisions governing the amount of the reinvested dividends to be used to subscribe for shares in the Company and the amount to be used to subscribe for the Attached Securities having regard to the issue price of the Attached Securities;
- (c) if the amount to be reinvested in additional Stapled Securities results in a fraction of a Stapled Security, the amount representing the fraction may be paid by the Company to the Member, or held for future reinvestment in Shares and Attached Securities in such proportions as the Company and the Stapled Entities may determine.

18.13 Election to accept shares in lieu of dividend

Subject to the Listing Rules, the Directors may determine in respect of any dividend which it is proposed to pay on any shares of the Company that holders of the shares may elect:

- (a) to forego the right to share in the proposed dividend or part of such proposed dividend; and
- (b) to receive instead an issue of shares credited as fully paid on such terms as the Directors think fit.

The provisions of bye-law 18.12 apply (with such changes as may be necessary) to this bye-law 18.13.

18.14 Unclaimed dividends

Unclaimed dividends may be invested by the Directors as they think fit for the benefit of the Company until claimed or until required to be dealt with in accordance with any law relating to unclaimed moneys.

19 Capitalisation of profits

19.1 Capitalisation of reserves and profits

The Directors:

- (a) may resolve to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account or the profit and loss account or otherwise available for distribution to Members; and
- (b) may, but need not, resolve to apply the sum in any of the ways mentioned in bye-law 19.2 (“Applying a sum for the benefit of Members”) , for the benefit of Members in the proportions to which those Members would have been entitled in a distribution of that sum by way of dividend.

19.2 Applying a sum for the benefit of Members

The ways in which a sum may be applied for the benefit of Members under bye-law 19.1 (“Capitalisation of reserves and profits”) are:

- (a) in paying up any amounts unpaid on shares and, while Stapling applies, Attached Securities held by Members;
- (b) in paying up in full unissued shares or debentures to be issued to Members as fully paid; or
- (c) partly as mentioned in paragraph (a) and partly as mentioned in paragraph (b).

19.3 Effecting the resolution

The Directors may do all things necessary to give effect to a resolution under bye-law 19.1 and, in particular, to the extent necessary to adjust the rights of the Members among themselves, may:

- (a) make cash payments in cases where shares or debentures become issuable in fractions; and
- (b) authorise any person to make, on behalf of all or any of the Members entitled to any further shares or

debentures on the capitalisation, an agreement with the Company providing for:

- (i) the issue to them, credited as fully paid up, of any further shares or debentures; or
- (ii) the payment by the Company on their behalf of the amounts or any part of the amounts remaining unpaid on their existing shares by the application of their respective proportions of the sum resolved to be capitalised,

and any agreement so made is effective and binding on all the Members concerned;

- (c) fix the value of specific assets; and
- (d) vest property in trustees.

19.4 Issue of further shares while Stapling applies

While Stapling applies, the Directors must not resolve to issue any Ordinary Shares to Members under this bye-law 19 unless, at the same time as the issue, an identical number of Attached Securities are issued to those Members.

19.5 Record Dates

Notwithstanding any other provisions of these Bye-Laws, the Directors may fix any date as the record date for any dividend, distribution, allotment or issue and for the purpose of identifying the persons entitled to receive notices of general meetings. Any such record date may be on or at any time before or after any date on which such dividend, distribution, allotment or issue is declared, paid or made or such notice is dispatched.

19.6 Accounting Records

- (a) The Directors shall cause to be kept accounting records sufficient to give a true and fair view of the state of the Company's affairs and to show and explain their transactions, in accordance with the Companies Act and the Listing Rules.
- (b) The records of account shall be kept at the Registered Office or at such other place or places as the Directors think fit and shall at all times be open to inspection by the Directors. If the records of account are kept at some place outside Bermuda, there shall be kept at an office of the Company in Bermuda such records as will enable the Directors to ascertain with reasonable accuracy the final position of the Company at the end of each three month period.

- (c) A copy of every balance sheet and statement of income and expenditure, including every document required by law to be annexed thereto, which is to be laid before the Company in general meeting, together with a copy of the Auditors' report, shall be sent to each person entitled thereto in accordance with the requirements of the Companies Act.

