



qatar

FINANCIAL CENTRE

**QFC INSOLVENCY
REGULATIONS**

QATAR FINANCIAL CENTRE
REGULATION NO. 5 of 2005
QFC INSOLVENCY REGULATIONS

The Minister of Economy and Commerce hereby enacts the following regulations pursuant to Article 9 of Law No. (7) of 2005.

Mohamed bin Ahmed bin Jassim Al Thani
Minister of Economy and Commerce of the State of Qatar

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PART 1: APPLICATION, COMMENCEMENT AND INTERPRETATION

Article 1 - Citation

These Regulations may be referred to as the Insolvency Regulations 2005.

Article 2 - Application

These Regulations are made by the Minister pursuant to Article 9 of the QFC Law and shall apply in the QFC. To the fullest extent permitted by the QFC Law, the laws, rules and regulations of the State concerning the insolvency, liquidation, winding up, administration and analogous procedures in relation to companies and other bodies corporate and branches shall not apply in the QFC.

Article 3 - Commencement

These Regulations shall come into force on the date of their signature by the Minister.

Article 4 - Language

In accordance with Article 9 of the QFC Law, these Regulations are written in the English language and the English text thereof shall be the official original text. Any translation thereof into another language shall not be authoritative and in the event of any discrepancy between the English text of these Regulations and any other version, the English text shall prevail.

Article 5 - Interpretation

Words and expressions used in these Regulations and interpretative provisions applying to these Regulations are set out in Part 13.

PART 2: ADMINISTRATION

SECTION 1: PURPOSE OF ADMINISTRATION

Article 6 - Administrators

A person may be appointed as Administrator of a Company:

- (1) by administration order of the Tribunal under Article 8;
- (2) by a Secured Creditor under Article 20; or
- (3) by the Company or its directors under Article 23.

Article 7 - Purposes of administration

The purposes of administration are:

- (1) the survival of the Company, and the whole or any part of its undertaking, as a going concern;
- (2) the approval of an Arrangement under Section 8 of this Part;
- (3) a more advantageous realisation of the Company's assets than would be effected on a winding up;
- (4) any other purpose which the Administrator reasonably believes from time to time to be in the interests of the Company's creditors; or
- (5) where the Administrator is appointed by a Secured Creditor under Article 20, the enforcement of the security held by the Secured Creditor.

SECTION 2: APPLICATION FOR, AND MAKING OF, THE ADMINISTRATION ORDER

Article 8 - Administration Order

- (1) If the Tribunal:
 - (A) is satisfied that a Company is or is likely to become unable to pay its debts (within the meaning given to that expression by Article 78); and
 - (B) considers that the making of an order under this Article 8 would be likely to achieve one or more of the purposes set out in Article 7

the Tribunal may make an administration order in relation to the Company.

- (2) An Administrator of a Company means a person appointed under these Regulations to manage the Company's affairs, business and property.
- (3) The order shall specify the purpose or purposes for which it is made.
- (4) An administration order shall not be made in relation to a Company after it has gone into Liquidation.

Article 9 - Application for order

- (1) An application to the Tribunal for an administration order shall be by application either by the Company or the directors, or by a creditor or creditors (including any contingent or prospective creditor or creditors), or by the QFC Authority by all or any of those parties, together or separately.
- (2) On hearing an application the Tribunal may dismiss it, or adjourn the hearing conditionally or unconditionally, or make an interim order or any other order that it thinks fit.

Article 10 - Witness statement to support application

- (1) Where it is proposed to apply to the Tribunal for an administration order to be made in relation to a Company, a witness statement complying with Article 12 below must be prepared, with a view to its being filed in the Tribunal in support of the application.
- (2) A witness statement in support of an application by the Company or the directors must be made by one of the directors, or the secretary of the Company.
- (3) A witness statement in support of an application by creditors must be made by one of the creditors acting under the authority of all those applying.
- (4) A witness statement in support of an application by the QFC Authority must be made by a person acting under the authority of the QFC Authority.

Article 11 - Independent report on Company's affairs

- (1) There may be prepared, with a view to its being exhibited to the witness statement in support of the application, a report by an independent person to the effect that the appointment of an Administrator for the Company is expedient.
- (2) The report may be by the person proposed as Administrator, or by any other person having adequate knowledge of the Company's affairs, not being a director, secretary, manager, member, or employee of the Company.

- (3) The report shall specify the purposes which, in the opinion of the person preparing it, may be achieved for the Company by the making of an administration order, being purposes particularly specified in Article 7.

Article 12 - Contents of witness statement

- (1) The witness statement shall state:
 - (A) the deponent's belief that the Company is, or is likely to become, unable to pay its debts and the grounds of that belief; and
 - (B) which of the purposes specified in Article 7 is expected to be achieved by the making of an administration order.
- (2) There shall in the witness statement be provided a statement of the Company's financial position, specifying (to the best of the deponent's knowledge and belief) its assets and liabilities, including contingent and prospective liabilities.
- (3) Details shall be given of any security known or believed to be held by creditors of the Company.
- (4) If any application has been made for the winding up of the Company, details of it shall be given in the witness statement, so far as within the immediate knowledge of the deponent.
- (5) If there are other matters which, in the opinion of those intending to make the application for an administration order, will assist the Tribunal in deciding whether to make such an order, those matters (so far as lying within the knowledge or belief of the deponent) shall also be stated.
- (6) If a report has been prepared for the Company under Article 11, that fact shall be stated. If not, an explanation shall be provided why no such report has been prepared.

Article 13 - Form of application

- (1) If made by the Company or by the directors, the application shall state the name of the Company and its address for service, which (in the absence of special reasons to the contrary) is that of the Company's registered office.
- (2) If made by a single creditor, the application shall state his name and address for service.
- (3) If the application is made by the directors, it shall state that it is so made under Article 9; but from and after being made it is to be treated for all purposes as the application of the Company.
- (4) If the application is made by two or more creditors, it shall state that it is so made (naming them); but from and after being made it is to be treated for all purposes as the application of one only of them, named in the application as applying on behalf of himself and other creditors. An address for service for that one shall be specified.
- (5) The application shall specify the name and address of the person proposed to be appointed as Administrator; and it shall be stated that, to the best of the applicant's knowledge and belief, the person is qualified to act as an insolvency practitioner in relation to the Company.
- (6) There shall be exhibited to the witness statement in support of the application:
 - (A) a copy of the application;

- (B) a written consent by the proposed Administrator to accept appointment, if an administration order is made; and
- (C) if a report has been prepared under Article 11, a copy of it.

Article 14 - Filing of application

- (1) The application and witness statement shall be filed in the Tribunal, with a sufficient number of copies for service and use as provided by Article 15.
- (2) Each of the copies delivered shall have applied to it the seal of the Tribunal and be issued to the applicant; and on each copy there shall be endorsed the date and time of filing.
- (3) The Tribunal shall fix a venue for the hearing of the application and this also shall be endorsed on each copy of the application issued under Article 14(2).
- (4) After the application is filed, it is the duty of the applicant to notify the Tribunal in writing of any winding up application made against the Company, as soon as he becomes aware of it.

Article 15 - Service of application

- (1) In the following paragraphs of this Article 15, references to the application are to a copy of the application issued by the Tribunal under Article 14(2) together with the witness statement in support of it and the documents (other than the copy application) exhibited to the witness statement.
- (2) The Application shall be served:
 - (A) on any Secured Creditor who may be entitled to appoint an Administrator;
 - (B) if there is pending an application for the winding up of the Company, on the applicant;
 - (C) on the QFC Authority; and
 - (D) on the person proposed as Administrator.
- (3) If the application for the making of an administration order is made by creditors of the Company, the application shall be served on the Company.

Article 16 - Manner in which service to be effected

- (1) Service of the application in accordance with this Article 16 shall be effected by the applicant not less than five days before the date fixed for the hearing.
- (2) Service shall be effected as follows:
 - (A) on the Company (subject to Article 16(3)), by delivering the documents to its registered office; and
 - (B) on any other person (subject to Article 16(4)), by delivering the documents to his proper address.
- (3) For the purposes of Article 16(2), a person's proper address is any which he has previously notified as his address for service; but if he has not notified any such address, service may be effected by delivery to his usual or last known address.

- (4) Delivery of documents to any place or address may be made by leaving them there.

Article 17 - Proof of service

- (1) Service of the application shall be verified by witness statement, specifying the date on which, and the manner in which, service was effected.
- (2) The witness statement, with a sealed copy of the application exhibited to it, shall be filed in the Tribunal forthwith after service, and in any event not less than one day before the hearing of the application.

Article 18 - The hearing

- (1) At the hearing of the application, any of the following may appear or be represented:
- (A) the applicant;
 - (B) the Company;
 - (C) any person who has made an application for the winding up of the Company;
 - (D) the QFC Authority;
 - (E) any Secured Creditor;
 - (F) the person proposed for appointment as Administrator; or
 - (G) with the leave of the Tribunal, any other person who appears to have an interest justifying his appearance.
- (2) If the Tribunal makes an administration order, the costs of the applicant, and of any person appearing whose costs are allowed by the Tribunal, are payable as an expense of the administration.

Article 19 - Notice and advertisement of administration order

- (1) If the Tribunal makes an administration order, it shall forthwith give notice to the person appointed as Administrator.
- (2) Forthwith after the order is made, the Administrator shall advertise its making once in such newspapers as he thinks most appropriate for ensuring that the order comes to the notice of the Company's creditors, which where appropriate may include newspapers published outside the State.
- (3) The Administrator shall also forthwith give notice of the making of the order:
- (A) if there is pending an application for the winding up of the Company, to the applicant (and also to the provisional Liquidator, if any);
 - (B) to the QFC Authority;
 - (C) to any Secured Creditor; and
 - (D) to the CRO.
- (4) Two sealed copies of the order shall be sent by the Tribunal to the Administrator, one of which shall be sent by him to the CRO.

SECTION 3: APPOINTMENT BY SECURED CREDITOR

Article 20 - Appointment by Secured Creditor

- (1) A Secured Creditor may appoint an Administrator of the Company.
- (2) An Administrator appointed under this Article has a duty to act in good faith and to take proper care to act in the best interests of all the creditors of the Company whilst seeking to achieve repayment of the debts owed by the Company to the Secured Creditor.

Article 21 - Notice of appointment

- (1) A person who appoints an Administrator of a Company under Article 20 shall file with the Tribunal a notice of appointment.
- (2) The notice of appointment must include a declaration by or on behalf of the person who makes the appointment:
 - (A) that the person is a Secured Creditor;
 - (B) that the security relied on in making the appointment is (or was) enforceable on the date of the appointment; and
 - (C) that the appointment is in accordance with these Regulations.
- (3) The declaration shall be made not more than five business days before the notice of appointment is filed with the Tribunal.
- (4) The notice of appointment must identify the Administrator and must be accompanied by a statement by the Administrator:
 - (A) that he consents to the appointment; and
 - (B) that in his opinion one or more of the purposes of administration referred to in Article 7 is likely to be achieved.
- (5) For the purpose of a statement under Article 21(4) an Administrator may rely on information supplied by directors of the Company (unless he has reason to doubt its accuracy).
- (6) A person commits a contravention and is liable to a financial penalty if in a declaration under Article 21(2) he makes a statement:
 - (A) which is false; and
 - (B) which he does not reasonably believe to be true.
- (7) Three copies of the notice of appointment shall be filed with the Tribunal and shall have applied to them the seal of the Tribunal and be endorsed with the date and time of filing.
- (8) The Tribunal shall issue two of the sealed copies of the notice of appointment to the person making the appointment, who shall as soon as reasonably practicable send one of the sealed copies to the Administrator.
- (9) Where, after receiving notice that an administration application has been made, a Secured Creditor appoints an Administrator in reliance on Article 20, he shall as soon as

reasonably practicable send a copy of the notice of appointment to the person making the administration application and to the Tribunal.

Article 22 - Appointment out of Tribunal business hours

- (1) A notice of appointment under Article 21 or 24 may be filed with the Tribunal, notwithstanding that the Tribunal is not open for public business. When the Tribunal is closed (and only when it is closed) a notice of appointment may be filed with the Tribunal by faxing that form in accordance with Article 22(4).
- (2) The notice shall be faxed to a designated telephone number of the Tribunal. The QFC Authority shall publish the telephone number of the relevant fax machine on the QFC website and on request to the QFC Authority, make it available in writing.
- (3) The appointor shall ensure that a fax transmission report detailing the time and date of the fax transmission and containing a copy of the first page (in part or in full) of the document faxed is created by the fax machine that is used to fax the form.
- (4) The appointment shall take effect from the date and time of that fax transmission. The appointor shall notify the Administrator, as soon as reasonably practicable, that the notice has been filed.
- (5) The appointor shall deliver three copies of the notice of appointment that was faxed to the designated telephone number, together with the transmission report showing the date and time that the form was faxed to the designated telephone number to the Tribunal on the next day that the Tribunal is open for business.
- (6) The copies of the notice shall be sealed by the Tribunal and shall be endorsed with the date and time when, according to the appointor's fax transmission report, the notice was faxed and the date when the notice and accompanying documents were delivered to the Tribunal.
- (7) The Administrator's appointment shall cease to have effect if the requirements of Article 22(5) are not completed within the time period indicated and, subject to an order of the Tribunal, the Secured Creditor may be liable for any loss suffered by the Company as a result.
- (8) Where any question arises in respect of the date and time that the notice of appointment was filed with the Tribunal it shall be a presumption capable of rebuttal that the date and time shown on the appointor's fax transmission report is the date and time at which the notice was so filed.
- (9) The Tribunal shall issue two of the sealed copies of the notice of appointment to the person making the appointment, who shall, as soon as reasonably practicable, send one of the copies to the Administrator.

SECTION 4: APPOINTMENT BY COMPANY OR DIRECTORS

Article 23 - Appointment of Administrator by a Company or its Directors

- (1) A Company, by Ordinary Resolution, may appoint an Administrator.
- (2) The directors of a Company may appoint an Administrator.

Article 24 - Notice of intention to appoint

- (1) A person who proposes to make an appointment under Article 23 shall give at least two Business Days' written notice to any person who is a Secured Creditor and may be entitled to appoint an administrator of the Company under Article 20.
- (2) A copy of the notice of intention to appoint an Administrator for the purposes of Article 23 must also be given to the Company if the directors are making the appointment.
- (3) A person who gives notice of intention to appoint an Administrator under Article 24(1) shall file with the Tribunal as soon as is reasonably practicable copies of the notice and the declaration referred to in Article 24(6).
- (4) The Tribunal may, at any time from the filing of a notice of intention to appoint under Article 24(3), and with a view to the preservation of the Company's business and assets, appoint an Administrator provisionally and upon such terms as the Tribunal sees fit. The powers of such an Administrator may be limited by the order appointing him.
- (5) The remuneration and any expenses properly incurred by a provisional Administrator shall be a first charge on and paid out of any property arising from the exercise of his functions as provisional Administrator and which is in his custody or under his control at that time.
- (6) The person proposing to appoint an Administrator shall make a declaration:
 - (A) that the Company is or is likely to become unable to pay its debts; and
 - (B) that the Company is not in Liquidation.
- (7) The declaration shall be made not more than five Business Days before the notice is filed with the Tribunal.
- (8) The notice of intention to appoint shall be accompanied by either a copy of the resolution of the Company to appoint an Administrator (where the Company intends to make the appointment) or a record of the decision of the directors (where the directors intend to make the appointment).

Article 25 - Notice of appointment

- (1) At least three copies of the notice of appointment shall be filed with the Tribunal and shall have applied to them the seal of the Tribunal and be endorsed with the date and time of filing.
- (2) The notice of appointment must indemnify the Administrator and must be accompanied by a statement by the Administrator:
 - (A) that he consents to the appointment; and
 - (B) that in his opinion one or more of the purposes of administration referred to in Article 7 is likely to be achieved.

- (3) For the purpose of a statement under Article 25(2) an Administrator may rely on information supplied by directors of the Company (unless he has reason to doubt its accuracy).
- (4) The Tribunal shall issue two of the sealed copies of the notice of appointment to the person making the appointment who shall as soon as reasonably practicable send one of the sealed copies to the Administrator.

SECTION 5: EFFECT OF APPLICATION AND APPOINTMENT

Article 26 - Effect of application

- (1) During the period beginning either with the making of an application for an administration order, or the giving of notice of intention to appoint an Administrator and ending with the making of such an order, or the dismissal of the application, or the appointment of an Administrator:
 - (A) no resolution may be passed or order made for the winding up of the Company;
 - (B) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the Company in respect of a failure by the Company to comply with any term or condition of its tenancy of such premises, except with the leave of the Tribunal and subject to such terms as the Tribunal may impose;
 - (C) no steps may be taken to enforce any security over the Company's property, or to repossess goods in the Company's possession under any hire-purchase agreement, except with the leave of the Tribunal and subject to such terms as the Tribunal may impose; and
 - (D) no other proceedings and no execution or other legal process may be commenced or continued, and no distress may be levied, against the Company or its property except with the leave of the Tribunal and subject to such terms as the Tribunal may impose.
- (2) Nothing in Article 26(1) requires the leave of the Tribunal for the making of an application for the winding up of the Company.
- (3) References in this Article 26 and Article 27 to hire-purchase agreements include conditional sale agreements, leasing agreements relating to property other than real property and retention of title agreements.

Article 27 - Effect of appointment

- (1) On the appointment of an Administrator any application for the winding up of the Company shall be dismissed.
- (2) During the period when a Company is in administration:
 - (A) no resolution may be passed or order made for the winding up of the Company;
 - (B) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the Company in respect of a failure by the Company to comply with any term or condition of its tenancy of such premises, except with the consent of the Administrator or the leave of the Tribunal and subject (where the Tribunal gives leave) to such terms as the Tribunal may impose;
 - (C) no other steps may be taken to enforce any security over the Company's property, or to repossess goods in the Company's possession under any hire-purchase agreement, except with the consent of the Administrator or the leave of the Tribunal and subject (where the Tribunal gives leave) to such terms as the Tribunal may impose; and

- (D) no other proceedings and no execution or other legal process may be commenced or continued, and no distress may be levied, against the Company or its property except with the consent of the Administrator or the leave of the Tribunal and subject (where the Tribunal gives leave) to such terms as aforesaid.

Article 28 - Notification of order

- (1) Every business letter, written order for goods or services, invoice, receipt, written demand for payment and similar documentation which, at a time when a Company is in administration, is issued by or on behalf of the Company or the Administrator, being a document on or in which the Company's name appears, shall also contain the Administrator's name and a statement that the affairs, business and property of the Company are being managed by the Administrator.
- (2) If default is made in complying with this Article 28, the Company and any of the following persons who without reasonable excuse authorises or permits the default, namely, the Administrator and any officer of the Company, commit a contravention and is liable to a financial penalty.

