

# Section 1: 8-K (8-K)

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): June 4, 2019

**ATHENE HOLDING LTD.**

(Exact name of registrant as specified in its charter)

**Bermuda**  
(State or other jurisdiction of  
incorporation or organization)

**001-37963**  
(Commission  
file number)

**98-0630022**  
(I.R.S. Employer  
Identification Number)

**96 Pitts Bay Road**  
**Pembroke, HM08, Bermuda**  
(Address of principal executive offices and zip code)

**(441) 279-8400**  
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
Class A common shares	ATH	New York Stock Exchange

### **Item 1.01 Entry into a Material Definitive Agreement**

Following shareholder approval of an amendment to the bye-laws of Athene Holding Ltd. (the "Company"), as discussed under proposal 9 of Item 5.07 below, on June 10, 2019, the Company entered into that certain Seventh Amended and Restated Fee Agreement (the "Fee Agreement"), effective January 1, 2019, between it and Athene Asset Management LLC ("AAM"). The terms of the Fee Agreement are described in the Company's definitive proxy statement on Schedule 14A filed with the U.S. Securities and Exchange Commission on April 22, 2019 (the "Proxy Statement").

AAM is a subsidiary of Apollo Global Management, LLC ("Apollo"). Apollo, together with its affiliates and certain funds for which Apollo or its subsidiaries is the managing member or general partner, collectively hold 45% of the aggregate voting power of the Company's equity securities, subject to certain adjustments, and Apollo employees serve on the Company's board of directors.

The foregoing description of the Fee Agreement is not complete and is qualified in its entirety by reference to the Seventh Amended and Restated Fee Agreement, which is filed as Exhibit 10.1 hereto and is incorporated herein by reference.

### **Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers**

At the annual general meeting (the "AGM") of the holders of Class A and Class B common shares (collectively, the "Shareholders") held on June 4, 2019, the Shareholders approved the Company's 2019 Share Incentive Plan (the "2019 Plan"). The Company's board of directors approved the adoption of the 2019 Plan on February 12, 2019, subject to Shareholder approval. The purposes of the 2019 Plan are to further the growth and success of the Company and its subsidiaries and to provide a means of rewarding outstanding performance by eligible individuals.

The 2019 Plan, which became effective upon Shareholder approval at the AGM, provides for the grant of nonqualified share options, incentive stock options, rights to purchase shares, restricted shares, restricted share units, performance awards and other awards or any combination thereof to eligible participants. Subject to the adjustment provisions included in the 2019 Plan, the maximum number of Class A common shares reserved for issuance under the 2019 Plan is 4,250,000 (reduced by the number of shares granted under the Athene Holding Ltd. 2016 Share Incentive Plan between February 12, 2019 and the date the Shareholders approved the 2019 Plan). The 2019 Plan will be administered by the compensation committee of the board of directors.

The foregoing description of the 2019 Plan is not complete and is qualified in its entirety by reference to the 2019 Share Incentive Plan, which is filed as Exhibit 10.2 hereto and incorporated herein by reference.

### **Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year**

On June 4, 2019, amendments to the bye-laws of the Company became effective after such bye-law amendments were approved at the AGM of Shareholders of the Company. The bye-law amendments are described in the Proxy Statement.

The foregoing description of the bye-law amendments is not complete and is qualified in its entirety by reference to the Twelfth Amended and Restated Bye-Laws of the Company, which are filed as Exhibit 3.1 hereto in redline form showing the amendments referred to above, and as Exhibit 3.2 hereto in unmarked form, and are incorporated herein by reference.

### **Item 5.07 Submission of Matters to a Vote of Security Holders**

The AGM of the Shareholders of the Company was held on June 4, 2019. The following proposals were submitted to the Shareholders at the AGM:

1. The election of directors of the Company for varying terms based upon the class to which the director is a member
2. The authorization of the election of directors of Athene Life Re Ltd. ("ALRe") at the 2019 annual general meeting of ALRe
3. The authorization of the election of directors of Athene Bermuda Employee Company Ltd. ("ABEC") at the 2019 annual general meeting of ABEC
4. The authorization of the election of directors of Athene IP Holding Ltd. ("AIPH") at the 2019 annual general meeting of AIPH
5. The authorization of the election of directors of Athene IP Development Ltd. ("AIPD") at the 2019 annual general meeting of AIPD
6. The appointment of the Company's independent auditor PricewaterhouseCoopers LLP ("PwC")
7. The referral of the remuneration of PwC to the audit committee of the board of directors
8. The non-binding advisory vote to approve the compensation paid to the Company's named executive officers
9. The approval of the Twelfth Amended and Restated Bye-laws of the Company
10. The approval of the Company's 2019 Share Incentive Plan

For more information about the foregoing proposals, see the Proxy Statement.

The Company's Class B common shares currently represent, in aggregate, 45% of the total voting power of the Company's equity securities, subject to certain adjustments that are described in the Company's bye-laws. The Company's Class A common shares currently account for the remaining 55% of the aggregate voting power of the Company's equity securities, subject to certain adjustments that are described in the

Company's bye-laws. Holders of Class A common shares and holders of Class B common shares voted together as a single class on all matters (including the election of directors) submitted to a vote of shareholders at the AGM.

Shareholders voted as follows on the matters presented for a vote. As contemplated by the Proxy Statement, votes shown below have been adjusted in accordance with the restrictions and other adjustments to the voting power of the Class A common shares and Class B common shares in the Company's bye-laws, provided that the number of broker non-votes is expressed in unadjusted share amounts, meaning that one broker non-vote represents one share outstanding.

**1. The nominees for election to the board of directors of the Company were elected, for the terms specified, based upon the following votes:**

<u>Nominee</u>	<u>Term</u>	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
James Belardi	2022 AGM	117,275,446.79	6,455,152.29	19,622.05	11,266,961.00
Matthew Michelini	2022 AGM	114,920,955.07	8,723,823.23	105,442.83	11,266,961.00
Brian Leach	2022 AGM	117,470,257.50	6,244,273.16	35,690.47	11,266,961.00
Gernot Lohr	2022 AGM	115,083,235.84	8,631,294.82	35,690.47	11,266,961.00
Marc Rowan	2022 AGM	115,082,092.43	8,648,421.75	19,706.94	11,266,961.00
Scott Kleinman	2020 AGM	120,217,897.49	3,512,636.29	19,687.35	11,266,961.00
Mitra Hormozi	2021 AGM	123,176,191.98	556,615.55	17,413.60	11,266,961.00

**2. The nominees for election to the board of directors of ALRe were authorized for election at the 2019 annual general meeting of ALRe, each for a one year term, or such other period of time as permitted by ALRe's constituent documents, based upon the following votes:**

<u>Nominee</u>	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
James Belardi	122,631,831.97	1,098,584.92	19,804.24	11,266,961.00
Robert Borden	123,324,869.41	405,482.18	19,869.54	11,266,961.00
Frank Gillis	123,305,007.70	425,520.20	19,693.23	11,266,961.00
Gernot Lohr	115,082,027.13	8,648,421.75	19,772.24	11,266,961.00
Hope Taitz	122,693,007.14	1,037,442.40	19,771.59	11,266,961.00
William Wheeler	123,236,336.72	494,178.12	19,706.29	11,266,961.00

**3. The nominees for election to the board of directors of ABEC were authorized for election at the 2019 annual general meeting of ABEC, each for a one year term, or such other period of time as permitted by ABEC's constituent documents, based upon the following votes:**

<u>Nominee</u>	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
Natasha Courcy	123,306,123.68	424,404.22	19,693.23	11,266,961.00
Frank Gillis	123,305,007.70	425,520.20	19,693.23	11,266,961.00
William Wheeler	123,236,415.73	494,099.11	19,706.29	11,266,961.00

**4. The nominees for election to the board of directors of AIPH were authorized for election at the 2019 annual general meeting of AIPH, each for a one year term, or such other period of time as permitted by AIPH's constituent documents, based upon the following votes:**

<u>Nominee</u>	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
Natasha Courcy	123,306,123.68	424,404.22	19,693.23	11,266,961.00
Frank Gillis	123,304,988.77	425,539.13	19,693.23	11,266,961.00
William Wheeler	123,236,317.78	494,197.06	19,706.29	11,266,961.00

5. The nominees for election to the board of directors of AIPD were authorized for election at the 2019 annual general meeting of AIPD, each for a one year term, or such other period of time as permitted by AIPD's constituent documents, based upon the following votes:

<u>Nominee</u>	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
Natasha Courcy	123,306,123.68	424,404.22	19,693.23	11,266,961.00
William Wheeler	123,236,333.45	494,181.39	19,706.29	11,266,961.00

6. The proposal to ratify the appointment of PwC, an independent registered public accounting firm, as the Company's independent auditor to serve until the close of the Company's next annual general meeting in 2020, was approved based on the following votes:

Votes for approval: 123,715,682.55  
 Votes against: 222.02  
 Abstentions: 34,136.56  
 Broker non-votes: 11,266,961.00

7. The proposal to refer the remuneration of PwC to the audit committee of the board of directors of the Company was approved based on the following votes:

Votes for approval: 123,695,306.28  
 Votes against: 35,995.42  
 Abstentions: 18,919.42  
 Broker non-votes: 11,266,961.00

8. The proposal requesting a non-binding advisory vote on the compensation of the Company's named executive officers received the following votes:

Votes for approval: 118,991,727.75  
 Votes against: 4,694,827.00  
 Abstentions: 63,666.38  
 Broker non-votes: 11,266,961.00

9. The proposal to approve the Twelfth Amended and Restated Bye-laws was approved based on the following votes:

Votes for approval: 123,621,541.23  
 Votes against: 105,562.33  
 Abstentions: 23,117.57  
 Broker non-votes: 11,266,961.00

10. The proposal to approve the Company's 2019 Share Incentive Plan was approved based on the following votes:

Votes for approval: 122,270,497.94  
 Votes against: 1,474,696.38  
 Abstentions: 5,026.81  
 Broker non-votes: 11,266,961.00

## Item 9.01 Financial Statements and Exhibits

### (d) Exhibits

- 3.1 [Twelfth Amended and Restated Bye-Laws of Athene Holding Ltd., effective June 4, 2019, redlined for amendments effective June 4, 2019](#)
- 3.2 [Twelfth Amended and Restated Bye-Laws of Athene Holding Ltd., effective June 4, 2019](#)
- 10.1 [Seventh Amended and Restated Fee Agreement, dated June 10, 2019, between Athene Holding Ltd. and AAM](#)
- 10.2 [Athene Holding Ltd. 2019 Share Incentive Plan](#)

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**ATHENE HOLDING LTD.**

Date: June 10, 2019

/s/ John L. Golden

John L. Golden  
Executive Vice President and General Counsel

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**Section 2: EX-3.1 (EXHIBIT 3.1)**

Exhibit 3.1

~~ELEVENTH~~TWELFTH AMENDED AND RESTATED

BYE-LAWS  
OF  
ATHENE HOLDING LTD.

Adopted on June ~~64, 2018~~2019

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## INTERPRETATION

### 1. Definitions

**1.1** In these Bye-laws, the following words and expressions shall, where not inconsistent with the context, have the following meanings, respectively:

9.9% Shareholder means a Person (other than a member of the Apollo Group) whose Controlled Shares constitute more than nine and nine-tenths percent (9.9%) of the Total Voting Power;

AAM means Athene Asset Management ~~L.P., a Cayman Islands~~ LLC, a Delaware limited ~~partnership~~ liability company (or any successor entity thereto);

Act means the Companies Act 1981 of Bermuda as amended from time to time;

Adjustment

Controlled Shares means, in reference to any Person or Shareholder, all Controlled Shares of such Person or Shareholder other than Apollo Designated Voting Securities;

Adjustment Shareholder(s) means, at any time, the Shareholder(s) (i) with the highest Relative Class B Ownership Percentage as of such time and (ii) whose Class B Common Shares have voting power as of such time;

Affected Class B Shareholder

a Shareholder holding Adjustment Controlled Shares of any person described in clause (1) of the Class B Adjustment Condition;

Affiliate

means, as to any Person, any Person which directly or indirectly controls, is controlled by, or is under common control with such Person. For purposes of this definition, "control" of a Person shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person whether by ownership of voting stock, by contract or otherwise;

Apollo Group

means, (i) Apollo Global Management, LLC, (ii) AAA Guarantor – Athene, L.P., (iii) any investment fund or other collective investment vehicle whose

general partner or managing member is owned, directly or indirectly, by Apollo Global Management, LLC or by one or more of Apollo Global Management, LLC's Subsidiaries, (iv) BRH Holdings GP, Ltd. and its shareholders, (v) any executive officer of Apollo Global Management, LLC whom Apollo Global Management, LLC designates, in a written notice delivered to the Company, as a member of the Apollo Group for purposes of these Bye-laws (which designation shall continue in effect until such designee ceases to be an executive officer of Apollo Global Management, LLC) and (vi) any Affiliate of a Person described in clauses (i), (ii), (iii), (iv) or (v) above; *provided*, none of the Company or its Subsidiaries, nor any Person employed by the Company, its Subsidiaries or AAM, shall be deemed to be a member of the Apollo Group. For avoidance of doubt, any Person managed by Apollo Global Management, LLC or by one or more of Apollo Global Management, LLC's Subsidiaries pursuant to a managed account agreement (or similar arrangement) without Apollo Global Management, LLC or by one or more of Apollo Global Management, LLC's Subsidiaries controlling such Person as a general partner or managing member shall not be part of the Apollo Group;

Apollo Termination Event	means the time at which no member of the Apollo Group owns any Class B Common Shares;
Applicable Law	means, with respect to any Person, all provisions of laws, statutes, ordinances, rules, regulations, permits, certificates, judgments, decisions, decrees or orders of any Governmental Authority applicable to such Person;
Applicable Securities	means Relevant Securities other than Apollo Designated Voting Securities;
Applicable Shareholder	means any Shareholder or holder of New Securities (other than a member of the Apollo Group prior to an Apollo Termination Event);
Auditor	means the individual or entity for the time being performing the duties of auditor of the Company (if any);

Bermuda	means the Islands of Bermuda;
Board	means the board of directors appointed or elected pursuant to these Bye-laws and acting by resolution in accordance with the Act and these Bye-laws or the directors present at a meeting of directors at which there is a quorum;
Business Day	means any day that is not a Saturday, Sunday or other day on which commercial banks in Bermuda are authorised or required by law to close;
Bye-laws	means these <del>eleventh</del> <u>twelfth</u> Amended and Restated Bye-laws adopted by the Company on June <del>64, 2018</del> <u>2019</u> , in their present form or as from time to time amended;
Class B 9.9% U.S. Person	means a U.S. Person whose Adjustment Controlled Shares constitute more than nine and nine-tenths percent (9.9%) of the Total Voting Power;
Class B Common Shares	means the Class B Common Shares and unless otherwise indicated, the Transferred Class B Common Shares;
Class M Common Shares	means the Class M-1 Common Shares, Class M-2 Common Shares, Class M-3 Common Shares, Class M-4 Common Shares and any other class of common shares designated as Class M Common Shares by the Board;
Code	means the United States Internal Revenue Code of 1986, as amended from time to time, or any U.S. Federal statute from time to time in effect that has replaced such statute, and any reference in these Bye-laws to a provision of the Code or a Treasury regulation promulgated thereunder means such provision or regulation as amended from time to time or any provision of a U.S. Federal law or any U.S. Treasury regulation, from time to time in effect that has replaced such provision or regulation;
Company	means Athene Holding Ltd.;
Comparable Asset Manager	means an asset manager with personnel of experience, education and qualification, and whose services are

of a scale and scope, comparable to those of AAM (after giving effect to any assistance provided to AAM by its Affiliates);

Controlled Shares	means, in reference to any Person or Shareholder, all Relevant Securities and Class B Common Shares owned by such Person or Shareholder either (i) directly, indirectly or constructively under Section 958 of the Code or (ii) beneficially within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder;
Director	means a director of the Company;
Disqualified Shareholder	means a Shareholder who holds Nonvoting Class A Common Shares or a Shareholder who owns Relevant Securities treated as Controlled Shares of any Applicable Shareholder holding Applicable Securities, or any Tax Attributed Affiliate of such an Applicable Shareholder, that is a Tentative 9.9% Shareholder;
Equity Securities	means all shares of capital stock of the Company, all securities exercisable or convertible into or exchangeable for shares of capital stock of the Company, and all options, warrants, and other rights to purchase or otherwise acquire from the Company shares of such capital stock, including any share appreciation or similar rights, contractual or otherwise;
Exchange Act	means the U.S. Securities Exchange Act of 1934, as amended;
Expenses	means all fees, costs and expenses incurred in connection with any Proceeding, including, without limitation, attorneys' fees, disbursements and retainers, fees and disbursements of expert witnesses, private investigators and professional advisors (including, without limitation, accountants and investment bankers), court costs, transcript costs, fees of experts, travel expenses, duplicating, printing and binding costs, telephone and fax transmission charges, postage, delivery services, secretarial services and other disbursements and expenses;

Governmental Authority	means any Bermudan, U.S. Federal, state, county, city, local or foreign governmental, administrative or regulatory authority, commission, committee, agency or body (including any court, tribunal or arbitral body and any self-regulating authority such as FINRA);
Group	shall have the meaning ascribed to it in Rule 13d-5 promulgated under the Exchange Act;
IMA	means the investment management agreement, dated as of July 22, 2009, as amended from time to time;
Inclusion Shareholder	means a Person who (i) is treated as a “United States shareholder” with respect to the Company (within the meaning of Section 951(b) of the Code) and (ii) owns (within the meaning of Section 958(a) of the Code) any shares in the Company;
Independent Director	means any Director that meets the independence requirements under the then-prevailing rules of the New York Stock Exchange or any stock exchange or quotation system on which the Company’s common equity securities are then listed or quoted, as determined by the Board;
Insolvency Event	means: (i) the Company or any Subsidiary thereof shall commence a voluntary case or other Proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar Applicable Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other Proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; (ii) an involuntary case or other Proceeding shall be commenced against the Company or any Subsidiary thereof seeking liquidation, reorganization or other relief with respect to it or its debts under bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver,

liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other Proceeding shall remain undismissed and unstayed for a period of sixty days; or (iii) an order for relief shall be entered against the Company or any Subsidiary thereof under the bankruptcy laws in effect at such time;

Liabilities means losses, claims, damages, liabilities, joint or several, judgments, fines, penalties, interest, settlements or other amounts;

Liquidation means: (i) any Insolvency Event; (ii) any Sale of the Company or (iii) any dissolution or winding up of the Company, other than any dissolution, liquidation or winding up in connection with any reincorporation of the Company in another jurisdiction;

~~Management Shareholder means a Person employed by the Company, its Subsidiaries or AAM holding Common Shares; for the avoidance of doubt, no Person holding Common Shares shall be deemed to be a Management Shareholder solely due to such Person's service as a member of the Board or the board of directors or similar governing body of AAM or any Subsidiary of the Company;~~

Minimum Shareholder means a Shareholder of record of the Company meeting the minimum requirements set forth for eligible shareholders to submit shareholder proposals under Rule 14a-8 of the Exchange Act or any applicable rules thereunder as may be amended or promulgated thereunder from time to time;

Nonvoting Class A Common Shares Disqualified Class A Common Shares, Tax Disqualified I Class A Common Shares and Tax Disqualified II Class A Common Shares;

notice means written notice as further provided in these Bye-laws unless otherwise specifically stated;

Officer means any person appointed by the Board to hold an office in the Company;

Proceeding	means claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, and whether formal or informal and including appeals, at law or in equity, by or before any Governmental Authority;
Realized Cash	means all amounts received in respect of any Class A Common Share held by an investor in any round of equity raising of the Company, whether such amount is in cash, securities or otherwise, including, without limitation, all dividends and other distributions, including assets, all proceeds received from the sale of such Class A Common Shares and all proceeds received from a Sale of the Company or a Liquidation of the Company (including, for the avoidance of doubt, all holdbacks, escrows, earn outs and other deferred payments upon the receipt of such amounts by such investor, and any amounts received in accordance with Bye-law 4.5), with the value of any distributed assets being the fair market value of such assets at the time of distribution as reasonably determined by the Board, and which amounts shall not include securities received as a result of share splits, including a share split in the form of a share dividend and all other pro rata distributions of shares, <i>provided</i> , that solely for purposes of determining the Return of Investment Amount, Realized Cash shall also include all amounts deemed to have been received by such investor based on the volume weighted average closing trading price for such Class A Common Shares during the ninety (90) preceding trading days before any date of determination;
Register of Directors and Officers	means the register of directors and officers referred to in these Bye-laws;
Register of Shareholders	means the register of shareholders referred to in these Bye-laws;
Registered Office	means the registered office of the Company, which shall be at such place in Bermuda as the Board shall from time to time appoint;