19.7 Audit

Save and to the extent that an audit is waived in the manner permitted by the Companies Act, Auditors shall be appointed and their duties regulated in accordance with the Companies Act, these Bye-laws, any other applicable law and such requirements not inconsistent with the Companies Act as the Directors may from time to time determine.

20 Service of documents

20.1 Document includes notice

In this bye-law 20, a reference to a document includes a notice.

20.2 Methods of service

The Company may give a document to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or an alternative address nominated by the Member; or
- (c) by sending it to a fax number or electronic address nominated by the Member.

20.3 Post

A document sent by post:

- (a) if sent to an address in Bermuda, may be sent by ordinary post; and
- (b) if sent to an address outside Bermuda, must be sent by airmail,

and in either case is taken to have been received on the day after the date of its posting.

20.4 Fax or electronic transmission

If a document (other than a notice of meeting of Members) is sent by fax or electronic transmission, delivery of the document is taken:

- (a) to be effected by properly addressing and transmitting the fax or electronic transmission; and
- (b) to have occurred 1 hour after receipt by the transmitter of confirmation of transmission from the receiving fax machine or computer to which the message was transmitted.

20.5 Evidence of service

A certificate in writing signed by a Director or Secretary stating that a notice was sent is prima facie evidence of service.

20.6 Joint holders

A document may be given by the Company to the joint holders of a share by giving it to the joint holder first named in the Register in respect of the share.

20.7 Persons entitled to shares

A person who by operation of law, transfer or other means whatsoever becomes entitled to any share is absolutely bound by every document given in accordance with this bye-law to the person from whom that person derives title prior to registration of that person's title in the Register.

20.8 Service on the Company

A document required under these Bye-laws or the Companies Act to be given to the Company must be given in writing (which includes a fax), or in such other manner as the Directors determine. The Document must bear the actual, facsimile or electronic signature of the Member or a duly authorised officer or representative of the Member unless the Directors dispense with this requirement. Service is only effective at the time of receipt.

21 Winding up

21.1 Distribution of assets

If the Company is wound up, the liquidator may, with the sanction of a Resolution of the Company, divide among the Members in kind the whole or any part of the property of the Company and may for that purpose set such value as the liquidator considers fair on any property to be so divided and may determine how the division is to be carried out as between the Members or different classes of Members.

21.2 Powers of liquidator to vest property

The liquidator may, with the sanction of a Resolution of the Company, vest the whole or any part of any such property in

trustees on such trusts for the benefit of the contributories as the liquidator thinks fit, but so that no Member is compelled to accept any shares or other securities in respect of which there is any liability on the part of the holder.

21.3 Notice to other Stapled Entities

On or before commencement of a winding up of the Company in accordance with this bye-law 21, the liquidator must give the Stapled Trust Manager and any other Stapled Entity written notice that the Company is to be wound up.

Notwithstanding any other terms of these Bye-laws, should the Stapled Trust be terminated or wound up under the provisions of the Stapled Trust Constitution or by force of law, the Stapling Provisions will cease to apply.

21.4 Shares issued on special terms

Bye-laws 21.1 (“Distribution of assets”), 21.2 (“Powers of liquidator to vest property”) and 21.3 (“Notice to Stapled Trust Manager”) do not prejudice or affect the rights of a Member holding shares issued on special terms and conditions.

22 Miscellaneous

22.1 Certificates

The Directors may determine to issue certificates for shares or other securities of the Company, to cancel any certificates on issue and to replace lost, destroyed or defaced certificates on issue on the basis and in the form they think fit from time to time.

22.2 Amalgamation

Any resolution proposed for consideration at any general meeting to approve the amalgamation of the Company with any other company, wherever incorporated, shall require the approval of a simple majority of votes cast at such meeting and the quorum for such meeting shall be that required in bye-law 11.4 and a poll may be demanded in respect of such resolution in accordance with the provisions of bye-law 11.11.

22.3 Alteration of the Bye-laws

No bye-law may be amended, rescinded or altered and no new bye-law may be made other than by a Special Resolution.