Article 29 - Joint and concurrent Administrators

In these Regulations:

- (1) a reference to the appointment of an Administrator includes a reference to the appointment of a number of persons acting as the Administrator of a Company; and
- (2) if more than one person is acting as Administrator, subject to an order of the Tribunal to the contrary, all the functions of Administrator may be exercised by any or all of persons appointed.

Article 30 - Appointment of Administrators

- (1) If a vacancy occurs by death, resignation or otherwise in the office of the Administrator, the Tribunal may by order fill the vacancy.
- (2) An application for an order under Article 30(1) may be made:
- (A) by any continuing Administrator of the Company; or
 - (B) where there is no such Administrator, by a Creditors' Committee established under Article 43 below; or
 - (C) where there is no such Administrator and no such Creditors' Committee, by the Company or the directors or by any creditor or creditors of the Company.

Article 31 - General powers

- (1) The Administrator of a Company:
- (A) shall do all such things as may be necessary for the proper management of the affairs, business and property of the Company; and
 - (B) without prejudice to the generality of Article 31(1)(A), has the powers specified in Schedule 1, and any person who fails to comply with a summons or direction of Administration referred to in that Schedule commits a contravention and is liable to a financial penalty.

- (2) The Administrator also has power to remove any director of the Company and to appoint any person to be a director of it, whether to fill a vacancy or otherwise.
- (3) The Administrator may apply to the Tribunal for directions in relation to any particular matter arising in connection with the carrying out of his functions.
- (4) Any power conferred on the Company or its officers, whether by these Regulations or the Companies Regulations or any other Regulations or by its articles of association, which could be exercised in such a way as to interfere with the exercise by the Administrator of his powers is not exercisable except with the consent of the Administrator, which may be given either generally or in relation to particular cases.
- (5) In exercising his powers the Administrator is deemed to act as the Company's agent.
- (6) The Administrator shall have the power to disclaim any onerous property as defined in Article 92 and the provisions of that Article shall apply to this Article 31(6) subject to such modifications as the context requires.

Article 32 - Power to deal with property subject to a Security Interest, etc.

- (1) Where, on an application by the Administrator, the Tribunal is satisfied that the disposal by the Administrator (with or without other assets) of:
 - (A) any property of the Company subject to a Security Interest; or
 - (B) any goods in the possession of the Company under a hire-purchase agreementwould be likely to promote one or more of the purposes of the administration the Tribunal may by order authorise the Administrator to dispose of the property as if it were not subject to the Security Interest or to dispose of the goods as if all rights of the owner under the hire-purchase agreement were invested in the Company.
- (2) It shall be a condition of an order under Article 32(1) that:
 - (A) the net proceeds of the disposal; and
 - (B) where those proceeds are less than such amount as may be determined by the Tribunal to be the net amount which would be realised on a sale of the property or goods in the open market by a willing vendor, such sums as may be required to make good the deficiencyshall be applied towards discharging the sums secured by the Security Interest or payable under the hire-purchase agreement.
- (3) Where a condition imposed in pursuance of Article 32(2) relates to two or more securities, that condition requires the net proceeds of the disposal and, where Article 32(2)(B) applies, the sums mentioned to be applied towards discharging the sums secured by those Security Interests in the order of their priorities.
- (4) A copy of an order under Article 32(1) shall, within 14 days after the making of the order, be sent by the Administrator to the CRO.
- (5) If the Administrator without reasonable excuse fails to comply with Article 32(4), he commits a contravention and is liable to a fine.
- (6) References in this Article 32 to hire-purchase agreements include conditional sale agreements, leasing agreements relating to property other than real property and retention of title agreements.

Article 33 - General duties

- (1) The Administrator of a Company shall, on his appointment, take into his custody or under his control all the property to which the Company is or appears to be entitled.
- (2) The Administrator shall manage the affairs, business and property of the Company:
 - (A) at any time before proposals have been approved (with or without modifications) under Article 39 below, in accordance with the purposes for which the appointment was made and the directions, if any, given by the Tribunal; and
 - (B) at any time after proposals have been so approved, in accordance with those proposals as from time to time revised, whether by him or a predecessor of his.
- (3) The Administrator shall summon a meeting of the Company's creditors if:
 - (A) he is requested to do so by one-tenth, in value, of the Company's creditors;
 - (B) he is requested to do so by the QFC Authority; or
 - (C) he is directed to do so by the Tribunal.
- (4) Article 33(2) and (3) shall not apply to an Administrator appointed under Article 20.

Article 34 - Discharge or variation of administration order

- (1) The Administrator of a Company may at any time apply to the Tribunal for the administration order to be discharged.
- (2) The Administrator shall as soon as reasonably practicable make an application under this Article 34 if:
 - (A) it appears to him that the purpose or each of the purposes specified in the order either has been achieved or is incapable of achievement; or
 - (B) he is required to do so by a meeting of the Company's creditors summoned for the purpose.
- (3) On the hearing of an application under this section, the Tribunal may by order discharge or vary the administration order and make such consequential provision as it thinks fit, or adjourn the hearing conditionally or unconditionally, or make an interim order or any other order it thinks fit.
- (4) Where the administration order is discharged or varied the Administrator shall, within 14 days after the making of the order effecting the discharge or variation, send a copy of that order to the CRO.
- (5) If the Administrator without reasonable excuse fails to comply with Article 34(4), he commits a contravention and is liable to a financial penalty and, for continued contravention, to a daily default financial penalty.

Article 35 - Vacation of office

- (1) The Administrator shall vacate office if:
 - (A) he ceases to be qualified to act as an insolvency practitioner in relation to the Company; or

- (B) the administration is discharged.
- (2) Where at any time a person ceases to be Administrator, the following provisions apply.
- (3) His remuneration and any expenses properly incurred by him shall be a first charge on and paid out of any property arising from the exercise of his functions as Administrator and which is in his custody or under his control at that time.
- (4) Any sums payable in respect of debts or liabilities incurred, while he was Administrator, under contracts entered into by him or a predecessor of his in the carrying out of his or the predecessor's functions shall be a first charge on and paid out of any such property as is mentioned in Article 35(3).
- (5) Any sums payable in respect of liabilities incurred during the administration under contracts of employment of employees of the Company shall, to the extent that the liabilities are qualifying liabilities, be a first charge on and paid out of any such property as is mentioned in Article 35(3).

For this purpose, qualifying liabilities shall not include any liabilities under any contract of employment which the Administrator terminates or takes reasonable steps to terminate within 14 days after his appointment.

- (6) For the purposes of and subject to Article 35(5), a liability under a contract of employment is a qualifying liability if:
- (A) it is a liability to pay a sum by way of wages or salary or contribution to an occupational pension scheme; and
- (B) it is in respect of services rendered wholly or partly after the appointment of the Administrator.
- (7) There shall be disregarded for the purposes of Article 35(5) so much of any qualifying liability as represents payment in respect of services rendered before the appointment of the Administrator.
- (8) For the purposes of Article 35(6) and (7):
- (A) wages or salary payable in respect of a period of holiday or absence from work through sickness or other good cause are deemed to be wages or (as the case may be) salary in respect of services rendered in that period; and
- (B) a sum payable in lieu of holiday is deemed to be wages or (as the case may be) salary in respect of services rendered in the period by reference to which the holiday entitlement arose.

Article 36 - Release of Administrator

- (1) A person who has ceased to be the Administrator of a Company has his release with effect from the following time, that is to say:
- (A) at such time and on such terms as the Tribunal may determine; and
- (B) in the case of a person who has died, such person shall not have his release except to the extent determined by the Tribunal.
- (2) Where a person has his release under this section, he is, with effect from the time specified above, discharged from all liability both in respect of acts or omissions of his in the administration and otherwise in relation to his conduct as Administrator.

SECTION 6: ASCERTAINMENT AND INVESTIGATION OF COMPANY'S AFFAIRS

Article 37 - Information to be given by Administrator

- (1) Where an Administrator has been appointed, he shall:
 - (A) forthwith send to the Company and publish in an appropriate newspaper or newspapers a notice of his appointment; and
 - (B) within 28 days after the making of the order, unless the Tribunal otherwise directs, send such a notice to all creditors of the Company (so far as he is aware of their addresses) or the addresses of their appropriately appointed representatives.
- (2) The Administrator shall also, within 14 days after his appointment, give notice of his appointment to the CRO.

Article 38 - Statement of affairs to be submitted to Administrator

- (1) Where an Administrator has been appointed, he shall forthwith require some or all of the persons referred to in Article 38(3) to make out and submit to him a statement in the prescribed form as to the affairs of the Company.
- (2) The statement shall be verified by witness statement by the persons required to submit it and shall show:
 - (A) particulars of the Company's assets, debts and liabilities;
 - (B) the names and addresses of its creditors;
 - (C) the securities held by them respectively;
 - (D) the dates when the securities were respectively given; and
 - (E) such further or other information as may be prescribed.
- (3) The persons referred to in Article 38(1) are:
 - (A) those who are or have been officers of the Company;
 - (B) those who have taken part in the Company's formation at any time within one year before the date of the administration order;
 - (C) those who are in the Company's employment or have been in its employment within that year, and are in the Administrator's opinion capable of giving the information required; and
 - (D) those who are or have been within that year officers of or in the employment of a body corporate which is, or within that year was, an officer of the Company.
- (4) In this Article "employment" includes employment under a contract for services.
- (5) Where any persons are required under this section to submit a statement of affairs to the Administrator, they shall do so (subject to the next subsection) before the end of the period of 21 days beginning with the day after that on which the prescribed notice of the requirement is given to them by the Administrator.
- (6) The Administrator, if he thinks fit, may:

- (A) at any time release a person from an obligation imposed on him under Article 38 (1) or (2); or
- (B) either when giving notice under Article 38(5) or subsequently, extend the period so mentioned

and where the Administrator has refused to exercise a power conferred by this subsection, the Tribunal, if it thinks fit, may exercise it.

- (7) If a person without reasonable excuse fails to comply with any obligation imposed under this section, he commits a contravention and may, subject to an order of the Tribunal, be liable to a financial penalty.

SECTION 7: ADMINISTRATOR'S PROPOSALS

Article 39 - Statement of proposals

- (1) Where an Administrator has been appointed, he shall, within two months (or such longer period as the Tribunal may allow) after the making of the order:
 - (A) send to the CRO and (so far as he is aware of their addresses) to all creditors a statement of his proposals for achieving the purpose or purposes of the administration; and
 - (B) lay a copy of the statement before a meeting of the Company's creditors summoned for the purpose on not less than 14 days' notice.
- (2) Article 39(1)(B) shall not apply where the Administrator was appointed by a Secured Creditor under Article 20.
- (3) The Administrator shall also, within two months (or such longer period as the QFC Authority may allow) after his appointment, send a copy of the statement (so far as he is aware of their addresses) to all members of the Company.

Article 40 - Consideration of proposals by creditors' meeting

- (1) A meeting of creditors summoned under Article 39 shall decide whether to approve the Administrator's proposals.
- (2) The meeting may approve the proposals with modifications, but shall not do so unless the Administrator consents to each modification.
- (3) Subject as above, the meeting shall be conducted in accordance with Article 41.
- (4) After the conclusion of the meeting, the Administrator shall report the result of the meeting to the Tribunal and shall give notice of that result to the CRO.
- (5) If a report is given to the Tribunal under Article 40(4) that the meeting has declined to approve the Administrator's proposals (with or without modifications), the Tribunal may by order discharge the administration order and make such consequential provision as it thinks fit, or adjourn the hearing conditionally or unconditionally, or make an interim order or any other order that it thinks fit, including approving the proposal for winding up the Company.
- (6) Where the administration is discharged, the Administrator shall, within 14 days after the making of the order effecting the discharge, send a copy of that order to the CRO.

Article 41 - Meeting to consider Administrator's proposals

- (1) Notice of the creditors' meeting to be summoned under Article 39 shall be given to all the creditors of the Company who are identified in the statement of affairs, or are known to the Administrator and had claims against the Company at the date of the administration order.
- (2) Notice of the meeting shall also (unless the Tribunal otherwise directs) be given by advertisement in the newspaper or newspapers in which the appointment of an Administrator was advertised.
- (3) Notice to attend the meeting shall be sent out at the same time to the QFC Authority and any directors or officers of the Company (including persons who have been directors or

officers in the past) whose presence at the meeting is, in the Administrator's opinion, required.

- (4) If at the meeting there is not the requisite majority for approval of the Administrator's proposals (with modifications, if any), the chairman may, and shall if a resolution is passed to that effect, adjourn the meeting for not more than 14 days.

Article 42 - Approval of substantial revisions

- (1) This section applies where:
 - (A) proposals have been approved (with or without modifications) under Article 40; and
 - (B) the Administrator proposes to make revisions of those proposals which appear to him substantial.
- (2) The Administrator shall:
 - (A) send to all creditors of the Company (so far as he is aware of their addresses) a statement in the prescribed form of his proposed revisions; and
 - (B) lay a copy of the statement before a meeting of the Company's creditors summoned for the purpose on not less than 14 days' noticeand he shall not make the proposed revisions unless they are approved by the meeting.
- (3) The Administrator shall also send a copy of the statement (so far as he is aware of their addresses) to all members of the Company.
- (4) The meeting of creditors may approve the proposed revisions with modifications, but shall not do so unless the Administrator consents to each modification.
- (5) Subject as above, the meeting shall be conducted in accordance with Article 41.
- (6) After the conclusion of the meeting, the Administrator shall give notice of the result of the meeting to the CRO.

Article 43 - Creditors' Committee

- (1) Where a meeting of creditors summoned under Article 39 has approved the Administrator's proposals (with or without modifications), the meeting may, if it thinks fit, establish a Creditors' Committee to exercise the functions conferred on it by these Regulations.
- (2) If such a Committee is established, the Committee may assist the Administrator and pass on to him the views of creditors, to which the Administrator must give reasonable consideration.

Article 44 - Protection of interests of creditors and members

- (1) At any time when a Company is in administration, the QFC Authority, a creditor or a member of the Company may apply to the Tribunal by application for an order under this Article on the ground:
 - (A) that the Company's affairs, business and property are being or have been managed by the Administrator in a manner which is unfairly prejudicial to the interests of its creditors or members generally, or of some part of its creditors or members (including at least himself); or

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- (B) that any actual or proposed act or omission of the Administrator is or would be so prejudicial.
- (2) Subject to the Administrator's duty to the Secured Creditor under Article 20(2), Article 44(1) shall not apply when the Administrator has been appointed by a Secured Creditor under Article 20.
 - (3) On an application for an order under this section the Tribunal may, subject as follows, make such order as it thinks fit for giving relief in respect of the matters complained of, or adjourn the hearing conditionally or unconditionally, or make an interim order or any other order that it thinks fit.
 - (4) An order under this Article 44 shall not prejudice or prevent:
 - (A) the implementation of an Arrangement approved under Section 8 of this Part; or
 - (B) where the application for the order was made more than 28 days after the approval of any proposals or revised proposals under Article 40 or 42, the implementation of those proposals or revised proposals.
 - (5) Subject as above, an order under this Article 44 may in particular:
 - (A) regulate the future management by the Administrator of the Company's affairs, business and property;
 - (B) require the Administrator to refrain from doing or continuing an act complained of by the applicant, or to do an act which the applicant has complained he has omitted to do;
 - (C) require the summoning of a meeting of creditors or members for the purpose of considering such matters as the Tribunal may direct; and
 - (D) discharge the administration order and make such consequential provision as the Tribunal thinks fit.

Article 45 - Statement to be annexed to proposals

There shall be annexed to the Administrator's proposals, when sent to the CRO under Article 39 and laid before the creditors' meeting to be summoned under that Article, a statement by him showing:

- (1) details relating to his appointment as Administrator, the purposes of the administration, and any subsequent variation of these purposes;
- (2) the names of the directors and secretary of the Company;
- (3) an account of the circumstances giving rise to the application for an administration order;
- (4) if a statement of affairs has been submitted, a copy or summary of it, with the Administrator's comments, if any;
- (5) if no statement of affairs has been submitted, details of the financial position of the Company at the latest practicable date (which must, unless the Tribunal otherwise orders, be a date not earlier than that of the administration order);
- (6) the manner in which the affairs and business of the Company:

- (A) have, since the date of the Administrator's appointment, been managed and financed; and
 - (B) will, if the Administrator's proposals are approved, continue to be managed and financed; and
- (7) such other information (if any) as the Administrator thinks necessary to enable creditors to decide whether or not to vote for the adoption of the proposals.

Article 46 - Reports and notices under Articles 40 and 42

Any report or notice by the Administrator of the result of a creditors' meeting held under Articles 40 or 42 shall have annexed to it details of the proposals which were considered by the meeting and of the revisions and modifications to the proposals which were so considered and include a summary of the matters discussed at the meeting.

Article 47 - Notice to creditors

- (1) Within 14 days of the conclusion of a meeting of creditors to consider the Administrator's proposals or revised proposals, the Administrator shall send notice of the result of the meeting (including, where appropriate, details of the proposals as approved) to every creditor who received notice of the meeting and to any other creditor of whom the Administrator has since become aware.
- (2) Within 14 days of the end of every period of six months beginning with the date of approval of the Administrator's proposals or revised proposals, the Administrator shall send to all creditors of the Company a report on the progress of the administration.
- (3) On vacating office the Administrator shall send to creditors a report on the administration up to that time. This does not apply where the administration is immediately followed by the Company going into Liquidation, nor when the Administrator is removed from office by the Tribunal or ceases to be qualified as an insolvency practitioner.

Article 48 - Duration and extension of administration

- (1) An Administrator is authorised to act for the period of two years from the date of his appointment. He may extend the period of administration beyond that period only in accordance with this Article.
- (2) On the application of an Administrator the Tribunal may by order extend his term of office for a specified period.
- (3) An Administrator's term of office may be extended for a specified period not exceeding twelve months by consent.
- (4) An order of the Tribunal under Article 48(2):
 - (A) may be made in respect of an Administrator whose term of office has already been extended by order or by consent; and
 - (B) may be made after the expiry of the period referred to in Article 48(1) or of any subsequent extension.
- (5) Where an order is made under Article 48(2) the Administrator shall as soon as reasonably practicable notify the CRO.
- (6) In Article 48(3), in relation to an Administrator appointed under Article 8 or Article 23, "consent" means consent of:

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- (A) each Secured Creditor of the Company; and
 - (B) if the Company has unsecured debts, creditors whose debts amount to more than 50% of the Company's unsecured debts, disregarding debts of any creditor who does not respond to an invitation to give or withhold consent.
- (7) In Article 48(3), in relation to an Administrator appointed under Article 20, "consent" means consent of the Secured Creditor.
 - (8) An Administrator's term of office may be extended by consent more than once.
 - (9) Where an Administrator's term of office is extended by consent he shall as soon as is reasonably practicable:
 - (A) file notice of the extension with the Tribunal;
 - (B) notify the CRO; and
 - (C) notify the QFC Authority.
 - (10) Where an Administrator fails to extend his term of office in accordance with this Article, the administration shall continue in force but the Administrator is liable to a fine.