Registration Rights Agreement	means that certain Third Amended and Restated Registration Rights Agreement, by and between the Company and certain Shareholders, dated as of April 4, 2014, as amended, supplemented or modified from time to time;
Related Insured Entity	means any Person who is (directly or indirectly) insured or reinsured by any of the Company's Subsidiaries as specified in <u>Schedule 1</u> hereto or by any ceding company as specified in <u>Schedule 1</u> hereto to which the Company's Subsidiaries provide reinsurance; <i>provided</i> , after the date hereof, such Schedule may be amended by the Board and shall be published in each case thereafter on the Company's website. This definition is intended to comply with the intent of Section 953(c) of the Code and will be interpreted accordingly;
Relative Class B Ownership Percentage	means, with respect to the Smallest Class B 9.9% U.S. Person and with respect to a Shareholder, at any time the percentage of the total number of Class B Controlled Shares directly held by such Shareholder at such time that are attributed to such Smallest Class B 9.9% U.S. Person;
Relevant Securities	means (i) Class A Common Shares, (ii) Transferred Class B Common Shares and (iii) New Securities;
Resident Representative	means any person appointed to act as resident representative and includes any deputy or assistant resident representative;
Resolution	means a resolution of the Shareholders approved by Shareholders entitled to vote for the election of directors to the Board or, where required, of a separate class or separate classes of Shareholders, adopted in a general meeting, in each case in accordance with the provisions of these Bye-laws;
Return of Investment Amount	means the aggregate, without duplication, of all (i) dividends (whether in cash or in specie), (ii) consideration in redemption and (iii) Realized Cash

received or deemed to have been received by an investor with respect to each Class A Common Share;

Sale of the Company	means (i) the sale or transfer of all or substantially all of the Company's assets to a Third Party; (ii) the sale or transfer of outstanding Equity Securities to a Third Party; or (iii) a business combination involving the Company and one or more additional Persons by means of merger, consolidation, scheme of arrangement, amalgamation, share exchange or similar transaction, in each case in clauses (ii) and (iii) above under circumstances in which the Third Party, immediately following such transaction, holds 51% or more of the aggregate economic value of the outstanding Equity Securities. A sale (or multiple sales) of one or more Subsidiaries of the Company (whether by way of merger, consolidation, reorganization or sale of all or substantially all of the assets or securities or otherwise) which constitutes all or substantially all of the consolidated assets or revenues of the Company shall be deemed a Sale of the Company;
SEC	means the U.S. Securities and Exchange Commission;
Securities Act	means the U.S. Securities Act of 1933, as amended;
Secretary	means the person appointed to perform any or all of the duties of secretary of the Company and includes any deputy or assistant secretary and any person appointed by the Board to perform any of the duties of the Secretary;
Shareholder	means the person registered in the Register of Shareholders as the holder of shares in the Company and, when two or more persons are so registered as joint holders of shares, means the person whose name stands first in the Register of Shareholders as one of such joint holders or all of such persons, as the context so requires;
Shareholders Agreement	means that certain Sixth Amended and Restated Shareholders Agreement of the Company, by and between the Company and certain Shareholders, dated

as of April 4, 2014, as amended, supplemented or modified from time to time;

Smallest Class B 9.9% U.S. Person	means, at any time, the Class B 9.9% U.S. Person whose Adjustment Controlled Shares constitute the smallest percentage of the Total Voting Power among all Class B 9.9% U.S. Persons as of such time; <i>provided</i> , that in the event of a tie the Smallest Class B 9.9% U.S. Person shall be the Class B 9.9% U.S. Person whose full legal name is first alphabetically;
Specified Number	means the quotient of (i) the percentage of the Total Voting Power represented by the Class A Common Shares, <u>divided by</u> (ii) 9.9%, rounded up to the nearest whole number;
Specified Shareholders	means Persons owning no Relevant Securities which are treated as Controlled Shares of any Applicable Shareholder holding Applicable Securities, or any Tax Attributed Affiliate of such an Applicable Shareholder, that is a Tentative 9.9% Shareholder;
Subscription Agreements	means those certain Subscription Agreements by and among the Company and certain Shareholders entered into prior to the date hereof;
Subsidiary	means, with respect to any Person, any other Person the majority of whose equity securities or voting securities able to elect the board of directors or comparable governing body are directly or indirectly owned or controlled by such Person;
Tax Attributed Affiliates	means, with respect to any Shareholder, any person (i) related (within the meaning of Section 953(c) of the Code) to such Shareholder or (ii) to whom the ownership of the Class A Common Shares held by such Shareholder is attributed pursuant to Section 958 of the Code;
Tentative 9.9% Shareholder	means a Person that, but for adjustments to the voting rights of Relevant Securities pursuant to Bye-law 4.4, would be a 9.9% Shareholder;
Third Party	means any Person, or any Group of Persons, who, immediately prior to a proposed Sale of the Company,

held less than 10% of the aggregate economic value of the outstanding Equity Securities; *provided*, that the Company and its Subsidiaries shall not be a Third Party or a member of a Group of Persons constituting a Third Party;

Total Voting Power	means the total votes attributable to all shares of the Company issued and outstanding;
Treasury Share	means a share of the Company that was or is treated as having been acquired and held by the Company and has been held continuously by the Company since it was so acquired and has not been cancelled;
U.S. Person	means a “United States person”, as such term is defined in Section 957(c) of the Code; and
Voting Ratio	means, with respect to any share in the Company, a fraction (i) the numerator of which is the percentage of the Total Voting Power represented by such share and (ii) the denominator of which is a fraction (expressed as a percentage) (a) the numerator of which is the value of that share and (b) the denominator of which is the total value of all outstanding shares in the Company.

1.2 In these Bye-laws, the following terms have the meanings set forth in the sections indicated:

<u>Term</u>	<u>Bye-law</u>
AHL Cause	88.4
Apollo Designated Voting Security	4.7(b)
Apollo Employee Shareholders	4.2(d)
cause	44.1
Chairman	49(c)
Class B Adjustment Condition	4.2(b)(iii)
Class B Restructuring	4.2(b)(ii)(C)
Common Shares	4.1
Company Merger Vote	4.2(f)
Company Opportunity	57.1
Conflicts Committee	67.1
Covered Arrangement	23.4(b)
Covered Person	56.1
Disqualified Class A Common Share	4.2(a)
Escrow	4.5(d)
Group 1 Preference Amount	4.5(a)
Group 2 Preference Amount	4.5(a)
Group 3 Preference Amount	4.5(a)
Group 4 Preference Amount	4.5(a)
Group M Preference Amount	4.5(a)
IMA Termination Effective Date	88.1
IMA Termination Election Date	88.1
IMA Termination Notice	88.1
Indemnified Persons	56.12

Insurance Subsidiaries	57.1
New IMA	88.1
New Securities	4.2(b)(ii)(C)
Other Holders	40.11
public announcement	23.6
Reallocation	4.5(g)
Shareholder Affiliates	56.12
Specified Parties	57.1
Subject Holder	4.5(g)
Tax Disqualified I Class A Common Share	4.2(a)
Tax Disqualified II Class A Common Share	4.2(a)
Transferred Class B Common Shares	4.2(b)(ii)(A)
Valid IMA Termination Notice	88.1
Vice Chairman	49(c)
Voting Commitment	40.7

- 1.3** In these Bye-laws, where not inconsistent with the context:
- (a) words denoting the plural number include the singular number and vice versa;
  - (b) words denoting the masculine gender include the feminine and neuter genders;
  - (c) words importing “person” or “Person” shall be construed in the broadest sense and means and includes a natural person, a partnership, a corporation, an association, a joint share company, a limited liability company, a trust, a joint venture, an unincorporated organization and any other entity and any federal, state, municipal, foreign or other government, governmental department, commission, board, bureau, agency or instrumentality, or any private or public court or tribunal;
  - (d) the words:
    - (i) “may” shall be construed as permissive; and
    - (ii) “shall” shall be construed as imperative; and
  - (e) unless otherwise provided herein, words or expressions defined in the Act shall bear the same meaning in these Bye-laws.
- 1.4** In these Bye-laws expressions referring to writing or its cognates shall, unless the contrary intention appears, include facsimile, printing, lithography, photography, electronic mail and other modes of representing words in visible form.
- 1.5** Headings used in these Bye-laws are for convenience only and are not to be used or relied upon in the construction hereof.
- 1.6** The rights and obligations set forth in these Bye-laws may be modified or restricted by any shareholders agreement entered into by two or more Shareholders or by the Company and one or more Shareholders, *provided*, that any such modification or restriction shall apply only to the parties to such shareholders agreement.

## **SHARES**

### **2. Power to Issue Shares**

- 2.1** Subject to these Bye-laws and to any Resolution to the contrary and without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, the Board shall have the power and authority to the fullest extent permitted under the Act, but subject to all contractual restrictions to which the Company is bound, to issue any unissued shares on such terms and conditions as it may determine and any shares or class of shares may be issued with such preferred,

deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise as the Board may by resolution prescribe, and to fix or alter the number of shares comprising any such class or series.

**2.2** The authority of the Board with respect to each such class or series shall include, without any limitation of the foregoing, the right to determine and fix the following preferences and powers, which may vary as between different classes or series of shares:

- (a) the distinctive designation of such class or series and the number of shares to constitute such class or series;
- (b) the rate at which any dividends on the shares of such class or series shall be declared and paid, or set aside for payment, whether dividends at the rate so determined shall be cumulative or accruing, and whether the shares of such class or series shall be entitled to any participating or other dividends in addition to dividends at the rate so determined, and if so, on what terms;
- (c) the right or obligation, if any, of the Company to redeem shares of the particular class or series and, if redeemable, the price, terms and manner of such redemption;
- (d) the special and relative rights and preferences, if any, and the amount or amounts per share, which the shares of such class or series shall be entitled to receive upon any voluntary or involuntary liquidation, dissolution or winding up of the Company;
- (e) the terms and conditions, if any, upon which shares of such class or series shall be convertible into, or exchangeable for, shares of capital stock of any other class or series, including the price or prices or the rate or rates of conversion or exchange and the terms of adjustment, if any;
- (f) the obligation, if any, of the Company to retire, redeem or purchase shares of such series pursuant to a sinking fund or fund of a similar nature or otherwise, and the terms and conditions of such obligation;
- (g) voting rights, if any, including special voting rights with respect to the election of directors and matters adversely affecting any such class or series; and
- (h) limitations, if any, on the issuance of additional shares of such class or series or any shares of any other class or series.

**2.3** Subject to the Act, any preference shares may be issued or converted into shares that (at a determinable date or at the option of the Company or the holder) are liable to be redeemed on such terms and in such manner as may be determined by the Board (before the issue or conversion).

### 3. Power of the Company to Purchase its Shares

- 3.1 The Company may purchase its own shares for cancellation or acquire them as Treasury Shares in accordance with the Act on such terms as the Board shall think fit.
- 3.2 The Board may exercise all the powers of the Company to purchase or acquire all or any part of its own shares in accordance with the Act.

### 4. Rights Attaching to Shares

- 4.1 Subject to any Resolution to the contrary (and without prejudice to any special rights conferred thereby on the holders of any other shares or class of shares), the common share capital of the Company shall be divided into Class A Common Shares, Class B Common Shares and Class M Common Shares (collectively, the “Common Shares”). In accordance with Bye-law 2.2, the Board may authorize the creation and issuance of one or more series of preference shares.
- 4.2 Prior to the occurrence of an Apollo Termination Event, the voting rights of the Common Shares shall be as follows:
- (a) Subject to adjustment by Bye-law 4.2(b), Bye-law 4.2(e) and Bye-law 4.2(f), the Class A Common Shares shall collectively represent 55% of the Total Voting Power. Subject to adjustment by Bye-law 4.2(b), Bye-law 4.2(e), Bye-law 4.2(f) and Bye-law 4.4, each Class A Common Share shall be entitled to a number of votes equal to 55 multiplied by a fraction, the numerator of which is 1 and the denominator of which is, without duplication, (i) the total number of Class A Common Shares outstanding at the time such determination is made less (ii) the total number of Nonvoting Class A Common Shares (if any). Notwithstanding the foregoing, subject to Bye-law 4.2(f), (x) no Class A Common Share (other than any Apollo Designated Voting Security) held by a Shareholder who also owns (or whose Tax Attributed Affiliates own) (in each case, directly, indirectly or constructively, pursuant to Section 958 of the Code) Class B Common Shares (a “Disqualified Class A Common Share”), (y) no Class A Common Share held by a Shareholder (other than a Shareholder who is a member of the Apollo Group) who also owns (or whose Tax Attributed Affiliates own) (in each case, directly, indirectly or constructively, pursuant to Section 958 of the Code), any equity interests (for this purpose, including any instrument or arrangement that is treated as an equity interest for U.S. federal income tax purposes) of Apollo Global Management, LLC or AP Alternative Investments Assets, L.P. (each a “Tax Disqualified I Class A Common Share”) and (z) no Class A Common Share (other than any Apollo Designated Voting Security) held by a Shareholder who is a member of the Apollo Group (but only, in the case of this clause (z), at a time in which any member of the Apollo Group holds any Class B Common Shares) (each a “Tax Disqualified

II Class A Common Share”) shall have a right to vote, and such Nonvoting Class A Common Shares shall not be counted in determining the voting power of a Class A Common Share pursuant to the immediately preceding sentence.

(b) (i) Subject to adjustment by the following provisions of this Bye-law 4.2(b), Bye-law 4.2(e) and Bye-law 4.2(f), the Class B Common Shares shall collectively represent 45% of the Total Voting Power. The voting power of the Class B Common Shares shall be allocated among all holders of Class B Common Shares on a pro rata basis except as provided elsewhere in this Bye-law 4.2.

(ii) Any holder of Class B Common Shares that is a member of the Apollo Group may, from time to time, with the consent of the holders of a majority of the Class B Common Shares, reduce the voting power attributable to its Class B Common Shares set forth in Bye-law 4.2(b)(i) (determined prior to application of Bye-law 4.2(b)(ii)–(vii)) by:

(A) transferring any of such holder’s Class B Common Shares to any other person (who may or may not be a member of the Apollo Group) and designating in a written notice delivered to the transferee and the Company (1) the aggregate voting power of such holder’s Class B Common Shares being transferred, (2) the exclusion of such transferred Class B Common Shares from Bye-law 4.2(e) and (3) the corresponding decrease in the aggregate voting power of such holder’s Class B Common Shares not so transferred (such transferred Class B Common Shares, the “Transferred Class B Common Shares”), *provided, however*, that such transfer shall not be permitted to the extent such reallocation would cause the Voting Ratio with respect to any Class B Common Share to be greater than fifteen (15),

(B) transferring, by written notice delivered to the Company, a designated percentage of voting power of its Class B Common Shares to (1) one or more other holders of Class B Common Shares, but only with the written consent of such other holders, which shall be delivered to the Company, (2) all other holders of Class B Common Shares, pro rata, or (3) the Class A Common Shares, as a class; *provided*, that (x) such transfer shall be permitted with respect to any Class B Common Share only to the extent that such transfer would not cause the Voting Ratio of such Class B Common Share to be greater than fifteen (15) and (y) any such transfer of voting power to the Class A Common Shares as a class shall result in a corresponding reduction in the collective voting power attributable to the Class B Common Shares as a class, or

(C) converting any of such holder's Class B Common Shares, on a one-for-one basis or other basis as may be determined by a majority of the Class B Common Shares, into a new series or class of securities of the Company issued in accordance with these Bye-laws having such voting rights as the holders of a majority of the Class B Common Shares may determine (the "New Securities") and any such transfer or conversion, a "Class B Restructuring"; *provided*, that (1) any Class B Restructuring may modify the voting power of the Class B Common Shares being transferred or converted as the holders of a majority of the Class B Common Shares may determine, (2) following any Class B Restructuring the aggregate voting power of any outstanding Class B Common Shares and any such new class or series of shares shall not exceed 45% of the Total Voting Power, and (3) that no Class B Restructuring shall result in the Total Voting Power equaling a number other than 100,

*and provided further*, that the rights of any Transferred Class B Common Shares and New Securities shall be subject to Bye-law 4.4.

(iii) (A) If, after adjustment by Bye-law 4.2(b)(ii), 4.2(b)(vii), Bye-law 4.2(e) and Bye-law 4.2(f), and before application of this Bye-law 4.2(b)(iii) or Bye-law 4.2(b)(iv), (1) there are one or more Class B 9.9% U.S. Persons whose aggregate Adjustment Controlled Shares constitute more than (a) twenty-four and nine-tenths percent (24.9%) of the Total Voting Power or (b) twenty-four and nine-tenths percent (24.9%) of the aggregate value of all outstanding shares of the Company, or (2) there are one or more Class B 9.9% U.S. Persons that are classified as individuals, estates or trusts for U.S. federal income tax purposes (clauses (1) and (2) together, the "Class B Adjustment Condition"), then the adjustments described in Bye-law 4.2(b)(iii)(B) to the allocation of the voting power of the Class B Common Shares shall be made in the order there listed (but in all cases subject to Bye-law 4.2(b)(iv) and Bye-law 4.2(b)(vii)).

(B)

(1) First, the voting power of the Class B Common Shares directly held by the Adjustment Shareholder or Adjustment Shareholders that are attributable to the Smallest Class B 9.9% U.S. Person shall be reduced (but not below zero (0)) until the Class B Adjustment Condition is no longer met or such Smallest Class B 9.9% U.S. Person is no longer a Class B 9.9% U.S. Person (taking into account any reallocation of voting power pursuant to clause (2) below), whichever requires the smallest reduction in voting power.

(2) Second, the aggregate voting power reduced in clause (1) above shall be reallocated pro rata among the Class B Common Shares (other

than any Transferred Class B Common Shares) directly held by all other Shareholders.

(3) Third, the adjustments described in clause (1) and the reallocation described in clause (2) above shall be reapplied serially to the next Smallest Class B 9.9% U.S. Person until the Class B Adjustment Condition is no longer met.

(4) Any excess voting power that cannot be reallocated pursuant to clauses (1), (2) and (3) above shall be transferred pursuant to Bye-law 4.2(b)(v), and thereafter clause (3) above shall not apply.

(iv) Notwithstanding Bye-law 4.2(b)(iii)(B)(2), the pro rata reallocation of the voting power of the Class B Common Shares pursuant to Bye-law 4.2(b)(iii)(B)(2) shall not be permitted to the extent such reallocation would cause (A) a U.S. Person to become a Class B 9.9% U.S. Person (determined after application of Bye-law 4.2(b)(iii)), or (B) the Voting Ratio with respect to any Class B Common Share to be greater than fifteen (15). Any voting power that cannot be reallocated on a pro rata basis among all of the Class B Common Shares (other than any Transferred Class B Common Shares) directly held by all other Shareholders due to this Bye-law 4.2(b)(iv) shall nonetheless be reallocated to such shares to the maximum extent possible without violating the limitations contained in this Bye-law 4.2(b)(iv).

(v) If, after adjustment by Bye-law 4.2(b)(iii), Bye-law 4.2(e) and Bye-law 4.2(f), and before application of this Bye-law 4.2(b)(v), clause (1) of the Class B Adjustment Condition continues to be met, then the holders of Class B Common Shares shall be deemed to have made an irrevocable election under Bye-law 4.2(e) to reduce the percentage of the Total Voting Power represented by the Class B Common Shares (and correspondingly increase the percentage of the Total Voting Power represented by the Class A Common Shares) to the extent necessary so that the Class B Adjustment Condition is no longer met, *provided*, that the Total Voting Power represented by the Class B Common Shares shall not be reduced, or shall be reduced to a lesser extent, if so determined by unanimous vote or written consent of all Affected Class B Shareholders, if all such votes or consents are received by the Company no later than 2 Business Days prior to the date of the relevant vote. If the Total Voting Power represented by the Class B Common Shares is reduced pursuant to this Bye-law 4.2(b)(v), it shall not again be increased.

(vi) Notwithstanding Bye-laws 4.2(b)(ii)–(v), any two or more holders of Class B Common Shares that are members of the Apollo Group may, at any time and from time to time, elect to allocate the voting power attributable to their Class B Common Shares set forth in Bye-law 4.2(b)(i) (determined prior to application of Bye-law 4.2(b)(ii)–(v)) among their Class B Common Shares (or allocated from their Class B Common Shares to other Class B

Common Shares or to the Class A Common Shares as a class) in a manner different from that set forth in Bye-law 4.2(b)(ii)–(v), provided, that in no event shall an election under this Bye-law 4.2(b)(vi) be permitted to result in (1) any person who was not an Inclusion Shareholder immediately prior to such election becoming an Inclusion Shareholder or (ii) the Company (or any of its Subsidiaries) being treated as a “controlled foreign corporation” (within the meaning of Section 957(a) or (b) of the Code) with respect to any Inclusion Shareholder, unless it was treated as such with respect to such Inclusion Shareholder immediately prior to such election. Any election under this Bye-law 4.2(b)(vi) shall be made by delivery to the Company of a written notice, signed by each electing holder, specifying the manner in which the voting power attributable to the Class B Common Shares of the electing holders shall be allocated. The voting power allocation provisions specified in an election under this Bye-law 4.2(b)(vi) shall have the same effect as if set forth in these Bye-laws.

(vii) Notwithstanding Bye-laws 4.2(b)(ii)–(v), any holder of Class B Common Shares that is a member of the Apollo Group may elect to have the amount of voting power attributable to such holder’s Class B Common Shares be subject to such additional limitations as may be specified by such holder. Such election shall be made by delivering to the Company a written notice specifying such additional limitations. Any voting power that must be allocated away from a holder’s Class B Common Shares pursuant to an election under this Bye-law 4.2(b)(vii) shall be reallocated pro rata among the Class B Common Shares (other than any Transferred Class B Common Shares) directly held by all other Shareholders; provided, however, that such reallocation shall be permitted with respect to any Class B Common Share only to the extent that such reallocation would not cause the Voting Ratio of such Class B Common Share to be greater than fifteen (15), and any voting power not able to be reallocated to Class B Common Shares shall be instead be reallocated to the Class A Common Shares as a class.