22.4 Transfer by way of Continuation

If the Company is permitted in accordance with the provisions of the Companies Act, the Company shall, subject to the provisions thereof, have the power to register by way of continuation as a body corporate under the laws of any

jurisdiction outside Bermuda and to be discontinued in Bermuda.

22.5 Register of Members

- (a) The Secretary shall enter or procure the entry in the Register of the particulars required by the Companies Act and the Register shall be kept in such manner as to show at all times the Members of the Company for the time being and the shares respectively held by them.
- (b) Subject to the provisions of the Companies Act, if the Directors consider it necessary or appropriate, the Company may establish and maintain a branch register at such location outside Bermuda as the Directors think fit and while the issued share capital of the Company is, with the consent of the Directors, listed on the ASX, the Company shall keep a branch register in Australia accordingly.
- (c) The Register and the Branch Register shall be open to the public on all weekdays except those days designated as public holidays in the relevant territory where the Register or Branch Register is held and in the case of the Branch Register on any other day on which the ASX shall declare and publish as not being a business day for the purposes of the Listing Rules.

22.6 Register of Directors and Officers

The Secretary or, if appointed, the Registrar, shall establish and maintain at the Registered Office or elsewhere in Bermuda a register of the Directors and Officers of the Company as required by the Companies Act.

23 Indemnity and insurance

23.1 Indemnity

Every person who is or has been:

- (a) a director of the Company or executive officer of the Company; or
- (b) a secretary of the Company or executive officer of the Company,

is entitled to be indemnified out of the property of the Company against:

- (c) every liability incurred by the person in that capacity (except a liability for legal costs); and

- (d) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the person becomes involved because of that capacity,

unless:

- (e) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
- (f) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

23.2 Insurance

The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring a person who is or has been a director, secretary or executive officer of the Company against liability incurred by the person in that capacity, including a liability for legal costs, unless

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

23.3 Contract

The Company may enter into an agreement with a person referred to in bye-laws 23.1 and 23.2 with respect to the matters covered by these bye-laws. An agreement entered into pursuant to this bye-law may include provisions relating to rights of access to the books of the Company conferred by the Companies Act or otherwise by law.

24 Restricted Securities

24.1 Disposal during Escrow Period

Restricted Securities cannot be disposed of during the Escrow Period except as permitted by the Listing Rules or ASX.

The Company must not acknowledge a disposal (including by registering a transfer) of Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX.

24.2 Breach of Restriction Agreement or Listing Rules

During a breach of the Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the holder

of the Restricted Securities is not entitled to any dividend or distribution, or voting rights, in respect of the Restricted Securities.

24.3 Interpretation - Restricted Securities

In this bye-law, the expressions “disposed of”, “disposed”, “Escrow Period” and “Restricted Securities” have the same meaning as in the Listing Rules.

25 Small Holdings

25.1 Application of this Bye-law

This bye-law 25 applies while the Shares or [BBWIFN](#) Stapled Securities are Officially Quoted.

25.2 Divestment Notice

If the Directors determine that a Member is a Small Holder or a New Small Holder the Company may give the Member a Divestment Notice to notify the Member:

- (a) that the Member is a Small Holder or a New Small Holder, the number of Shares making up and the Market Value of the Small Holding or New Small Holding and the date on which the Market Value was determined;
- (b) that the Company intends to sell the Relevant Shares in accordance with this bye-law after the end of the Relevant Period specified in the Divestment Notice;
- (c) if the Member is a Small Holder, that the Member may at any time before the end of the Relevant Period notify the Company in writing that the Member desires to retain the Relevant Shares and that if the Member does so the Company will not be entitled to sell the Relevant Shares under that Divestment Notice; and
- (d) after the end of the Relevant Period the Company may for the purpose of selling the Relevant Shares that are in a CS Facility holding initiate a holding adjustment to move those Shares from that CS Facility holding to an Issuer Sponsored Holding or certificated holding.

If the Operating Rules of a CS Facility apply to the Relevant Shares, the Divestment Notice must comply with those Operating Rules.

25.3 Relevant Period

For a Divestment Notice given to a Small Holder, the Relevant Period must be at least six weeks from the date the Divestment

Notice was given. For a Divestment Notice given to a New Small Holder, the Relevant Period must be at least seven days from the date the Divestment Notice was given.

