

BVI COMPANY NUMBER: 1395820

**TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE BVI BUSINESS COMPANIES ACT, 2004**

MEMORANDUM AND ARTICLES

OF ASSOCIATION



A COMPANY LIMITED BY SHARES

Incorporated on the 2nd day of April, 2007

INCORPORATED IN THE BRITISH VIRGIN ISLANDS

TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE BVI BUSINESS COMPANIES ACT, 2004

MEMORANDUM OF ASSOCIATION

OF

TOP MIX INVESTMENTS LIMITED

A COMPANY LIMITED BY SHARES

1. DEFINITIONS AND INTERPRETATION

1.1. In this Memorandum of Association and the attached Articles of Association, if not inconsistent with the subject or context:

“**Act**” means the BVI Business Companies Act, 2004 (No. 16 of 2004) and includes the regulations made under the Act;

“**Articles**” means the attached Articles of Association of the Company;

“**Chairman of the Board**” has the meaning specified in Regulation 12;

“**Distribution**” in relation to a distribution by the Company to a Shareholder means the direct or indirect transfer of an asset, other than Shares, to or for the benefit of the Shareholder, or the incurring of a debt to or for the benefit of a Shareholder, in relation to Shares held by a Shareholder, and whether by means of the purchase of an asset, the purchase, redemption or other acquisition of Shares, a transfer of indebtedness or otherwise, and includes a dividend;

“**Eligible Person**” means individuals, corporations, trusts, the estates of deceased individuals, partnerships and unincorporated associations of persons;

“**Memorandum**” means this Memorandum of Association of the Company;

“**Registrar**” means the Registrar of Corporate Affairs appointed under section 229 of the Act;

“**Resolution of Directors**” means either:

- (a) a resolution approved at a duly convened and constituted meeting of directors of the Company or of a committee of directors of the Company by the affirmative vote of a majority of the directors present at the meeting who voted except that where a director is given more than one vote, he shall be counted by the number of votes he casts for the purpose of establishing a majority; or
- (b) a resolution consented to in writing by all directors or by all members of a committee of directors of the Company, as the case may be;

“Resolution of Shareholders” means either:

- (a) a resolution approved at a duly convened and constituted meeting of the Shareholders of the Company by the affirmative vote of a majority of in excess of 50 percent of the votes of the Shares entitled to vote thereon which were present at the meeting and were voted; or
- (b) a resolution consented to in writing by a majority of in excess of 50 percent of the votes of Shares entitled to vote thereon;

“Seal” means any seal which has been duly adopted as the common seal of the Company;

“Securities” means Shares and debt obligations of every kind of the Company, and including without limitation options, warrants and rights to acquire Shares or debt obligations;

“Share” means a share issued or to be issued by the Company;

“Shareholder” means an Eligible Person whose name is entered in the register of members of the Company as the holder of one or more Shares or fractional Shares;

“Treasury Share” means a Share that was previously issued but was repurchased, redeemed or otherwise acquired by the Company and not cancelled; and

“Written” or any term of like import includes information generated, sent, received or stored by electronic, electrical, digital, magnetic, optical, electromagnetic, biometric or photonic means, including electronic data interchange, electronic mail, telegram, telex or telecopy, and **“in writing”** shall be construed accordingly.

1.2. In the Memorandum and the Articles, unless the context otherwise requires a reference to:

- (a) a **“Regulation”** is a reference to a regulation of the Articles;
- (b) a **“Clause”** is a reference to a clause of the Memorandum;
- (c) voting by Shareholders is a reference to the casting of the votes attached to the Shares held by the Shareholder voting;
- (d) the Act, the Memorandum or the Articles is a reference to the Act or those documents as amended or, in the case of the Act, any re-enactment thereof; and
- (e) the singular includes the plural and vice versa.

1.3. Any words or expressions defined in the Act unless the context otherwise requires bear the same meaning in the Memorandum and the Articles unless otherwise defined herein.

1.4. Headings are inserted for convenience only and shall be disregarded in interpreting the Memorandum and the Articles.

2. NAME

The name of the Company is TOP MIX INVESTMENTS LIMITED.

3. STATUS

The Company is a company limited by Shares.

4. REGISTERED OFFICE AND REGISTERED AGENT

- 4.1. The first registered office of the Company is at P.O. Box 957, Offshore Incorporations Centre, Road Town, Tortola, British Virgin Islands, the office of the first registered agent.
- 4.2. The first registered agent of the Company is Offshore Incorporations Limited of P.O. Box 957, Offshore Incorporations Centre, Road Town, Tortola, British Virgin Islands.
- 4.3. The Company may by Resolution of Shareholders or by Resolution of Directors change the location of its registered office or change its registered agent.
- 4.4. Any change of registered office or registered agent will take effect on the registration by the Registrar of a notice of the change filed by the existing registered agent or a legal practitioner in the British Virgin Islands acting on behalf of the Company.