Article 49 - Moving from administration to creditors' voluntary Liquidation

- (1) This Article 49 applies where the Administrator of a Company thinks:
 - (A) that the total amount which each Secured Creditor of the Company is likely to receive has been paid to him or set aside for him; and
 - (B) that a distribution will be made to unsecured creditors of the Company (if there are any).
- (2) The Administrator shall summon a meeting of the Company's creditors at which a Resolution For Voluntary Winding Up shall be proposed.
- (3) On the passing of a resolution at the meeting summoned under Article 49(2):
 - (A) the appointment of an Administrator in respect of the Company shall cease to have effect;
 - (B) any administration order in force shall be discharged; and
 - (C) the Company shall be wound up as if a Resolution For Voluntary Winding Up under Article 58 had been passed.
- (4) The Administrator shall send to the CRO a notice that this Article has been complied with.
- (5) When an Administrator sends a notice under Article 49(4) he shall as soon as is reasonably practicable:
 - (A) file a copy of the notice with the Tribunal; and
 - (B) send a copy of the notice to each creditor of whose claim and address he is aware.
- (6) The Liquidator for the purposes of the winding up shall be:

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- (A) a person nominated by the creditors of the Company in accordance with Article 65;
or
 - (B) if no person is nominated under Article 49(6)(A), the Administrator.
- (7) In relation to a winding up pursuant to this Article 49:
- (A) Article 63 does not apply; and
 - (B) any Creditors' Committee which is in existence immediately before the Company ceases to be in administration shall continue in existence after that time as if appointed as a Liquidation Committee.

Article 50 - Moving from administration to dissolution

- (1) If the Administrator of a Company thinks that the Company has no further assets capable of realisation and no property which might permit a distribution to its creditors, and further that the dissolution of the Company will not be adverse to the interests of creditors, then he shall send a notice to that effect to the CRO.
- (2) On the delivery to the CRO of a notice in respect of a Company under Article 50(1) the appointment of an Administrator of the Company shall cease to have effect, and any administration order in force shall be discharged.
- (3) If an Administrator sends a notice under Article 50(1) he shall as soon as is reasonably practicable:
 - (A) file a copy of the notice with the Tribunal; and
 - (B) send a copy of the notice to each creditor of whose claim and address he is aware.
- (4) At the end of the period of three months beginning with the date of delivery to the CRO of a notice in respect of a Company under Article 50(1) the Company is deemed to be dissolved.

SECTION 8: COMPANY ARRANGEMENTS

Article 51 - Company Arrangements

The Administrator may make a proposal to the Company's creditors for a composition in satisfaction of its debts (an "Arrangement").

Article 52 - Summoning of meetings

- (1) The Administrator shall summon a meeting of the Company's creditors to consider the proposal.
- (2) The persons to be summoned to a creditors' meeting under this Article 52 are every creditor of the Company of whose claim and address the person summoning the meeting is aware.

Article 53 - Decisions of meetings

- (1) The meeting summoned under Article 52 shall decide whether to approve the proposed Arrangement (with or without modifications).
- (2) Subject as follows, at the meeting for any resolution to be passed approving any proposal or modification there must be a majority in excess of three quarters in value of the creditors present in person or by proxy and voting on the resolution.
- (3) Any resolution is invalid if those voting against it include more than half in value of the creditors who are not, to the best of the chairman's belief, Connected Persons.
- (4) A meeting so summoned shall not approve any proposal or modification which affects the right of a preferential creditor or a secured creditor of the Company to enforce his rights or his security, except with the concurrence of the creditor concerned.
- (5) The meeting may appoint the Administrator or some other person as Supervisor of the Arrangement. The function of the Supervisor is to implement the Arrangement in accordance with its terms.

Article 54 - Effect of approval

- (1) This Article 54 has effect where the meeting summoned under Article 52 approves the Arrangement.
- (2) The approved Arrangement takes effect as if made by the Company at the creditors' meeting, and binds every person as if he were a party to the Arrangement if, in accordance with these Regulations:
 - (A) the Administrator had taken all reasonable steps to give notice to that person (whether or not he had received notice); and
 - (B) he was entitled to vote at that meeting (whether or not he was present or represented at the meeting).

Article 55- Implementation of proposal

- (1) This Article 55 applies where a decision approving an Arrangement has taken effect under Article 54.

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- (2) If any of the Company's creditors or any other person is dissatisfied by any act, omission or decision of the Supervisor, he may apply to the Tribunal; and on the application the Tribunal may:
- (A) confirm, reverse or modify any act or decision of the Supervisor;
 - (B) give him directions; or
 - (C) make such other order as it thinks fit.
- (3) The Supervisor:
- (A) may apply to the Tribunal for directions in relation to any particular matter arising under the Arrangement; and
 - (B) is included among the persons who may apply to the Tribunal for the winding up of the Company.
- (4) The Tribunal may make an order appointing a person who is registered under Part 10 of these Regulations to act as an insolvency practitioner in relation to the Company either in substitution for the existing Supervisor or to fill a vacancy.

PART 3: WINDING UP

SECTION 1: GENERAL

Article 56 - Alternative modes of winding up

- (1) The winding up of a Company may be either voluntary or by order of the Tribunal.
- (2) This Section relates to winding up generally, except where otherwise stated.

Article 57 - Powers of Liquidator

- (1) Any Liquidator appointed in a winding up shall have the powers set out in Schedule 1.
- (2) An officer of a Company who:
 - (A) fails to do whatever the Liquidator reasonably requires the officer to do to assist in the winding up;
 - (B) fails to comply with any reasonable direction given to the officer by the Liquidator pursuant to his powers in Schedule 1; or
 - (C) hinders or obstructs a Liquidator in the performance of his powers or functionscommits a contravention and is liable to a financial penalty.
- (3) In this Article 57, an "officer" in relation to a Company means a person who is, or has been but is no longer, a director, a secretary, an employee involved in the management of the Company, an Administrator or Supervisor in relation to an Arrangement, or a Liquidator or provisional Liquidator.
- (4) A Liquidator may exercise his powers under these Regulations and other Regulations in respect of any person in, or out of, the QFC.
- (5) In exercising such powers, the Liquidator shall comply with local requirements relevant to the exercise of those powers including, where appropriate, informing or proceeding in collaboration with a local regulator or authority.

SECTION 2: VOLUNTARY WINDING UP

Article 58 - Circumstances in which a Company may be wound up voluntarily

A Company shall be wound up voluntarily:

- (1) in such circumstances as may be provided for in the articles of the Company;
- (2) if the Company resolves that it should be wound up voluntarily; or
- (3) if the Company resolves that it cannot by reason of its liabilities continue its business, and that it is advisable to be wound up.

Article 59 - Notice of resolution to wind up

When a Company has passed a Resolution For Voluntary Winding Up, it shall, within 14 days after the passing of the resolution, give notice of the resolution to the CRO and by advertisement in a newspaper or newspapers, as the Liquidator thinks most appropriate, and this may include newspapers published outside the State.

Article 60 - Commencement of winding up

A voluntary winding up is deemed to commence at the time of the passing of the members' Resolution For Voluntary Winding Up.

Article 61 - Effect on business and status of Company

- (1) In case of a voluntary winding up, the Company shall from the commencement of the winding up cease to carry on its business, except so far as may be required for its beneficial winding up.
- (2) However, the corporate state and corporate powers of the Company, notwithstanding anything to the contrary in its articles, continue until the Company is dissolved.

Article 62 - Avoidance of share transfers and membership changes after winding up resolution

Any transfer of shares, not being a transfer made to or with the sanction of the Liquidator, and any alteration in the status of the Company's members made after the commencement of a winding up, is void.

Article 63 - Declaration of solvency

- (1) Where it is proposed to wind up a Company voluntarily, the directors (or, in the case of a Company having more than two directors, the majority of them) may at a directors' meeting make a declaration to the effect that they have made a full inquiry into the Company's affairs and that, having done so, they have formed the opinion that the Company will be able to pay its debts in full within such period, not exceeding 12 months from the commencement of the winding up, as may be specified in the declaration.
- (2) Such a declaration must be made within the five weeks immediately preceding the date of the passing of the resolution for winding up, or on that date but before the passing of the resolution.
- (3) Where a director makes a declaration under this Article 63 without having reasonable grounds for the opinion that the Company will be able to pay its debts in full, together with

interest at the official rate, within the period specified, commits a contravention and is liable to a financial penalty.

- (4) If the Company is wound up in pursuance of a resolution passed within five weeks after the making of the declaration, and its debts are not paid or provided for in full within the period specified, it is to be presumed (unless the contrary is shown) that the director did not have reasonable grounds for his opinion.

Article 64 - Distinction between "Members" and "Creditors" Voluntary Winding Up

A winding up in the case of which a directors' declaration under Article 63 has been made is a "Members' Voluntary Winding Up"; and a winding up in the case of which such a declaration has not been made is a "Creditors' Voluntary Winding Up".

Article 65 - Appointment of Liquidator

- (1) In a Members' Voluntary Winding Up, the Company in general meeting shall appoint one or more Liquidators for the purpose of winding up the Company's affairs and distributing its assets.
- (2) On the appointment of a Liquidator under Article 65(1) all the powers of the directors cease, except so far as the Company in general meeting or the Liquidator sanctions their continuance.
- (3) In these Regulations:
 - (A) a reference to the appointment of a Liquidator includes a reference to the appointment of a number of persons acting as the Liquidator of a Company; and
 - (B) if more than one person is acting as Liquidator, subject to an order of the Tribunal to the contrary, all the functions of Liquidator may be exercised by any or all of persons appointed.

Article 66 - General Company meeting at each year's end

- (1) In the event of the winding up continuing for more than one year, the Liquidator shall summon a general meeting of the Company at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within three months from the end of the year or such longer period as the Tribunal may allow.
- (2) The Liquidator shall lay before the meeting an account of his acts and dealings, and of the conduct of the winding up, during the preceding year.

Article 67 - Final meeting prior to dissolution

- (1) As soon as the Company's affairs are fully wound up, the Liquidator shall make up an account of the winding up, showing how it has been conducted and the Company's property has been disposed of, and thereupon shall call a general meeting of the Company for the purpose of laying before it the account, and giving an explanation of it.
- (2) The meeting shall be called by advertisement in such newspapers as the Liquidator thinks most appropriate for ensuring that the meeting comes to the notice of the Company's creditors, which where appropriate may include newspapers published outside the State, specifying its time, place and object and published at least one month before the meeting.

Article 68 - Effect of Company's Insolvency

- (1) This Article applies where the Liquidator is of the opinion that the Company will be unable to pay its debts in full within the period stated in the directors' declaration under Article 63.
- (2) The Liquidator shall summon a meeting of creditors for a day not later than the 21st day after the day on which he formed that opinion, and send notices of the creditors' meeting to the creditors by post not less than 14 days before the day on which that meeting is to be held.
- (3) The Liquidator must furnish creditors free of charge with such information concerning the affairs of the Company as they may reasonably require, and the notice of the creditors' meeting shall state this duty.
- (4) The Liquidator shall also make out a statement of the affairs of the Company and lay that statement before the creditors' meeting.

Article 69 - Conversion to Creditors' Voluntary Winding Up

As from the day on which the creditors' meeting is held under Article 68 these Regulations have effect as if:

- (1) the directors' declaration under Article 63 had not been made; and
- (2) the creditors' meeting and the Company meeting at which it was resolved that the Company be wound up voluntarily were the meetings mentioned in Article 71

and accordingly the winding up becomes a Creditors' Voluntary Winding Up.

SECTION 3: CREDITORS' VOLUNTARY WINDING UP

Article 70 - Application of this Section

- (1) Subject as follows, this Section applies in relation to a Creditors' Voluntary Winding Up.
- (2) Articles 71 and 72 do not apply where, under Article 69, a Members' Voluntary Winding Up has become a Creditors' Voluntary Winding Up.

Article 71 - Meeting of creditors

- (1) The Company shall:
 - (A) cause a meeting of its creditors to be summoned for a day not later than the 21st day after the day on which there is to be held the Company meeting at which the Resolution For Voluntary Winding Up is to be proposed;
 - (B) cause the notices of the creditors' meeting to be distributed to the QFC Authority and all creditors of whose identity and address it is aware and published in an appropriate publication not less than seven days before the day on which that meeting is to be held; and
 - (C) propose a person to act as Liquidator of the Company.
- (2) The creditors may, at the creditors' meeting, nominate a person to be Liquidator.
- (3) In the case of different persons being nominated, the Liquidator shall be the person nominated by the creditors.
- (4) The powers of the Liquidator nominated by the Company shall not be exercised, except with the sanction of the Tribunal, during the period before the holding of the creditors' meeting.

Article 72 - Appointment of Creditors' Committee

- (1) The creditors at the meeting to be held under Article 71 or at any subsequent meeting may, if they think fit, appoint a committee of at least three and not more than five persons to exercise the functions conferred on it by or under these Regulations.
- (2) If such a Creditors' Committee is appointed, the Company may, either at the meeting at which the Resolution For Voluntary Winding Up is passed or at any time subsequently in general meeting, appoint such number of persons, not exceeding five, as it thinks fit to act as members of the Creditors' Committee.
- (3) However, the creditors may, if they think fit, resolve that all or any of the persons so appointed by the Company ought not to be members of the Creditors' Committee; and if the creditors so resolve:
 - (A) the persons mentioned in the resolution are not then, unless the Tribunal otherwise directs, qualified to act as members of the Creditors' Committee; and
 - (B) on any application to the Tribunal under this provision the Tribunal may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

Article 73 - Directors' powers

On the appointment of a Liquidator under Article 71, all the powers of the directors cease, except so far as the Liquidator sanctions their continuance.

Article 74 - Vacancy in office of Liquidator

If a vacancy occurs, by death, resignation or otherwise, in the office of a Liquidator (other than a Liquidator appointed by, or by the direction of, the Tribunal) the creditors may fill the vacancy.

Article 75 - Meetings of Company and creditors at each year's end

If the winding up continues for more than one year, the Liquidator shall summon a general meeting of the Company and a meeting of the creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within three months from the end of the year, and shall lay before each of the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year.

Article 76 - Final meeting prior to dissolution

As soon as the Company's affairs are fully wound up, the Liquidator shall make up an account of the winding up, showing how it has been conducted and the Company's property has been disposed of, and thereupon shall call a general meeting of the Company and a meeting of the creditors for the purpose of laying the account before the meetings and giving an explanation of it.

SECTION 4: COMPULSORY WINDING UP

Article 77 - Circumstances in which Company may be wound up by the Tribunal

A Company may be wound up by the Tribunal if:

- (1) the Company has resolved that the Company be wound up by the Tribunal;
- (2) the Company is unable to pay its debts;
- (3) the Tribunal may make such an order pursuant to any provision of or under these Regulations or any other Regulations; or
- (4) the Tribunal is of the opinion that it is just and equitable that the Company should be wound up.

Article 78 - Definition of inability to pay debts

- (1) A Company is deemed unable to pay its debts:
 - (A) if a creditor to whom the Company is indebted in a sum exceeding US\$2,000.00 then due has served on the Company a written demand requiring the Company to pay the sum so due and the Company has for three weeks thereafter neglected to pay the sum or to agree terms in relation to its payment to the reasonable satisfaction of the creditor; or
 - (B) if it is proved to the satisfaction of the Tribunal that the Company is unable to pay its debts as they fall due.
- (2) A Company is also deemed unable to pay its debts if it is proved to the satisfaction of the Tribunal that the value of the Company's assets is less than the amount of its liabilities, taking into account its contingent and prospective liabilities.

Article 79 - Application for winding up

Subject to any provision of or under Regulations to the contrary, an application to the Tribunal for the winding up of a Company may be made by the Company, or the directors, or by any creditor or creditors (including any contingent or prospective creditor or creditors).

Article 80 - Application for winding up on grounds of interests of the QFC

Where it appears to the QFC Authority that it is expedient in the interests of the QFC that a Company should be wound up, it may make an application for the Company to be wound up if the Tribunal thinks it just and equitable for it to be so.

Article 81 - Voiding of property dispositions and alteration of membership

In a winding up by the Tribunal, any disposition of the Company's property, and any transfer of shares, or alteration in the status of the Company's members, made after the commencement of the winding up is, unless the Tribunal otherwise orders, void.

Article 82 - Consequences of winding-up order

- (1) When a winding-up order has been made, no action or proceeding shall be proceeded with or commenced against the Company or its property, except by leave of the Tribunal and subject to such terms as the Tribunal may impose.
- (2) On the making of a winding-up order, a copy of the order must forthwith be forwarded to the CRO by the Company.

Article 83 - Choice of Liquidator at meetings of creditors and contributories

- (1) Where the Tribunal orders that a Company be wound up, the Tribunal shall identify in the order the person who is to act as Liquidator of the Company, and that person shall take office immediately upon the order being made. That person shall within 21 days summon meetings of the Company's creditors and contributories for the purpose of choosing a person to be Liquidator of the Company.
- (2) The remuneration and any expenses properly incurred by the person appointed by the Tribunal under Article 83(1) shall be a first charge on and paid out of any property arising from the exercise of his functions as Liquidator and which is in his custody or under his control at that time.
- (3) The creditors and the contributories at their respective meetings may nominate a person to be Liquidator.
- (4) The Liquidator shall be the person nominated by the creditors or, where no person has been so nominated, the person (if any) nominated by the contributories.
- (5) In the case of different persons being nominated, any shareholder or other person liable to contribute to the assets of the Company or creditor may, within seven days after the date on which the nomination was made by the creditors, apply to the Tribunal for an order either:
 - (A) appointing the person nominated as Liquidator by the contributories to be a Liquidator instead of, or jointly with, the person nominated by the creditors; or
 - (B) appointing some other person to be Liquidator instead of the person nominated by the creditors.

Article 84 - Appointment of provisional Liquidator

- (1) The Tribunal may, at any time after the making of a winding up application, and with a view to the preservation of the Company's business and assets, appoint a Liquidator provisionally and upon such terms as the Tribunal sees fit. The powers of such a Liquidator may be limited by the order appointing him.
- (2) The remuneration and any expenses properly incurred by a provisional Liquidator shall be a first charge on and paid out of any property arising from the exercise of his functions as provisional Liquidator and which is in his custody or under his control at that time.