25.4 Company can sell Relevant Shares

At the end of the Relevant Period the Company is entitled to sell on-market or in any other way determined by the Directors:

- (a) the Relevant Shares of a Member who is a Small Holder, unless that Member has notified the Company in writing before the end of the Relevant Period that the Member desires to retain the Relevant Shares, in which event the Company must not sell those Relevant Shares under that Divestment Notice; and
- (b) the Relevant Shares of a Member who is a New Small Holder.

25.5 No obligation to sell

The Company is not bound to sell any Relevant Shares which it is entitled to sell under this bye-law 25 but unless the Relevant Shares are sold within 10 weeks after the end of the Relevant Period the Company's right to sell the Relevant Shares under the Divestment Notice relating to those Shares lapses and it must notify the Member to whom the Divestment Notice was given accordingly.

25.6 Company as Member's attorney

To effect the sale and transfer by the Company of Relevant Shares of a Member, the Member appoints the Company and each Director and Secretary jointly and severally as the Member's attorney in the Member's name and on the Member's behalf to do all acts and things which the Company considers necessary or appropriate to effect the sale or transfer of the Relevant Shares and, in particular:

- (a) to initiate a holding adjustment to move the Relevant Shares from a CS Facility holding to an Issuer Sponsored Holding or a certificated holding; and
- (b) to execute on behalf of the Member all deeds instruments or other documents necessary to transfer the Relevant Shares and to deliver any such deeds, instruments or other documents to the purchaser.

25.7 Conclusive evidence

A statement in writing by or on behalf of the Company under this bye-law 25 is (in the absence of manifest error) binding on and conclusive against a Member. In particular, a statement

that the Relevant Shares specified in the statement have been sold in accordance with this bye-law is conclusive against all persons claiming to be entitled to the Relevant Shares and discharges the purchaser from all liability in respect of the Relevant Shares.

25.8 Registering the purchaser

The Company must register the purchaser of Relevant Shares as the holder of the Relevant Shares transferred to the purchaser under this bye-law. The purchaser is not bound to see to the application of any money paid as consideration. The title of the purchaser to the Relevant Shares transferred to the purchaser is not affected by any irregularity or invalidity in connection with the actions of the Company under this bye-law.

25.9 Payment of proceeds

Subject to bye-law 25.10 (“Costs”), where:

- (a) Relevant Shares of a Member are sold by the Company on behalf of the Member under this bye-law; and
- (b) the certificate for the Relevant Shares (unless the Company is satisfied that the certificate has been lost or destroyed or the Relevant Shares are Uncertificated Securities) has been received by the Company,

the Company must, within 60 days of the completion of the sale, send the proceeds of sale to the Member entitled to those proceeds by sending a cheque payable to the Member through the post to the address of the Member shown in the Register, or in the case of joint holders, to the address shown in the Register as the address of the Member whose name first appears in the Register. Payment of any money under this bye-law is at the risk of the Member to whom it is sent.

25.10 Costs

In the case of a sale of the Relevant Shares of a New Small Holder in accordance with this bye-law, the Company is entitled to deduct and retain from the proceeds of sale, the costs of the sale as determined by the Company. In any other case, the Company or a purchaser must bear the costs of sale of the Relevant Shares. The costs of sale include all stamp duty, brokerage and government taxes and charges (except for tax on income or capital gains of the Member) payable by the Company in connection with the sale and transfer of the Relevant Shares.

25.11 Remedy limited to damages

The remedy of a Member to whom this bye-law applies, in respect of the sale of the Relevant Shares of that Member is expressly limited to a right of action in damages against the Company to the exclusion of any other right, remedy or relief against any other person.

25.12 Dividends and voting suspended

Unless the Directors determine otherwise, where a Divestment Notice is given to a New Small Holder in accordance with this bye-law, then despite any other provision in these Bye-laws, the rights to receive payment of dividends and to vote attached to the Relevant Shares of that Member are suspended until the Relevant Shares are transferred to a new holder or that Member ceases to be a New Small Holder. Any dividends that would, but for this bye-law 25.12, have been paid to that Member must be held by the Company and paid to that Member within 60 days after the earlier of:

- (a) the date the Relevant Shares of that Member are transferred; and
- (b) the date that the Relevant Shares of that Member cease to be subject to a Divestment Notice.