- (c) The Class M Common Shares shall have no right to vote on any matters to be voted on by the Shareholders (including, without limitation, any election or removal of directors) and the Class M Common Shares shall not be included in determining the number of shares voting or entitled to vote on such matters, except as provided in Bye-law 4.2(f) and where required under Bermuda law.
- (d) Notwithstanding anything to the contrary herein, the aggregate votes conferred by the Class A Common Shares held by all ~~Management Shareholders and~~ employees of the Apollo Group that are Shareholders (including, for the avoidance of doubt, any Class A Common Shares held by an employee of the Apollo Group through a corporation, limited liability company, limited partnership or trust created for the benefit of such employee

or one or more of such employee's parents, spouse, siblings or descendants for estate planning purposes) ("Apollo Employee Shareholders") shall be reduced pro rata to the extent necessary such that all such Class A Common Shares held by all ~~Management Shareholders and~~ Apollo Employee Shareholders shall constitute collectively no more than 3% of the Total Voting Power. This clause shall not affect the respective aggregate voting power of the Class A Common Shares of 55% of the Total Voting Power and the Class B Common Shares of 45% of the Total Voting Power, subject to adjustment by Bye-law 4.2(b), Bye-law 4.2(e) and Bye-law 4.2(f). Any voting rights of ~~Management Shareholders and~~ Apollo Employee Shareholders that are limited by this Bye-law 4.2(d) (subject to Bye-law 4.2(e)) shall reduce the voting power of each ~~Management Shareholder and~~ Apollo Employee Shareholder pro-rata, and increase the voting power of the Specified Shareholders (other than ~~Management Shareholders and~~ Apollo Employee Shareholders) holding Class A Common Shares in the same manner as specified in, and subject to the operation of, Bye-law 4.4(a)(iii).

- (e) The holders of the Class B Common Shares, by a vote of the majority of the Class B Common Shares, may at any time and from time to time elect to reduce the percentage of the Total Voting Power represented by the Class B Common Shares (and correspondingly increase the percentage of the Total Voting Power represented by the Class A Common Shares, so that the Total Voting Power remains equal to 100), subject to further adjustment by Bye-law 4.2(f) (including, without limitation, by an election that results in increased voting rights attributable to the Class A Common Shares), and if so provided by the terms of such election, such election shall be irrevocable.
- (f) Notwithstanding Bye-law 4.2(a), Bye-law 4.2(b), Bye-law 4.2(c) and Bye-law 4.2(e), in connection with any vote of Shareholders to approve a merger or amalgamation with respect to the Company (a "Company Merger Vote"), any issued and outstanding Nonvoting Class A Common Share and each Class M Common Share, shall have the power to vote in connection with any such Company Merger Vote. Solely in connection with any such Company Merger Vote, such Nonvoting Class A Common Shares and Class M Common Shares shall collectively represent 0.1% of the Total Voting Power (such voting power allocated equally among the Nonvoting Class A Common Shares and Class M Common Shares) with the Total Voting Power attributable to each of the voting Class A Common Shares and Class B Common Shares being reduced by such percentage on a pro rated basis determined based on Total Voting Power of each such class.

**4.3** From and after the occurrence of an Apollo Termination Event, the voting rights of the Common Shares shall be as follows:

- (a) Subject to Bye-law 4.3(c), the Class A Common Shares shall represent 100% of the Total Voting Power. Subject to Bye-law 4.4, each Class A Common Share shall be entitled to one vote per Class A Common Share. Notwithstanding the foregoing, subject to Bye-law 4.3(b), no Tax Disqualified I Class A Common Share shall have the right to vote.
- (b) Subject to Bye-law 4.3(c), the Class M Common Shares shall have no right to vote on any matters to be voted on by the Shareholders (including, without limitation, any election or removal of directors) and the Class M Common Shares shall not be included in determining the number of shares voting or entitled to vote on such matters, except where required under Bermuda law and as provided in this Bye-law 4.3(b).
- (c) In connection with any Company Merger Vote, any Tax Disqualified I Class A Common Share or Class M Common Share that is not otherwise entitled to vote in accordance with this Bye-law 4.3 shall have the power to vote in connection with any such Company Merger Vote. Solely in connection with any such Company Merger Vote, such Tax Disqualified I Class A Common Shares and Class M Common Shares shall collectively represent 0.1% of the Total Voting Power (such voting power allocated equally among the Tax Disqualified I Class A Common Shares and Class M Common Shares) with the Total Voting Power attributable to the Class A Common Shares (other than Tax Disqualified I Class A Common Shares) being reduced by such percentage on a pro rated basis.

**4.4**

- (a) The voting rights of the Relevant Securities shall be subject to the following provisions (*provided*, that this Bye-law 4.4(a) shall not apply at any time that there are fewer than the Specified Number of holders of Relevant Securities (for this purpose, treating all such holders that are classified as disregarded entities with the same regarded owner for U.S. federal income tax purposes, together with such regarded owner as one such holder), excluding Disqualified Shareholders):
  - (i) Other than with respect to any Tentative 9.9% Shareholder, except upon the consent of at least 75% of the Board and any Applicable Shareholder holding Controlled Shares of such Tentative 9.9% Shareholder, the voting power of each Applicable Security is hereby adjusted (and shall be automatically adjusted in the future) to the extent necessary so that no Applicable Shareholder holding Applicable Securities, and no Tax Attributed Affiliate of any such Applicable Shareholder, is a 9.9% Shareholder. For the avoidance

of doubt, the Board may, in its discretion, grant its consent for purposes of the exception provided in the immediately preceding sentence for any individual Applicable Shareholder or group of Applicable Shareholders and need not grant its consent for all Applicable Shareholders. The Board shall from time to time, including prior to any time at which a vote of Shareholders is taken, take all reasonable steps necessary to ascertain through communications with Shareholders or otherwise (including by reviewing publicly-filed ownership reports of Shareholders filed pursuant to Section 16 of the Securities Exchange Act of 1934, as amended) whether there exists, or will exist at the time any vote of Shareholders is taken, an Applicable Shareholder holding Applicable Securities, or a Tax Attributed Affiliate of such an Applicable Shareholder, that is a Tentative 9.9% Shareholder.

- (ii) In the event that an Applicable Shareholder holding Applicable Securities, or a Tax Attributed Affiliate of such an Applicable Shareholder, that is a Tentative 9.9% Shareholder exists, the aggregate votes conferred by the Applicable Securities held by an Applicable Shareholder and treated as Controlled Shares of that Tentative 9.9% Shareholder shall be reduced to the extent necessary such that the Controlled Shares of the Tentative 9.9% Shareholder will constitute no more than 9.9% of the Total Voting Power.
  - (iii) The votes attributable to the Relevant Securities (other than any Transferred Class B Common Shares) of Specified Shareholders shall, in the aggregate, be increased across such Specified Shareholders *pro rata* based on the then current voting power attributable to Relevant Securities, as applicable, by the same number of votes subject to reduction as described above. Such increase shall apply to all such Specified Shareholders in proportion to the voting power attributable to their Relevant Securities, at that time; *provided*, that such increase shall be limited as to any Specified Shareholder to the extent necessary to avoid causing such Specified Shareholder, or any of its Tax Attributed Affiliates, to be a 9.9% Shareholder. The adjustments of voting power described in this Bye-law 4.4 shall apply repeatedly until there would be no 9.9% Shareholder or until successive application would not result in any change in the voting power of any Relevant Securities.
- (b) The Board may deviate from any of the principles described in this Bye-law 4.4 and determine that Relevant Securities held by a Specified Shareholder shall carry different voting rights (or no voting rights) as it determines appropriate (1) to avoid the existence of any 9.9% Shareholder or (2) (i) to avoid adverse tax, legal or regulatory consequences to the Company or any

of its Affiliates or (ii) upon the request of a Specified Shareholder, to avoid adverse tax, legal or regulatory consequences for such Specified Shareholder or any of its Affiliates or direct or indirect owners.

(c)

- (i) The Board shall have the authority to request from any Person holding, directly or indirectly, Applicable Securities or Class B Common Shares, and such Person shall provide, as promptly as reasonably practicable, such information as the Board may require for the purpose of determining whether any Person's voting rights are to be adjusted pursuant to these Bye-laws. If such Person fails to reasonably respond to such a request, or submits incomplete or inaccurate information in response to such a request, the Company may, in its sole and absolute discretion, determine that such Person's Applicable Securities or Class B Common Shares shall carry no voting rights or reduced voting rights, in which case such Applicable Securities or Class B Common Shares shall not carry any voting rights or shall carry only such reduced voting rights until otherwise determined by the Company in its sole and absolute discretion.
- (ii) Any Person shall give notice to the Company within ten days following the date that such Person acquires actual knowledge that it is a Tentative 9.9% Shareholder or that its Applicable Securities are Controlled Shares of a Tentative 9.9% Shareholder.
- (iii) Notwithstanding the foregoing, no Person shall be liable to any other Person or the Company for any losses or damages resulting from a Shareholder's failure to respond to, or submission of incomplete or inaccurate information in response to, a request under paragraph (i) above or from such Person's failure to give notice under paragraph (ii) above. The Board may rely on the information provided by a Person under this Bye-law 4.4(c) in the satisfaction of its obligations under this Bye-law 4.4. The Company may, but shall have no obligation to, provide notice to any Person of any adjustment to its voting power that may result from the application of this Bye-law 4.4.

#### 4.5

- (a) The Common Shares shall be entitled to such dividends, in proportion to the number of Class A Common Shares, Class B Common Shares and Class M Common Shares held by such holder, as the Board may from time to time declare, *provided*, that (A) the holders of Class M-1 Common Shares shall be entitled to receive dividends declared by the Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the

date of issuance of such Class M-1 Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to \$10 per share (the “Group 1 Preference Amount”), (B) the holders of Class M-2 Common Shares shall be entitled to receive dividends declared by the Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the date of issuance of such Class M-2 Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to \$10.77 per share (the “Group 2 Preference Amount”), (C) the holders of Class M-3 Common Shares shall be entitled to receive dividends declared by the Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the date of issuance of such Class M-3 Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to \$13.46 per share (the “Group 3 Preference Amount”), (D) the holders of Class M-4 Common Shares shall be entitled to receive dividends declared by the Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the date of issuance of such Class M-4 Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to \$26.00 per share (the “Group 4 Preference Amount”) and (E) the holders of any other class of Class M Common Shares shall be entitled to receive dividends declared by the Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the initial issuance date of such Class M Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to a price per share and with such priority of distribution and payment of such dividends with respect to such Class M Common Shares to be designated by the Board (collectively with the Group 1 Preference Amount, the Group 2 Preference Amount, the Group 3 Preference Amount and the Group 4 Preference Amount, the “Group M Preference Amount”); *provided*, that the payment of dividends on any Class M Common Shares issued as a “restricted share” shall be subject to any vesting and other rights or limitations set forth in any applicable Company incentive plan or restricted share award agreement.

- (b) In addition to the foregoing, upon a Liquidation, after payment or provision for payment of the debts and other liabilities of the Company, distributions out of the remaining assets of the Company available for distribution to its Shareholders shall be made as follows: (i) first, the holders of the Class A Common Shares and Class B Common Shares (on a pro-rata basis based upon the number of Class A Common Shares and Class B Common Shares held by each such holder in proportion to the total number of Class A Common

Shares and Class B Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the Group 1 Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of the Group 1 Preference Amount pursuant to clause (a) above); (ii) second, the holders of Class A Common Shares, Class B Common Shares and Class M-1 Common Shares (on a pro-rata basis based upon the number of Class A Common Shares, Class B Common Shares and Class M-1 Common Shares held by each such holder in proportion to the total number of Class A Common Shares, Class B Common Shares and Class M-1 Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the Group 2 Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of the Group 2 Preference Amount pursuant to clause (a) above); (iii) third, the holders of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares and Class M-2 Common Shares (on a pro-rata basis based upon the number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares and Class M-2 Common Shares held by each such holder in proportion to the total number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares and Class M-2 Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the Group 3 Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of the Group 3 Preference Amount pursuant to clause (a) above); (iv) fourth, the holders of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares and Class M-3 Common Shares (on a pro-rata basis based upon the number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares and Class M-3 Common Shares held by each such holder in proportion to the total number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares and Class M-3 Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the Group 4 Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of the Group 4 Preference Amount pursuant to clause (a) above); (v) fifth, the holders of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares, Class M-3 Common Shares and Class M-4 Common Shares (on a pro-rata basis based upon the number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares,

Class M-2 Common Shares, Class M-3 Common Shares and Class M-4 Common Shares held by each such holder in proportion to the total number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares, Class M-3 Common Shares and Class M-4 Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the applicable Group M Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of such Group M Preference Amount pursuant to clause (a) above) and (vi) thereafter, the holders of Common Shares (on a pro-rata basis based upon the number of Common Shares held by each such holder in proportion to the total number of Common Shares then outstanding) shall be entitled to receive in the aggregate all distributions, subject to any preference of any other Class M Common Shares set forth in such designation.

- (c) Unless and until the Group 1 Preference Amount is satisfied, the Class A Common Shares and Class B Common Shares, which shall rank *pari passu* with respect to one another, shall rank senior to the Class M Common Shares in terms of dividends and only after the Group 1 Preference Amount has been fully satisfied will dividends be paid pro rata to the Class A Common Shares, the Class B Common Shares and the Class M-1 Common Shares as a whole. After the Group 1 Preference Amount has been satisfied, but unless and until the Group 2 Preference Amount is satisfied, the Class A Common Shares, Class B Common Shares and Class M-1 Common Shares, which shall rank *pari passu* with respect to one another, shall rank senior to the Class M-2 Common Shares in terms of dividends, and only after the Group 2 Preference Amount has been fully satisfied will dividends be paid pro rata to the Class A Common Shares, the Class B Common Shares, the Class M-1 Common Shares and the Class M-2 Common Shares as a whole. After the Group 2 Preference Amount has been satisfied, but unless and until the Group 3 Preference Amount is satisfied, the Class A Common Shares, Class B Common Shares, Class M-1 Common Shares and Class M-2 Common Shares, which shall rank *pari passu* with respect to one another, shall rank senior to the Class M-3 Common Shares in terms of dividends, and only after the Group 3 Preference Amount has been fully satisfied will dividends be paid pro rata to the Class A Common Shares, the Class B Common Shares, the Class M-1 Common Shares, the Class M-2 Common Shares and the Class M-3 Common Shares as a whole. After the Group 3 Preference Amount has been satisfied, but unless and until the Group 4 Preference Amount is satisfied, the Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares and Class M-3 Common Shares, which shall rank *pari passu* with respect to one another, shall rank senior to the Class M-4 Common Shares in terms of dividends, and only after the Group 4 Preference Amount has been fully satisfied will dividends be

paid pro rata to the Common Shares as a whole, subject to any preference of the Class A Common Shares, the Class B Common Shares, the Class M-1 Common Shares, the Class M-2 Common Shares, the Class M-3 Common Shares and the Class M-4 Common Shares over any other series of Class M Common Shares set forth in such designation and the preference of any series of Class M Common Shares over another series of Class M Common Shares.

- (d) Notwithstanding anything to the contrary in this Bye-law 4.5, if, as a result of any applicable escrow, holdback or other similar contingency provision (collectively, “Escrow”) contained in any transaction document governing any Liquidation, the assets and funds to be distributed upon the occurrence of such Liquidation are insufficient to permit the payment of the full applicable Group M Preference Amount that, in each case, would be payable in the absence of the Escrow, the Company shall ensure that the transaction document relating to such Liquidation shall provide that the remainder of the assets or funds upon the release of such Escrow shall be reallocated among the Class A Common Shares, Class B Common Shares, and Class M Common Shares in a manner to reflect what each such Shareholder would have received if such assets or funds had been distributed by the Company to such Shareholders in a Liquidation for cash and the proceeds thereof had been distributed in accordance with the provisions of Bye-law 4.5.
- (e) In the event of a Liquidation resulting from circumstances set forth in either clause (ii) or clause (iii) of the definition of Sale of the Company, the “remaining assets of the Company available for distribution” (as referred to in clause (b) above) shall be deemed to be the aggregate consideration to be paid to all holders of Class A Common Shares, Class B Common Shares, and Class M Common Shares participating in such Liquidation. In connection with such a Liquidation, the holders of the Class A Common Shares, Class B Common Shares and Class M Common Shares shall allocate the aggregate consideration to be paid to all such Shareholders participating in such Liquidation among such Shareholders, such that each such Shareholder shall receive the same portion of the aggregate consideration from such Liquidation that such Shareholder would have received if such aggregate consideration had been distributed by the Company in a Liquidation caused by circumstances other than those set forth in clause (ii) or clause (iii) of the definition of Sale of the Company.
- (f) If any or all of the proceeds payable to the Shareholders in connection with a Liquidation are in a form other than cash or marketable securities, the fair market value of such consideration shall be determined in good faith by the Board.
- (g) Any time a holder of Class M Common Shares (a “Subject Holder”) receives consideration pursuant to the sale or transfer of such Class M Common

Shares and the applicable Group M Preference Amount has not been satisfied, such consideration shall be reallocated among the Class A Common Shares, Class B Common Shares and Class M Common Shares in a manner to reflect what each such Shareholder would have received if such aggregate consideration had been distributed by the Company to such Shareholders in a Liquidation for cash and the proceeds thereof had been distributed in accordance with the provisions of Bye-law 4.5 (a “Reallocation”). Any consideration reallocated to the Class A Common Shares and Class B Common Shares pursuant to this Bye-law 4.5(g) shall be included in determining whether, pursuant to Bye-law 4.5, dividends or distributions in an amount equal to the applicable Group M Preference Amount has been paid with respect to Class A Common Shares and Class B Common Shares. At any time after the Group 1 Preference Amount, Group 2 Preference Amount, Group 3 Preference Amount, Group 4 Preference Amount or any other Group M Preference Amount, as applicable, is satisfied following a Reallocation (on a pro forma basis without regard to any Reallocation), the Company shall pay or cause to be paid to each Subject Holder, out of amounts otherwise available for distribution to the Shareholders, an amount equal to the amount reallocated from such Subject Holder pursuant to this Bye-law 4.5(g).

**4.6** The Class B Common Shares and Class M Common Shares shall be convertible into Class A Common Shares pursuant to the following terms and conditions:

- (a) The Class M Common Shares shall be convertible into Class A Common Shares in accordance with, and subject to the terms and conditions of, the award agreements governing the granting of such shares.
- (b) The Class B Common Shares shall be converted or convertible as follows:
  - (i) Upon notice to the Company, a holder of Class B Common Shares may convert any or all of its Class B Common Shares into Class A Common Shares, and upon receipt of such notice by the Company such Class B Common Shares shall immediately and automatically convert into an equal number of Class A Common Shares on a one-for-one basis, by way of redemption and reissue (for the avoidance of doubt, no Class A Common Share acquired by conversion of Class B Common Shares pursuant to this provision shall be an Apollo Designated Voting Security).
  - (ii) Concurrently with or immediately prior to a sale, transfer, exchange or other disposition (including by dividend or other distribution) of any Class B Common Shares by a holder thereof, such holder shall notify the Company in writing of such transfer and such Class B Common Shares shall immediately and automatically convert into an equal number of Class A Common Shares on a one-for-one basis,

by way of redemption and reissue; *provided, however*, that no conversion shall occur with respect to Class B Common Shares transferred (i) to a member of the Apollo Group or (ii) pursuant to Bye-law 4.2(b)(ii)(A). Neither the Company nor any of its Subsidiaries shall issue or sell Class B Common Shares to any Person, other than a member of the Apollo Group.

- (iii) Upon an Apollo Termination Event or the election of the holders of a majority of the outstanding Class B Common Shares (as evidenced in writing to the Board), all outstanding Class B Common Shares shall immediately and automatically convert into an equal number of Class A Common Shares on a one-for-one basis, by way of redemption and reissue.
- (iv) For the avoidance of doubt, any Class A Common Share acquired by conversion of Class B Common Shares shall be subject to the voting restrictions set forth in Bye-laws 4.2 and 4.4.

#### 4.7

- (a) At any time prior to an Apollo Termination Event, and upon notice to the Company, any member of the Apollo Group may convert any or all of its Class A Common Shares into Class B Common Shares, and upon receipt of such notice by the Company such Class A Common Shares shall immediately and automatically convert into an equal number of Class B Common Shares on a one-for-one basis, by way of redemption and reissue. If such member of the Apollo Group holds both Class A Common Shares and Apollo Designated Voting Securities that consist of Class A Common Shares, then such member of the Apollo Group shall specify whether, and how many, of the shares being converted into Class B Common Shares constitute Apollo Designated Voting Securities.
- (b) At any time prior to an Apollo Termination Event, in connection with its purchase of any Class A Common Shares or other voting securities (other than any Class B Common Shares) of the Company from the Company or any other Shareholder, a member of the Apollo Group may designate, in writing to the Board, prior to such purchase, its intention that any or all such purchased Class A Common Shares or such other voting securities constitute voting Class A Common Shares or such other class or series of voting securities and such securities, when purchased by such member shall constitute voting Class A Common Shares or such other class or series of voting securities for all purposes of these Bye-laws (such designated securities, when held by a member of the Apollo Group, "Apollo Designated Voting Securities"). At the election of the holders of a majority of the Class B Common Shares as evidenced in writing to the Board, the right of any member of the Apollo Group to acquire Apollo Designated Voting Securities may be

terminated, *provided*, that such termination shall not affect the voting rights of any Apollo Designated Voting Securities outstanding at the time of such termination.