Article 85 - Creditors Committee

The creditors at the meeting to be held under Article 83 or at any subsequent meeting may, if they think fit, appoint a Creditors' Committee to exercise the functions conferred on it by or under these Regulations.

Article 86 - Power to stay winding up

The Tribunal may at any time after an order for winding up, on the application either of the Liquidator or any creditor or shareholder or other person liable to contribute to the assets of the Company, and on proof to the satisfaction of the Tribunal that all proceedings in the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Tribunal thinks fit.

PART 4: PROVISIONS APPLYING TO LIQUIDATIONS GENERALLY

SECTION 1: GENERAL PROVISIONS

Article 87 - Commencement of winding up

A winding up by the Tribunal is deemed to have commenced at the time of the making of the winding up application.

Article 88 - General functions in winding up by the Tribunal

The functions of the Liquidator of a Company which is being wound up by the Tribunal are to ensure that the assets of the Company are got in or otherwise secured, realised and distributed to the Company's creditors and, if there is a surplus, to the persons entitled to it.

Article 89 - Appointment or removal of Liquidator by the Tribunal

- (1) If from any cause whatever there is no Liquidator acting, the Tribunal may appoint a Liquidator.
- (2) The Liquidator may be removed from office only by an order of the Tribunal or, in the case of a members' voluntary winding up, by a general meeting of the Company summoned specially for that purpose, or, in the case of a Creditors' Voluntary Winding Up, by a general meeting of the Company's creditors summoned specially for that purpose in accordance with these Regulations.

Article 90 - Power to exclude creditors not proving in time

Provided that all reasonable steps have been taken to draw the Liquidation of the Company to the attention of creditors, creditors shall prove their debts or claims within six months of the commencement of the Liquidation, or be excluded from the benefit of any distribution made before those debts are proved.

Article 91 - Distribution of Company's property and priority of payments in a winding up

- (1) Subject to the provisions of these Regulations as to preferential payments and to the 'Client Money Distribution Rules' applicable to Authorised Firms as set out in the Regulatory Authority's "Asset Rulebook", the Company's property in a winding up shall on the winding up be applied in satisfaction of the Company's liabilities which rank *pari passu* and, subject to that application, shall (unless the articles otherwise provide) be distributed among the members according to their rights and interests in the Company, save that a creditor may agree to rank in priority after any other debts.
- (2) In a winding up, the priority of payments shall be as follows:
 - (A) secured creditors to the extent of their security;
 - (B) costs and expenses, including the Liquidator's remuneration, properly incurred by the Liquidator in the exercise of his functions;
 - (C) preferential creditors as defined in Article 148; then
 - (D) unsecured creditors.

Article 92 - Power to disclaim onerous property

- (1) The Liquidator may, by the giving of the prescribed notice, disclaim any onerous property and may do so notwithstanding that he has taken possession of it, endeavoured to sell it, or otherwise exercised rights of ownership in relation to it.
- (2) Onerous property for the purposes of this Article 92 means any property of the Company which is unsaleable or not readily saleable or is such that it may give rise to a liability to pay money or perform any other onerous act.
- (3) A disclaimer under this Article 92:
 - (A) operates so as to determine, as from the date of the disclaimer, the rights, interests and liabilities of the Company in or in respect of the property disclaimed; but
 - (B) does not, except so far as is necessary for the purpose of releasing the Company from any liability, affect the rights or liabilities of any other person.
- (4) Any person sustaining loss or damage in consequence of the operation of a disclaimer under this section is deemed a creditor of the Company to the extent of the loss or damage and accordingly may prove for the loss or damage in the winding up.

Article 93 - Notification that Company is in Liquidation

When a Company is being wound up, every business letter, written order for goods or services, invoice, receipt, written demand for payment and similar documentation issued by or on behalf of the Company, or a Liquidator of the Company, being a document on or in which the name of the Company appears, shall contain a statement that the Company is being wound up.

Article 94 - Information as to pending Liquidations

If the winding up of a Company is not concluded within one year after its commencement, the Liquidator shall, at intervals of 12 months, until the winding up is concluded, send to the CRO a statement in the form prescribed under the Regulations and containing the prescribed particulars with respect to the proceedings in, and position of, the Liquidation.

Article 95 - Reference of questions to the Tribunal

- (1) The Liquidator or any shareholder or other person liable to contribute to the assets of the Company or creditor may apply to the Tribunal to determine any question arising in the winding up of a Company by the Tribunal.
- (2) The Liquidator or any aggrieved person may apply to the Tribunal for an order in relation to the exercise of the powers or functions of the Liquidator. Any person who fails to comply with a summons or direction of the Liquidator referred to in Schedule 1 commits a contravention and is liable to a financial penalty.
- (3) The Tribunal may make such order on an application under this Article as it thinks just, including where appropriate an order enforcing or setting aside any direction given or requirement made by the Liquidator to or of a person.

Article 96 - Dissolution and early dissolution

- (1) Articles 96(2) and (3) apply, in the case of a Company being wound up, where the Liquidator has sent to creditors his final account and return.

- (2) On the expiration of three months from the date of despatch of the final account and return the Company is deemed to be dissolved.
- (3) The Tribunal may, on the application of any other person who appears to the Tribunal to be interested, make an order deferring the date at which the dissolution of the Company is to take effect for such time as the Tribunal thinks fit.
- (4) Where the realisable assets of the Company are insufficient to cover the expenses of the winding up, and the affairs of the Company do not require any further investigation, the Liquidator may at any time apply to the CRO for the early dissolution of the Company.
- (5) Before making an application under Article 96(4), the Liquidator shall give not less than 28 days' notice of his intention to do so to the Company's creditors and contributories.

Article 97 - Fraud in anticipation of winding up

When a Company is ordered to be wound up by the Tribunal, or passes a Resolution For Voluntary Winding Up, Article 105 shall apply in respect of any person, being a past or present officer of the Company, who, within the 12 months immediately preceding the commencement of the winding up, has:

- (1) concealed any part of the Company's property to the value of US\$200.00 or more; or concealed any debt due to or from the Company;
- (2) fraudulently removed any part of the Company's property to the value of US\$200.00 or more;
- (3) concealed, destroyed, mutilated or falsified any book or paper affecting or relating to the Company's property or affairs;
- (4) made any false entry in any book or paper affecting or relating to the Company's property or affairs;
- (5) fraudulently parted with, altered or made any omission in any document affecting or relating to the Company's property or affairs; or
- (6) pawned, pledged or disposed of any property of the Company which has been obtained on credit and has not been paid for (unless the pawning, pledging or disposal was in the ordinary course of the Company's business)

in each case with the intention of defrauding the creditors of the Company or concealing the state of the Company from any person.

Article 98 - Transactions in fraud of creditors

- (1) When a Company is ordered to be wound up by the Tribunal or passes a Resolution For Voluntary Winding Up, Article 105 shall apply in respect of any person, being at the time an officer of the Company, who
 - (A) has made or caused to be made any gift or transfer of, or a Security Interest on, or has caused or connived at the levying of any execution against, the Company's property; or
 - (B) has concealed or removed any part of the Company's property since, or within two months before, the date of any unsatisfied judgment or order for the payment of money obtained against the Company.

- (2) Article 105 shall not apply to any person if he proves that, at the time of the conduct referred to in Article 98(1) he had no intent to defraud the Company's creditors.

Article 99 - Falsification of Company's books

When a Company is being wound up, Article 105 shall apply to an officer or shareholder or other person liable to contribute to the assets of the Company if he destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the Company with intent to defraud or deceive any person.

Article 100 - Material omissions from statement relating to Company's affairs

When a Company is being wound up, whether by the Tribunal or voluntarily, Article 105 shall apply to any person, being a past or present officer of the Company, who makes any material omission in any statement relating to the Company's affairs with intent to defraud any person.

Article 101 - False representations to creditors

- (1) When a Company is being wound up, whether by the Tribunal or voluntarily, Article 105 shall apply to any person, being a past or present officer of the Company, who makes any false representation or commits any other fraud for the purpose of obtaining the consent of the Company's creditors or any of them to an agreement with reference to the Company's affairs or to the winding up.
- (2) A person of the kind specified in Article 101(1) is deemed to have made such false representation if, prior to the winding up, he has made any false representation, or committed any other fraud, for that purpose.

Article 102 - Fraudulent trading

If in the course of the winding up of a Company it appears that any business of the Company has been carried on with intent to defraud creditors of the Company or creditors of any other person, or for any fraudulent purpose, Article 105 shall apply to any persons who were knowingly parties to the carrying on of the business in the manner mentioned above.

Article 103 - Wrongful trading

If in the course of the winding up of a Company it appears that the Company has gone into insolvent Liquidation and at some time before the commencement of the winding up of the Company one or more directors of the Company knew or ought to have known of that there was no reasonable prospect of the Company avoiding going into insolvent Liquidation, Article 105 shall apply to such person.

Article 104 - Shadow Directors

The reference in Articles 97, 98, 99, 102 and 103 to directors include a reference to Shadow Directors.

Article 105 - Summary remedy against delinquent directors, Liquidators, etc

The Tribunal may, on application by a Liquidator in relation to any conduct referred to in Articles 97 to 103, make any orders as the Tribunal sees fit in relation to a person to whom this Article 105 applies, including one or more of the following orders:

- (1) an order to return or pay to the Company any money or other property of the Company which he has misapplied or retained, or become accountable for;
- (2) an order to compensate the Company in respect of any misfeasance or breach of any fiduciary or other duty in relation to the Company;
- (3) an order to make such contributions (if any) to the Company's assets as the Tribunal thinks proper; or
- (4) an order requiring the person to do, or not to do, any act or thing.

Article 106 - Restriction on re-use of Company names

- (1) Where a Company (the "Liquidating Company") has gone into insolvent Liquidation and a person was a director or Shadow Director of that Company at any time in the period of 12 months ending with the day before it went into Liquidation, that person may not, except with the leave of the Tribunal, within the period of five years following the Liquidation of the Liquidating Company, be a director of or have any connection with any Company whose name is a name by which the Liquidating Company was known at any time in that period of 12 months, or whose name is so similar to the name of the Liquidating Company as to suggest an association with that Company.
- (2) A person who fails to comply with Article 106(1) commits a contravention and is liable to a financial penalty.
- (3) A person is personally responsible for all the relevant debts of a Company if at any time he is involved in the management of the Company in contravention of Article 106(1).

Article 107 - Mutual credit and set-off

- (1) Subject to Article 107(5) this Article applies where, before the Company goes into Liquidation, there have been mutual credits, mutual debts or other mutual dealings between the Company and any creditor of the Company proving or claiming to prove for a debt in the Liquidation.
- (2) An account shall be taken of what is due from each party to the other in respect of the mutual dealings, and the sums due from one party shall be set off against the sums due from the other.
- (3) Sums due from the Company to another party shall not be taken into account under Article 107(2) if:
 - (A) that other party had notice at the time they became due that a meeting of creditors had been summoned under Article 71 or (as the case may be) an application for the winding up of the Company was pending;
 - (B) the Liquidation was immediately preceded by an administration and the sums became due during the administration; or
 - (C) the Liquidation was immediately preceded by an administration and the other party had notice at the time that the sums became due that:
 - (i) an application for an administration order was pending; or
 - (ii) any person had given notice of intention to appoint an Administrator.
- (4) Only the balance (if any) of the account is provable in the Liquidation. Alternatively (as the case may be) the amount shall be paid to the Liquidator as part of the assets.

- (5) Where, before the Company goes into Liquidation, contractual set-off or netting arrangements have been entered into between the Company and any creditor of the Company, those arrangements shall apply in preference to the provisions of Article 107(1) to (4), except where such set-off or netting arrangements would be considered transactions at an undervalue under Article 142 or preferences under Article 143.

Article 108 - Remuneration of Liquidators

The remuneration of a Liquidator shall be fixed in accordance with the provisions which apply to the remuneration of an officeholder under Part 5.

Article 109 - Company Arrangement in Liquidation

- (1) If the Liquidator of a Company proposes an Arrangement in the course of being wound up, the Tribunal may do one or both of the following, namely:
- (A) by order stay all proceedings in the winding up; and/or
 - (B) give such directions with respect to the conduct of the winding up as it thinks appropriate for facilitating the Arrangement.
- (2) The procedure for approving and implementing an Arrangement under this Article 109 shall be the same, with the necessary modifications, as that in Administration under Articles 51 to 55.

PART 5: PROVISIONS RELATING TO ADMINISTRATION, LIQUIDATIONS AND COMPANY ARRANGEMENTS

SECTION 1: APPLICATION TO OFFICEHOLDERS

Article 110 - Scope of this Part

- (1) Unless specifically provided in this Part or elsewhere in these Regulations, or the context otherwise requires, this Part applies to all officeholders.
- (2) For the purposes of this Part, “officeholders” means Administrators, provisional Administrators, Supervisors, provisional Liquidators and Liquidators, and “insolvency proceedings” means Administration, Liquidation and Company Arrangements.

SECTION 2: CREDITORS' AND COMPANY MEETINGS

Article 111 - Creditors' meetings generally

- (1) This Article applies to creditors' meetings summoned by the officeholder.
- (2) In fixing the venue for the meeting, the officeholder shall have regard to the convenience of creditors.
- (3) The meeting shall be summoned for commencement between 10.00 and 16.00 hours on a Business Day, unless the Tribunal otherwise directs.
- (4) Notice of the meeting shall be given to the QFC Authority and all creditors who are known to the officeholder and who have claims (including contingent claims) against the Company; and the notice shall specify the purpose of the meeting and contain a statement of the effect of Article 113(1) (entitlement to vote).
- (5) At least 21 days' notice of the meeting shall be given.
- (6) With the notice summoning the meeting there shall be sent out forms of proxy substantially in the form set out in Schedule 2.
- (7) Notice may be given by service on a representative of the creditor, nominated by the creditor.
- (8) Notice shall be deemed to have been received by a creditor where the officeholder has taken all reasonable steps to bring such notice to the creditor's attention.
- (7) If within 30 minutes from the time fixed for commencement of the meeting there is no person present to act as chairman, the meeting shall stand adjourned to the same time and place in the following week or, if that is not a Business Day, to the Business Day immediately following.
- (8) The meeting may from time to time be adjourned, if the chairman thinks fit, but not for more than 14 days from the date on which it was fixed to commence.

Article 112 - The chairman at meetings

- (1) At any meeting of creditors summoned by the officeholder, either he shall be chairman, or a person nominated by him in writing to act in his place.
- (2) A person so nominated must be either:
 - (A) one who is qualified to act as an insolvency practitioner in relation to the Company; or
 - (B) an employee of the officeholder or his firm who is experienced in insolvency matters.

Article 113 - Entitlement to vote

- (1) Subject as follows, at a meeting of creditors a person is entitled to vote only if:
 - (A) he has given to the officeholder, not later than 12.00 hours on the business day before the day fixed for the meeting, details in writing of the debt which he claims to be due to him from the Company and the claim has been duly admitted under the following provisions of these Regulations; and

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- (B) there has been lodged with the officeholder any proxy which he intends to be used on his behalf.
- (2) The chairman of the meeting may allow a creditor to vote, notwithstanding that he has failed to comply with Article 113(1)(A), if satisfied that the failure was due to circumstances beyond the creditor's control.
- (3) The chairman of the meeting may call for any document or other evidence to be produced to him, where he thinks it necessary for the purpose of substantiating the whole or any part of the claim.
- (4) Votes are calculated according to the amount of a creditor's debt as at the date of the appointment of the Administrator, the winding up order or winding up resolution as the case may be, deducting any amounts paid in respect of the debt after that date.
- (5) A creditor shall not vote in respect of a debt for an unliquidated amount, or any debt whose value is not ascertained, except where the chairman puts upon the debt an estimated value for the purpose of entitlement to vote and admits the claim for that purpose.
- (6) No vote shall be cast by virtue of a claim more than once on any resolution put to the meeting.

Article 114 - Admission and rejection of claims

- (1) At any creditors' meeting the chairman has power to admit or reject a creditor's claim for the purpose of his entitlement to vote; and the power is exercisable with respect to the whole or any part of the claim.
- (2) If the chairman has put upon the debt an estimated value, the creditor shall be allowed to vote only in respect of that estimated amount.
- (3) The chairman's decision under this Article 114, or in respect of any matter arising under Article 113, is subject to appeal following the meeting to the Tribunal by any creditor.
- (4) If on an appeal the chairman's decision is reversed or varied, or a creditor's vote is declared invalid, the Tribunal may order that another meeting be summoned, or make such other order as it thinks just.

Article 115 - Secured Creditors

- (1) At a meeting of creditors in respect of a Company in administration, a Secured Creditor is entitled to vote in respect of the whole value of his debt, whether or not that debt is secured.
- (2) Subject to Article 115(1), at any other meeting of creditors a Secured Creditor is entitled to vote only in respect of the balance (if any) of his debt after deducting the value of his security as estimated by him.

Article 116 - Retention of title creditors

For the purpose of entitlement to vote at a creditors' meeting in administration proceedings, a seller of goods to the Company under a retention of title agreement shall deduct from his claim the value, as estimated by him, of any rights arising under that agreement in respect of goods in possession of the Company.

Article 117 - Hire-purchase, conditional sale and leasing agreements

- (1) Subject as follows, an owner of goods under a hire-purchase or leasing agreement relating to property other than real property, or a seller of goods under a conditional sale agreement, is entitled to vote in respect of the amount of the debt due and payable to him by the Company as at the date of the administration order.
- (2) In calculating the amount of any debt for this purpose, no account shall be taken of any amount attributable to the exercise of any right under the relevant agreement, so far as the right has become exercisable solely by virtue of the presentation of the application for an administration order or any matter arising in consequence of that, or of the making of the order.

Article 118 - Resolutions and minutes

- (1) Subject to Article 118(2), at a creditors' meeting in respect of a Company in administration or Liquidation, a resolution is passed when a majority (in value) of those present and voting, in person or by proxy, have voted in favour of it.
- (2) Any resolution is invalid if those voting against it include more than half in value of the creditors to whom notice of the meeting was sent and who are not, to the best of the chairman's belief, Connected Persons.

Article 119 - Creditors' meetings conducted by correspondence

A reference in these Regulations to anything done, or required to be done, at, or in connection with, or in consequence of, a creditors' meeting includes a reference to anything done in the course of correspondence.