25.13 Twelve month limit

If it is a requirement of the Listing Rules, the Company must not give a Small Holder more than one Divestment Notice in any 12 month period (except as contemplated by bye-law 25.14).

25.14 Effect of takeover bid

From the date of the announcement of a takeover bid for the Shares until the close of the offers made under the takeover bid, the Company's powers under this bye-law to sell Relevant Shares of a Member cease. After the close of the offers under the takeover bid, the Company may give a Divestment Notice to a Member who is a Small Holder or a New Small Holder, despite bye-law 25.13 and the fact that it may be less than 12 months since the Company gave a Divestment Notice to that Member.

25.15 While Stapling applies

While Stapling applies:

- (a) the references to Shares and Relevant Shares in this bye-law 25 will apply to Stapled Securities held by the Member; and

- (b) no sale under this bye-law 25 may occur unless, at the same time as Ordinary Shares are sold, an identical number of each category of Attached Securities are also sold.

26 Definitions and Interpretation and Stapling generally

26.1 Definitions

In these Bye-laws unless the contrary intention appears:

Admission Date means the date on which Stapled Securities are first Officially Quoted.

Alternate Director means a person appointed as an alternate director under bye-Law 14.23 (“Appointment of Alternate Director”).

associate has the meaning given in the Corporations Act, and **associated** and **associated company** have a corresponding meaning.

ASIC means the Australian Securities and Investment Commission.

ASX means Australian Stock Exchange Limited or the market operated by it as the context requires.

Attached Securities means a Stapled Trust Unit and any other security or securities (including a share in the Australian Company) which are from time to time Stapled or to be Stapled to an Ordinary Share.

Auditors means any person or persons for the time being appointed as such by the Members.

Australian Company means [Infigen Energy Limited Global Wind Partners Management Pty Limited](#) (ACN 105 051 616) (~~which is proposed to be renamed as Babcock & Brown Wind Partners Limited~~).

~~**Babcock & Brown Limited** means Babcock & Brown Limited ACN 108 614 955.~~

~~**BBIM** means Babcock & Brown Infrastructure Management Pty Limited ACN 113 585 229.~~

BBSW for a period:

- (a) the rate determined by the Directors to be the arithmetic mean (rounded up, if necessary, to the nearest 0.01%) of the bid rates displayed at or about

10.30am Sydney time on the first day of that period on the Reuters screen BBSW page for a term of one month after eliminating one of the highest and one of the lowest of those rates; or

- (b) if for any reason there are no rates displayed for a term then BBSW will be the rate determined by the Directors to be the average of the buying rates quoted to the Directors by 3 Australian banks selected by the Directors at or about that time on that day. The buying rates must be for bills of exchange which are accepted by an Australian bank and which have a term equivalent to one month.

~~BBW means the group formed by the Company and the Stapled Entities once Stapling has commenced.~~

~~BBW Stapled Security means one Ordinary Share and one Stapled Trust Unit, and, if applicable, one security in each other Stapled Entity, Stapled together.~~

~~BBW Stapled Security Register means the register of Stapled Securities to be established and maintained in accordance with bye-law 3.7.~~

Branch Register means a local or branch register of Members established and maintained in accordance with bye-law 22.5(b).

Bye-Laws means these Bye-laws, as amended from time to time, and a reference to a bye-law is a reference to a bye-law of these Bye-laws.

Company means Infigen Energy (Bermuda) Limited~~Babeoek & Brown Wind Partners (Bermuda) Limited.~~

Companies Act means the Companies Act 1981 of Bermuda.

Corporations Act means the Corporations Act 2001 (Cwlth) of Australia.

CS Facility has the same meaning as prescribed CS facility in the Corporations Act.

CS Facility Operator means the operator of a CS Facility.

Director means a person holding office as a director of the Company and where appropriate includes an Alternate Director.

Directors means all or some of the Directors acting as a board.

Divestment Notice means a notice given under bye-law 25.2 to a Small Holder or a New Small Holder.