- 4.8** Any Class A Common Shares or Class B Common Shares issued upon conversion of Class A Common Shares, Class B Common Shares or Class M Common Shares pursuant to Bye-laws 4.6 and 4.7 shall be subject to the terms and restrictions of these Bye-laws applicable to Class A Common Shares and Class B Common Shares, including those contained in Bye-laws 4.2, 4.3 and 4.4 (subject to any exceptions set forth in those sections, including exceptions applicable to the Apollo Group and the Apollo Designated Voting Securities).
- 4.9** All the rights attaching to a Treasury Share shall be suspended and shall not be exercised by the Company while it holds such Treasury Share and, except where required by the Act, all Treasury Shares shall be excluded from the calculation of any percentage or fraction of the share capital, or shares, of the Company.
- 4.10** All determinations to be made in connection with the application of the provisions set forth in this Bye-law 4 shall be made by the Company in its sole discretion, and any such determination shall be binding on all Shareholders and holders of securities of the Company.
- 4.11** By way of example, if a holder of Class A Common Shares, who does not hold Nonvoting Class A Common Shares, and who is entitled to 50% of the economic value of the Company but is only entitled to 9.9% of the Total Voting Power pursuant to Bye-law 4.4 transfers all of such holder's shares in equal amounts to two unaffiliated third parties (neither of whom (x) is a Disqualified Shareholder or (y) owns any Class B Common Shares), then each such third-party transferee shall be entitled to 25% of the economic value of the Company and up to 9.9% of the Total Voting Power (subject to Bye-law 4.4).

## **5. Tax Restrictions**

The following restrictions apply to each Shareholder or holder of Equity Securities, other than the Apollo Group:

- 5.1** No Shareholder or holder of Equity Securities (or, to its actual knowledge, any direct or indirect beneficial owner thereof) who is a "United States shareholder" of the Company (within the meaning of Section 953(c) of the Code), nor any "related person" (within the meaning of Section 953(c) of the Code) to such Shareholder or holder of Equity Securities (or such owner), shall at any time knowingly permit itself to be a Related Insured Entity. No Shareholder or holder of Equity Securities who is a U.S. Person, shall knowingly permit itself (or, to its actual knowledge, any direct or indirect beneficial owner thereof) to own (directly, indirectly or constructively pursuant to Section 958 of the Code) outstanding capital stock of the Company or Equity Securities possessing 50% or more of (i) the total voting power of the

Common Shares or Equity Securities (excluding any Apollo Designated Voting Securities), or (ii) the total value of the Common Shares or Equity Securities. No Shareholder or holder of Equity Securities (or, to its actual knowledge, any direct or indirect beneficial owner thereof) nor any “related person” (within the meaning of Section 953(c) of the Code) to such Shareholder or holder of Equity Securities (or such owner) (in all cases, excluding any member of the Apollo Group) shall (i) acquire any interests (for this purpose, including any instrument or arrangement that is treated as an equity interest for U.S. federal income tax purposes) in AP Alternative Assets, L.P. or Apollo Global Management, LLC or (ii) make any investment, or enter into a transaction, that, to the actual knowledge of such Shareholder at the time such Shareholder, holder of Equity Securities, owner or related person becomes bound to make the investment or enter into the transaction, would cause such Shareholder, holder of Equity Securities, owner or related person, or any other U.S. Person, to own (directly, indirectly or constructively pursuant to Section 958 of the Code) outstanding capital stock of the Company or Equity Securities possessing 50% or more of (a) the total voting power of the Common Shares or Equity Securities entitled to vote or (b) the total value of the Common Shares or Equity Securities.

**5.2** Notwithstanding anything contained herein to the contrary, no Shareholder shall transfer any Equity Securities if, to the actual knowledge of such Shareholder at the time of such transfer, following such transfer, in the aggregate, 19.9% or more of the total voting power of either the outstanding capital stock of the Company or Equity Securities entitled to vote or 19.9% of the total value of either the outstanding capital stock of the Company or Equity Securities would be owned directly or indirectly (under the principles of Section 953(c)(3)(A) of the Code) by one or more Persons who are either (i) both “United States shareholders” of the Company (within the meaning of Section 953(c) of the Code) and Related Insured Entities or (ii) both related to “United States shareholders” of the Company (within the meaning of Section 953(c) of the Code) and Related Insured Entities.

**5.3** All determinations to be made in connection with the application of the provisions set forth in Bye-laws 5.1 through 5.2 shall be made by the Board in its sole discretion, and any such determination shall be binding on all Shareholders, it being understood that a Shareholder will in no instance be liable for monetary damages with respect to a breach of this Bye-law 5. The Board may, at any time, and from time to time, request evidence and/or require representations that the restrictions set forth in this Bye-law 5 have not, or will not, be breached. Each Shareholder agrees to furnish such evidence to the Board promptly upon request therefor. The Board may waive any provision in this Bye-law 5 with respect to any Shareholder without granting similar waivers to any other Shareholder. The Board and any particular Shareholder may agree in writing to amend the application of the provisions of this Bye-law 5 with respect to such Shareholder, and the Board shall not be required to enter into similar agreements with other Shareholders.

**5.4** In the event any Shareholder or holder of Equity Securities becomes aware that there is a material risk that it, any of its direct or indirect beneficial owners and/or any “related person” (within the meaning of Section 953(c) of the Code) to such Shareholder or holder of Equity Securities (or such owner) has violated any provision contained in this Bye-law 5 (without regard to any knowledge qualifier therein), such Shareholder or holder of Equity Securities will be obligated to notify the Board as promptly as possible. In the event any Shareholder or holder of Equity Securities violates Bye-law 5.1 (without regard to any knowledge qualifier therein), at the discretion of the Board, such Shareholder or holder of Equity Securities shall, and shall cause any direct or indirect beneficial owner of such Shareholder or holder of Equity Securities and any “related person” (within the meaning of Section 953(c) of the Code) to such Shareholder or holder of Equity Securities to (x) sell some or all of its Common Shares or Equity Securities at fair market value (as mutually agreed by the Company and such Shareholder in good faith) as directed by the Board and/or (y) allow the Company to repurchase some or all of its Common Shares or Equity Securities at fair market value (as determined by the Company and such Shareholder in good faith); *provided*, that if the Company and such Shareholder cannot mutually agree on the fair market value of the Common Shares or Equity Securities to be sold or repurchased in accordance with this Bye-law 5.4, then fair market value shall be determined by an investment banking firm of national recognition, which firm shall be reasonably acceptable to the Company and such Shareholder or holder of Equity Securities. The determination of fair market value by such investment banking firm shall be final and binding upon the parties. If the Company and such Shareholder or holder of Equity Securities are unable to agree upon an acceptable investment banking firm within ten (10) days after the date either party proposed that one be selected, the investment banking firm will be selected by an arbitrator located in the City of New York, New York selected by the American Arbitration Association (or if such organization ceases to exist, the arbitrator shall be chosen by a court of competent jurisdiction). The arbitrator shall select the investment banking firm (within ten (10) days of his appointment) from a list, jointly prepared by the Company and such Shareholder or holder of Equity Securities, of not more than six investment banking firms of national standing in the United States, of which no more than three may be named by the Company and no more than three may be named by such Shareholder or holder of Equity Securities. The arbitrator may consider, within the ten-day period allotted, arguments from the parties regarding which investment banking firm to choose, but the selection by the arbitrator shall be made in its sole discretion from the list of six. The selection by the arbitrator of such investment banking firm shall be final and binding upon the parties. The Company and such Shareholder or holder of Equity Securities shall each pay one-half of the fees and expenses of the investment banking firms and arbitrator (if any) used to determine the fair market value. If required by any such investment banking firm or arbitrator, the Company shall execute a retainer and engagement letter containing reasonable terms and conditions, including, without limitation, customary provisions concerning the rights of indemnification and contribution by the Company in favor of such investment banking firm or arbitrator and its officers, directors,

partners, employees, agents and Affiliates. The parties shall provide to the investment banking firm, on a confidential basis, such information it reasonably requests to perform its duties.

**5.5** Notwithstanding anything to the contrary herein, upon a breach of this Bye-law 5 (without regard to any knowledge qualifier therein), the breaching Shareholder or holder of Equity Securities shall be required to take any reasonable action the Board deems appropriate.

## **6. Calls on Shares**

**6.1** The Board may make such calls as it thinks fit upon the Shareholders in respect of any moneys (whether in respect of nominal value or premium) unpaid on the shares allotted to or held by such Shareholders and, if a call is not paid on or before the day appointed for payment thereof, the Shareholders may at the discretion of the Board be liable to pay the Company interest on the amount of such call at such rate as the Board may determine, from the date when such call was payable up to the actual date of payment. The Board may differentiate between the holders as to the amount of calls to be paid and the times of payment of such calls.

**6.2** The joint holders of a share shall be jointly and severally liable to pay all calls and any interest, costs and expenses in respect thereof.

**6.3** The Company may accept from any Shareholder the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up.

## **7. [Reserved]**

## **8. Share Certificates**

**8.1** Every Shareholder shall be entitled to a certificate under the common seal (or a facsimile thereof) of the Company or bearing the signature (or a facsimile thereof) of a Director or the Secretary or a person expressly authorised to sign specifying the number and, where appropriate, the class of shares held by such Shareholder and whether the same are fully paid up and, if not, specifying the amount paid on such shares. The Board may by resolution determine, either generally or in a particular case, that any or all signatures on certificates may be printed thereon or affixed by mechanical means.

**8.2** The Company shall be under no obligation to complete and deliver a share certificate unless specifically called upon to do so by the person to whom the shares have been allotted.

**8.3** The holder of any shares of the Company, promptly upon discovery, shall notify the Company of any loss, destruction or mutilation of the certificate therefor, and the

Board may, in its discretion, cause to be issued to such holder a new certificate or certificates for such shares, upon the surrender of the mutilated certificates or, in the case of loss or destruction of the certificate, upon satisfactory proof of such loss or destruction, and the Board may, in its discretion, require the owner of the lost or destroyed certificate or its legal representative to give the Company a bond in such sum and with such surety or sureties as it may direct to indemnify the Company against any claim that may be made against it on account of the alleged loss or destruction of any such certificate.

**9. Fractional Shares**

The Company may issue its shares in fractional denominations and deal with such fractions to the same extent as its whole shares and shares in fractional denominations shall have in proportion to the respective fractions represented thereby all of the rights of whole shares including (but without limiting the generality of the foregoing) the right to vote, to receive dividends and distributions and to participate in a winding-up.

## **REGISTRATION OF SHARES**

**10. Register of Shareholders**

**10.1** The Board shall cause to be kept in one or more books a Register of Shareholders and shall enter therein the particulars required by the Act.

**10.2** The Register of Shareholders shall be open to inspection without charge at the Registered Office of the Company on every Business Day, subject to such reasonable restrictions as the Board may impose, so that not less than two hours in each Business Day be allowed for inspection. The Register of Shareholders may, after notice has been given in accordance with the Act, be closed for any time or times not exceeding in the whole thirty days in each year.

**11. Registered Holder Absolute Owner**

The Company shall be entitled to treat the registered holder of any share as the absolute owner thereof and accordingly shall not be bound to recognise any equitable claim or other claim to, or interest in, such share on the part of any other person.

**12. Transfer of Registered Shares**

**12.1** The following transfer restrictions are in addition to any transfer restrictions that may apply pursuant to the terms of any contract or other agreement between the Shareholders as among themselves or with any third parties or that the Company may enter into with any of its Shareholders.

- 12.2** An instrument of transfer shall be in writing in the form of the following, or as near thereto as circumstances admit, or in such other form as the Board may accept:

Transfer of a Share or Shares  
Athene Holding Ltd. (the "Company")

FOR VALUE RECEIVED.....[amount], I, [name of transferor] hereby sell, assign and transfer unto [transferee] of [address], [number] shares of the Company.

DATED this [ ] day of [ ], 20[ ]

Signed by: In the presence of:

\_\_\_\_\_  
Transferor    Witness

\_\_\_\_\_  
Transferee    Witness

- 12.3** Such instrument of transfer shall be signed by or on behalf of the transferor and transferee, *provided*, that in the case of a fully paid share, the Board may accept the instrument signed by or on behalf of the transferor alone. The transferor shall be deemed to remain the holder of such share until the same has been registered as having been transferred to the transferee in the Register of Shareholders.
- 12.4** The Board may refuse to recognise any instrument of transfer unless it is accompanied by the certificate in respect of the shares to which it relates and by such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.
- 12.5** The joint holders of any share may transfer such share to one or more of such joint holders, and the surviving holder or holders of any share previously held by them jointly with a deceased Shareholder may transfer any such share to the executors or administrators of such deceased Shareholder.
- 12.6** The Board may in its absolute discretion refuse to register the transfer of a share if, and only if, all applicable consents, authorisations and permissions of any governmental body or agency in Bermuda have not been obtained. If the Board refuses to register a transfer of any share, the Secretary shall, within three months after the date on which the transfer was lodged with the Company, send to the transferor and transferee notice of the refusal.
- 12.7** If a Shareholder who is a party to the Registration Rights Agreement transfers any shares which are subject to the provisions of the Registration Rights Agreement, the transferee of such shares and any subsequent transferee of those shares shall be subject to the provisions of such Registration Rights Agreement and the Board may refuse to register any such transfer that is in violation of the restrictions on transfer contained therein; provided, that no such transfer shall be prohibited by this provision

or refused, and the shares subject to such transfer shall no longer be subject to the provisions of the Registration Rights Agreement or this Bye-law 12.7, to the extent that (x) such transfer was made pursuant to (i) an effective registration statement or (ii) a waiver by the Company or (y) at the time of such transfer, the shares subject to such transfer are not then currently subject to a restriction on trading or transfer pursuant to the lock-up or holdback provisions of the Registration Rights Agreement. If the Board refuses to register such a transfer, the Secretary shall, within three months after the date on which the transfer was lodged with the Company, send to the transferor and transferee notice of the refusal.

**13. Transfer Agent; Registrar; Rules Respecting Certificates**

**13.1** The Company may maintain one or more transfer offices or agencies where shares of the Company shall be transferable. The Company may also maintain one or more registry offices where such shares shall be registered. The Board may make such rules and regulations as it may deem expedient concerning the issue, transfer and registration of share certificates in accordance with Applicable Laws and the rules of any stock exchange or quotation system on which shares of the Company may be then listed or quoted.

**14. Transmission of Registered Shares**

**14.1** Subject to the terms of any contracts or other agreements by and between the Shareholders or by and between the Company and any of its Shareholders, in the case of the death of a Shareholder, the survivor or survivors where the deceased Shareholder was a joint holder, and the legal personal representatives of the deceased Shareholder where the deceased Shareholder was a sole holder, shall be the only persons recognised by the Company as having any title to the deceased Shareholder's interest in the shares. Nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by such deceased Shareholder with other persons. Subject to the Act, for the purpose of this Bye-law, legal personal representative means the executor or administrator of a deceased Shareholder or such other person as the Board may, in its absolute discretion, decide as being properly authorised to deal with the shares of a deceased Shareholder.

**14.2** Any person becoming entitled to a share in consequence of the death or bankruptcy of any Shareholder may be registered as a Shareholder upon such evidence as the Board may deem sufficient or may elect to nominate some person to be registered as a transferee of such share, and in such case the person becoming entitled shall execute in favour of such nominee an instrument of transfer in writing in the form, or as near thereto as circumstances admit, of the following:

Transfer by a Person Becoming Entitled on Death/Bankruptcy of a Shareholder  
Athene Holding Ltd. (the "Company")

I/We, having become entitled in consequence of the [death/bankruptcy] of [name and address of deceased/bankrupt Shareholder] to [number] share(s) standing in the Register of Shareholders of the Company in the name of the said [name of deceased/bankrupt Shareholder] instead of being registered myself/ourselves, elect to have [name of transferee] (the "Transferee") registered as a transferee of such share(s) and I/we do hereby accordingly transfer the said share(s) to the Transferee to hold the same unto the Transferee, his or her executors, administrators and assigns, subject to the conditions on which the same were held at the time of the execution hereof; and the Transferee does hereby agree to take the said share(s) subject to the same conditions.

DATED this [ ] day of [ ], 20[ ]

Signed by: In the presence of:

\_\_\_\_\_  
Transferor    Witness

\_\_\_\_\_  
Transferee    Witness

- 14.3** On the presentation of the foregoing materials to the Board, accompanied by such evidence as the Board may require to prove the title of the transferor, the transferee shall be registered as a Shareholder. Notwithstanding the foregoing, the Board shall, in any case, have the same right to decline or suspend registration as it would have had in the case of a transfer of the share by that Shareholder before such Shareholder's death or bankruptcy, as the case may be.
- 14.4** Where two or more persons are registered as joint holders of a share or shares, then in the event of the death of any joint holder or holders the remaining joint holder or holders shall be absolutely entitled to such share or shares and the Company shall recognise no claim in respect of the estate of any joint holder except in the case of the last survivor of such joint holders.

## **ALTERATION OF SHARE CAPITAL**

### **15. Power to Alter Capital**

- 15.1** The Company may if authorised by Resolution increase, divide, consolidate, subdivide, change the currency denomination of, diminish or otherwise alter or reduce its share capital in any manner permitted by the Act.
- 15.2** Where, on any alteration or reduction of share capital, fractions of shares or some other difficulty would arise, the Board may deal with or resolve the same in such manner as it thinks fit.

### **16. Variation of Rights Attaching to Shares**

Subject to any contract or agreement by and between the Shareholders or by and between the Company and any of its Shareholders, which contains provisions affecting the rights attaching to shares of the Company, if, at any time, the share capital is divided into different

classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class, as the case may be) may, whether or not the Company is being wound-up, be varied with the consent in writing of the holders of a majority of the issued shares of that class (as the case may be) or with the sanction of a resolution passed by a majority of the votes cast at a separate general meeting of the holders of the shares of the class at which meeting the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class, as the case may be. The rights conferred upon the holders of the shares of any class issued with preferred or other rights 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.

## DIVIDENDS AND CAPITALISATION

### 17. Dividends

- 17.1** The Board may, subject to these Bye-laws and in accordance with the Act, declare a dividend to be paid to all holders of Common Shares, subject to Bye-law 4.5 in proportion to the number of Common Shares held by them that are entitled to share in such dividend pursuant to Bye-law 4.5, and such dividend may be paid in cash or wholly or partly in specie in which case the Board may fix the value for distribution in specie of any assets. No unpaid dividend shall bear interest as against the Company.
- 17.2** In the event of a distribution in specie, the value of any distributed assets shall be the fair market value of such assets at the time of distribution as reasonably determined by the Board.
- 17.3** The Board may declare and pay dividends on one or more class of shares of the Company to the extent one or more classes of shares of the Company ranks senior to or has priority or a preference over another class of shares of the Company.
- 17.4** The Board may fix, in advance, a date as the record date for the purpose of determining the Shareholders entitled to receive payment of any dividend or other distribution or the allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of shares, or in order to make a determination of the Shareholders for the purpose of any other lawful action, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than sixty (60) calendar days prior to such action. If no record date is fixed by the Board, the record date for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.
- 17.5** The Company may pay dividends in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

**17.6** The Board may declare and make such other distributions (in cash or in specie) to the Shareholders as may be lawfully made out of the assets of the Company. No unpaid distribution shall bear interest as against the Company.

**18. Power to Set Aside Profits**

The Board may, before declaring a dividend, set aside out of the surplus or profits of the Company, such amount as it thinks proper as a reserve to be used to meet contingencies or for equalising dividends or for any other purpose.

**19. Method of Payment**

**19.1** Any dividend, interest, or other moneys payable in cash in respect of the shares may be paid by cheque or draft sent through the post directed to the Shareholder at such Shareholder's address in the Register of Shareholders, or to such person and to such address as the holder may in writing direct.

**19.2** In the case of joint holders of shares, any dividend, interest or other moneys payable in cash in respect of shares may be paid by cheque or draft sent through the post directed to the address of the holder first named in the Register of Shareholders, or to such person and to such address as the joint holders may in writing direct. If two or more persons are registered as joint holders of any shares any one can give an effectual receipt for any dividend paid in respect of such shares.

**19.3** The Board may deduct from the dividends or distributions payable to any Shareholder all moneys due from such Shareholder to the Company on account of calls or otherwise.

**20. Capitalisation**

**20.1** The Board may capitalise any amount for the time being standing to the credit of any of the Company's share premium or other reserve accounts or to the credit of the profit and loss account or otherwise available for distribution by applying such amount in paying up unissued shares to be allotted as fully paid bonus shares pro rata to the Shareholders.

**20.2** The Board may capitalise any amount for the time being standing to the credit of a reserve account or amounts otherwise available for dividend or distribution by applying such amounts in paying up in full, partly or nil paid shares of those Shareholders who would have been entitled to such amounts if they were distributed by way of dividend or distribution.

## **MEETINGS OF SHAREHOLDERS**

**21. Annual General Meetings**

Subject to any provisions of the Act and the rules of any stock exchange or quotation system on which the Company's common equity securities may be then listed or quoted, an annual general meeting shall be held by December 31 of each year at such place, date and time as shall be determined by the Board.