Article 120 - Venue and conduct of Company meetings

- (1) Where the officeholder summons a meeting of members of the Company, he shall fix a venue for it having regard to their convenience.
- (2) The chairman of the meeting shall be the officeholder or a person nominated by him in writing to act in his place.
- (3) A person so nominated must be either:
 - (A) one who is qualified to act as an insolvency practitioner in relation to the Company;
or
 - (B) an employee of the officeholder or his firm who is experienced in insolvency matters.
- (4) If within 30 minutes from the time fixed for commencement of the meeting there is no person present to act as chairman, the meeting stands adjourned to the same time and place in the following week or, if that is not a business day, to the business day immediately following.
- (5) Subject as above, the meeting shall be summoned and conducted as if it were a general meeting of the Company summoned under the Company's articles of association, and in accordance with the applicable provisions of the Companies Regulations.

SECTION 3: THE CREDITORS' COMMITTEE

Article 121 - Constitution of committee

- (1) Where these Regulations provide for a Creditors' Committee to be established, and it is resolved by a creditors' meeting to establish such a committee, the Creditors' Committee shall consist of at least three and not more than five creditors of the Company elected at the meeting.
- (2) Any creditor of the Company is eligible to be a member of the Creditors' Committee, so long as his claim has not been rejected for the purpose of his entitlement to vote.
- (3) A body corporate may be a member of the Creditors' Committee, but it cannot act as such otherwise than by a representative appointed by it for the purpose.

Article 122 - Formalities of establishment

- (1) The Creditors' Committee does not come into being, and accordingly cannot act, until the officeholder has issued a certificate of its due constitution.
- (2) No person may act as a member of the Creditors' Committee unless and until he has agreed to do so.
- (3) The officeholder's certificate of the Creditors' Committee's due constitution shall not be issued unless and until at least three of the persons who are to be members of the committee have agreed to act.

Article 123 - Functions and meetings of the committee

- (1) The Creditors' Committee shall assist the officeholder in discharging his functions, and act in relation to him in such manner as may be agreed from time to time.
- (2) Subject as follows, meetings of the Creditors' Committee shall be held when and where determined by the officeholder.
- (3) The officeholder shall call a first meeting of the Creditors' Committee not later than three months after its first establishment; and thereafter he shall call a meeting:
 - (A) if so requested by a member of the Creditors' Committee or his representative (the meeting then to be held within 21 days of the request being received by the officeholder); and
 - (B) for a specified date, if the Creditors' Committee has previously resolved that a meeting be held on that date.
- (4) The officeholder shall give seven days' written notice of the venue of any meeting to every member of the Creditors' Committee (or his representative designated for that purpose), unless in any case the requirement of notice has been waived by or on behalf of any member. A waiver may be signified either or at or before the meeting.

Article 124 - The chairman at meetings

- (1) The chairman at any meeting of the Creditors' Committee shall be the officeholder or a person nominated by him in writing to act.
- (2) A person so nominated must be either:

- (A) one who is qualified to act as an insolvency practitioner in relation to the Company; or
- (B) an employee of the officeholder or his firm who is experienced in insolvency matters.

Article 125 - Quorum

A meeting of the Creditors' Committee is duly constituted if due notice of it has been given to all the members, and at least two members are present or represented.

Article 126 - Committee-members' representatives

A member of the Creditors' Committee may, in relation to the business of the Creditors' Committee, be represented by another person duly authorised by him for that purpose.

Article 127 - Resignation

A member of the Creditors' Committee may resign by notice in writing delivered to the officeholder.

Article 128 - Termination of membership

- (1) Membership of the Creditors' Committee is automatically terminated if the member:
 - (A) becomes bankrupt or goes into Liquidation or Administration, or compounds or arranges with his creditors;
 - (B) at three consecutive meetings of the Creditors' Committee is neither present nor represented (unless at the third of those meetings it is resolved that this Article 128 is not to apply in his case); or
 - (C) ceases to be, or is found never to have been, a creditor.
- (2) However, if the cause of termination is the member's bankruptcy, his trustee in bankruptcy replaces him as a member of the Creditors' Committee, and in the case of a corporate member's Liquidation or Administration, its Liquidator or Administrator replaces him as a member of the Creditors' Committee.

Article 129 - Removal

A member of the Creditors' Committee may be removed by resolution at a meeting of creditors, at least 14 days' notice having been given of the intention to move that resolution.

Article 130 - Vacancies

- (1) The following applies if there is a vacancy in the membership of the Creditors' Committee.
- (2) The vacancy need not be filled if the officeholder and a majority of the remaining members of the Creditors' Committee so agree, provided that the total number of members does not fall below three.
- (3) The officeholder may appoint any creditor (being qualified under these Regulations to be a member of the committee) to fill the vacancy, if a majority of the other members of the Creditors' Committee agree to the appointment, and the creditor concerned consents to act.

Article 131- Procedure at meetings

- (1) At any meeting of the Creditors' Committee, each member of it (whether present himself, or by his representative) has one vote; and a resolution is passed when a majority of the members present or represented have voted in favour of it.
- (2) A member of the Creditors' Committee shall not attend during the consideration by the committee and shall not vote on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the creditors.

Article 132 - Resolutions by post

In accordance with this Article 132, the officeholder may seek to obtain the agreement of members of the Creditors' Committee to a resolution by sending to every member (or his representative designated for the purpose) a copy of the proposed resolution.

Article 133 - Expenses of members

Subject as follows, the officeholder shall out of the assets of the Company defray any reasonable travelling expenses directly incurred by members of the Creditors' Committee or their representatives in relation to their attendance at the Creditors' Committee's meetings, or otherwise on the committee's business, as an expense of the insolvency proceedings.

Article 134 - Formal defects

The acts of the Creditors' Committee established for any insolvency proceedings are valid notwithstanding any defect in the appointment, election or qualifications of any member of the Creditors' Committee or any Creditors' Committee members' representative or in the formalities of its establishment.

SECTION 4: THE OFFICEHOLDER

Article 135 - Fixing of remuneration

- (1) The officeholder is entitled to receive remuneration for his services as such.
- (2) The remuneration shall be fixed at the first meeting of the creditors' committee either:
 - (A) as a percentage of the value of the property with which he has to deal; or
 - (B) by reference to the time properly given by the insolvency practitioner (as officeholder) and his staff in attending to matters arising in the insolvency proceedings.
- (3) It is for the Creditors' Committee (if there is one) to determine whether the remuneration is to be fixed under Article 135(2)(A) or (B) and, if under Article 135(2)(A), to determine any percentage to be applied as there mentioned.
- (4) In arriving at that determination, the Creditors' Committee shall have regard to the following matters:
 - (A) the complexity (or otherwise) of the case;
 - (B) any respects in which, in connection with the Company's affairs, there falls on the officeholder any responsibility of an exceptional kind or degree;
 - (C) the effectiveness with which the officeholder appears to be carrying out, or to have carried out, his duties as such, and
 - (D) the value and nature of the property with which he has to deal.
- (5) If no Creditors' Committee is established by the first meeting of creditors, the officeholder's remuneration may be fixed (in accordance with Article 135(2)) by a resolution of that first meeting of creditors; and Article 135(4) applies to them as it does to the Creditors' Committee.
- (6) If not fixed as above, the officeholder's remuneration shall, on his application, be fixed by the Tribunal.

Article 136 - Recourse to meeting of creditors

If the officeholder's remuneration has been fixed by the Creditors' Committee, and he considers the rate or amount to be insufficient, he may request that it be increased by resolution of the creditors.

Article 137 - Recourse to the Tribunal

- (1) If the officeholder considers that the remuneration fixed for him by the Creditors' Committee, or by resolution of the creditors, is insufficient, he may apply to the Tribunal for an order increasing its amount or rate.
- (2) The officeholder shall give at least 14 days' notice of his application to the members of the Creditors' Committee; and the Creditors' Committee may nominate one or more members to appear or be represented, and to be heard, on the application.

- (3) If there is no Creditors' Committee, the officeholder's notice of his application shall be sent to such one or more of the Company's creditors as the Tribunal may direct, which creditors may nominate one or more of their number to appear or be represented.
- (4) The Tribunal may, if it appears to be a proper case, order the costs of the officeholder's application, including the costs of any member of the Creditors' Committee appearing or being represented on it, or any creditor so appearing or being represented, to be paid as an expense of the insolvency proceedings.

Article 138 - Creditors' claim that remuneration is excessive

- (1) Any creditor of the Company may, with the concurrence of at least 25 per cent in value of the creditors (including himself), apply to the Tribunal for an order that the officeholder's remuneration be reduced, on the grounds that it is, in all the circumstances, excessive.
- (2) The Tribunal may, if it thinks that no sufficient cause is shown for a reduction, dismiss the application; but it shall not do so unless the applicant has had an opportunity to attend the Tribunal for an ex parte hearing, of which he has been given at least seven days' notice.
- (3) If the application is not dismissed under Article 138(2), the Tribunal shall fix a venue for it to be heard, and give notice to the applicant accordingly.
- (4) The applicant shall, at least 14 days before the hearing, send to the officeholder a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it.
- (5) If the Tribunal considers the application to be well-founded, it shall make an order fixing the remuneration at a reduced amount or rate.
- (6) Unless the Tribunal orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the insolvency proceedings.

Article 139 - Abstract of receipts and payments

- (1) The officeholder shall:
 - (A) within two months after the end of six months from the date of his appointment, and of every subsequent period of six months; and
 - (B) within two months after he ceases to act as officeholdersend to the Tribunal, and to the CRO, and to each member of the creditors' committee, the requisite accounts of the receipts and payments of the Company.
- (2) The accounts are to be in the form of an abstract showing:
 - (A) receipts and payments during the relevant period of six months; or
 - (B) where the officeholder has ceased to act, receipts and payments during the period from the end of the last six month period to the time when he so ceased (alternatively, if there has been no previous abstract, receipts and payments in the period since his appointment as officeholder).

Article 140 - Resignation

- (1) The officeholder may give notice of his resignation on grounds of ill health or because:
 - (A) he intends ceasing to be in practice as an insolvency practitioner; or

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- (B) there is some conflict of interest, or change of personal circumstances, which precludes or makes impracticable the further discharge by him of his duties as officeholder.
- (2) The officeholder may, with the leave of the Tribunal, give notice of his resignation on grounds other than those specified in Article 140(1).
 - (3) The officeholder must give to the persons specified below at least seven days' notice of his intention to resign, or to apply for the Tribunal's leave to do so:
 - (A) if there is a continuing officeholder of the Company, to him;
 - (B) if there is no such officeholder, to the Creditors' Committee; and
 - (C) if there is no such officeholder and no Creditors' Committee, to the Company and its creditors.

Article 141 - Officeholder deceased

- (1) Subject as follows, where the officeholder has died, it is the duty of his personal representatives to give notice of the fact to the Tribunal, specifying the date of the death. This does not apply if notice has been given under Article 141(2) or (3).
- (2) If the deceased officeholder was a partner in a firm, notice may be given by a partner in the firm who is qualified to act as an insolvency practitioner, or is a member of any body recognised by the QFC Authority for the authorisation of insolvency practitioners.
- (3) Notice of the death may be given by any person producing to the Tribunal the relevant death certificate or a copy of it and a duly authenticated translation into English if the original is not written in English.

SECTION 5: ANTECEDENT TRANSACTIONS

Article 142 - Transactions at an undervalue

- (1) Where the Company has at a relevant time (defined in Article 144) entered into a transaction with any person at an undervalue, the Tribunal may, on application of the officeholder, make an order restoring the position to what it would have been if the Company had not entered into that transaction.
- (2) A Company enters into a transaction with a person at an undervalue if it makes a gift to that person or otherwise enters into a transaction with that person on terms that provide for the Company to receive no consideration, or consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by the Company.
- (3) The Tribunal shall not make an order under this Article 142 in respect of a transaction at an undervalue if it is satisfied:
 - (A) that the Company which entered into the transaction did so in good faith and for the purpose of carrying on its business; and
 - (B) that at the time it did so there were reasonable grounds for believing that the transaction would benefit the Company.

Article 143 - Preferences

- (1) Where the Company has at a relevant time (defined in Article 144) given a preference to any person, the Tribunal may, on application of an officeholder, make an order restoring the position to what it would have been if the Company had not given that preference.
- (2) For the purposes of this Article 143 a Company gives a preference to a person if:
 - (A) that person is one of the Company's creditors or a surety or guarantor for any of the Company's debts or other liabilities; and
 - (B) the Company does anything or suffers anything to be done which (in either case) has the effect of putting that person into a position which, in the event of the Company going into insolvent Liquidation, will be better than the position he would have been in if that thing had not been done.
- (3) The Tribunal shall not make an order under this Article 143 in respect of a preference given to any person unless the Company which gave the preference was influenced in deciding to give it by a desire to produce in relation to that person the effect mentioned in Article 143(2)(B).
- (4) A Company which has given a preference to a Connected Person (otherwise than by reason only of being its employee) at the time the preference was given is presumed, unless the contrary is shown, to have been influenced in deciding to give it by such a desire as is mentioned in Article 143(3).

Article 144 - Relevant time under Articles 142 and 143

The time at which a Company enters into a transaction at an undervalue or gives a preference is a relevant time if the transaction is entered into, or the preference given:

- (1) in the case of a transaction at an undervalue which is entered into with, or of a preference which is given to, a Connected Person (otherwise than by reason only of being its

employee), at a time in the period of two years ending with the commencement of Liquidation or administration; and

- (2) in the case of any other transaction at an undervalue or preference at a time in the period of six months ending with the commencement of Liquidation or administration.

Article 145 - Invalid security interests

- (1) Where a Company goes into administration or insolvent Liquidation, a Security Interest in all or substantially all of the Company's property is invalid where:
- (A) the Security Interest is created in favour of a Connected Person and was created after a date two years prior to the commencement of administration or Liquidation; or
 - (B) the Security Interest is created after a date one year prior to the commencement of administration or Liquidation and the Company either was at the date of the creation or became pursuant to the transaction in respect of which the Security Interest was created unable to pay its debts as they fell due.
- (2) Article 145(1) does not invalidate a Security Interest to the extent of the value transferred to the Company or liabilities of the Company released as a result of the transaction giving rise to the grant of the Security Interest.

SECTION 6: COOPERATION WITH OFFICEHOLDER

Article 146 - Getting in the Company's property

- (1) Where any person has in his possession or control any property, books, papers or records to which the Company appears to be entitled, the Tribunal may, on application by an officeholder, require that person forthwith (or within such period as the Tribunal may direct) to pay, deliver, convey, surrender or transfer the property, books, papers or records to the officeholder.
- (2) Where the officeholder:
 - (A) seizes or disposes of any property which is not property of the Company; and
 - (B) at the time of seizure or disposal believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the Tribunal or otherwise) to seize or dispose of that property

the officeholder is not liable to any person in respect of any loss or damage resulting from the seizure or disposal (except in so far as that loss or damage is caused by the officeholder's own negligence), and has a lien on the property, or the proceeds of its sale, for such expenses as were incurred in connection with the seizure or disposal.

Article 147 - Duty to co-operate with officeholder

- (1) Each of the persons mentioned in Article 147(2) shall:
 - (A) give to the officeholder such information concerning the Company and its promotion, formation, business, dealings, affairs or property as the officeholder may reasonably require;
 - (B) produce to the officeholder any books, papers or records in his possession relating to the Company or to any such dealings; and
 - (C) attend on the officeholder at such times as the latter may reasonably require.
- (2) The persons referred to in Article 147(1) are:
 - (A) those who are or have at any time been officers of the Company;
 - (B) those who have taken part in the formation of the Company at any time within one year before the effective date;
 - (C) those who are in the employment of the Company, or have been in its employment (including employment under a contract for services) within that year, and are in the officeholder's opinion capable of giving information which he requires;
 - (D) those who are, or have within that year been, officers of, or in the employment (including employment under a contract for services) of, another body corporate which is, or within that year was, an officer of the Company in question; and
 - (E) in the case of a Company being wound up by the Tribunal, any person who has acted as provisional Liquidator or Liquidator of the Company.
- (3) Where a person to whom this Article applies fails to comply with its provisions, that person commits a contravention and shall be liable to a financial penalty.

SECTION 7: MISCELLANEOUS

Article 148 - Preferential Debts

A reference in these Regulations to the preferential debts of a Company is to the debts listed in this Article 148, and references to preferential creditors are to be read accordingly:

- (1) so much of any amount which is owed by the Company to a person who is or has been an employee of the Company by way of remuneration, which shall include any notice period not exceeding three months as does not exceed the sum of US\$50,000;
- (2) so much of any amount which is owed by the Company to a person who is or has been an employee of the Company by way of reasonable accrued holiday remuneration and reasonable contributions to occupation pension schemes; and
- (3) taxes, financial penalties and fees owed by the Company to the State, the QFC Authority, the Regulatory Authority and the CRO.

Article 149 - Tribunal rules and practice to apply

- (1) The rules, practice and procedure of the Tribunal apply to the conduct of any proceedings under these Regulations, except so far as inconsistent with these Regulations.
- (2) An application to the Tribunal shall be accompanied by the appropriate tribunal fee to be prescribed by the Tribunal.
- (3) No proceedings or procedures under these Regulations shall be invalidated by any formal defect or by any irregularity, unless the Tribunal considers that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of the Tribunal.

PART 6: PROCEEDINGS IN RESPECT OF NON-QFC COMPANIES

SECTION 1: INTRODUCTION

Article 150 - Scope of Application

- (1) This Part applies where:
 - (A) assistance is sought in the QFC by a court or a representative in connection with a non-QFC proceeding;
 - (B) assistance is sought outside the QFC in connection with a proceeding under these Regulations; or
 - (C) a non-QFC proceeding and a proceeding under these Regulations in respect of the same Company are taking place concurrently.

Article 151 - Definitions

For the purposes of this Part:

- (1) “non-QFC proceeding” means a collective judicial or administrative proceeding outside the QFC, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the company are subject to control or supervision by a court, for the purpose of reorganisation, administration or liquidation;
- (2) “non-QFC main proceeding” means a non-QFC proceeding taking place in the state where the company has its centre of main interests;
- (3) “non-QFC non-main proceeding” means a non-QFC proceeding, other than a non-QFC main proceeding, taking place in a state where the company has an establishment within the meaning of Article 151(5);
- (4) “non-QFC representative” means a person or body, including one appointed on an interim basis, authorised in a non-QFC proceeding to administer the reorganisation or the liquidation of the company’s assets or affairs or to act as a representative of the non-QFC proceeding;
- (5) “establishment” means any place of operations where the company carries out a non-transitory economic activity with human means and goods or services; and
- (6) “centre of main interests” means, subject to Article 164(2) the place where the company conducts the administration of its interests on a regular basis and is therefore ascertainable by third parties.