Executive Director means a person appointed as an executive director under Bye-law 14.18 (“Appointment of Managing and Executive Directors”).

IFN Stapled Security means one Ordinary Share and one Stapled Trust Unit, and, if applicable, one security in each other Stapled Entity, Stapled together.

IFN Stapled Security Register means the register of Stapled Securities to be established and maintained in accordance with bye-law 3.7.

Infigen Energy means the group formed by the Company and the Stapled Entities once Stapling has commenced.

Issuer Sponsored Holding means a holding on an electronic sub-register maintained by the Company in accordance with the Listing Rules.

Listed means entered in the Official List of ASX.

Listing Rules means the listing rules of the ASX which are applicable while the Company is admitted to the official list of the ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by the ASX.

~~**Manager** means BBIM or any substitute person appointed by the Company to provide general management and investment services to the Company from time to time.⁴~~

Managing Director means a person appointed as a managing director under bye-law 14.18(a)

Market Value in relation to a Share means the closing price of the Share on ASX.

Member means a person entered in the Register as the holder of shares in the capital of the Company.

Memorandum means the Memorandum of Association of the Company as amended from time to time.

New Small Holder is a Member who is the holder or a joint holder of a New Small Holding.

New Small Holding means a holding of Shares created after the date on which bye-law 25 came into effect by the transfer of a parcel of Shares the aggregate Market Value of which at the time a proper transfer was initiated or a paper based transfer was lodged, was less than a marketable parcel of Shares as provided under the Listing Rules.

⁴~~The definition of “Manager” takes effect only if approved by ASX.~~

Operating Rules means the operating rules of a CS Facility regulating the settlement, clearing and registration of uncertificated shares as amended, varied or waived (whether in respect of the Company or generally) from time to time.

Official List means, in relation to ASX, the official list of entities that ASX has admitted and not removed.

Ordinary Shares means ordinary, voting shares of a par value AS\$0.000001 in the capital of the Company issuable by the Directors pursuant to Bye-law 5 in such classes as the Directors may from time to time determine and having the rights, and being subject to the restrictions, specified in these Bye-laws or by the Directors. **Ordinary Share** has a corresponding meaning.

Officially Quoted means quotation in the official list of ASX, including when quotation is suspended for a continuous period of not more than 60 days.

Prescribed Interest Rate means the rate determined by the Directors for the purpose of these Bye-laws, being a rate not exceeding BBSW plus 3% per annum, and in the absence of a determination means BBSW plus 3% per annum.

Register means the register of Members of the Company.

Registered Office means the registered office for the time being of the Company.

Registrar means the registrar and transfer agent and/or fund administrator appointed by the Directors and includes any temporary or assistant registrar so appointed.

related body corporate has the meaning given to that term in the Corporations Act.

Relevant Period means the period specified in a Divestment Notice under bye-law 25.2.

Relevant Shares are the Shares specified in a Divestment Notice.

Resolution means a simple resolution of the Members or, where required, a separate class or separate classes of Members, adopted either in general meeting or by resolution in writing in accordance with the provisions of these Bye-Laws.

Restriction Agreement means a restriction agreement within the meaning and for the purposes of the Listing Rules.

Seal means the common seal of the Company and includes any duplicate thereof.

Secretary means a person appointed under bye-law 15.1 (“Appointment of Secretary”) as a secretary of the Company and where appropriate includes an acting secretary and a person appointed by the Directors to perform all or any of the duties of a secretary of the Company.

share means a share in the capital of the Company, and for the purposes of bye-law 25 shares in the Company all of the same class (unless the context otherwise requires).

Small Holder is a Member who is the holder or a joint holder of a Small Holding.

Small Holding means a holding of Shares the aggregate Market Value of which at the relevant date is less than a marketable parcel of Shares as provided under the Listing Rules.

Special Resolution means a resolution that has been passed by at least 75% of the votes cast by Members or, as the case may be, Stapled Trust Unitholders entitled to vote on the resolution.

Stapled Entity means the Stapled Trust and any other trust, body corporate or managed investment scheme whose securities are Stapled to the Ordinary Shares.