**22. Special General Meetings; Requisitioned General Meetings**

**22.1** A special general meeting may be called by the Secretary for any purpose at any time in accordance with these Bye-laws upon the request of any of (i) the Chairman, (ii) the Vice Chairman, (iii) the Chief Executive Officer of the Company or (iv) a majority of the Board.

**22.2** The Board shall, on the requisition of Shareholders holding shares at the date of the deposit of the requisition not less than ten percent (10%) of the Total Voting Power, forthwith proceed to convene a special general meeting and the provisions of the Act shall apply. Subject to applicable law, Shareholders requisitioning such special general meeting shall be responsible for all costs incurred to convene such meeting.

**23. Purposes of Annual General Meetings; Proposals of Other Business by Shareholders**

**23.1** At each annual general meeting, the Shareholders shall elect the members of the Board then subject to election in accordance with the procedures set forth in these Bye-laws and subject to Applicable Law and the rules of any stock exchange or quotation system on which shares of the Company may be then listed or quoted. At any such annual general meeting any other business properly brought before the meeting may be transacted.

**23.2** To be properly brought before an annual general meeting, business (other than nominations of directors, which must be made in compliance with, and shall be exclusively governed by, Bye-law 40) must be (a) specified in the notice of the meeting (or any supplement thereto) given to Shareholders by or at the direction of the Board in accordance with Bye-laws 24 and 25 below, (b) otherwise properly brought before the meeting by or at the direction of the Board or (c) otherwise properly brought before the meeting by a Shareholder who (1) is a Minimum Shareholder at the time of giving of the notice provided for in this Bye-law 23 and at the time of the annual general meeting, (2) is entitled to vote at such meeting and (3) complies with the notice procedures set forth in this Bye-law 23.

**23.3** For any such business to be properly brought before any annual general meeting pursuant to clause (c) of Bye-law 23.2, the Shareholder must have given timely notice thereof in writing, either by personal delivery or express or registered mail (postage prepaid), to the Secretary at the Registered Office not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the one-year anniversary of the date of the annual general meeting for the immediately preceding year. However, in the event that the date of the annual general meeting is more than 30 days before or after such anniversary date, in order to be

timely, a Shareholder's notice must be received by the Secretary at the Registered Office not later than the later of (x) the close of business 90 days prior to the date of such annual general meeting and (y) if the first public announcement of the date of such advanced or delayed annual general meeting is less than 100 days prior to such date, 10 days following the date of the first public announcement of the annual general meeting date. In no event shall the public announcement of an adjournment or postponement of an annual general meeting, or such adjournment or postponement, commence a new time period or otherwise extend any time period for the giving of a Shareholder's notice as described herein.

**23.4** Any such notice of other business shall set forth as to each matter the Shareholder proposes to bring before the annual general meeting:

- (a) a brief description of the business desired to be brought before the annual general meeting, the reasons for conducting such business at the annual general meeting and the text of any proposal regarding such business (including the text of any resolutions proposed for consideration and, if such business includes a proposal to amend these Bye-laws, the text of the proposed amendment), which shall not exceed 1,000 words;
- (b) as to the Shareholder giving notice and any beneficial owner on whose behalf the proposal is made, (1) the name and address of such Shareholder (as it appears in the Register of Shareholders) and such beneficial owner on whose behalf the proposal is made, (2) the class and number of Equity Securities which are, directly or indirectly, owned beneficially or of record by any such Shareholder and by such beneficial owner, respectively, or their respective Affiliates (naming such Affiliates), as of the date of such notice, (3) a description of any agreement, arrangement or understanding (including, without limitation, any swap or other derivative or short positions, profit interests, options, hedging transactions, and securities lending or borrowing arrangement) to which such Shareholder or any such beneficial owner or their respective Affiliates is, directly or indirectly, a party as of the date of such notice (x) with respect to any Equity Securities or (y) the effect or intent of which is to mitigate loss to, manage the potential risk or benefit of share price changes (increases or decreases) for, or increase or decrease the voting power of such Shareholder or beneficial owner or any of their Affiliates with respect to Equity Securities or which may have payments based in whole or in part, directly or indirectly, on the value (or change in value) of any Equity Securities (any agreement, arrangement or understanding of a type described in this clause (3), a "Covered Arrangement") and (4) a representation that the Shareholder is a holder of record of shares of the Company entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business;

- (c) a description of any direct or indirect material interest by security holdings or otherwise of the Shareholder and of any beneficial owner on whose behalf the proposal is made, or their respective Affiliates, in such business (whether by holdings of securities, or by virtue of being a creditor or contractual counterparty of the Company or of a third party, or otherwise), and all agreements, arrangements and understandings between such Shareholder or any such beneficial owner or their respective Affiliates and any other person or persons (naming such person or persons) in connection with the proposal of such business by such Shareholder;
- (d) a representation whether the Shareholder or the beneficial owner intends or is part of a Group which intends (i) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Company's Common Shares (or other Equity Securities) required to approve or adopt the proposal and/or (ii) otherwise to solicit proxies from Shareholders in support of such proposal;
- (e) an undertaking by the Shareholder and any beneficial owner on whose behalf the proposal is made to (i) notify the Company in writing of the information set forth in clauses (b)(2), (b)(3) and (c) above as of the record date (set in accordance with Bye-law 24 below) for the meeting promptly (and, in any event, within five (5) Business Days) following the later of the record date or the date notice of the record date is first disclosed by public announcement and (ii) update such information thereafter within two (2) Business Days of any change in such information and, in any event, as of close of business on the day preceding the meeting date; and
- (f) any other information relating to such Shareholder, any such beneficial owner and their respective Affiliates that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, such proposal pursuant to Section 14 of the Exchange Act, to the same extent as if the shares of the Company were registered under the Exchange Act.

**23.5** Notwithstanding anything to the contrary, the notice requirements set forth herein with respect to the proposal of any business pursuant to this Bye-law 23, other than nominations for directors which must be made in compliance with, and shall be exclusively governed by, Bye-law 40, shall be deemed satisfied by a Shareholder if such Shareholder has submitted a proposal to the Company in compliance with Rule 14a-8 of the Exchange Act and such Shareholder's proposal has been included in a proxy statement that has been prepared by the Company to solicit proxies for the annual general meeting; *provided*, that such Shareholder shall have provided the information required by Bye-law 23.4; *provided, further*, that the information required by Bye-law 23.4(b) may be satisfied by providing the information to the Company required pursuant to Rule 14a-8(b) of the Exchange Act.

**23.6** Notwithstanding anything in these Bye-laws to the contrary: (a) no other business brought by a Shareholder (other than the nominations of directors, which must be made in compliance with, and shall be exclusively governed by, Bye-law 40) shall be conducted at any annual general meeting except in accordance with the procedures set forth in this Bye-law 23; and (b) unless otherwise required by Applicable Law and the rules of any stock exchange or quotation system on which shares of the Company may be then listed or quoted, if a Shareholder intending to bring business before an annual general meeting in accordance with this Bye-law 23 does not (x) timely provide the notifications contemplated by clause (e) of Bye-law 23.4 above, or (y) timely appear in person or by proxy at the meeting to present the proposed business, such business shall not be transacted, notwithstanding that proxies in respect of such business may have been received by the Company or any other person or entity.

Except as otherwise provided by Applicable Law or these Bye-laws, the presiding officer of any annual general meeting shall have the power and duty to determine whether any business proposed to be brought before an annual general meeting was proposed in accordance with the foregoing procedures (including whether the Shareholder solicited or did not so solicit, as the case may be, proxies in support of such Shareholder's proposal in compliance with such Shareholder's representation as required by clause (d) of Bye-law 23.4) and if any business is not proposed in compliance with Bye-law 23, to declare that such defective proposal shall be disregarded. The requirements of this Bye-law 23 shall apply to any business to be brought before an annual general meeting by a Shareholder other than nominations of directors (which must be made in compliance with, and shall be exclusively governed by, Bye-law 40) and other than matters properly brought under Rule 14a-8 of the Exchange Act. For purposes of these Bye-laws, "public announcement" shall mean disclosure in a press release of the Company reported by the Dow Jones News Service, Associated Press or comparable news service or in a document publicly filed or furnished by the Company with or to the SEC pursuant to Section 13, 14 or 15(b) of the Exchange Act.

**23.7** Nothing in this Bye-law 23 shall be deemed to affect any rights of (a) Shareholders to request inclusion of proposals in the Company's proxy statement pursuant to applicable rules and regulations under the Exchange Act or (b) the holders of any series of preferred shares, or any other series or class of shares authorised to be issued by the Company, to make proposals pursuant to any applicable provisions thereof.

Notwithstanding the foregoing provisions of this Bye-law 23, a Shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Bye-law, if applicable.

## **24. Notice**

**24.1** Not less than 21 days' nor more than 60 days' notice of an annual general meeting shall be given to each Shareholder entitled to attend and vote thereat, stating the

date, place and time at which the meeting is to be held, that the election of Directors up for election at that meeting will take place thereat, and as far as practicable, the other business to be conducted at the meeting.

- 24.2** Not less than 21 days' nor more than 60 days' notice of a special general meeting shall be given to each Shareholder entitled to attend and vote thereat, stating the date, time, place and the general nature of the business to be considered at the meeting.
- 24.3** The Board may fix any date as the record date for determining the Shareholders entitled to receive notice of and to vote at any general meeting.
- 24.4** A general meeting shall, notwithstanding that it is called on shorter notice than that specified in these Bye-laws, be deemed to have been properly called if it is so agreed by (i) all the Shareholders entitled to attend and vote thereat in the case of an annual general meeting; and (ii) by a majority in number of the Shareholders having the right to attend and vote at the meeting, being a majority together holding not less than 95% in nominal value of the shares giving a right to attend and vote thereat in the case of a special general meeting.
- 24.5** The accidental omission to give notice of a general meeting to, or the non-receipt of a notice of a general meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

## **25. Giving Notice and Access**

- 25.1** A notice of a general meeting may be given by the Company to a Shareholder:
- (a) by delivering it to such Shareholder in person; or
  - (b) by sending it by letter mail or courier to such Shareholder's address in the Register of Shareholders; or
  - (c) by transmitting it by electronic means (including facsimile and electronic mail, but not telephone) in accordance with such directions as may be given and expressly consented to by such Shareholder to the Company for such purpose; or
  - (d) in accordance with Bye-law 25.4.
- 25.2** Any notice required to be given to a Shareholder in connection with a general meeting shall, with respect to any shares held jointly by two or more persons, be given to whichever of such persons is named first in the Register of Shareholders and notice so given shall be sufficient notice to all the holders of such shares.
- 25.3** Any notice in connection with a general meeting (save for one delivered in accordance with Bye-law 25.4) shall be deemed to have been served at the time when the same would be delivered in the ordinary course of transmission and, in proving

such service, it shall be sufficient to prove that the notice was properly addressed and prepaid, if posted, and the time when it was posted, delivered to the courier, or transmitted by electronic means.

**25.4** Where a Shareholder indicates his consent (in a form and manner satisfactory to the Board), to receive information or documents by accessing them on a website rather than by other means, or receipt in this manner is otherwise permitted by the Act, the Company may deliver such information or documents by notifying the Shareholder of the availability of such and including therein the address of the website, the place on the website where the information or document may be found, and instructions as to how the information or document may be accessed on the website.

**25.5** In the case of information or documents delivered in accordance with Bye-law 25.4, service shall be deemed to have occurred when (i) the Shareholder is notified in accordance with that Bye-law; and (ii) the information or document is published on the website.

## **26. Postponement of General Meeting**

The Secretary, at the request of the Board, may postpone any general meeting called in accordance with these Bye-laws (other than a meeting requisitioned under these Bye-laws) provided that notice of postponement is given to the Shareholders before the time for such meeting. Fresh notice of the date, time and place for the postponed meeting shall be given to each Shareholder in accordance with these Bye-laws.

## **27. Electronic Participation in Meetings**

Shareholders may participate in any general meeting by such telephonic, electronic or other communication facilities or means as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

## **28. Quorum at General Meetings**

**28.1** Unless otherwise expressly required by Applicable Law, at any general meeting, the presence in person or by proxy of Shareholders entitled to cast a majority of the Total Voting Power shall constitute a quorum for the entire meeting, notwithstanding the withdrawal of Shareholders entitled to cast a sufficient number of votes in person or by proxy to reduce the number of votes represented at the meeting below a quorum; *provided*, that shares of the Company belonging to the Company or any of its Subsidiaries shall neither be counted for the purpose of determining the presence of a quorum nor entitled to vote at any general meeting.

**28.2** At any general meeting at which a quorum shall be present, a majority of those present in person or by proxy may adjourn the meeting from time to time without notice other than an announcement of such at the meeting. In the absence of a quorum,

the officer presiding thereat pursuant to Bye-law 29 shall have power to adjourn the meeting from time to time until a quorum shall be present. Notice of any adjourned meeting other than an announcement of such at the meeting shall not be required to be given, except as provided in Bye-law 28.4 below and except where expressly required by Applicable Law.

- 28.3** At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting originally called, but only those Shareholders entitled to vote at the meeting as originally noticed shall be entitled to vote at any adjournment or adjournments thereof unless a new record date is fixed by the Board.
- 28.4** If an adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given in the manner specified in these Bye-laws to each Shareholder of record entitled to vote at the meeting.

**29. Chairman to Preside at General Meetings**

The Chairman of the Board shall preside at all general meetings for which the Chairman is present. If the Chairman is absent, the Vice Chairman shall preside. For any meeting where both the Chairman and Vice Chairman are absent, a presiding officer shall be appointed or elected by those present at the meeting and entitled to vote.

**30. Voting on Resolutions**

- 30.1** Other than as set forth in these Bye-laws, any question proposed for the consideration of the Shareholders at any general meeting shall be decided by the affirmative votes of a majority of the Total Voting Power cast in accordance with these Bye-laws (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4) and in the case of an equality of votes the Resolution shall fail.
- 30.2** At any general meeting a Resolution put to the vote of the meeting shall, in the first instance, be voted upon by a show of hands and, subject to any rights or restrictions for the time being lawfully attached to any class of shares and subject to these Bye-laws, every Shareholder present in person and every person holding a valid proxy at such meeting shall be entitled to such number of votes attaching to the Common Shares held by such Shareholder (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4) and shall cast such vote by raising his hand.
- 30.3** In the event that a Shareholder participates in a general meeting by telephone, electronic or other communication facilities or means, the chairman of the meeting shall direct the manner in which such Shareholder may cast his vote on a show of hands.

**30.4** At any general meeting, if an amendment is proposed to any Resolution under consideration and the chairman of the meeting rules on whether or not the proposed amendment is out of order, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.

**30.5** At any general meeting, a declaration by the chairman of the meeting that a question proposed for consideration has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in a book containing the minutes of the proceedings of the Company shall, subject to these Bye-laws, be conclusive evidence of that fact.

**31. [Reserved.]**

**32. Power to Demand a Vote on a Poll**

**32.1** Notwithstanding the foregoing, a poll may be demanded by any of the following persons:

- (a) the chairman of such meeting; or
- (b) any Shareholder or Shareholders or Group present in person or represented by proxy and holding between them not less than 10% of the Total Voting Power; or
- (c) any Shareholder or Shareholders present in person or represented by proxy holding shares in the Company conferring the right to vote at such meeting, being shares on which an aggregate sum has been paid up equal to not less than 10% of the total amount paid up on all such shares conferring such right.

**32.2** Where a poll is demanded, subject to any rights or restrictions for the time being lawfully attached to any class of shares (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4), every person present at such meeting shall have the number of votes corresponding to each such Common Share of which such person is the holder or for which such person holds a proxy, and such vote shall be counted by ballot as described herein, or in the case of a general meeting at which one or more Shareholders are present by telephone, electronic or other communication facilities or means, in such manner as the chairman of the meeting may direct and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded and shall replace any previous resolution upon the same matter which has been the subject of a show of hands. A person entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.

**32.3** A poll demanded for the purpose of electing a chairman of the meeting or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and in such manner during such meeting as the

chairman (or acting chairman) of the meeting may direct. Any business other than that upon which a poll has been demanded may be conducted pending the taking of the poll.

**32.4** Where a vote is taken by poll, each person physically present and entitled to vote shall be furnished with a ballot paper on which such person shall record his vote in such manner as shall be determined at the meeting having regard to the nature of the question on which the vote is taken, and each ballot paper shall be signed or initialled or otherwise marked so as to identify the voter and the registered holder in the case of a proxy. Each person present by telephone, electronic or other communication facilities or means shall cast his vote in such manner as the chairman of the meeting shall direct. At the conclusion of the poll, the ballot papers and votes cast in accordance with such directions shall be examined and counted by a committee of not less than two Shareholders or proxy holders appointed by the chairman of the meeting for the purpose and the result of the poll shall be declared by the chairman of the meeting.

**33. Voting by Joint Holders of Shares**

In the case of joint holders, the vote of the senior who tenders a vote (whether in person or by proxy) shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register of Shareholders.

**34. Instrument of Proxy**

**34.1** Any Shareholder entitled to vote at any general meeting may vote either in person or by his or her attorney-in-fact or proxy.

**34.2** An instrument appointing a proxy shall be in writing in substantially the following form or such other form as the Board or the chairman of the meeting shall accept:

Proxy  
Athene Holding Ltd. (the "Company")

I/We, [insert names here], being a Shareholder of the Company with [number] shares, HEREBY APPOINT [name] of [address] or failing him, [name] of [address] to be my/our proxy to vote for me/us at the meeting of the Shareholders to be held on the [ ] day of [ ], 20[ ] and at any adjournment thereof. (Any restrictions on voting to be inserted here.)

Signed this [ ] day of [ ], 20[ ]

\_\_\_\_\_  
Shareholder(s)

**34.3** The instrument appointing a proxy must be received by the Company at the Registered Office or at such other place or in such manner as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in

relation to the meeting at which the person named in the instrument appointing a proxy proposes to vote, and an instrument appointing a proxy which is not received in the manner so prescribed shall be invalid.

**34.4** A Shareholder who is the holder of two or more shares may appoint more than one proxy to represent him and vote on his behalf in respect of different shares.

**34.5** The decision of the chairman of any general meeting as to the validity of any appointment of a proxy shall be final.

### **35. Representation of Corporate Shareholder**

A corporation which is a Shareholder may, by written instrument, authorise such person or persons as it thinks fit to act as its representative at any meeting and any person so authorised shall be entitled to exercise the same powers on behalf of the corporation which such person represents as that corporation could exercise if it were an individual Shareholder, and that Shareholder shall be deemed to be present in person at any such meeting attended by its authorised representative or representatives.

### **36. Adjournment of General Meeting**

The chairman of a general meeting may, with the consent of the Shareholders at any general meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting. Unless the meeting is adjourned to a specific date, place and time announced at the meeting being adjourned, fresh notice of the date, place and time for the resumption of the adjourned meeting shall be given to each Shareholder entitled to attend and vote thereat in accordance with these Bye-laws.

### **37. Written Resolutions of Shareholders**

**37.1** Subject to these Bye-laws, anything which may be done by resolution of the Company in a general meeting or by resolution of a meeting of any class of the Shareholders may, without a meeting, be done by written resolution in accordance with this Bye-law.

**37.2** Notice of a written resolution shall be given, and a copy of the resolution shall be circulated to all Shareholders who would be entitled to attend a meeting and vote thereon. The accidental omission to give notice to, or the non-receipt of a notice by, any Shareholder does not invalidate the passing of a resolution.

**37.3** A written resolution is passed when it is signed by, or in the case of a Shareholder that is a corporation, on behalf of, the Shareholders who at the date that the notice is given represent more than 55% of the Total Voting Power.

**37.4** A resolution in writing may be signed in any number of counterparts.

- 37.5** A resolution in writing made in accordance with this Bye-law is as valid as if it had been passed by the Company in general meeting or by a meeting of the relevant class of Shareholders, as the case may be, and any reference in any Bye-law to a meeting at which a resolution is passed or to Shareholders voting in favour of a resolution shall be construed accordingly.
- 37.6** A resolution in writing made in accordance with this Bye-law shall constitute minutes for the purposes of the Act.
- 37.7** This Bye-law shall not apply to:
- (a) a resolution passed to remove an Auditor from office before the expiration of his term of office; or
  - (b) a resolution passed for the purpose of removing a Director before the expiration of his term of office.
- 37.8** For the purposes of this Bye-law, the effective date of the resolution is the date when the resolution is signed by, or in the case of a Shareholder that is a corporation whether or not a company within the meaning of the Act, on behalf of, the last Shareholder whose signature results in the necessary Total Voting Power being achieved and any reference in any Bye-law to the date of passing of a resolution is, in relation to a resolution made in accordance with this Bye-law, a reference to such date.

**38. Directors Attendance at General Meetings**

The Directors shall be entitled to receive notice of, attend and be heard at any general meeting.

## **DIRECTORS AND OFFICERS**

**39. Election of Directors**

- 39.1** Directors shall be elected or appointed in the first place at the statutory meeting of the Company and, except in the case of a casual vacancy or removal, shall hold office until the annual general meeting at which such Director's term is due to expire.
- 39.2** Any vote of Shareholders taken in respect of Director elections shall be in compliance with Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, to the same extent as if the shares of the Company were registered under the Exchange Act.
- 39.3** For the avoidance of doubt, any Shareholder participating in the election of Directors shall be subject to the limitations on voting rights described in Bye-laws 4.2, 4.3 and 4.4.