Article 152 - International obligations of this State

To the extent that this Part conflicts with an obligation of the State and/or the QFC Authority or the Regulatory Authority arising out of any treaty or other form of agreement to which it is a party with one or more other states, the requirements of the treaty or agreement prevail.

Article 153 - Competent Tribunal

The functions referred to in this Part relating to recognition of non-QFC proceedings and cooperation with courts shall be performed by the Tribunal.

Article 154 - Authorisation of Administrator, Supervisor or Liquidator to act outside the QFC

An Administrator, Supervisor or Liquidator is authorised to act outside the QFC on behalf of a proceeding under these Regulations, as permitted by the applicable non-QFC law.

Article 155 - Public policy exception

Nothing in this Part prevents the Tribunal from refusing to take an action governed by this Part if the action would manifestly be contrary to the public policy of the State and/or the QFC.

Article 156 - Additional assistance under other laws

Nothing in this Part limits the power of the Tribunal or an Administrator, Supervisor or Liquidator to provide additional assistance to a non-QFC representative under other Regulations.

Article 157 - Interpretation

In the interpretation of this Part, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

SECTION 2: ACCESS OF NON-QFC REPRESENTATIVES AND CREDITORS TO TRIBUNAL

Article 158 - Right of direct access

A non-QFC representative is entitled to apply directly to the Tribunal.

Article 159 - Limited jurisdiction

The sole fact that an application pursuant to this Part is made to the Tribunal by a non-QFC representative does not subject the non-QFC representative or the non-QFC assets and affairs of the company to the jurisdiction of the Tribunal for any purpose other than the application.

Article 160 - Application by a non-QFC representative to commence a proceeding under these Regulations

A non-QFC representative is entitled to apply to commence a proceeding under these Regulations if all of the other conditions for commencing such a proceeding are otherwise met.

Article 161 - Participation of a non-QFC representative in a proceeding under these Regulations

Under recognition of a non-QFC proceeding, the non-QFC representative is entitled to participate in a proceeding regarding the Company under these Regulations, including appearing before the Tribunal where appropriate.

Article 162 - Access of non-QFC creditors to a proceeding under these Regulations

- (1) Subject to Article 162(2), non-QFC creditors have the same rights regarding the commencement of, and participation in, a proceeding under these Regulations as creditors in the QFC.
- (2) Article 162(1) does not affect the ranking of claims in a proceeding under these Regulations.

SECTION 3: RECOGNITION OF A NON-QFC PROCEEDING AND RELIEF

Article 163 - Application for recognition of a non-QFC proceeding

- (1) A non-QFC representative may apply to the Tribunal for recognition of the non-QFC proceeding in which the non-QFC representative has been appointed.
- (2) An application for recognition shall be accompanied by:
 - (A) a certificate from the court affirming the existence of the non-QFC proceeding and of the appointment of the non-QFC representative; or
 - (B) in the absence of evidence referred to in Articles 163(2)(A), any other evidence acceptable to the Tribunal of the existence of the non-QFC proceeding and of the appointment of the non-QFC representative.
- (3) An application for recognition shall also be accompanied by a statement identifying all non-QFC proceedings in respect of the Company that are known to the non-QFC representative.
- (4) The Tribunal may require a translation of documents supplied in support of the application for recognition into English.

Article 164 - Presumptions concerning recognition

- (1) The Tribunal is entitled to presume that documents submitted in support of the application for recognition are authentic, whether or not they have been legalised.
- (2) In the absence of proof to the contrary, the Company's registered office is presumed to be the Company's centre of main interests.

Article 165 - Decision to recognise a non-QFC proceeding

- (1) Subject to Article 155, a non-QFC proceeding shall be recognised if:
 - (A) the non-QFC proceeding is a proceeding within the meaning of Article 151(1);
 - (B) the non-QFC representative applying for recognition is a person or body within the meaning of Article 151(4);
 - (C) the application meets the requirements of Article 163(2); and
 - (D) the application has been submitted to the Tribunal.
- (2) The non-QFC proceeding shall be recognised:
 - (A) as a non-QFC main proceeding if it is taking place in the state where the Company has the centre of its main interests; or
 - (B) as a non-QFC non-main proceeding if the Company has an establishment within the meaning of Article 151(5) outside the QFC.
- (3) An application for recognition of a non-QFC proceeding shall be decided upon at the earliest possible time.

- (4) The provisions of Articles 163, 164, 165 and 166 do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist.

Article 166 - Subsequent information

From the time of filing the application for recognition of the non-QFC proceeding, the non-QFC representative shall inform the Tribunal promptly of:

- (1) any substantial change in the status of the recognised non-QFC proceeding or the status of the non-QFC representative's appointment; and
- (2) any other non-QFC proceeding regarding the same Company that becomes known to the non-QFC representative.

Article 167 - Relief that may be granted upon application for recognition of a non-QFC proceeding.

- (1) From the time of filing an application for recognition until the application is decided upon, the Tribunal may, at the request of the non-QFC representative, where relief is urgently needed to protect the assets of the Company or the interests of the creditors, grant relief of a provisional nature, including:
- (A) staying execution against the Company's assets;
- (B) entrusting the administration or realisation of all or part of the Company's assets located in the QFC to the non-QFC representative or another person designated by the Tribunal, in order to protect and preserve the value of assets that, by their nature or because of other circumstances are perishable, susceptible to devaluation or otherwise in jeopardy; and
- (C) any relief mentioned in Article 168(1)(C), (D) and (G).
- (2) Unless extended under Article 168(1)(F), the relief granted under this Article terminates when the application for recognition is decided upon.
- (3) The Tribunal may refuse to grant relief under this Article 167 if such relief would interfere with the administration of a non-QFC main proceeding.

Article 168 - Relief that may be granted upon recognition of a non-QFC proceeding

- (1) Upon recognition of a non-QFC proceeding, whether main or non-main, where necessary to protect the assets of the Company or the interests of the creditors, the Tribunal may, at the request of the non-QFC representative, grant any appropriate relief, including:
- (A) staying the commencement or continuation of individual actions or individual proceedings concerning the Company's assets, rights, obligations or liabilities;
- (B) staying execution against the Company's assets to the extent it has not been stayed;
- (C) suspending the right to transfer, encumber or otherwise dispose of any assets of the Company;
- (D) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the Company's assets, affairs, rights, obligations or liabilities;

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- (E) entrusting the administration or realisation of all or part of the Company's assets located in the QFC to the non-QFC representative or another person designated by the Tribunal;
 - (F) extending relief granted under Article 167(1); and
 - (G) granting any additional relief that may be available to an Administrator, Supervisor or Liquidator under the laws of the QFC.
- (2) Upon recognition of a non-QFC proceeding, whether main or non-main, the Tribunal may, at the request of the non-QFC representative, entrust the distribution of all or part of the Company's assets located in the QFC to the non-QFC representative or another person designated by the Tribunal, provided that the Tribunal is satisfied that the interests of creditors in the QFC are adequately protected.
- (3) In granting relief under this Article to a representative of a non-QFC non-main proceeding, the Tribunal must be satisfied that the relief relates to assets that, under these Regulations, should be administered in the non-QFC non-main proceeding or concerns information required in that proceeding.

Article 169 - Protection of creditors and other interested persons

- (1) In granting or denying relief under Article 167 or 168, or in modifying or terminating relief under Article 169(3), the Tribunal must be satisfied that the interests of the creditors and other interested persons, including the Company, are adequately protected.
- (2) The Tribunal may subject relief granted under Article 167 or 168 to conditions it considers appropriate.
- (3) The Tribunal may, at the request of the non-QFC representative or a person affected by relief granted under Article 167 or 168, or at its own motion, modify or terminate such relief.

Article 170 - Actions to avoid acts detrimental to creditors

- (1) Upon recognition of a non-QFC proceeding, the non-QFC representative has standing to initiate administration or Liquidation (whether voluntary or compulsory).
- (2) When the non-QFC proceeding is a non-QFC non-main proceeding, the Tribunal must be satisfied that the action relates to assets that, under the law of the QFC, should be administered in the non-QFC non-main proceeding.

Article 171 - Intervention by a non-QFC representative in proceedings in the QFC

Upon recognition of a non-QFC proceeding, the non-QFC representative may, provided the requirements of these Regulations are met, intervene in any proceedings in which the Company is a party.

SECTION 4: COOPERATION WITH COURTS AND NON-QFC REPRESENTATIVES

Article 172 - Cooperation and direct communication between the Tribunal and courts or non-QFC representatives

- (1) In matters referred to in Article 150, the Tribunal shall cooperate to the maximum extent possible with courts or non-QFC representatives, either directly or through a suitably appointed intermediary.
- (2) The Tribunal is entitled to communicate directly with, or to request information or assistance directly from courts or non-QFC representatives.

Article 173 - Cooperation and direct communication between the Administrator or Liquidator and courts or non-QFC representatives

- (1) In matters referred to in Article 150, an Administrator, Supervisor or Liquidator shall, in the exercise of its functions and subject to the supervision of the Tribunal, cooperate to the maximum extent possible with courts or non-QFC representatives.
- (2) The Administrator, Supervisor or Liquidator is entitled, in the exercise of his functions and subject to the supervision of the Tribunal, to communicate directly with courts or non-QFC representatives.

Article 174 - Forms of cooperation

Cooperation referred to in Articles 172 and 173 may be implemented by any appropriate means, including:

- (1) appointment of a person or body to act at the direction of the Tribunal;
- (2) communication of information by any means considered appropriate by the Tribunal;
- (3) coordination of the administration and supervision of the Company's assets and affairs;
- (4) approval or implementation by the Tribunal of agreements concerning the coordination of proceedings; or
- (5) coordination of concurrent proceedings regarding the same Company.

SECTION 5: CONCURRENT PROCEEDINGS

Articles 175 - Commencement of a proceeding under these Regulations after recognition of a non-QFC main proceeding

After recognition of a non-QFC main proceeding, an administration or Liquidation may be commenced only if the Company has assets in the QFC; the effects of that proceeding shall be restricted to the assets of the Company that are located in the QFC and, to the extent necessary to implement cooperation and coordination under Articles 172, 173 and 174, to other assets of the Company that, under these Regulations, should be administered in that proceeding.

Articles 176 - Coordination of a proceeding under these Regulations and a non-QFC proceeding

Where a non-QFC proceeding and a proceeding under these Regulations are taking place concurrently regarding the same Company, the Tribunal shall seek cooperation and coordination under Articles 172, 173 and 174, and the following shall apply:

- (1) when the proceeding in the QFC is taking place at the time the application for recognition of the non-QFC proceeding is filed, any relief granted under Article 167 or 168 must be consistent with the proceeding in the QFC;
- (2) when the proceeding in the QFC commences after recognition, or after the filing of the application for recognition, of the non-QFC proceeding, any relief in effect under Article 167 or 168 shall be reviewed by the Tribunal and shall be modified or terminated if inconsistent with the proceeding in the QFC; and
- (3) in granting, extending or modifying relief granted to a representative of a non-QFC non-main proceeding, the Tribunal must be satisfied that the relief relates to assets that, under these Regulations should be administered in the non-QFC non-main proceeding or concerns information required in that proceeding.

Article 177 - Coordination of more than one non-QFC proceeding

In matters referred to in Article 156, in respect of more than one non-QFC proceeding regarding the same Company, the Tribunal shall seek cooperation and coordination under Articles 172, 173 and 174, and the following shall apply:

- (1) any relief granted under Article 167 or 168 to a representative of a non-QFC non-main proceeding after recognition of a non-QFC main proceeding must be consistent with the non-QFC main proceeding;
- (2) if a non-QFC main proceeding is recognised after recognition, or after the filing of an application for recognition, of a non-QFC non-main proceeding, any relief in effect under Article 167 or 168 shall be reviewed by the Tribunal and shall be modified or terminated if inconsistent with the non-QFC main proceeding; and
- (3) if, after recognition of a non-QFC non-main proceeding, another non-QFC non-main proceeding is recognised, the Tribunal shall grant, modify or terminate relief for the purpose of facilitating coordination of the proceedings.

Article 178 - Presumption of insolvency based on recognition of a non-QFC main proceeding

In the absence of evidence to the contrary, recognition of a non-QFC main proceeding is, for the purpose of commencing a proceeding under these Regulations, proof of that Company's insolvency.

Article 179 - Rule of payment in concurrent proceedings

Without prejudice to secured claims or rights in rem, a creditor who has received part payment in respect of its claim in a proceeding pursuant to a law relating to insolvency outside the QFC may not receive a payment for the same claim in a proceeding under these Regulations regarding the same Company, if and for so long as the payment to the other creditors of the same class is proportionately less than the payment the creditor has already received.

PART 7: BRANCHES

Article 180 - Application of these Regulations in relation to Branches

This Part has effect in addition to, and not in derogation of any provisions contained in these Regulations or any other QFC legislation in relation to insolvency and winding up, and the Administrator, Supervisor, Liquidator, the QFC Authority or the Tribunal may exercise any powers or do any act in the case of a Branch that might be exercised or done by him or it in respect of a Company.

Article 181 - Administration and winding up of Branches

- (1) Subject to this Part 7, a Branch may be subject to administration and winding up under these Regulations and these Regulations apply accordingly to a Branch with such adaptations as are necessary, including the following:
 - (A) the place of business of a Branch in the QFC as notified to the CRO is taken, for all the purposes of these Regulations, to be the registered office of the Branch; and
 - (B) a Branch is not to be wound up voluntarily under these Regulations.
- (2) On a Branch being wound up, every person who:
 - (A) in any case is liable to pay or contribute to the payment of:
 - (i) a debt or liability of a Branch;
 - (ii) any sum for the adjustment of the rights of the members among themselves; or
 - (iii) the costs and expenses of the winding up; or
 - (B) if the Branch has been dissolved or deregistered in its place of origin was so liable immediately before the dissolution or deregistration

is a contributory and every contributory is liable to contribute to the property of the Branch all sums due from the contributory in respect of any such liability.
- (3) Any provisions of these Regulations and any other Regulations with respect to staying and restraining actions and other civil proceedings against a Branch at any time either after the filing of an application for an administration order or the giving of notice of an intention to appoint an Administrator and before the appointment of an Administrator, or after the filing of an application for winding up and before the making of a winding up order extend, in the case of a Branch where the application to stay or restrain is by a creditor, to actions and other civil proceedings against a contributory of the Branch.
- (4) Where an order has been made for the winding up of a Branch, no action or other civil proceeding is to be proceeded with or commenced against a contributory of a Branch in respect of a debt of the Branch except by leave of the Tribunal and subject to such terms as the Tribunal may impose.

PART 8: OTHER TYPES OF COMPANY

Article 182 - Application of the QFC Law to other types of Company

Where a type of Company is prescribed in the Companies Regulations or any other Regulations, the QFC Authority may make rules:

- (1) prescribing:
 - (A) the circumstances and manner in which such a type of Company may enter into an administration or be wound up;
 - (B) any requirements or obligations in relation to the appointment of an insolvency practitioner to such a type of Company; and
 - (C) forms and procedures for the administration and winding up of such a Company; and
- (2) extending, excluding, waiving or modifying the application of provisions of these Regulations or of other Regulations, where considered necessary or desirable to facilitate the orderly application of insolvency procedures in relation to such a type of Company.

PART 9: APPLICATION OF THE LAW TO LIMITED LIABILITY PARTNERSHIPS

Article 183 - Application to Limited Liability Partnerships

All of the provisions of and under these Regulations shall apply to a Limited Liability Partnership, except where the context otherwise requires, with the following modifications:

- (1) references to a Company shall include references to a Limited Liability Partnership;
- (2) references to a director or to an officer of a Company shall include references to a member of a Limited Liability Partnership;
- (3) references to the articles of a Company shall include references to the Limited Liability Partnership agreement of a Limited Liability Partnership;
- (4) references to a resolution of a Company shall include references to a determination of a Limited Liability Partnership;
- (5) references to a meeting of a Company shall include references to a meeting of the members of a Limited Liability Partnership; and
- (6) such further modifications as the context requires for the purpose of giving effect to these Regulations.

PART 10: INSOLVENCY PRACTITIONERS

Article 184 - Restrictions on service as Administrator, Supervisor or Liquidator

- (1) No person may be appointed as or serve as an Administrator, Supervisor or Liquidator or provisional Liquidator of a Company under these Regulations or any other Regulations unless he is registered as an insolvency practitioner under this Part.
- (2) Without limiting the generality of Article 184(1), no insolvency practitioner may be appointed by the Tribunal as:
 - (A) Liquidator under Article 84 of these Regulations; or
 - (B) provisional Liquidator under Article 85 of these Regulationsunless he is further registered as an official Liquidator under this Part.
- (3) The registration of an insolvency practitioner as an official Liquidator constitutes an acknowledgement of that insolvency practitioner that he will accept any appointment made by the Tribunal as a Liquidator or provisional Liquidator to a Company in accordance with the provisions of any rules of procedure as may be made by the Tribunal.

Article 185 - Qualification and registration of insolvency practitioners

- (1) In these Regulations, unless expressed otherwise, a reference to:
 - (A) an insolvency practitioner is a reference to an insolvency practitioner who is registered under these Regulations; and
 - (B) an official Liquidator is a reference to an official Liquidator who is registered under these Regulations.
- (2) An insolvency practitioner may only be registered under these Regulations if:
 - (A) the insolvency practitioner complies with the following requirements;
 - (i) he is a member of an appropriate professional body;
 - (ii) his application for registration is accepted by the CRO; and
 - (iii) he provides as security for the proper performance of his functions a general bond (of an amount to be determined by rules made by the QFC Authority) each year and a specific bond in relation to each Company in respect of which he is instructed; the specific bond shall be a percentage (to be determined by rules made by the QFC Authority) of the estimated value of the Company's assets, save that the bond shall not exceed an amount to be determined by rules made by the QFC Authority. The surety's liability under such a bond is limited to a sum equivalent to the losses caused by the fraud or dishonesty of the officeholder, whether acting alone or in collusion with others; or
 - (B) the insolvency practitioner meets the criteria for registration set out in rules made by the QFC Authority.
- (3) The CRO may in his absolute discretion refuse to grant an application for registration.

- (4) The CRO may cancel the registration of an insolvency practitioner or of an official Liquidator on that person's request or as otherwise provided under these Regulations.

Article 186 - Register of insolvency practitioners and official Liquidators

- (1) The CRO shall publish and maintain registers of current and past registrations of insolvency practitioners and official Liquidators in such manner as may be prescribed in rules made by the QFC Authority.
- (2) The CRO shall make a reasonably current version of any registers maintained under this Article freely available for viewing by the public during the normal business hours of the CRO.