Stapled Trust means the trust currently known as [Infigen Energy Trust and Global Wind Partners Trust](#) (which is to be registered with ASIC as a managed investment scheme ([ARSN 116 244 118](#)) to be known as “[Babcock & Brown Wind Partners Trust](#)”).

Stapled Trust Constitution means the constitution dated 16 June 2003 in relation to the Stapled Trust, as amended, which binds the Stapled Trust Manager as responsible entity of the Stapled Trust.

Stapled Trust Manager means, while the Stapled Trust is not a registered managed investment scheme, the trustee of the Stapled Trust from time to time and, while the Stapled Trust is a registered managed investment scheme, [Infigen Energy RE Limited Babcock & Brown GWP Services Limited](#) (to be re-named [Babcock & Brown Wind Partners Services Limited](#)) ([ACN 113 813 997](#)) in its capacity as responsible entity of the Stapled Trust or its successor as the responsible entity of the Stapled Trust.

Stapled Trust Unitholder means a person shown on the register of Stapled Trust members as the holder of a Stapled Trust Unit.

Stapled Trust Unit means an ordinary unit in the Stapled Trust.

Stapling means the linking together of Ordinary Shares and Attached Securities so that one may not be transferred, or otherwise dealt with, without the other or others and which may, if the Directors so resolve, be quoted on the ASX jointly as a “Stapled Security” or such other term as the ASX permits. **Stapled** has a corresponding meaning.

Stapling Commencement Date means the first date upon which Stapling of Shares to Stapled Trust Units is to commence as determined by the Stapled Trust Manager and approved by the Directors.

Stapling Provisions means the provisions of these Bye-laws relating to, referring to or connected with Stapling and, for avoidance of doubt, includes those provisions relating to, referring to or connected with Stapling contained in bye-laws, 3, 6.10, 7.6, 9.2, 9.5(b), 9.9(a), 9.15, 10.2(b), 10.13, 11.24, 11.26, 12.13(c), 13.1, 18.12, 18.13, 19.2(a), 19.4, 21.3, 25.15, 26.1 and 26.7 to 26.11 (inclusive) and **Stapling Provision** has a corresponding meaning.

26.2 Interpretation

In these Bye-laws unless the contrary intention appears:

- (a) **(gender)** words importing any gender include all other genders;
- (b) **(person)** the word person includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or an authority;
- (c) **(singular includes plural)** the singular includes the plural and vice versa;
- (d) **(regulations)** a reference to a law includes regulations and instruments made under the law;
- (e) **(amendments to statutes)** a reference to a law or a provision of a law includes amendments, re-enactments or replacements of that law or the provision;
- (f) **(from time to time)** a power, an authority or a discretion reposed in a Director, the Directors, the Company in general meeting or a Member may be exercised at any time and from time to time;
- (g) **(amount paid)** a reference to an amount paid on a share includes an amount credited as paid on that share;
- (h) **(signed)** where, by a provision of these Bye-laws, a document including a notice is required to be signed,

that requirement may be satisfied in relation to an electronic communication of the document in any manner permitted by law or in any other manner approved by the directors; and

- (i) **(writing)** “writing” and “written” includes printing, typing and other modes of reproducing words in a visible form including, without limitation, any representation of words in a physical document or in an electronic communication or form or otherwise.

26.3 Companies Act

In these Bye-laws unless the contrary intention appears:

- (a) an expression has, in a provision of these Bye-laws that deals with a matter dealt with by a particular provision of the Companies Act, the same meaning as in that provision of the Companies Act; and
- (b) “section” means a section of the Companies Act.

26.4 Headings and footnotes

Headings and footnotes are inserted for convenience and are not to affect the interpretation of these Bye-laws.

26.5 Currency

The Directors may:

- (a) differentiate between Members as to the currency in which any amount payable to a Member is paid (whether by way of or on account of dividends, repayment of capital, participation in surplus property of the Company or otherwise);
- (b) determine to pay a distribution in a currency other than Australian dollars and the amount payable will be converted from Australian currency in any manner, at any time and at any exchange rate as the Directors think fit; and
- (c) in deciding the currency in which a payment is to be made to a Member, have regard to the registered address of the Member, the register on which a Member’s Shares are registered and any other matters as the Directors consider appropriate.