**40. Nomination of Directors for Election**

- 40.1** Nominations of persons for election as Directors may be made at an annual general meeting only by (a) the Board or (b) by any Shareholder of the Company who (1) is a Minimum Shareholder at the time of giving of the notice provided for in this Bye-law 40 and at the time of the annual general meeting, (2) is entitled to vote for the election of Directors at such annual general meeting and (3) complies with the notice procedures set forth in this Bye-law 40. Notwithstanding anything to the contrary set forth in these Bye-laws, clause (b) of this Bye-law 40.1 shall be the exclusive means for a Shareholder to make nominations of persons for election to the Board at an annual general meeting.
- 40.2** Any Shareholder entitled to vote for the election of Directors may nominate a person or persons for election as Directors only if written notice of such Shareholder's intent to make such nomination is given in accordance with the procedures set forth in this Bye-law 40, either by personal delivery or express or registered mail (postage prepaid), to the Secretary at the Registered Office not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the one-year anniversary of the date of the annual general meeting for the immediately preceding year. However, in the event that the date of the annual general meeting is more than 30 days before or after such anniversary date, in order to be timely, a Shareholder's notice must be received by the Secretary at the Registered Office not later than the later of (x) the close of business 90 days prior to the date of such annual general meeting and (y) if the first public announcement of the date of such advanced or delayed annual general meeting is less than 100 days prior to such date, 10 days following the date of the first public announcement of the annual general meeting date. In no event shall the public announcement of an adjournment or postponement of an annual general meeting, or such adjournment or postponement, commence a new time period or otherwise extend any time period for the giving of a Shareholder's notice as described herein. Shareholders may nominate a person or persons (as the case may be) for election to the Board only as provided in this Bye-law and only for such class(es) or slate(s) as are specified in the Company's notice of meeting as being up for election at such annual general meeting.
- 40.3** Each such notice of a Shareholder's intent to make a nomination of a Director shall set forth:
- (a) as to the Shareholder giving notice and any beneficial owner on whose behalf the nomination is made, (1) the name and address of such Shareholder (as it appears in the Register of Shareholders) and any such beneficial owner on whose behalf the nomination is made, (2) the class and number of Equity Securities which are, directly or indirectly, owned beneficially and of record by such Shareholder and any such beneficial owner, respectively, or their respective Affiliates (naming such Affiliates), as of the date of such notice, (3) a description of any Covered Arrangement to which such Shareholder or beneficial owner, or their respective Affiliates, directly or indirectly, is a party as of the date of such notice, (4) any other information relating to such

Shareholder and any such beneficial owner that would be required to be disclosed in a proxy statement in connection with a solicitation of proxies for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder and (5) a representation that the Shareholder is a holder of record of shares of the Company entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in such Shareholder's notice;

- (b) a description of all arrangements or understandings between the Shareholder or any beneficial owner, or their respective Affiliates, and each nominee or any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the Shareholder;
- (c) a representation whether the Shareholder or the beneficial owner is or intends to be part of a Group which intends (i) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Company's Common Shares (or other Equity Securities) required to elect the Director or Directors nominated and/or (ii) otherwise to solicit proxies from Shareholders in support of such nomination or nominations;
- (d) as to each person whom the Shareholder proposes to nominate for election or reelection as a Director, (1) all information relating to such person as would have been required to be included in a proxy statement filed in connection with a solicitation of proxies for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (2) a description of any Covered Arrangement to which such nominee or any of his or her Affiliates is a party as of the date of such notice, (3) the written consent of each nominee to being named in the proxy statement as a nominee and to serving as a Director if so elected and (4) whether, if elected, the nominee intends to tender any advance resignation notice(s) requested by the Board in connection with subsequent elections, such advance resignation to be contingent upon the nominee's failure to receive a majority vote and acceptance of such resignation by the Board; and
- (e) an undertaking by the Shareholder of record and each beneficial owner, if any, to (i) notify the Company in writing of the information set forth in clauses (a)(2), (a)(3), (b) and (d) above as of the record date for the meeting promptly (and, in any event, within five (5) Business Days) following the later of the record date or the date notice of the record date is first disclosed by public announcement and (ii) update such information thereafter within two (2) Business Days of any change in such information and, in any event, as of close of business on the day preceding the meeting date.

- 40.4** No person shall be eligible for election as a Director unless nominated in accordance with the procedures set forth in these Bye-laws. Except as otherwise provided by Applicable Law or these Bye-laws, the presiding officer of any meeting of Shareholders to elect Directors or the Board may, if the facts warrant, determine that a nomination was not made in compliance with the foregoing procedure or if the Shareholder solicits proxies in support of such Shareholder's nominee(s) without such Shareholder having made the representation required by clause (c) of Bye-law 40.3; and if the presiding officer or the Board should so determine, it shall be so declared to the meeting, and the defective nomination shall be disregarded. Notwithstanding anything in these Bye-laws to the contrary, unless otherwise required by Applicable Law or the rules of any stock exchange or quotation system on which shares of the Company may be then listed or quoted, if a Shareholder intending to make a nomination at a general meeting in accordance with this Bye-law 40 does not (i) timely provide the notifications contemplated by clause (e) of Bye-law 40.3, or (ii) timely appear in person or by proxy at the annual general meeting to present the nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such nomination may have been received by the Company or any other person or entity.
- 40.5** Notwithstanding the foregoing provisions of this Bye-law 40, any Shareholder intending to make a nomination at an annual general meeting in accordance with this Bye-law 40, and each related beneficial owner, if any, shall also comply with all requirements of the Exchange Act and the rules and regulations thereunder applicable to the same extent as if the shares of the Company were registered under the Exchange Act with respect to the matters set forth in these Bye-laws; *provided, however*, that any references in these Bye-laws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to nominations made or intended to be made in accordance with clause (b) of Bye-law 40.1.
- 40.6** Nothing in this Bye-law 40 shall be deemed to affect any rights of the holders of any series of preferred shares, or any other series or class of shares authorized to be issued by the Company, to elect directors pursuant to the terms thereof.
- 40.7** To be eligible to be a nominee for election or reelection as a Director pursuant to Bye-law 40.1(b), a person must deliver (not later than the deadline prescribed for delivery of notice) to the Secretary at the Registered Office a written questionnaire prepared by the Company with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary upon written request) that such person: (i) is not and will not become a party to (A) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a Director, will act or vote on any issue or question (a "Voting

Commitment”) that has not been disclosed to the Company or (B) any Voting Commitment that could limit or interfere with such person’s ability to comply, if elected as a Director, with such person’s duties under Applicable Law; (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Company with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a Director that has not been disclosed therein; (iii) in such person’s individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a Director, and will comply with, Applicable Law and corporate governance, conflict of interest, corporate opportunity, confidentiality and stock ownership and trading policies and guidelines of the Company that are applicable to Directors generally and (iv) if elected as a Director, will act in the best interests of the Company and its Shareholders and not in the interest of any individual constituency. The Nominating and Governance Committee shall review all such information submitted by the Shareholder with respect to the proposed nominee and determine whether such nominee is eligible to act as a Director. The Company and the Nominating and Governance Committee may require any proposed nominee to furnish such other information as may reasonably be required by the Company to determine the eligibility of such proposed nominee to serve as an Independent Director or that could be material to a reasonable Shareholder’s understanding of the independence, or lack thereof, of such nominee.

- 40.8** At each annual general meeting of the Shareholders for the election of Directors at which a quorum is present, each Director or slate of Directors shall be elected by the vote of the majority of the votes cast with respect to the Director or slate, excluding abstentions. For purposes of this Bye-law 40.8, a majority of the votes cast shall mean that the number of shares voted “for” a Director or slate of Directors must exceed the number of votes “against” that Director or slate of Directors.
- 40.9** At the request of the Board, any person nominated for election as a director of the Company shall furnish to the Secretary the information that is required to be set forth in a Shareholders’ notice of nomination pursuant to Bye-law 40.
- 40.10** Any Shareholder proposing to nominate a person or persons for election shall be responsible for, and bear the costs associated with, soliciting votes from any other voting Shareholder and distributing materials to such Shareholders prior to the annual general meeting in accordance with these Bye-laws and applicable SEC rules. A Shareholder shall include any person or persons such Shareholder intends to nominate for election in its own proxy statement and proxy card.
- 40.11** Unless prohibited by Applicable Law, the Company shall promptly (but in any event within five (5) Business Days of receipt of written request from any Shareholder proposing to nominate a person or persons for election) provide to such proposing Shareholder the names and addresses of all persons and entities who are record

holders of the Company's shares, other than Class M Common Shares (the "Other Holders"), *provided*, that if any Other Holder has requested that its identity or address be kept confidential, then the Company shall (at the expense of such Shareholder) promptly (but in any event within five (5) Business Days of receipt of a written request) forward to such Other Holder any materials provided by such Shareholder in relation to the person or persons such Shareholder intends to nominate for election and a notice requesting that such Other Holder contact such Shareholder.

**41. [Reserved]**

**42. Number of Directors**

The number of Directors which shall constitute the entire Board shall be such as from time to time shall be determined by Resolution adopted by a majority of the entire Board, but the number shall not be less than two or more than seventeen; *provided*, that the tenure of a Director shall not be affected by a decrease in the number of Directors so made by the Board.

**43. Term of Office of Directors**

The Directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the number of Directors constituting the Board, Class I to hold office initially for a term expiring at the annual general meeting to be held in 2016, Class II to hold office initially for a term expiring at the annual general meeting to be held in 2017, and Class III to hold office initially for a term expiring at the annual general meeting to be held in 2018. At each succeeding annual general meeting beginning in 2016, successors to the class of Directors whose term expires at that annual general meeting shall be elected for a three (3) year term with each Director to hold office in such class until his or her successor shall have been duly elected and qualified, or until such Director's earlier death, resignation or removal. If the number of Directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of Directors in each class as nearly equal as possible, and any additional Director of any class elected to fill a vacancy resulting from an increase in such class or from the removal from office, death, disability, resignation or disqualification of a Director or other cause shall hold office for a term that shall coincide with the remaining term of that class, but in no event will a decrease in the authorized number of Directors shorten the term of any incumbent Director.

**44. Removal of Directors**

**44.1** Subject to any provision to the contrary in these Bye-laws, a director may only be removed for cause and not otherwise. The removal of a director for cause shall be effected either (i) by the Board by affirmative vote of a majority of the Directors at any duly called meeting of the Board or (ii) by the Shareholders holding a majority of the Total Voting Power at any general meeting called and held in accordance with these Bye-laws. For purposes of this Bye-law 44.1, "cause" shall mean a conviction for a criminal offence involving dishonesty or engaging in conduct which brings the

Director or the Company into disrepute or which results in a material financial detriment to the Company.

**44.2** If a Director is removed from the Board under this Bye-law 44, the Board may fill the vacancy. Persons appointed by the Board to fill a vacancy shall be approved by an affirmative vote of a majority of the Board and shall be subject to election at the immediately succeeding annual general meeting.

**45. Vacancy in the Office of Director**

**45.1** The office of Director shall be vacated immediately if the Director:

- (a) is prohibited from being a Director by law;
- (b) is or becomes bankrupt or insolvent;
- (c) is or becomes of unsound mind or a patient for any purpose of any statute or Applicable Law relating to mental health and the Board resolves that his office is vacated, or dies;
- (d) by virtue of holding the office of Director causes the Company to be taxed in an adverse manner; or
- (e) resigns his office by notice to the Secretary.

**45.2** If there is a vacancy on the Board occurring as a result of the death, disability, disqualification or resignation of any Director, or on account of an increase in the number of members of the Board or a failure to elect a Director at an annual general meeting, the Board may appoint any person as a Director on an interim basis until the next annual general meeting, *provided*, that such person has been approved to serve as a Director by the Nominating and Governance Committee. The Board vacancy shall be submitted to a vote at the next succeeding annual general meeting irrespective of class.

**46. Remuneration of Directors**

The remuneration (if any) of the Directors shall be determined by the Board or an appropriate committee thereof delegated by the Board. The Directors shall also be paid all reasonable travel, hotel and related expenses incurred by them in attending and returning from the meetings of the Board, any committee appointed by the Board, general meetings, or in connection with the business of the Company or their duties as Directors generally. The Company shall also bear reasonable travel, hotel and related expenses incurred by any advisors to the Board related to such matters.

**47. Defect in Appointment**

All acts done in good faith by the Board, any Director, a member of a committee appointed by the Board, any person to whom the Board may have delegated any of its powers, or any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director or person acting as aforesaid, or that he was, or any of them were, disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director or act in the relevant capacity.

**48. Directors to Manage Business**

The business of the Company shall be managed and conducted by the Board. In managing the business of the Company, the Board may exercise all such powers of the Company as are not, by the Act or by these Bye-laws, required to be exercised by the Company in general meeting.

**49. Powers of the Board of Directors**

The Board may:

- (a) appoint, suspend, or remove any manager, secretary, clerk, agent or employee of the Company and may fix their remuneration and determine their duties;
- (b) exercise all the powers of the Company to borrow money and to mortgage or charge or otherwise grant a security interest in its undertaking, property and uncalled capital, or any part thereof, and may issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or any third party;
- (c) designate a Chairman of the Board (the “Chairman”) and a Vice Chairman of the Board (the “Vice Chairman”);
- (d) appoint one or more Directors to the office of managing director or chief executive officer of the Company, who shall, subject to the control of the Board, supervise and administer all of the general business and affairs of the Company;
- (e) appoint a person to act as manager of the Company’s day-to-day business and may entrust to and confer upon such manager such powers and duties as it deems appropriate for the transaction or conduct of such business;
- (f) by power of attorney, appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Board, to be an attorney of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board) and for such period and subject to such conditions as it may think fit and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board may

think fit and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions so vested in the attorney;

- (g) procure that the Company pays all expenses incurred in promoting and incorporating the Company;
- (h) delegate any of its powers (including the power to sub-delegate) to a committee of one or more persons appointed by the Board which may consist partly or entirely of non-Directors, *provided*, that every such committee shall conform to such directions as the Board shall impose on them; and *provided, further*, that the meetings and proceedings of any such committee shall be governed by the provisions of these Bye-laws regulating the meetings and proceedings of the Board, so far as the same are applicable and are not superseded by directions imposed by the Board;
- (i) delegate any of its powers (including the power to sub-delegate) to any person on such terms and in such manner as the Board may see fit;
- (j) present any petition and make any application in connection with the liquidation or reorganisation of the Company;
- (k) in connection with the issue of any share, pay such commission and brokerage as may be permitted by law; and
- (l) authorise any company, firm, person or body of persons to act on behalf of the Company for any specific purpose and in connection therewith to execute any deed, agreement, document or instrument on behalf of the Company.

#### **50. Register of Directors and Officers**

The Board shall cause to be kept in one or more books at the Registered Office of the Company a Register of the Directors and Officers of the Company and shall enter therein the particulars required by the Act.

#### **51. Appointment of Officers**

The Board may appoint such officers (who may or may not be Directors) as the Board may determine.

#### **52. Appointment of Secretary**

The Secretary shall be appointed by the Board from time to time.

#### **53. Duties of Officers**

The Officers shall have such powers and perform such duties in the management, business and affairs of the Company as may be delegated to them by the Board from time to time.

**54. Remuneration of Officers**

The Officers shall receive such remuneration as the Board may determine.

**55. Conflicts of Interest**

**55.1** Any Director, or any Director's firm, partner or any company with whom any Director is associated, may act in any capacity for, be employed by or render services to the Company and such Director or such Director's firm, partner or company shall be entitled to remuneration as if such Director were not a Director. Nothing herein contained shall authorise a Director or Director's firm, partner or company to act as Auditor to the Company.

**55.2** A Director who is directly or indirectly interested in a contract or proposed contract or arrangement with the Company shall declare the nature of such interest as required by the Act.

**55.3** Following a declaration being made pursuant to this Bye-law, a Director may vote in respect of any contract or proposed contract or arrangement in which such Director is interested and may be counted in the quorum for such meeting and, to the fullest extent permitted by Applicable Law, the interested Director shall not be liable to account to the Company for any profit realized thereby. To the fullest extent permitted by Applicable Law, in the event that one or more interested Directors are disqualified or elect to be recused from voting on a matter, or one or more Directors are later found to have an interest or conflict that should have been declared, the matter shall be approved or stand approved if it is or was approved by a majority of the votes cast by the Directors that do not have any interest or conflict in the matter, even if less than a quorum.

**55.4** Subject to the Act and any further disclosure required thereby, a general notice to the Directors by a Director or officer declaring that he is a director or officer or has an interest in any business entity and is to be regarded as interested in any transaction or arrangement made with that business entity shall be sufficient declaration of interest in relation to any transaction or arrangement so made.

**55.5** This Bye-law 55 shall be subject to any U.S. securities laws and the rules of any exchange or quotation system on which the Company's shares are then listed.

**56. Indemnification and Exculpation**

**56.1** To the fullest extent permitted by Applicable Law, but subject to the limitations expressly provided in this Bye-law 56, (i) the past, present and future (x) Directors, Resident Representative, Secretary and other Officers (such term to include any person appointed to any committee by the Board), (y) any consultants participating in any Company equity incentive plan, and (z) liquidators or trustees (if any) for the time being acting in relation to any of the affairs of the Company or any Subsidiary

thereof, (ii) any Person who is or was an employee or agent of the Company or a director, officer, employee or agent of any of the Company's Subsidiaries and who, while an employee or agent of the Company or a director, officer, employee or agent of any of the Company's Subsidiaries, is or was also an officer, director, employee, managing director, general or limited partner, manager, member, shareholder, agent or other Affiliate of any member of the Apollo Group or of any Affiliate of any member of the Apollo Group (other than the Company and its Subsidiaries) and (iii) any other Person who, while a Director or Officer, is or was serving at the request of the Company as a director, officer, employee or agent of another corporation or of a partnership, limited liability company, joint venture, trust, enterprise, nonprofit entity or other entity, including service with respect to employee benefit plans (each, a "Covered Person") shall be indemnified and secured harmless by the Company from and against all Liabilities and Expenses arising from any and all threatened, pending or completed Proceedings, in which any Covered Person may be involved, or is threatened to be involved, as a party or otherwise, by reason of (A) in the case of any Covered Person described in the preceding clauses (i) and (iii), its status as a Covered Person or (B) in the case of any Covered Person described in the preceding clause (ii), the fact that such Covered Person is or was an employee or agent of the Company, or is or was a director, officer, employee or agent of any of the Company's Subsidiaries, acting in relation to the affairs of the Company or any such Subsidiary, whether arising from acts or omissions to act occurring before or after the date of the adoption of these Bye-laws; *provided, however*, that a Covered Person shall not be indemnified and held harmless if there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter for which the Covered Person is seeking indemnification pursuant to this Bye-law 56, the Covered Person acted fraudulently and/or dishonestly in relation to the Company; *provided further*, subject in all respects to Bye-law 56.12, no Covered Person shall be entitled to indemnification from the Company (nor any amounts provided for under Bye-law 56.2) for any acts or omissions of such Covered Person in such Covered Person's role as a director, officer, consultant, representative or agent of AAM. Notwithstanding the preceding sentence, except as otherwise described in Bye-law 56.10, the Company shall be required to indemnify a Person described in such sentence in connection with any Proceeding (or part thereof) commenced by such Person only if the commencement of such Proceeding (or part thereof) by such Person was authorised by the Board. To the fullest extent permitted by Applicable Law, each Shareholder agrees to waive any claim or right of action such Shareholder might have, whether individually or by or in right of the Company, against any Covered Person on account of any action taken by such Covered Person, or the failure of such Covered Person to take any action in the performance of such Covered Person's duties with or for the Company or any subsidiary thereof; *provided, that* such waiver shall not extend to any matter in respect of any fraud or dishonesty in relation to the Company or its Subsidiaries which may attach to such Covered Person.

- 56.2** To the fullest extent permitted by Applicable Law, Expenses incurred by a Covered Person in appearing at, participating in or defending any indemnifiable Proceeding pursuant to this Bye-law 56 shall, from time to time, be advanced by the Company prior to a final and non-appealable disposition of the Proceeding in which it is determined that the Covered Person is not entitled to be indemnified upon receipt by the Company of an undertaking by or on behalf of the Covered Person to repay such amount if it ultimately shall be determined that the Covered Person is not entitled to be indemnified pursuant to this Bye-law 56. Notwithstanding the immediately preceding sentence, except as otherwise provided in Bye-law 56.10, the Company shall be required to indemnify a Covered Person pursuant to the immediately preceding sentence in connection with any Proceeding (or part thereof) commenced by such Person only if the commencement of such Proceeding (or part thereof) by such Person was authorised by the Board.
- 56.3** The indemnification and advancement of Expenses provided by this Bye-law 56 shall be in addition to any other rights to which a Covered Person may be entitled under these Bye-laws or any agreement between the Company and such Covered Person, pursuant to a vote of a majority of disinterested Directors with respect to such matter, as a matter of law, in equity or otherwise, both as to actions in the Covered Person's capacity as a Covered Person and as to actions in any other capacity, and shall continue as to a Covered Person who has ceased to serve in such capacity.
- 56.4** The Company may purchase and maintain insurance on behalf of a Covered Person, and such other Persons as the Board shall determine, against any Liability that may be asserted against, or Expense that may be incurred by, such Person in connection with the Company's activities or any such Person's activities on behalf of the Company, regardless of whether the Company would have the power to indemnify such Person against such Liability or Expense under the provisions of these Bye-laws or Applicable Law.
- 56.5** For purposes of this Bye-law 56 (i) the Company shall be deemed to have requested a Covered Person to serve as fiduciary of an employee benefit plan whenever the performance by it of its duties to the Company also imposes duties on, or otherwise involves services by, such Covered Person to the plan or participants or beneficiaries of the plan and (ii) excise taxes assessed on a Covered Person with respect to an employee benefit plan pursuant to Applicable Law shall constitute "fines" within the meaning of "Liabilities".
- 56.6** A Covered Person shall not be denied indemnification in whole or in part under this Bye-law 56 because the Covered Person had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by these Bye-laws.
- 56.7** Except with respect to any Shareholder Affiliate, which shall be a third party beneficiary of the rights set forth in Bye-law 56.12, the provisions of this Bye-law 56 are for the benefit of the Covered Persons and their heirs, successors, assigns,

executors and administrators and shall not be deemed to create any rights for the benefit of any other Persons.