Article 187 - Obligation of disclosure to the CRO

- (1) Subject to Article 187(2), an insolvency practitioner appointed to a Company shall disclose to the CRO any matter which reasonably tends to show one of the following:

- (A) a breach, or likely breach of a provision of these Regulations;
- (B) a failure, or likely failure, to comply with any obligation to which a person is subject under such Regulations; or
- (C) any other matter as the QFC Authority may prescribe in rules

which may be attributable to the conduct of the relevant Company or of its officers, employees or agents.

- (2) Article 187(1) shall not apply to the extent that compliance with such requirement would disclose a communication arising from the provision of professional legal advice.
- (3) Any provision in an agreement between a Company and an officer, employee, agent or insolvency practitioner is void in so far as it purports to hinder any person from causing or assisting a Company to comply with an obligation under Article 187(1).
- (4) No person shall be subjected to detriment or loss or damage merely by reason of undertaking any act to cause or assist an insolvency practitioner to comply with an obligation under Article 187(1).
- (5) The Tribunal may, on application of an aggrieved person, make any order for relief where the person has been subjected to any such detriment or loss or damage referred to in Article 187(4).
- (6) Without limiting the application of any other provision of these Regulations, an insolvency practitioner does not contravene any duty to which he is subject merely because he gives to the CRO:
 - (A) a notification as required under this Article; or
 - (B) any other information or opinion in relation to any such matter

if the insolvency practitioner is acting in good faith and reasonably believes that the notification, information or opinion is relevant to any functions of the CRO.

Article 188 - Supervision of insolvency practitioners

- (1) The Tribunal may, on application of the CRO, and upon being satisfied that an insolvency practitioner:

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- (A) has contravened a provision of these Regulations; (B) has failed, whether within or outside the QFC, to carry out or perform duties or functions adequately or properly; or
 - (C) is otherwise not a fit and proper person to remain registered as an insolvency practitioner or, where applicable, as an official Liquidator;

make one or more of the following orders:

- (D) an order that the CRO shall cancel, or suspend for a specified period, the registration of the insolvency practitioner as such or as an official Liquidator;
 - (E) an order imposing conditions or restrictions on the future conduct of the insolvency practitioner;
 - (F) an order requiring the insolvency practitioner to do, or refrain from doing, any act or thing; or
 - (G) any other order as the Tribunal sees fit.
- (2) For the avoidance of doubt:
- (A) any cancellation or suspension of the registration of a person as an insolvency practitioner is deemed to constitute a cancellation or suspension of any registration of the person as an official Liquidator; and
 - (B) the imposition of any condition or restriction on the future conduct of an insolvency practitioner is deemed, as the context may permit, to constitute the imposition of such a condition or restriction on the future conduct of the insolvency practitioner acting in his capacity as an official Liquidator.
- (3) Nothing in this Article affects the powers that any person or the Tribunal may have apart from this Article.

Article 189 - Conflicts of interest

An insolvency practitioner shall not act as an Administrator, Supervisor, Liquidator or professional Liquidator of the Company where he has had a material professional relationship with the Company in the previous three years.

PART 11: MISCELLANEOUS

Article 190 - Application of other laws in relation to winding up

The provisions of these Regulations and any other Regulations relating to the powers of an Administrator, a provisional Liquidator and Liquidator to get in, secure, realise and distribute property of a Company are subject to the application of other Regulations which may be inconsistent with or otherwise extend, exclude, modify, or waive the application of provisions of these Regulations and any other such Regulations in particular cases or classes of case.

Article 191 - Power of the Tribunal to declare dissolution of Company void

Where a Company has been dissolved under these Regulations or the Companies Regulations, the Tribunal may at any time within 10 years of the date of the dissolution, on an application made for the purpose by a Liquidator of the Company or by any other person appearing to the Tribunal to be interested, make an order, on such terms as the Tribunal sees fit, declaring the dissolution to have been void and the Tribunal may by the order give such directions and make such provisions as seem just for placing the Company and all other persons in the same position as nearly as may be as if the Company had not been dissolved.

Article 192 – Proceedings against re-instated companies

Upon the making an order under Article 191, such proceedings may be taken which might have been taken if the Company had not been dissolved.

Article 193 - Contraventions and administrative notice of financial penalty

- (1) Where:
 - (A) a provision of these Regulations provides that a failure to comply with a provision constitutes a contravention and renders the person liable to a financial penalty in relation to the contravention; and
 - (B) the CRO considers that a person has committed such a contravention, the CRO may impose by written notice given to the person a financial penalty, in respect of the contravention, of such amount as he considers appropriate.
- (2) If a person is knowingly concerned in such a contravention committed by another person, the aforementioned person as well as the other person commits a contravention and is liable to be proceeded with and dealt with under Article 193(1).
- (3) If, within the period specified in the notice issued under Article 193(1):
 - (A) the person pays the financial penalty imposed by the CRO, then no proceedings may be commenced by the CRO against the person in respect of the relevant contravention; or
 - (B) the person objects to the imposition of the financial penalty or has not paid the imposed fine to the CRO, then the CRO may apply to the Tribunal for, and the Tribunal may so order, the payment of the financial penalty or so much of the fine as is not paid and make any further order as the Tribunal sees fit for recovery of the financial penalty.

- (4) A certificate that purports to be signed on behalf of the CRO and states that a written notice was given to a person pursuant to Article 193(1) imposing a financial penalty on the basis of specific facts is:
 - (A) conclusive evidence of the giving of the notice to the person; and
 - (B) prima facie evidence of the facts contained in the noticein any proceedings commenced under Article 193(3).

- (5) Nothing in this Article limits the powers that the CRO may otherwise have in relation to a failure to comply with these Regulations or other Regulations, including its powers under the Companies Regulations to issue and enforce a direction to a Company or any officer of it to make good a failure.

PART 12: FINANCIAL MARKETS AND INSOLVENCY

Article 194 - Introduction

This Part has effect for the purposes of safeguarding the operation of certain financial markets by provisions with respect to:

- (1) the insolvency, administration, winding up or default of a person party to transactions in the market;
- (2) the effectiveness or enforcement of certain charges given to secure obligations in connection with such transactions; and
- (3) rights and remedies in relation to certain property provided as cover for margin in relation to such transactions or subject to such a charge.

Article 195 - Market contracts

- (1) This Part applies to "market contracts". Market contracts are contracts which include financial collateral arrangements and close-out netting provisions, where one party is a person other than a natural person and the other party is a financial institution, credit institution or investment undertaking.
- (2) In these Regulations:
 - (A) "close-out netting provision" means a term of an agreement or arrangement or any legislative provision under which on the occurrence of an enforcement event, whether through the operation of netting or set-off or otherwise:
 - (i) the obligations of the parties are accelerated to become immediately due and expressed as an obligation to pay an amount representing the original obligation's estimated current value or replacement cost, or are terminated and replaced by an obligation to pay such an amount; or
 - (ii) an account is taken of what is due from each party to the other in respect of such obligations and a net sum equal to the balance of the account is payable by the party from whom the larger amount is due to the other party;
 - (B) "credit institution" means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account;
 - (C) "defaulter" means a person in respect of whom action has been taken by a recognised exchange or recognised clearing house under its default rules; and references in this Part 12 to "default" shall be construed accordingly.
 - (D) "financial collateral" means:
 - (i) cash;
 - (ii) shares in companies;
 - (iii) bonds and other forms of instrument giving rise to or acknowledging indebtedness if these are tradeable on the capital market; and
 - (iv) any other securities giving the right to acquire such shares, bonds or instruments.

- (E) “financial collateral arrangement” means a title transfer financial collateral Arrangement or a security financial collateral arrangement, whether or not these are covered by a master agreement or general terms and conditions;
- (F) “financial institution” means an undertaking other than a credit institution, the principal activity of which is to acquire holdings or to carry on one or more of the following activities:
- (i) acceptance of deposits and other repayable funds;
 - (ii) lending, including, inter alia, consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions (including forfeiting);
 - (iii) financial leasing;
 - (iv) money transmission services;
 - (v) issuing and administering means of payment (for example, credit cards, travellers’ cheques and bankers’ drafts);
 - (vi) guarantees and commitments;
 - (vii) trading for own account or for account of customers in:
 - (a) money market instruments (cheques, bills, certificates of deposit, etc.);
 - (b) foreign exchange;
 - (c) financial futures and options;
 - (d) exchange and interest-rate instruments; or
 - (e) transferable securities;
 - (viii) participation in securities issues and the provision of services related to such issues;
 - (ix) advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings;
 - (x) money broking;
 - (xi) portfolio management and advice;
 - (xii) safekeeping and administration of securities;
 - (xiii) credit reference services; or
 - (xiv) safe custody services;
- (G) “enforcement event” means an event of default, or any similar event as agreed between the parties, on the occurrence of which, a close-out netting provision comes into effect;

- (H) “investment undertaking” means an undertaking which provides services involving the holding of funds or securities for third parties and collective investment funds;
- (I) “security financial collateral arrangement” means an agreement or arrangement, including a repurchase agreement, evidenced in writing, where:
- (i) the purpose of the agreement or arrangement is to secure the relevant financial obligations owed to the collateral-taker;
 - (ii) the collateral-provider creates or there arises a security in financial collateral to secure those obligations; and
 - (iii) the financial collateral is delivered, transferred, held or registered so as to be in the possession or control of the collateral-taker
- (J) “title transfer financial collateral arrangement” means an agreement or arrangement, including a repurchase agreement, evidenced in writing, where:
- (i) the purpose of the agreement or arrangement is to secure or otherwise cover the relevant financial obligations owed to the collateral-taker; and
 - (ii) the collateral-provider transfers legal and beneficial ownership in financial collateral to a collateral-taker on terms that when the relevant financial obligations are discharged the collateral-taker must transfer legal and beneficial ownership of equivalent financial collateral to the collateral-provider.
- (3) In this Part:
- (A) "charge" means any form of security, including a mortgage;
 - (B) "clearing house" means a person authorised by the laws of any place where it conducts business as such, and may include an exchange where the rules of such exchange effect settlement netting between members;
 - (C) “exchange” means a person authorised by the laws of any place where it conducts business as such, and may include an exchange where the rules of such exchange effect settlement netting between members; and
 - (D) "designated" means designated pursuant to criteria published or as otherwise specified by the QFC Authority from time to time.
- (4) References in this Part to settlement in relation to a market contract are to the discharge of the rights and liabilities of the parties to the contract, whether by performance, compromise or otherwise.
- (5) In this Part the expressions "margin" and "cover for margin" have the same meaning.
- (6) For the purposes of this Part a person shall be taken to have notice of a matter if he deliberately failed to make enquiries as to that matter in circumstances in which a reasonable and honest person would have done so. This does not apply for the purposes of a provision requiring "actual notice".
- (7) In relation to a designated exchange, this Part 12 applies to:
- (A) contracts entered into by a member or designated non-member of the exchange which are made on or otherwise subject to the rules of the exchange; and

- (B) contracts subject to the rules of the exchange executed through the facilities of the exchange for the purposes of or in connection with the provision of clearing services.
- (8) A "designated non-member" means a person in respect of whom action may be taken under the default rules of the exchange but who is not a member of the exchange.
- (9) In relation to a designated clearing house, this Part 12 applies to contracts subject to the rules of the clearing house cleared through the facilities of the clearing house for the purposes of or in connection with the provision of clearing services for a recognised exchange.
- (10) The QFC Authority may by rules make further provision as to the contracts to be treated as "market contracts", for the purposes of this Part, in relation to a designated exchange or designated clearing house.
- (11) The said rules may add to, amend or repeal the provisions of Article 195(2) and (3).

Article 196 - Modifications of the law of insolvency

- (1) These Regulations have effect in relation to market contracts, and action taken under the rules of a designated exchange or designated clearing house with respect to such contracts, subject to the provisions of Articles 197 to 201.
- (2) The QFC Authority may by rules add to, amend or repeal the provisions mentioned in Article 197(1), and any other provision of this Part as it applies for the purposes of those provisions, or provide that those provisions have effect subject to such additions, exceptions or adaptations as are specified in such rules.

Article 197 - Proceedings of exchange or clearing house take precedence over insolvency procedures

- (1) None of the following shall be regarded as to any extent invalid at law on the ground of inconsistency with Regulations relating to the distribution of the assets of a Company upon administration or winding up:
- (A) a market contract;
 - (B) the default rules of a recognised exchange or recognised clearing house; or
 - (C) the rules of a designated exchange or designated clearing house as to the settlement of market contracts not dealt with under its default rules.
- (2) The powers of a relevant insolvency practitioner in his capacity as such, and the powers of the Tribunal under these Regulations shall not be exercised in such a way as to prevent or interfere with:
- (A) the settlement in accordance with the rules of a designated exchange or designated clearing house of a market contract not dealt with under its default rules; or
 - (B) any action taken under the default rules of such an exchange or clearing house.

This does not prevent a relevant officeholder from afterwards seeking to recover any amount under Article 199 or 200 or prevent the Tribunal from afterwards making any such order or decree as is mentioned in Article 201(1) (but subject to Article 201(2) and (3)).

- (3) Nothing in the following provisions of this Part shall be construed as affecting the generality of this Article 197.
- (4) A debt or other liability arising out of a market contract which is the subject of default proceedings may not be proved in a winding up until the completion of the default proceedings.
- (5) A debt or other liability which by virtue of this Article may not be proved or claimed shall not be taken into account for the purposes of any set-off until the completion of the default proceedings.
- (6) For the purposes of Article 197(4) & (5) the default proceedings shall be taken to be completed in relation to a person when a report is made under Article 198 stating the sum (if any) certified to be due to or from him.

Article 198 - Duty to report on completion of default proceedings

A designated exchange or designated clearing house shall, on the completion of proceedings under its default rules, report to the QFC Authority on its proceedings stating in respect of each creditor or debtor the sum certified by them to be payable from or to the defaulter or, as the case may be, the fact that no sum is payable.

Article 199 - Net sum payable on completion of default proceedings

- (1) The following provisions apply with respect to the net sum certified by a designated exchange or designated clearing house, upon proceedings under its default rules being duly completed in accordance with this Part, to be payable by or to a defaulter.
- (2) If a winding-up order has been made, or a Resolution For Voluntary Winding Up has been passed, the debt:
 - (A) is provable in the winding up or, as the case may be, is payable to the Liquidator; and
 - (B) shall be taken into account, where appropriate, under Article 107 (mutual dealings and set-off

in the same way as a debt due before the commencement of the Liquidation.

- (3) However, where (or to the extent that) a sum is taken into account by virtue of Article 199(2)(B) which arises from a contract entered into at a time when the creditor had notice that a meeting of creditors had been summoned under Article 56 or that a winding up application was pending, the value of any profit to him arising from the sum being so taken into account (or being so taken into account to that extent) is recoverable from him by the relevant officeholder unless the Tribunal directs otherwise.
- (4) Article 199 does not apply in relation to a sum arising from a contract effected under the default rules of a designated exchange or designated clearing house.

Article 200 - Disclaimer of property

- (1) Article 92 (power to disclaim onerous property) does not apply in relation to:
 - (A) a market contract; or
 - (B) a contract effected by the exchange or clearing house for the purpose of realising property provided as margin in relation to market contracts.

- (2) Article 82 (avoidance of property dispositions effected after commencement of winding up) does not apply to:
- (A) a market contract, or any disposition of property in pursuance of such a contract;
 - (B) the provision of margin in relation to market contracts;
 - (C) a contract effected by the exchange or clearing house for the purpose of realising property provided as margin in relation to a market contract, or any disposition of property in pursuance of such a contract; or
 - (D) any disposition of property in accordance with the rules of the exchange or clearing house as to the application of property provided as margin.
- (3) However, where:
- (A) a market contract is entered into by a person who has notice that an application has been presented for the winding up of the other party to the contract; or
 - (B) margin in relation to a market contract is accepted by a person who has notice that such an application has been presented in relation to the person by whom or on whose behalf the margin is provided
- the value of any profit to him arising from the contract or, as the case may be, the amount or value of the margin is recoverable from him by the relevant officeholder unless the Tribunal directs otherwise.
- (4) This Article 200 does not apply where the person entering into the contract is a designated exchange or designated clearing house acting in accordance with its rules, or where the contract is effected or cleared under the default rules of such an exchange or clearing house; but this Article 200 applies in relation to the provision of margin in relation to such a contract.

Article 201 - Adjustment of prior transactions

- (1) No order shall be made in relation to a transaction to which this Article applies under:
- (A) Article 142 (transactions at an undervalue);
 - (B) Article 143 (preferences); or
 - (C) Article 101 (transactions defrauding creditors).
- (2) This Article 201 applies to:
- (A) a market contract;
 - (B) a contract to which a designated exchange or designated clearing house is a party or which is entered into under its default rules; and
 - (C) a disposition of property in pursuance of such contracts referred to in Article 201(2)(A) and (B).
- (3) Where margin is provided in relation to such a contract or a market contract and no such order as is mentioned in Article 201(1) has been, or could be, made in relation to that contract, this Article 201 applies to:
- (A) the provision of the margin;

- (B) any contract effected by the exchange or cleared by the clearing house in question for the purpose of realising the property provided as margin; and
- (C) any disposition of property in accordance with the rules of the exchange or clearing house as to the application of property provided as margin.

Article 202 - Powers of the QFC Authority to give directions

- (1) The powers conferred by this Article are exercisable in relation to a designated exchange or designated clearing house.
- (2) Where in any case an exchange or clearing house has not taken action under its default rules:
 - (A) if it appears to the QFC Authority that it could take action, it may direct it to do so; and
 - (B) if it appears to the QFC Authority that it is proposing to take or may take action, it may direct it not to do so.
- (3) Before giving such a direction the QFC Authority shall consult the exchange or clearing house in question; and it shall not give a direction unless it is satisfied, in the light of that consultation:
 - (A) in the case of a direction to take action, that failure to take action would involve undue risk to investors or other participants in the market; or
 - (B) in the case of a direction not to take action, that the taking of action would be premature or otherwise undesirable in the interests of investors or other participants in the market.
- (4) A direction shall specify the grounds on which it is given.
- (5) A direction not to take action may be expressed to have effect until the giving of a further direction (which may be a direction to take action or simply revoking the earlier direction).
- (6) No direction shall be given not to take action if, in relation to the person in question a winding up order has been made, a Resolution For Voluntary Winding Up has been passed or an Administrator, or provisional Liquidator has been appointed; and any previous direction not to take action shall cease to have effect on the making or passing of any such order, award or appointment.
- (7) Where an exchange or clearing house has taken or been directed to take action under its default rules, the QFC Authority may direct it to do or not to do such things (being things which it has power to do under its default rules) as are specified in the direction. The QFC Authority shall not give such a direction unless it is satisfied that it will not impede or frustrate the proper and efficient conduct of the default proceedings.
- (8) A direction under this Article is enforceable, on the application of the QFC Authority, by injunction; and where an exchange or clearing house has not complied with a direction, the Tribunal may make such order as it thinks fit for restoring the position to what it would have been if the direction had been complied with.