26.6 Application of Listing Rules

While the Company is Officially Quoted:

- (a) despite anything contained in these Bye-laws, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) nothing contained in these Bye-laws prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require these Bye-laws to contain a provision and it does not contain such a provision, these Bye-laws is deemed to contain that provision;
- (e) if the Listing Rules require these Bye-laws not to contain a provision and it contains such a provision, these Bye-laws is deemed not to contain that provision; and
- (f) if any provision of these Bye-laws is or becomes inconsistent with the Listing Rules, these Bye-laws is deemed not to contain that provision to the extent of the inconsistency.

26.7 Application of Stapling Provisions

If there is an inconsistency between any Stapling Provision and any other provision of these Bye-laws, then the Stapling Provision prevails to the extent of the inconsistency, except where this would result in a breach of the Listing Rules, the Operating Rules, the Companies Act or any other law. The Stapling Provision prevails in this way, even if the other provisions are expressed to apply notwithstanding any other provisions in these Bye-laws.

26.8 Effective time for Stapling

The Stapling Provisions only apply and come into effect in accordance with this bye-law 26.9. Each Ordinary Share will be Stapled to a Stapled Trust Unit on the Stapling Commencement Date and the Stapling Provisions will, subject to bye-law 26.12, apply from that time. The Directors may, subject to the Companies Act and, while the Ordinary Shares are Officially Quoted, the Listing Rules, cause the Stapling of any other security or securities (including a share in the Australian Company) to the Ordinary Shares at the same time as Stapling commences or resumes under bye-law 26.12, or at any other time.

26.9 Listing and consistency with Stapled Trust Constitution

On and from the Admission Date and subject to bye-law 26.12, the Directors must use every reasonable endeavour to procure that [BBWIFN](#) Stapled Securities are and continue to be Listed as one joint security and that the [BBWIFN](#) Stapled Securities are dealt with under these Bye-laws in a manner consistent with the provisions as to stapling relating to the [BBWIFN](#) Stapled Securities in the Stapled Trust Constitution and the constitution of any other Stapled Entity.

26.10 Intentions concerning issue and transfer of [BBWIFN](#) Stapled Securities

The Ordinary Shares are intended to be Stapled to Stapled Trust Units and any other Attached Securities in the ratio of one Ordinary Share to one Stapled Trust Unit and one of each other category of Attached Securities (if any). It is the intention of the Company (as more specifically set out in these Bye-laws) that:

- (a) the Members holding Ordinary Shares shall be identical to the Stapled Trust Unitholders and the holders of other Attached Securities (if any);
- (b) as far as the law permits, an Ordinary Share and one of each of the Attached Securities which are Stapled together shall be treated as one security;
- (c) no transfer of an Ordinary Share is to occur without one of each of the Attached Securities being transferred at the same time from the same transferor to the same transferee; and
- (d) no Ordinary Share is to be issued unless one of each of the Attached Securities is issued at the same time to the same person.

26.11 Stapling - cessation, suspension or change

Subject to the Companies Act, the Listing Rules, approval by Special Resolution at a meeting of Members, and approval by a Special Resolution of Stapled Trust Unitholders and of any other Stapled Entity, the Directors may determine that:

- (a) the Stapling Provisions will cease to apply, or be suspended for a specified time or until a specified event occurs and will resume at that time or upon occurrence of that event, provided that at the same time each Stapled Entity also causes the provisions relating to Stapling contained in the constitutions of the Stapled Entities to cease to apply, or be suspended and resume, in accordance with those provisions; or

- (b) a Stapled Entity other than the Stapled Trust will cease to have its securities stapled to shares in the Company, and the Stapling Provisions will cease to apply to its securities.

The date on which Stapling ceases to apply or is suspended or resumes or is changed will be as determined by the Directors in co-operation with the other Stapled Entities. On and from the date on which Stapling ceases, the Directors must do all things reasonably necessary to procure that each Share ceases to be Stapled.

A determination by the Directors under this bye-law 26.12 that the Stapling Provisions will cease to apply or that Stapling will be suspended does not prevent the Directors from subsequently determining that the Stapling Provisions should recommence or resume, as the case requires.