- 56.8** Each Covered Person shall, in the performance of his, her or its duties, be fully protected in relying in good faith upon the records of the Company and on such information, opinions, reports or statements presented to the Company by any of the Officers, Directors or employees of the Company, or any of the officers, directors or employees of the Company's Subsidiaries, or committees of the Board, or by any other Person (including legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisers selected by or on behalf of it) as to matters such Covered Person reasonably believes are within such other Person's professional or expert competence.
- 56.9** No amendment, modification or repeal of this Bye-law 56 or any provision hereof or, to the fullest extent permitted by Applicable Law, any modification of Applicable Law, shall in any manner terminate, reduce or impair the right of any past, present or future Covered Person to be indemnified or to have such Covered Person's Expenses advanced by the Company, nor the obligations of the Company to indemnify or advance Expenses to any such Covered Person under and in accordance with the provisions of this Bye-law 56 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or-in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.
- 56.10** If a claim for indemnification (following the final disposition of the Proceeding for which indemnification is being sought) or advancement of Expenses under this Bye-law 56 is not paid in full within thirty (30) days after a written claim therefor by any Covered Person has been received by the Company, such Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the Expenses of prosecuting such claim, including reasonable attorneys' fees.
- 56.11** This Bye-law 56 shall not limit the right of the Company, to the extent and in the manner permitted by Applicable Law, to indemnify and to advance Expenses to, and purchase and maintain insurance on behalf of Persons other than Covered Persons.
- 56.12** The Company hereby acknowledges that the indemnitees under this Bye-law 56 (the "Indemnified Persons") may have certain rights to indemnification, advancement of Expenses and/or insurance provided by shareholders, members of the Apollo Group, or other Affiliates of the Company or Affiliates of members of the Apollo Group ("Shareholder Affiliates") separate from the indemnification and advancement of Expenses provided by the Company under these Bye-laws. The Company hereby agrees (i) that it is the indemnitor of first resort (i.e., its obligations to the Indemnified Persons under these Bye-laws are primary and any obligation of any Shareholder Affiliate to advance Expenses or to provide indemnification for the same Expenses or Liabilities incurred by the Indemnified Persons are secondary), (ii) that the

Company shall be required to advance the full amount of Expenses incurred by the Indemnified Persons and shall be liable for the full amount of all Expenses and Liabilities paid in settlement to the extent legally permitted and as required by Bye-law 56, without regard to any rights the Indemnified Persons may have against any Shareholder Affiliate, and (iii) that the Company irrevocably waives, relinquishes and releases the Shareholder Affiliates from any and all claims against the Shareholder Affiliates for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by any Shareholder Affiliate on behalf of a Indemnified Person with respect to any claim for which such Indemnified Person has sought indemnification from the Company pursuant to Bye-law 56 shall affect the foregoing and the Shareholder Affiliates shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of the Indemnified Person against the Company. For the avoidance of doubt, no Person providing directors' or officers' or similar insurance obtained or maintained by or on behalf of the Company, and of its Affiliates or any of the foregoing's respective Subsidiaries, including any Person providing such insurance obtained or maintained pursuant to Bye-law 56.4, shall be, or be deemed to be, a Shareholder Affiliate.

- 56.13** No Covered Person shall be personally liable either to the Company or to any of its Shareholders for monetary damages for breach of fiduciary duty as a Covered Person, except to the extent such exemption from liability or limitation thereof is not permitted under Applicable Law as the same exists or may hereafter be amended. Any amendment, modification or repeal of this Bye-law inconsistent with the foregoing sentence shall not adversely affect any right or protection of a Covered Person in respect of any act or omission occurring prior to the time of such amendment, modification or repeal.
- 56.14** Any Person purchasing or otherwise acquiring any interest in any shares of the Company shall be deemed to have notice of and to have consented to the provisions of this Bye-law 56.
- 56.15** This Bye-law 56 may not be rescinded, altered or amended (a) unless in accordance with the Act and (b) until the same has been approved by the Board and at least 50% of the Total Voting Power (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4).

## **BUSINESS OPPORTUNITIES**

### **57. Business Opportunities**

- 57.1** To the fullest extent permitted by Applicable Law, the Company, on behalf of itself and its Subsidiaries, other than its Subsidiaries that are insurance companies which are regulated by a governmental entity ("Insurance Subsidiaries"), waives and renounces any right, interest or expectancy of the Company and/or its Subsidiaries,

other than its Insurance Subsidiaries, in, or in being offered an opportunity to participate in, business opportunities of any kind, nature or description that are from time to time presented to (x) any member of the Apollo Group or an Affiliate of any member of the Apollo Group (other than the Company and its Subsidiaries), (y) any of the Directors or any of their respective Affiliates (other than the Company and its Subsidiaries), or (z) any Officer, employee or agent of the Company, or any director, officer, employee or agent of any of the Company's Subsidiaries, who is also, and is presented such business opportunity in his or her capacity as, an officer, director, employee, managing director, general or limited partner, manager, member, shareholder, agent or other Affiliate of any member of the Apollo Group or of any Affiliate of any member of the Apollo Group (other than the Company and its Subsidiaries), in the case of each of clauses (x), (y) and (z), excluding the Chief Executive Officer of the Company (the Persons described in clauses (x), (y) and (z), "Specified Parties" and each, a "Specified Party"), or of which any Specified Parties have or gain knowledge, whether or not the opportunity is competitive with the business of the Company or its Subsidiaries or in the same or similar lines of business as the Company or its Subsidiaries or one that the Company or its Subsidiaries might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so, and each Specified Party shall have no duty (statutory, fiduciary, contractual or otherwise) to communicate or offer such business opportunity to the Company and, to the fullest extent permitted by Applicable Law, shall not be liable to the Company or any of its Subsidiaries, other than its Insurance Subsidiaries, for breach of any statutory, fiduciary, contractual or other duty, as a Director, Officer, employee or agent of the Company, or a director, officer, employee or agent of any of the Company's Subsidiaries, as the case may be, or otherwise, by reason of the fact that such Specified Party pursues or acquires such business opportunity, directs such business opportunity to another Person or fails to present or communicate such business opportunity, or information regarding such business opportunity, to the Company or its Subsidiaries. Notwithstanding the foregoing, the Company and its Subsidiaries do not renounce any right, interest or expectancy in any business opportunity offered to a Specified Party who is a Director or Officer if such business opportunity is expressly offered for the Company or its Subsidiaries to such person solely in his or her capacity as a Director or Officer (a "Company Opportunity"); *provided, however*, that all of the protections of this Bye-law 57 shall otherwise apply to the Specified Parties with respect to such Company Opportunity, including the ability of the Specified Parties to pursue or acquire such Company Opportunity, directly or indirectly, or to direct such Company Opportunity to another person, if and to the extent that the Company or the applicable Subsidiary of the Company, as applicable, determines not to pursue such Company Opportunity or if it is subsequently determined by the Board or any committee thereof (or board of directors or other governing body of such Subsidiary or any committee thereof), or by any court of competent jurisdiction, that the business opportunity was not in the line of business of the Company or such Subsidiary, as applicable, was not of material or practical advantage to the Company or such Subsidiary, as applicable, or was one that the Company or such Subsidiary, as applicable, was not financially capable of

undertaking. For the avoidance of doubt, notwithstanding anything to the contrary set forth herein or otherwise, to the fullest extent permitted by Applicable Law, the Company, on behalf of itself and its Subsidiaries, other than its Insurance Subsidiaries, hereby waives and renounces any right, interest or expectancy of the Company or its Subsidiaries to participate in or be offered an opportunity to participate in any business or business opportunity of any member of the Apollo Group or its Affiliates (other than the Company and its Subsidiaries), except to the extent such right, interest or expectancy is expressly granted to the Company or any of its Subsidiaries under a binding agreement between or among the Company and/or its Subsidiaries, on the one hand, and any member of the Apollo Group or its Affiliates (other than the Company and its Subsidiaries), on the other hand.

- 57.2** No amendment, modification or repeal of this Bye-law 57 or any provision hereof or, to the fullest extent permitted by Applicable Law, any modification of Applicable Law, shall in any manner terminate, reduce or impair the right of any Person under and in accordance with the provisions of this Bye-law 57 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.
- 57.3** This Bye-law 57 shall not limit any protections or defenses available to, or indemnification or advancement rights of, any Specified Party under any agreement, these Bye-laws, vote of the Board, Applicable Law or otherwise.
- 57.4** Any Person purchasing or otherwise acquiring any interest in any shares of the Company shall be deemed to have notice of and to have consented to the provisions of this Bye-law 57.
- 57.5** Notwithstanding anything to the contrary herein, under no circumstances shall the provisions of this Bye-law 57 (other than this Bye-law 57.5) apply to (or result in or be deemed to result in a limitation or elimination of) any duty (contractual, fiduciary or otherwise, whether at law or in equity) owed by any Specified Party who is also an Officer, employee or agent of the Company, or any director, officer, employee or agent of any of its Subsidiaries (other than any such Specified Party who is also an officer, director, employee, managing director, general or limited partner, manager, member, shareholder, agent or other Affiliate of any member of the Apollo Group or of any Affiliate of any member of the Apollo Group (other than the Company and its Subsidiaries)), and any business opportunity waived or renounced by any Person pursuant to such other provisions of this Bye-law 57 shall be expressly reserved and maintained (and shall not be waived or renounced) by such Person as to any such Specified Party.
- 57.6** This Bye-law 57 may not be rescinded, altered or amended (a) unless in accordance with the Act and (b) until the same has been approved by the Board and at least 50% of the Total Voting Power (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4).

## MEETINGS OF THE BOARD OF DIRECTORS

### 58. Board Meetings

The Board may meet for the transaction of business, adjourn and otherwise regulate its meetings as it sees fit. A resolution put to the vote at a meeting of the Board shall be carried by the affirmative votes of a majority of the votes cast and in the case of an equality of votes cast the resolution shall fail.

### 59. Notice of Board Meetings

Upon the requisition of (i) the Chairman or Vice Chairman of the Board, (ii) a majority of the Directors, (iii) the Chief Executive Officer of the Company or (iv) a majority of the Independent Directors, the Secretary shall summon a meeting of the Board. Notice of a meeting of the Board shall be deemed to be duly given to a Director if it is given to such Director verbally (including in person or by telephone) or otherwise communicated or sent to such Director by post, electronic means or other mode of representing words in a visible form at such Director's last known address or in accordance with any other instructions given by such Director to the Company for this purpose.

### 60. Electronic Participation in Meetings

Subject to Applicable Law, Directors may participate in any meeting by such telephonic, electronic or other communication facilities or means as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

### 61. Quorum at Board Meetings

The quorum necessary for the transaction of business at a meeting of the Board shall be two (2) Directors; *provided, that* at any meeting where only two (2) Directors are in attendance any Board action taken at such meeting must be approved unanimously.

### 62. Board to Continue in the Event of Vacancy

The Board may act notwithstanding any vacancy in its number but, if and so long as its number is reduced below the number fixed by these Bye-laws as the quorum necessary for the transaction of business at meetings of the Board, the continuing Directors or Director may act for the purpose of (i) summoning a general meeting; or (ii) preserving the assets of the Company.

### 63. Chairman to Preside

~~The Chairman shall preside at all board meetings. For meetings where the Chairman is not present, the Vice Chairman shall preside. For any Board meeting where both the Chairman and Vice Chairman are not present, the Board may designate a Director to preside over such meeting.~~

Unless otherwise agreed by a majority of the Directors attending, the Chairman, if there be one, shall act as chairman at all meetings of the Board at which such person is present. In his absence a chairman shall be appointed or elected by the Directors present at the meeting.

**64. Written Consent**

A written consent signed by all the Directors, which may be in counterparts, shall be as valid as if a resolution in respect thereof had been passed at a meeting of the Board duly called and constituted, such written consent to be effective on the date on which the last Director signs such written consent.

**65. Validity of Prior Acts of the Board**

No regulation or alteration to these Bye-laws made by the Company in a general meeting shall invalidate any prior act of the Board which would have been valid if that regulation or alteration had not been made.

## **CONFLICTS**

**66. Resolution of Conflicts**

For so long as any Class B Common Shares remain outstanding, none of the Company or any of its Subsidiaries shall enter into or amend any contract or agreement with a member of the Apollo Group, unless such contract or agreement or amendment is:

- (a) fair and reasonable to the Company and its Subsidiaries, taking into account the totality of the relationships between the parties involved (including other transactions that may be or have been particularly favorable or advantageous to the Company and its Subsidiaries); or
- (b) entered into on an arm's-length basis; or
- (c) approved by a majority of the disinterested Directors; or
- (d) approved by the holders of a majority of the issued and outstanding Class A Common Shares; or
- (e) approved by the Conflicts Committee in accordance with its charter and guidelines as they may be amended from time to time.

Notwithstanding the above, all Apollo Conflicts, as defined in the charter of the Conflicts Committee, shall be approved by the Conflicts Committee unless such conflict is specifically exempted from approval in accordance with the Conflicts Committee charter and guidelines as they may be amended from time to time.

**67. Conflicts Committee**

- 67.1** The Board shall constitute a committee comprised solely of Directors who are not general partners, directors, managers, officers or employees of the Apollo Group (the “Conflicts Committee”).
- 67.2** The Conflicts Committee shall consist of up to five (5) individuals designated by the Board. The Conflicts Committee shall have a chairman, who shall be designated by the Board or, if the Board so delegates, by the Conflicts Committee. The vote necessary to approve any action at a meeting of the Conflicts Committee shall be a majority of the entire Conflicts Committee.
- 67.3** The Conflicts Committee may meet in person, by telephone or video conference call or in any other manner in which the Board is permitted to meet under Applicable Law and may also take action by written consent of the number and identity of Conflicts Committee members who have not less than the minimum number of votes that would be necessary to take such action at a meeting at which all Conflicts Committee members entitled to vote were present and voted.
- 67.4** The Conflicts Committee, upon the affirmative vote of a majority of the entire Committee, shall have the authority to engage consultants to assist in the evaluation of conflicts matters. It shall have the sole authority to retain and terminate any such consultants, including sole authority to approve the consultants’ fees and other retention terms; *provided*, that fees and expenses incurred in connection with the engagement of any such consultant are reasonable.

## **CORPORATE RECORDS**

**68. Minutes**

The Board shall cause minutes to be duly entered in books provided for the purpose:

- (a) of all elections and appointments of Officers;
- (b) of the names of the Directors present at each meeting of the Board and of any committee appointed by the Board; and
- (c) of all resolutions and proceedings of general meetings of the Shareholders, meetings of the Board, meetings of managers and meetings of committees appointed by the Board.

**69. Place Where Corporate Records Kept**

Minutes prepared in accordance with the Act and these Bye-laws shall be kept by the Secretary at the Registered Office of the Company.

**70. Form and Use of Seal**

- 70.1** The Company may adopt a seal in such form as the Board may determine. The Board may adopt one or more duplicate seals for use in or outside Bermuda.
- 70.2** A seal may, but need not, be affixed to any deed, instrument, share certificate or document, and if the seal is to be affixed thereto, it shall be attested by the signature of (i) any Director, or (ii) any Officer, or (iii) the Secretary, or (iv) any person authorised by the Board for that purpose.
- 70.3** A Resident Representative may, but need not, affix the seal of the Company to certify the authenticity of any copies of documents.

## ACCOUNTS

### **71. Books of Account**

- 71.1** The Board shall cause to be kept proper records of account with respect to all transactions of the Company and in particular with respect to:
- (a) all amounts of money received and expended by the Company and the matters in respect of which the receipt and expenditure relates;
  - (b) all sales and purchases of goods by the Company; and
  - (c) all assets and liabilities of the Company.
- 71.2** Such records of account shall be kept at the principal place of business of the Company, or subject to the Act, at such other place as the Board thinks fit and shall be available for inspection by the Directors during normal business hours.

### **72. Financial Year End**

The financial year end of the Company may be determined by resolution of the Board and failing such resolution shall be 31<sup>st</sup> December in each year.

## AUDITS

### **73. Annual Audit**

Subject to any rights to waive laying of accounts or appointment of an Auditor pursuant to the Act, the accounts of the Company shall be audited at least once in every year.

### **74. Appointment of Auditor**

- 74.1** Subject to the Act, at the annual general meeting or at a subsequent special general meeting in each year, an independent representative of the Shareholders shall be appointed by them as Auditor of the accounts of the Company.

**74.2** The Auditor may be a Shareholder but no Director, Officer or employee of the Company shall, during his continuance in office, be eligible to act as an Auditor of the Company.

**75. Remuneration of Auditor**

Save in the case of an Auditor appointed pursuant to Bye-law 80, the remuneration of the Auditor shall be fixed by the Company in a general meeting or in such manner as the Shareholders may determine. In the case of an Auditor appointed pursuant to Bye-law 80, the remuneration of the Auditor shall be fixed by the Board.

**76. Duties of Auditor**

**76.1** The financial statements provided for by these Bye-laws shall be audited by the Auditor in accordance with generally accepted auditing standards. The Auditor shall make a written report thereon in accordance with generally accepted auditing standards.

**76.2** The generally accepted auditing standards referred to in this Bye-law may be those of a country or jurisdiction other than Bermuda or such other generally accepted auditing standards as may be provided for in the Act. If so, the financial statements and the report of the Auditor shall identify the generally accepted auditing standards used.

**77. Access to Records**

The Auditor shall at all reasonable times have access to all books kept by the Company and to all accounts and vouchers relating thereto, and the Auditor may call on the Directors or Officers for any information in their possession relating to the books or affairs of the Company.

**78. Financial Statements**

Subject to any rights to waive laying of accounts pursuant to the Act, financial statements as required by the Act shall be laid before the Shareholders in a general meeting.

**79. Distribution of Auditor's Report**

The report of the Auditor shall be submitted to the Shareholders in a general meeting.

**80. Vacancy in the Office of Auditor**

The Board may fill any casual vacancy in the office of the Auditor.

## **VOLUNTARY WINDING-UP AND DISSOLUTION**

**81. Winding-Up**

Subject to Bye-law 4 and any agreement contemplated by Bye-law 1.5 to the contrary, if the Company shall be wound up the liquidator may, with the sanction of a Resolution, divide amongst the Shareholders in specie or in kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may, for such purpose, set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Shareholders or different classes of Shareholders. Subject to Bye-law 4 and any agreement contemplated by Bye-law 1.5 to the contrary, the liquidator may, with the like sanction, vest the whole or any part of such assets in the trustees upon such trusts for the benefit of the Shareholders as the liquidator shall think fit, but so that no Shareholder shall be compelled to accept any shares or other securities or assets whereon there is any liability.

## **CHANGES TO CONSTITUTION; EXCLUSIVE JURISDICTION**

### **82. Changes to Bye-laws**

No Bye-law may be rescinded, altered or amended and no new Bye-law may be made save in accordance with the Act and until the same has been approved by a resolution of the Board and by a Resolution; *provided*, that any such action that would materially, adversely and disproportionately affect the rights, obligations, powers or preferences of any class of shares without similarly affecting the rights, obligations, powers or preferences of all classes of shares shall require a vote of the majority of the issued and outstanding shares constituting such class so affected.

### **83. Changes to the Memorandum of Association**

No alteration or amendment to the Memorandum of Association may be made save in accordance with the Act and until same has been approved by a resolution of the Board and by a Resolution.

### **84. Exclusive Jurisdiction**

In the event that any dispute arises concerning the Act or out of or in connection with these Bye-laws, including any question regarding the existence and scope of any Bye-law and/or whether there has been any breach of the Act or these Bye-laws by an Officer or Director (whether or not such a claim is brought in the name of a Shareholder or in the name of the Company), any such dispute shall be subject to the exclusive jurisdiction of the Supreme Court of Bermuda.

### **85. Discontinuance**

The Board may exercise all the powers of the Company to discontinue the Company to a jurisdiction outside Bermuda pursuant to the Act.