Article 203 - Application to determine whether default proceedings to be taken

- (1) Where there has been made or passed in relation to a member or designated non-member of a designated exchange or a member of a designated clearing house a winding up order, a Resolution For Voluntary Winding Up or an order appointing a provisional

Liquidator and the exchange or clearing house has not taken action under its default rules in consequence of the order, award or resolution or the matters giving rise to it, a relevant officeholder appointed by, or in consequence of or in connection with, the order, award or resolution may apply to the QFC Authority.

- (2) The application shall specify the exchange or clearing house concerned and the grounds on which it is made.
- (3) On receipt of the application the QFC Authority shall notify the exchange or clearing house, and unless within three business days after the day on which the notice is received the exchange or clearing house:
 - (A) takes action under its default rules; or
 - (B) notifies the QFC Authority that it proposes to do so forthwith

then, subject as follows, the provisions of Articles 196 to 201 above do not apply in relation to market contracts to which the member or designated non-member in question is a party or to anything done by the exchange or clearing house for the purposes of, or in connection with, the settlement of any such contract.

- (4) The provisions of Articles 196 to 201 are not disapplied if before the end of the period mentioned in Article 203(3) the QFC Authority gives the exchange or clearing house a direction under Article 202(2)(A) (direction to take action under default rules). No such direction may be given after the end of that period.
- (5) If the exchange or clearing house notifies the QFC Authority that it proposes to take action under its default rules forthwith, it shall be under a duty to do so; and that duty is enforceable, on the application of the QFC Authority, by injunction.

Article 204 - Market charges

- (1) In this Part "market charge" means a charge, granted:
 - (A) in favour of a designated exchange, for the purpose of securing debts or liabilities arising in connection with the settlement of market contracts;
 - (B) in favour of a designated clearing house, for the purpose of securing debts or liabilities arising in connection with their ensuring the performance of market contracts;
 - (C) in favour of a person who agrees to make payments as a result of the transfer of securities made through the medium of a computer-based system established for the purpose of securing debts or liabilities of the transferee arising in connection therewith; or
 - (D) a security financial collateral arrangement as defined in Article 195(2)(C).
- (2) Where a charge is granted partly for purposes specified in Article 204(1)(A), (B) or (C) and partly for other purposes, it is a "market charge" so far as it has effect for the specified purposes.
- (3) In Article 204(1)(C):
 - (A) "securities" includes any right to such securities; and
 - (B) "transfer", in relation to any such securities or right, means a transfer of the beneficial interest.

- (4) The QFC Authority may by rules make further provision as to the charges granted in favour of any such person as is mentioned in Article 204(1)(A), (B) or (C) which are to be treated as "market charges" for the purposes of this Part; and such rules may add to, amend or repeal the provisions of Article 204(1) to (3) above.
- (5) Rules made by the QFC Authority may provide that a charge shall or shall not be treated as a market charge if or to the extent that it secures obligations of a specified description, is a charge over property of a specified description or contains provisions of a specified description.

Article 205 - Modifications of the law of insolvency

The general law of insolvency has effect in relation to market charges and action taken in enforcing them subject to the provisions of Article 206.

Article 206 - Administration

- (1) The following Articles (which relate to administrations) do not apply in relation to a market charge:
 - (A) Articles 26(1)(C) and 27(2)(C) (restriction on enforcement of security while application for administration order pending or order in force), and
 - (B) Article 32 (power of Administrator to deal with charged property).
- (2) However, where a market charge falls to be enforced after an Administrator has been appointed, an application for an administration order has been made or notice of intention to appoint an Administrator has been given, and there exists another charge over some or all of the same property ranking in priority to or pari passu with the market charge, the Tribunal may order that there shall be taken after enforcement of the market charge such steps as the Tribunal may direct for the purpose of ensuring that the chargee under the other charge is not prejudiced by the enforcement of the market charge.
- (4) Article 82 (avoidance of property dispositions effected after commencement of winding up), does not apply to a disposition of property as a result of which the property becomes subject to a market charge or any transaction pursuant to which that disposition is made.
- (5) However, if a person (other than the chargee under the market charge) who is party to a disposition mentioned in Article 206(4) has notice at the time of the disposition that an application has been made for the winding up of the party making the disposition, the value of any profit to him arising from the disposition is recoverable from him by the relevant officeholder unless the Tribunal directs otherwise.
- (6) In a case falling within both Article 206(4) (as a disposition of property as a result of which the property becomes subject to a market charge) and Article 200(3) (as the provision of margin in relation to a market contract), Article 200(4) applies with respect to the recovery of the amount or value of the margin and Article 206(5) above does not apply.

Article 207 - Application of margin not affected by certain other interests

- (1) The following provisions have effect with respect to the application by a designated exchange or designated clearing house of property (other than land) held by the exchange or clearing house as margin in relation to a market contract.
- (2) So far as necessary to enable the property to be applied in accordance with the rules of the exchange or clearing house, it may be so applied notwithstanding any prior equitable interest or right, or any right or remedy arising from a breach of fiduciary duty, unless the

exchange or clearing house had notice of the interest, right or breach of duty at the time the property was provided as margin.

- (3) No right or remedy arising subsequently to the property being provided as margin may be enforced so as to prevent or interfere with the application of the property by the exchange or clearing house in accordance with its rules.
- (4) Where an exchange or clearing house has power by virtue of the above provisions to apply property notwithstanding an interest, right or remedy, a person to whom the exchange or clearing house disposes of the property in accordance with its rules takes free from that interest, right or remedy.

Article 208 - Proceedings against market property by unsecured creditors

- (1) Where property (other than land) is held by a designated exchange or designated clearing house as margin in relation to market contracts or is subject to a market charge, no execution or other legal process for the enforcement of a judgment or order may be commenced or continued, and no distress may be levied, against the property by a person not seeking to enforce any interest in or security over the property, except with the consent of:
 - (A) in the case of property provided as cover for margin, the exchange or clearing house in question; or
 - (B) in the case of property subject to a market charge, the person in whose favour the charge was granted.
- (2) Where consent is given the proceedings may be commenced or continued notwithstanding any provision of these Regulations.
- (3) Where by virtue of this Article a person would not be entitled to enforce a judgment or order against any property, any injunction or other remedy granted with a view to facilitating the enforcement of any such judgment or order shall not extend to that property.

Article 209 - Right of use under a security financial collateral Arrangement

- (1) If a security financial collateral arrangement provides for the collateral-taker to use and dispose of any financial collateral provided under the arrangement, as if it were the owner of it, the collateral-taker may do so in accordance with the terms of the arrangement.
- (2) If a collateral-taker exercises such a right of use, it is obliged to replace the original financial collateral by transferring equivalent financial collateral on or before the due date for the performance of the relevant financial obligations covered by the arrangement or, if the arrangement so provides, it may set off the value of the equivalent financial collateral against or apply it in discharge of the relevant financial obligations in accordance with the terms of the arrangement.
- (3) The equivalent financial collateral which is transferred in discharge of an obligation as described in Article 209(2), shall be subject to the same terms of the security financial collateral arrangement as the original financial collateral was subject to and shall be treated as having been provided under the security financial collateral arrangement at the same time as the original financial collateral was first provided.
- (4) If a collateral-taker has an outstanding obligation to replace the original financial collateral with equivalent financial collateral when an enforcement event occurs, that obligation may be the subject of a close-out netting provision.

Article 210 - Standard test regarding the applicable law to book entry securities financial collateral arrangements

- (1) This Article 210 applies to financial collateral arrangements where book entry securities collateral is used as collateral under the arrangement and are held through one or more intermediaries.
- (2) Any question relating to the matters specified in Article 210(4) which arises in relation to book entry securities collateral which is provided under a financial collateral arrangement shall be governed by the domestic law of the country in which the relevant account is maintained (and domestic law in relation to an account maintained in the QFC shall mean QFC law).
- (3) For the purposes of Article 210(2) “domestic law” excludes any rule under which, in deciding the relevant question, reference should be made to the law of another country.
- (4) The matters referred to in Article 210(2) are:
 - (A) the legal nature and proprietary effects of book entry securities collateral;
 - (B) the requirements for perfecting a financial collateral arrangement relating to book entry securities collateral and the transfer of passing of control or possession of book entry securities collateral under such an agreement;
 - (C) the requirements for rendering a financial collateral arrangement which relates to book entry securities collateral effective against third parties;
 - (D) whether a person’s title to or interest in such book entry securities collateral is overridden by or subordinated to a competing title or interest; and
 - (E) the steps required for the realisation of book entry securities collateral following the occurrence of any enforcement event.

Article 211 - Officeholders

Relevant officeholders for the purposes of this Part are Liquidators, provisional Liquidators and Administrators.

PART 13: INTERPRETATION AND DEFINITIONS

Article 212 - Interpretation

- (1) In these Regulations, a reference to:
 - (A) a provision of any law or regulation includes a reference to that provision as amended or re-enacted from time to time;
 - (B) an obligation to publish or cause to be published a particular document shall, unless expressly provided otherwise in these Regulations, include publishing or causing to be published in printed or electronic form;
 - (C) a calendar year shall mean a year of the Gregorian calendar;
 - (D) a month shall mean a month of the Gregorian calendar;
 - (E) a reference to the masculine gender includes the feminine and the neuter;
 - (F) writing includes any form of representing or reproducing words in legible form; and
 - (G) a person includes any natural or juridical person, body corporate, or body unincorporate, including a branch, a company, partnership, unincorporated association, government or state.
- (2) The headings in these Regulations shall not affect its interpretation.
- (3) A reference in these Regulations to a Part, Section, Article or Schedule by number only, and without further identification, is a reference to a Part, Section, Article or Schedule of that number in these Regulations.
- (4) A reference in these Regulations to a Schedule, an Article or a Part using a short form description of such Schedule, Article or Part in parenthesis are for convenience only and the short form description shall not affect the construction of the Article or Part to which it relates.
- (5) A reference in an Article or other division or Schedule of these Regulations to a paragraph, sub-paragraph or Article by number or letter only, and without further identification, is a reference to a paragraph, sub-paragraph or Article of that number or letter contained in the Article or other division or Schedule of these Regulations in which that reference occurs.
- (6) Each of the Schedules to these Regulations shall have effect as if set out in these Regulations and reference to these Regulations shall include references to the Schedules.
- (7) Any reference in these Regulations to “include”, “including”, “in particular” “for example”, “such as” or similar expressions shall be considered as being by way of illustration or emphasis only and are not to be construed so as to limit the generality of any words preceding them.
- (8) References to chairman, director or similar expressions are, where the context permits, a reference to the person holding that office from time to time.

Article 213 - Definitions

The following words and phrases shall where the context permits have the meaning shown against each of them:

Administrator	a person appointed under these Regulations to manage a Company's affairs, business and property
Arrangement	has the meaning set out in Article 51
Authorised Firm	a person that has been granted authorisation in accordance with Part 5 of the Financial Services Regulations.
Branch	a branch of a company, not incorporated in the QFC, registered in the QFC under the Companies Regulations 2005
Business Day	a day on which Banks are open for ordinary business in the QFC
Companies Regulations	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the incorporation of Companies and related requirements and procedures
Company	a Company incorporated under the Companies Regulations
Connected Person	a director or shadow director of a Company or a person who, in the opinion of the Tribunal, is otherwise connected with a Company
Creditors' Committee	a committee established pursuant to Section 3 of Part 5
Creditors' Voluntary Winding Up	a winding up other than a members' voluntary winding up or a compulsory winding up by order of the Tribunal
CRO	the Companies Registered Office established pursuant to Article 7 of the QFC Law
Financial Services Regulations	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the management, objectives, duties, functions, powers and constitution of the Regulatory Authority
Limited Liability Partnership	a limited liability partnership established under the Limited Liability Partnership Regulations
Liquidating Company	has the meaning set out in Article 106(1)
Liquidation	a Company goes into Liquidation if its members pass a Resolution For Voluntary Winding Up or an order for its winding up is made by the Tribunal at a time when it has not already gone into Liquidation by passing such a resolution
Liquidation Committee	a committee appointed in accordance with Article 72(1) or 85, as the case may be
Liquidator	includes, where the context allows, a Liquidator appointed

	provisionally
Limited Liability Partnership Regulations	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the establishment of Limited Liability Partnerships
Members' Voluntary Winding Up	a winding up in the case of which a directors' declaration has been made in accordance with Article 63
Minister	the Minister of Economy and Commerce of the State
Ordinary Resolution	a resolution passed by simple majority of such Members of a Company as (being entitled to do so) vote in person or, where proxies are allowed, by proxy at a meeting of the Company to which notice specifying the intention to propose the resolution has been duly given
QFC	the Qatar Financial Centre
QFC Authority	the Qatar Financial Centre Authority established pursuant to Article 3 of the QFC Law
QFC Law	Law No. (7) of 2005 of the State
Regulations	Regulations enacted by the Minister in accordance with Article 9 of the QFC Law
Regulatory Authority	The Regulatory Authority of the QFC established pursuant to Article 8 of the QFC Law
Resolution For Voluntary Winding Up	a resolution passed under Article 58
Secured Creditor	a holder of one or more Security Interests which relate to the whole or substantially the whole of the Company's property
Security Interest	has the meaning defined in the Security Regulations
Security Regulations	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the giving and taking of security
Shadow Director	a person in accordance with whose directions or instructions the directors of a Company are accustomed to act (but so that a person is not deemed a Shadow Director by reason only that the directors act on advice given by him in a professional capacity)
State	the State of Qatar
Supervisor	has the meaning set out in Article 53(5)
TDR Regulations	Regulations enacted or to be enacted by the Minister pursuant to the QFC Law relating to the Tribunal and the resolution of disputes
Tribunal	The tribunal established by the TDR Regulations

SCHEDULE 1: POWERS OF LIQUIDATOR AND ADMINISTRATOR

1. Power to pay any class of creditors in full.
2. Power to make any compromise or Arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or sounding only in damages) against the Company, or whereby the Company may be rendered liable.
3. Power to compromise, on such terms as may be agreed:
 - (A) all calls and liabilities to calls, all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting or supposed to subsist between the Company and a shareholder or other person liable to contribute to the assets of the Company or person alleged to be such or other debtor of the Company; and
 - (B) all questions in any way relating to or affecting the assets, the Administration or the Liquidation of the Company, and take any security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.
4. Power to bring or defend any action or other legal proceeding in the name and on behalf of the Company.
5. Power to carry on the business of the Company so far as may be necessary for its beneficial Administration or Liquidation.
6. Power to sell any of the Company's property by public auction or private contract with power to transfer the whole of it to any person or to sell the same in parcels.
7. Power to do all acts and execute, in the name and on behalf of the Company, all deeds, receipts and other documents and for that purpose to use, when necessary, the Company's seal.
8. Power to prove, rank and claim in the bankruptcy, insolvency or sequestration of any shareholder or other person liable to contribute to the assets of the Company and to receive dividends in that bankruptcy, insolvency or sequestration as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors.
9. Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the Company, with the same effect with respect to the Company's liability as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the Company in the course of its business.
10. Power to raise money on the security of the assets of the Company.
11. Power to take out in his official name authorisation to administer the estate of any deceased shareholder or other person liable to contribute to the assets of the Company, and to do in his official name any other act necessary for obtaining payment of any money due from such person's estate which cannot conveniently be done in the name of the Company.

In all such cases the money due is deemed, for the purpose of enabling the Administrator or Liquidator to administer the estate of a deceased person or recover the money, to be due to the Administrator or Liquidator himself.

12. Power to appoint an agent to do any business which the Administrator or Liquidator is unable to do himself.
13. Power to summon a person to be examined before the Tribunal concerning the affairs of the Company;
14. Power to direct an officer of the Company to deliver to the Administrator or Liquidator all books and records in the officer's possession that relate to the Company or to advise the administrator or Liquidator of the whereabouts of any such book or record;
15. Power to direct an officer of the Company to give to the Administrator or Liquidator such information about the Company's business, property, affairs and financial circumstances as the Liquidator may require; and
16. Power to direct an officer of the Company to attend upon the Administrator or Liquidator to provide books and records, information, or other assistance as the Administrator or Liquidator may reasonably require;
17. Power to call any meeting of the members or creditors of the Company; and
18. Power to do all such other things as may be necessary for the Administration of the Company or for the winding up the Company's affairs and distributing its assets.

SCHEDULE 2: FORM OF PROXY

**Proxy
(Company
Voluntary
Arrangement,
Administration
or Liquidation)**

IN THE MATTER OF⁽¹⁾

(1) Name of Company

(2) Please give full name and address for communication

(3) Please inset name of person (who must be 18 or over) or the "chairman of the meeting" (see note below). If you wish to provide for alternative proxy-holders in the circumstances that your first choice is unable to attend please state the name(s) of the alternatives as well.

(4) Please delete words in brackets if the proxy-holder is only to vote as directed i.e. he has no discretion.

(5) Resolution 1 is to be used for Liquidation or administration; Resolution 2 is to be used for a voluntary Arrangement or administration

(6) Please delete as appropriate

(7) Any other resolutions which the proxy-holder is to propose or vote in favour of or against should be set out in numbered paragraphs in the space provided below paragraph 2. If more room is required, please use the other side of this form.

(8) This form must be signed.

(9) Only to be completed if the creditor/member has not signed in person.

Name of creditor/member⁽²⁾
Address

Name of proxy-holder⁽³⁾

1

2

3

I appoint the above named person to be my/the creditor's/member's proxy-holder at the meeting of creditors/members to be held on _____, or at any adjournment of that meeting. The proxy-holder is to propose or vote as instructed below [and in respect of any resolution for which no specific instruction is given, may vote or abstain at his/her discretion].⁽⁴⁾

Voting instructions for resolutions⁽⁵⁾

1. For the appointment of _____ of _____ representing _____ as _____

2. For the acceptance/rejection⁽⁶⁾ of the proposed voluntary Arrangement/administrator's proposals/administrator's revised proposals⁽⁶⁾ [with the following modifications:].⁽⁷⁾

Signature⁽⁸⁾ _____ **Date** _____

Name in CAPITAL LETTERS _____

Position with creditor/member or relationship to creditor/member or other authority for signature⁽⁹⁾

Remember: there may be resolutions on the other side of this form.