5. CAPACITY AND POWERS

- 5.1. Subject to the Act and any other British Virgin Islands legislation, the Company has, irrespective of corporate benefit:
 - (a) full capacity to carry on or undertake any business or activity, do any act or enter into any transaction; and
 - (b) for the purposes of paragraph (a), full rights, powers and privileges.
- 5.2. For the purposes of section 9(4) of the Act, there are no limitations on the business that the Company may carry on.

6. NUMBER AND CLASSES OF SHARES

- 6.1. Shares in the company shall be issued in the currency of the United States of America.
- 6.2. The Company is authorised to issue a maximum of 50,000 Shares of a single class each with a par value of US\$1.00.
- 6.3. The Company may issue fractional Shares and a fractional Share shall have the corresponding fractional rights, obligations and liabilities of a whole Share of the same class or series of Shares.
- 6.4. Shares may be issued in one or more series of Shares as the directors may by Resolution of Directors determine from time to time.

7. RIGHTS OF SHARES

- 7.1. Each Share in the Company confers upon the Shareholder:
 - (a) the right to one vote at a meeting of the Shareholders of the Company or on any Resolution of Shareholders;
 - (b) the right to an equal share in any dividend paid by the Company; and
 - (c) the right to an equal share in the distribution of the surplus assets of the Company on its liquidation.
- 7.2. The Company may by Resolution of Directors redeem, purchase or otherwise acquire all or any of the Shares in the Company subject to Regulation 3 of the Articles.

8. VARIATION OF RIGHTS

If at any time the Shares are divided into different classes, the rights attached to any class may only be varied, whether or not the Company is in liquidation, with the consent in writing of or by a resolution passed at a meeting by the holders of not less than 50 percent of the issued Shares in that class.

9. RIGHTS NOT VARIED BY THE ISSUE OF SHARES PARI PASSU

The rights conferred upon the holders of the Shares of any class shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith.

10. REGISTERED SHARES

- 10.1. The Company shall issue Registered Shares only.
- 10.2. The Company is not authorised to issue Bearer Shares, convert Registered Shares to Bearer Shares or exchange Registered Shares for Bearer Shares.

11. TRANSFER OF SHARES

- 11.1. Subject to Clause 13, the Company shall, on receipt of an instrument of transfer complying with Sub-Regulation 6.1 of the Articles, enter the name of the transferee of a Share in the register of members unless the directors resolve to refuse or delay the registration of the transfer for reasons that shall be specified in a Resolution of Directors.
- 11.2. The directors may not resolve to refuse or delay the transfer of a Share unless the Shareholder has failed to pay an amount due in respect of the Share.

12. AMENDMENT OF THE MEMORANDUM AND THE ARTICLES

- 12.1. Subject to Clause 8, the Company may amend the Memorandum or the Articles by Resolution of Shareholders or by Resolution of Directors, save that no amendment may be made by Resolution of Directors:
 - (a) to restrict the rights or powers of the Shareholders to amend the Memorandum or the Articles;
 - (b) to change the percentage of Shareholders required to pass a Resolution of Shareholders to amend the Memorandum or the Articles;
 - (c) in circumstances where the Memorandum or the Articles cannot be amended by the Shareholders; or
 - (d) to Clauses 7, 8, 9 or this Clause 12.
- 12.2. Any amendment of the Memorandum or the Articles will take effect on the registration by the Registrar of a notice of amendment, or restated Memorandum and Articles, filed by the registered agent.

13. PRIVATE COMPANY

The Company is a private company, and accordingly:

- (a) any invitation to the public to subscribe for any Shares or debentures of the Company is prohibited;
- (b) the number of the members of the Company (not including persons who are in the employment of the Company, and persons who, having been formerly in the employment of the Company, were, while in such employment, and have continued after the determination of such employment to be, members of the Company) shall be limited to fifty PROVIDED that where two or more persons hold one or more Shares in the Company jointly they shall, for the purposes of this Clause 13, be treated as a single member;

- (c) the right to transfer the Shares of the Company shall be restricted in manner herein prescribed; and
- (d) the Company shall not have power to issue Share Warrants to Bearer.

We, OFFSHORE INCORPORATIONS LIMITED of P.O. Box 957, Offshore Incorporations Centre, Road Town, Tortola, British Virgin Islands for the purpose of incorporating a BVI Business Company under the laws of the British Virgin Islands hereby sign this Memorandum of Association the 2nd day of April, 2007.

Incorporator



.....
(Sd.) TYNES, Richard Reese
Authorised Signatory
OFFSHORE INCORPORATIONS LIMITED



TERRITORY OF THE BRITISH VIRGIN ISLANDS
THE BVI BUSINESS COMPANIES ACT, 2004

ARTICLES OF ASSOCIATION

OF

TOP MIX INVESTMENTS LIMITED

A COMPANY LIMITED BY SHARES

1. REGISTERED SHARES

- 1.1. Every Shareholder is entitled to a certificate signed by a director or officer of the Company, or any other person authorised by Resolution of Directors, or under the Seal specifying the number of Shares held by him and the signature of the director, officer or authorised person and the Seal may be facsimiles.
- 1.2. Any Shareholder receiving a certificate shall indemnify and hold the Company and its directors and officers harmless from any loss or liability which it or they may incur by reason of any wrongful or fraudulent use or representation made by any person by virtue of the possession thereof. If a certificate for Shares is worn out or lost it may be renewed on production of the worn out certificate or on satisfactory proof of its loss together with such indemnity as may be required by Resolution of Directors.
- 1.3. If several Eligible Persons are registered as joint holders of any Shares, any one of such Eligible Persons may give an effectual receipt for any Distribution.

2. SHARES

- 2.1. Shares and other Securities may be issued at such times, to such Eligible Persons, for such consideration and on such terms as the directors may by Resolution of Directors determine.
- 2.2. Section 46 of the Act (*Pre-emptive rights*) does not apply to the Company.
- 2.3. A Share may be issued for consideration in any form, including money, a promissory note, or other written obligation to contribute money or property, real property, personal property (including goodwill and know-how), services rendered or a contract for future services.
- 2.4. The consideration for a Share with par value shall not be less than the par value of the Share. If a Share with par value is issued for consideration less than the par value, the person to whom the Share is issued is liable to pay to the Company an amount equal to the difference between the issue price and the par value.
- 2.5. No Shares may be issued for a consideration other than money, unless a Resolution of Directors has been passed stating:
 - (a) the amount to be credited for the issue of the Shares;

- (b) the determination of the directors of the reasonable present cash value of the non-money consideration for the issue; and
 - (c) that, in the opinion of the directors, the present cash value of the non-money consideration for the issue is not less than the amount to be credited for the issue of the Shares.
- 2.6. The consideration paid for any Share, whether a par value Share or a no par value Share, shall not be treated as a liability or debt of the Company for the purposes of
- (a) the solvency test in Regulations 3 and 18; and
 - (b) sections 197 and 209 of the Act.
- 2.7. The Company shall keep a register (the “**register of members**”) containing:
- (a) the names and addresses of the Eligible Persons who hold Shares;
 - (b) the number of each class and series of Shares held by each Shareholder;
 - (c) the date on which the name of each Shareholder was entered in the register of members; and
 - (d) the date on which any Eligible Person ceased to be a Shareholder.
- 2.8. The register of members may be in any such form as the directors may approve, but if it is in magnetic, electronic or other data storage form, the Company must be able to produce legible evidence of its contents. Until the directors otherwise determine, the magnetic, electronic or other data storage form shall be the original register of members.
- 2.9. A Share is deemed to be issued when the name of the Shareholder is entered in the register of members.

3. REDEMPTION OF SHARES AND TREASURY SHARES

- 3.1. The Company may purchase, redeem or otherwise acquire and hold its own Shares save that the Company may not purchase, redeem or otherwise acquire its own Shares without the consent of Shareholders whose Shares are to be purchased, redeemed or otherwise acquired unless the Company is permitted by the Act or any other provision in the Memorandum or Articles to purchase, redeem or otherwise acquire the Shares without their consent.
- 3.2. The Company may only offer to purchase, redeem or otherwise acquire Shares if the Resolution of Directors authorising the purchase, redemption or other acquisition contains a statement that the directors are satisfied, on reasonable grounds, that immediately after the acquisition the value of the Company’s assets will exceed its liabilities and the Company will be able to pay its debts as they fall due.
- 3.3. Sections 60 (*Process for acquisition of own Shares*), 61 (*Offer to one or more shareholders*) and 62 (*Shares redeemed otherwise than at the option of company*) of the Act shall not apply to the Company.
- 3.4. Shares that the Company purchases, redeems or otherwise acquires pursuant to this Regulation may be cancelled or held as Treasury Shares except to the extent that such Shares are in excess of 50 percent of the issued Shares in which case they shall be cancelled but they shall be available for reissue.
- 3.5. All rights and obligations attaching to a Treasury Share are suspended and shall not be exercised by the Company while it holds the Share as a Treasury Share.
- 3.6. Treasury Shares may be transferred by the Company on such terms and conditions (not otherwise inconsistent with the Memorandum and the Articles) as the Company may by Resolution of Directors determine.