## **CERTAIN MATTERS RELATING TO SUBSIDIARIES**

## **86. Voting of Subsidiary Shares**

**86.1** Notwithstanding any other provision of these Bye-laws to the contrary (but subject to Bye-law 86.2), if the Company, in its capacity as a shareholder of any Subsidiary of the Company, has the right to vote at a general meeting or special meeting of such Subsidiary (whether in person or by its attorney-in-fact or proxy) (or by written resolution in lieu of a general meeting or special meeting), and the subject matter of the vote is (a) the appointment, removal or remuneration of directors of a non-U.S. Subsidiary of the Company or (b) any other subject matter with respect to a non-U.S. Subsidiary that legally requires the approval of the shareholders of such non-U.S. Subsidiary, the Board shall refer the subject matter of the vote to the Shareholders and seek authority from the Shareholders entitled to vote for the Board for the Company's corporate representative or proxy to vote with respect to the resolution proposed by such Subsidiary. The Board shall cause the Company's corporate representative or proxy to vote the Company's shares in such Subsidiary pro rata to the votes received at the general meeting of the Company, with votes for or against the directing resolution being taken, respectively, as an instruction for the Company's corporate representative or proxy to vote the appropriate proportion of its share for and the appropriate proportion of its shares against the resolution proposed by such Subsidiary. For the avoidance of doubt, for purposes of this Bye-law 86 and Bye-law 87, the term "non-U.S. Subsidiary" shall mean a Subsidiary that is treated as a non-U.S. person for U.S. federal income tax purposes. The Board shall have authority to resolve any ambiguity in this Bye-law 86 or Bye-law 87. All votes referred to the Company's Shareholders pursuant to this Bye-law 86.1 shall give effect to and otherwise be subject to the voting power restrictions of Bye-laws 4.2, 4.3 and 4.4.

**86.2** If the Board in its discretion, determines that the application of Bye-law 86.1(b) with respect to a particular vote is not necessary to achieve the purposes of this Bye-law 86, it may waive the application of Bye-law 86.1(b) with respect to such vote.

## **87. Bye-laws or Articles of Association of Certain Subsidiaries**

The Board shall require that the Bye-laws or Articles of Association or similar organizational documents of each non-U.S. Subsidiary of the Company shall contain provisions substantially similar to Bye-law 86.1 and Bye-law 87. The Company shall enter into agreements, as and when determined by the Board, with each such non-U.S. Subsidiary, only if and to the extent reasonably necessary and permitted under Applicable Law, to effectuate or implement this Bye-law.

## **88. Termination of IMAs**

**88.1** Except as set forth in Bye-law 88.2, the Company shall not, and shall cause each Subsidiary of the Company not to, elect to terminate the IMA or any other investment advisory or investment management agreement by and between the Company or any of its Subsidiaries and a member of the Apollo Group (a "New IMA") (a) on any

date other than ~~October 31, 2018~~June 4, 2023 or any ~~annual~~two (2)-year anniversary of such date (each, an “IMA Termination Election Date”) and (b) unless it has provided written notice to AAM or the member of the Apollo Group that is a party to such New IMA, as applicable, of such termination at least thirty (30) days, but not more than ninety (90) days, prior to the applicable IMA Termination Election Date (an “IMA Termination Notice”); *provided*, that (i) the IMA or any New IMA may only be terminated by the Company or a Subsidiary of the Company with the approval of at least two-thirds (2/3) of the Independent Directors in accordance with the immediately following sentence (an IMA Termination Notice delivered with such approval and in accordance with Bye-law 88.1(a) and (b), a “Valid IMA Termination Notice”) and (ii) notwithstanding any such election to terminate or delivery of a Valid IMA Termination Notice, no such termination shall be effective on any date earlier than the second annual anniversary of the applicable IMA Termination Election Date (the “IMA Termination Effective Date”). Notwithstanding anything to the contrary contained in this Bye-law 88.1, the Board shall not approve any election to terminate the IMA or any New IMA on any IMA Termination Election Date pursuant to this Bye-law 88.1 unless at least two-thirds (2/3) of the Independent Directors agree that an event described in clause (iii) or (iv) of the definition of AHL Cause occurred with respect to the IMA or such New IMA, as applicable. If the Company and/or applicable Subsidiary of the Company does not provide a Valid IMA Termination Notice with respect to an IMA Termination Election Date, then the Company or such Subsidiary may only elect to terminate such IMA or New IMA under this Bye-law 88.1 on the next IMA Termination Election Date, and neither the Company nor any Subsidiary of the Company shall terminate any such IMA or New IMA in accordance with this Bye-law 88.1 without providing a Valid IMA Termination Notice. Furthermore, beginning on ~~October 31~~June 4, 2017~~2019~~, the IMA and any New IMA shall be subject to an initial term of ~~three~~four (34) years from such date; *provided* that, on each IMA Termination Election Date after ~~October 31~~June 4, 2017~~2019~~, beginning with the IMA Termination Election Date on ~~October 31~~June 4, 2018~~2023~~, to the extent no Valid IMA Termination Notice has been delivered in accordance with this Bye-law 88.1 with respect to the IMA or any New IMA, the term of the IMA and each such New IMA shall be extended automatically without any further action or obligation by any persons (including, without limitation, the parties thereto or hereto) for ~~one~~a period of two (+2) additional ~~year~~years; *provided, further* that, if a Valid IMA Termination Notice has been previously delivered in accordance with this Bye-law 88.1 and has not been rescinded prior to the applicable IMA Termination Effective Date, this sentence shall no longer be of any force or effect with respect to the IMA or such New IMA that is the subject of such delivered Valid IMA Termination Notice: and the term of the IMA or such New IMA subject to such Valid IMA Termination Notice shall continue through the end of the IMA Remediation Period. Notwithstanding anything to the contrary, the term of any IMA or New IMA shall be extended for the IMA Remediation Period.

- 88.2** Notwithstanding anything to the contrary in Bye-law 88.1, the Company and/or the applicable Subsidiary of the Company may terminate the IMA or any New IMA

upon the occurrence of an event described in clause (i) or (ii) of the definition of AHL Cause with respect to the IMA or such New IMA, as applicable; *provided*, that any termination of the IMA or any New IMA by the Company or Subsidiary of the Company, as applicable, for such AHL Cause shall require the approval of at least two-thirds (2/3) of the Independent Directors and the delivery of written notice to AAM or such member of the Apollo Group that is a party to such New IMA, as applicable, of such termination for such AHL Cause at least thirty (30) days prior to the effective date of such termination; provided, further, that in each case AAM or the member of the Apollo Group that is a party to the applicable IMA or New IMA, as applicable, shall have the right to dispute such determination of the Independent Directors within thirty (30) days after receiving notice from the Company of such determination, in which case the parties to such IMA or New IMA, as applicable, shall submit the question as to whether the conditions of AHL Cause have been met to binding arbitration in accordance with Section 12 of the seventh amended and restated fee agreement dated June 10, 2019 between the Company and AAM, as amended from time to time, and such IMA or New IMA, as applicable, shall continue to remain in effect during the period of the arbitration.

**88.3** For the avoidance of doubt, subject in all respects to the other provisions of this Bye-law 88 and the definition of AHL Cause, any termination of the IMA or any New IMA by the Company and/or any Subsidiary of the Company shall require the approval of at least two-thirds (2/3) of the Independent Directors. Notwithstanding anything to the contrary herein, for purposes of this Bye-law 88 and the definition of AHL Cause, (x) no officer or employee of the Company or any of its Subsidiaries shall constitute an Independent Director and (y) no officer or employee of (1) any member of the Apollo Group described in clauses (i) through (iv) of the definition of Apollo Group or (2) Apollo Global Management, LLC or any of its Subsidiaries (excluding any Subsidiary that constitutes any portfolio company (or investment) of (A) an investment fund or other investment vehicle whose general partner, managing member or similar governing person is owned, directly or indirectly, by Apollo Global Management, LLC or by one or more of its Subsidiaries or (B) a managed account agreement (or similar arrangement) whereby Apollo Global Management, LLC or one or more of its Subsidiaries serves as general partner, managing member or in a similar governing position) shall constitute an Independent Director.

**88.4** This Bye-law 88 may not be rescinded, altered or amended (a) unless in accordance with the Act and (b) until the same has been approved by at least two-thirds (2/3) of the Independent Directors and at least 50% of the Total Voting Power (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4).

AHL Cause means, (i) with respect to the IMA, a material violation of Applicable Law relating to AAM's advisory business, and with respect to a New IMA, a material violation of Applicable Law relating to the advisory business of the member of the

Apollo Group that is a party to such New IMA, [in each case that is materially detrimental to the Company](#), (ii) the gross negligence, willful misconduct or reckless disregard of any of the obligations of AAM under the IMA or the member of the Apollo Group that is a party to the applicable New IMA under such New IMA, as applicable, [that is materially detrimental to the Company](#) (iii) the unsatisfactory long term performance of AAM under the IMA, or the member of the Apollo Group that is a party to the applicable New IMA under such a New IMA, as applicable, that is materially detrimental to the Company, as determined in the sole discretion of at least two-thirds (2/3) of the Independent Directors, acting in good faith or (iv) a determination in the sole discretion of at least two-thirds (2/3) of the Independent Directors, acting in good faith, that the fees charged by AAM under the IMA, or by the member of the Apollo Group that is a party to the applicable New IMA under such New IMA, as applicable, are unfair and excessive compared to a Comparable Asset Manager, *provided, however*, in the case of clauses (iii) and (iv), the Independent Directors shall deliver written notice of such finding to AAM or such other member of the Apollo Group, as applicable, and AAM or such other member of the Apollo Group, as applicable, shall have until the applicable IMA Termination Effective Date to address the Independent Directors' concerns and; *provided further*, that in the case of clause (iv), AAM or such other member of the Apollo Group, as applicable, shall have a right to lower its fees to match a Comparable Asset Manager. If AAM or such member of the Apollo Group has addressed the Independent Directors' concerns (with the assessment of whether the Independent Directors' concerns have been addressed being rendered thereby in good faith with the approval of at least two-thirds (2/3) of the Independent Directors) or, if applicable, lowered its fees to match a Comparable Asset Manager, then the applicable IMA Termination Notice shall be deemed rescinded and of no further force or effect. For the avoidance of doubt, the occurrence of an event constituting AHL Cause under the IMA shall not constitute an event of AHL Cause under any New IMA and vice versa, unless such event of AHL Cause shall be separately established thereunder.

[IMA Remediation Period means, with respect to any Valid IMA Termination Notice, the period between the applicable IMA Termination Election Date and the applicable IMA Termination Effective Date.](#)

**Schedule 1**  
**Related Party Insurance**

Athene Holding Ltd. Insurance Subsidiaries:

- ~~1.~~ 1. Athene Life Re Ltd.
- ~~2.~~ ~~Athene Life Insurance Company~~
- ~~3.~~ 2. Athene Annuity & Life Assurance Company (~~f/k/a Liberty Life Insurance Company~~)
- ~~4.~~ 3. Athene Life Insurance Company of New York (~~f/k/a Aviva Life and Annuity Company of New York~~)
- ~~5.~~ 4. Athene Annuity & Life Assurance Company of New York (~~f/k/a Presidential Life Insurance Company~~)
- ~~6.~~ 5. Structured Annuity Reinsurance Company
- ~~7.~~ 6. Athene Annuity and Life Company (~~f/k/a Aviva Annuity and Life Company~~)
- ~~8.~~ 7. Athene Re USA IV, Inc. (~~f/k/a Aviva Re USA IV, Inc.~~)
- ~~9.~~ 8. Athene Annuity Re Ltd.

Current Ceding Companies:

- ~~1.~~ 1. Western United Life Assurance Company
- ~~2.~~ 2. American Equity Investment Life Insurance Company
- ~~3.~~ 3. American Pioneer Life Insurance Company
- ~~4.~~ 4. American Progressive Life and Health Insurance Company of New York
- ~~5.~~ 5. Constitution Life Insurance Company
- ~~6.~~ 6. Union Bankers Life Insurance Company
- ~~7.~~ 7. Pennsylvania Life Insurance Company
- ~~8.~~ 8. The Pyramid Life Insurance Company
- ~~9.~~ 9. Jefferson National Life Insurance Company
- ~~10.~~ 10. Athene Annuity & Life Assurance Company (~~f/k/a Liberty Life Insurance Company~~)
- ~~11.~~ 11. Continental Assurance Company
- ~~12.~~ 12. Reassure America Life Insurance Company
- ~~13.~~ 13. Eagle Life Insurance Company
- ~~14.~~ ~~Athene Life Insurance Company~~
- ~~15.~~ 14. Liberty Bankers Life Insurance Company
- ~~16.~~ 15. Athene Annuity & Life Assurance Company of New York (~~f/k/a Presidential Life Insurance Company~~)
- ~~17.~~ 16. Athene Annuity and Life Company (~~f/k/a Aviva Annuity and Life Company~~)
- ~~18.~~ 17. Structured Annuity Reinsurance Company
- ~~19.~~ 18. Transamerica Life Insurance Company

- ~~20.~~ [19.](#) Midland National Life Insurance Company
- ~~21.~~ [20.](#) North American Company for Life and Health Insurance
- ~~22.~~ [21.](#) Athene Re USA IV, Inc. (~~f/k/a Aviva Re USA IV, Inc.~~)
- ~~23.~~ [22.](#) Sentinel Security Life Insurance Company
- ~~24.~~ [23.](#) Athene Life Insurance Company of New York (~~f/k/a Aviva Life and Annuity Company of New York~~)
- ~~25.~~ [24.](#) Royal Neighbors of America
- ~~26.~~ [25.](#) Fidelity Security Life Insurance Company
- ~~27.~~ [26.](#) The Lincoln National Life Insurance Company
- [27.](#) [Massachusetts Mutual Life Insurance Company](#)
- [28.](#) [Brighthouse Life Insurance Company](#)
- [29.](#) [Brighthouse Life Insurance Company of NY](#)
- [30.](#) [Life Insurance Company of the Southwest](#)
- [31.](#) [Voya Insurance and Annuity Company](#)
- [32.](#) [Reliastar Life Insurance Company](#)
- [33.](#) [Athora Lebensversicherung AG](#)

[=](#)  
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### **Section 3: EX-3.2 (EXHIBIT 3.2)**

**TWELFTH AMENDED AND RESTATED**

**BYE-LAWS  
OF  
ATHENE HOLDING LTD.**

**Adopted on June 4, 2019**

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## INTERPRETATION

### 1. Definitions

**1.1** In these Bye-laws, the following words and expressions shall, where not inconsistent with the context, have the following meanings, respectively:

9.9% Shareholder means a Person (other than a member of the Apollo Group) whose Controlled Shares constitute more than nine and nine-tenths percent (9.9%) of the Total Voting Power;

AAM means Athene Asset Management LLC, a Delaware limited liability company (or any successor entity thereto);

Act means the Companies Act 1981 of Bermuda as amended from time to time;

Adjustment  
Controlled Shares means, in reference to any Person or Shareholder, all Controlled Shares of such Person or Shareholder other than Apollo Designated Voting Securities;

Adjustment Shareholder(s) means, at any time, the Shareholder(s) (i) with the highest Relative Class B Ownership Percentage as of such time and (ii) whose Class B Common Shares have voting power as of such time;

Affected Class B  
Shareholder a Shareholder holding Adjustment Controlled Shares of any person described in clause (1) of the Class B Adjustment Condition;

Affiliate means, as to any Person, any Person which directly or indirectly controls, is controlled by, or is under common control with such Person. For purposes of this definition, "control" of a Person shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person whether by ownership of voting stock, by contract or otherwise;

Apollo Group means, (i) Apollo Global Management, LLC, (ii) AAA Guarantor – Athene, L.P., (iii) any investment fund or other collective investment vehicle whose

general partner or managing member is owned, directly or indirectly, by Apollo Global Management, LLC or by one or more of Apollo Global Management, LLC's Subsidiaries, (iv) BRH Holdings GP, Ltd. and its shareholders, (v) any executive officer of Apollo Global Management, LLC whom Apollo Global Management, LLC designates, in a written notice delivered to the Company, as a member of the Apollo Group for purposes of these Bye-laws (which designation shall continue in effect until such designee ceases to be an executive officer of Apollo Global Management, LLC) and (vi) any Affiliate of a Person described in clauses (i), (ii), (iii), (iv) or (v) above; *provided*, none of the Company or its Subsidiaries, nor any Person employed by the Company, its Subsidiaries or AAM, shall be deemed to be a member of the Apollo Group. For avoidance of doubt, any Person managed by Apollo Global Management, LLC or by one or more of Apollo Global Management, LLC's Subsidiaries pursuant to a managed account agreement (or similar arrangement) without Apollo Global Management, LLC or by one or more of Apollo Global Management, LLC's Subsidiaries controlling such Person as a general partner or managing member shall not be part of the Apollo Group;

Apollo Termination Event	means the time at which no member of the Apollo Group owns any Class B Common Shares;
Applicable Law	means, with respect to any Person, all provisions of laws, statutes, ordinances, rules, regulations, permits, certificates, judgments, decisions, decrees or orders of any Governmental Authority applicable to such Person;
Applicable Securities	means Relevant Securities other than Apollo Designated Voting Securities;
Applicable Shareholder	means any Shareholder or holder of New Securities (other than a member of the Apollo Group prior to an Apollo Termination Event);
Auditor	means the individual or entity for the time being performing the duties of auditor of the Company (if any);

Bermuda	means the Islands of Bermuda;
Board	means the board of directors appointed or elected pursuant to these Bye-laws and acting by resolution in accordance with the Act and these Bye-laws or the directors present at a meeting of directors at which there is a quorum;
Business Day	means any day that is not a Saturday, Sunday or other day on which commercial banks in Bermuda are authorised or required by law to close;
Bye-laws	means these twelfth Amended and Restated Bye-laws adopted by the Company on June 4, 2019, in their present form or as from time to time amended;
Class B 9.9% U.S. Person	means a U.S. Person whose Adjustment Controlled Shares constitute more than nine and nine-tenths percent (9.9%) of the Total Voting Power;
Class B Common Shares	means the Class B Common Shares and unless otherwise indicated, the Transferred Class B Common Shares;
Class M Common Shares	means the Class M-1 Common Shares, Class M-2 Common Shares, Class M-3 Common Shares, Class M-4 Common Shares and any other class of common shares designated as Class M Common Shares by the Board;
Code	means the United States Internal Revenue Code of 1986, as amended from time to time, or any U.S. Federal statute from time to time in effect that has replaced such statute, and any reference in these Bye-laws to a provision of the Code or a Treasury regulation promulgated thereunder means such provision or regulation as amended from time to time or any provision of a U.S. Federal law or any U.S. Treasury regulation, from time to time in effect that has replaced such provision or regulation;
Company	means Athene Holding Ltd.;
Comparable Asset Manager	means an asset manager with personnel of experience, education and qualification, and whose services are of a scale and scope, comparable to those of AAM

(after giving effect to any assistance provided to AAM by its Affiliates);

Controlled Shares	means, in reference to any Person or Shareholder, all Relevant Securities and Class B Common Shares owned by such Person or Shareholder either (i) directly, indirectly or constructively under Section 958 of the Code or (ii) beneficially within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder;
Director	means a director of the Company;
Disqualified Shareholder	means a Shareholder who holds Nonvoting Class A Common Shares or a Shareholder who owns Relevant Securities treated as Controlled Shares of any Applicable Shareholder holding Applicable Securities, or any Tax Attributed Affiliate of such an Applicable Shareholder, that is a Tentative 9.9% Shareholder;
Equity Securities	means all shares of capital stock of the Company, all securities exercisable or convertible into or exchangeable for shares of capital stock of the Company, and all options, warrants, and other rights to purchase or otherwise acquire from the Company shares of such capital stock, including any share appreciation or similar rights, contractual or otherwise;
Exchange Act	means the U.S. Securities Exchange Act of 1934, as amended;
Expenses	means all fees, costs and expenses incurred in connection with any Proceeding, including, without limitation, attorneys' fees, disbursements and retainers, fees and disbursements of expert witnesses, private investigators and professional advisors (including, without limitation, accountants and investment bankers), court costs, transcript costs, fees of experts, travel expenses, duplicating, printing and binding costs, telephone and fax transmission charges, postage, delivery services, secretarial services and other disbursements and expenses;

Governmental Authority	means any Bermudan, U.S. Federal, state, county, city, local or foreign governmental, administrative or regulatory authority, commission, committee, agency or body (including any court, tribunal or arbitral body and any self-regulating authority such as FINRA);
Group	shall have the meaning ascribed to it in Rule 13d-5 promulgated under the Exchange Act;
IMA	means the investment management agreement, dated as of July 22, 2009, as amended from time to time;
Inclusion Shareholder	means a Person who (i) is treated as a “United States shareholder” with respect to the Company (within the meaning of Section 951(b) of the Code) and (ii) owns (within the meaning of Section 958(a) of the Code) any shares in the Company;
Independent Director	means any Director that meets the independence requirements under the then-prevailing rules of the New York Stock Exchange or any stock exchange or quotation system on which the Company’s common equity securities are then listed or quoted, as determined by the Board;
Insolvency Event	means: (i) the Company or any Subsidiary thereof shall commence a voluntary case or other Proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar Applicable Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other Proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorise any of the foregoing; (ii) an involuntary case or other Proceeding shall be commenced against the Company or any Subsidiary thereof seeking liquidation, reorganization or other relief with respect to it or its debts under bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver,

	liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other Proceeding shall remain undismissed and unstayed for a period of sixty days; or (iii) an order for relief shall be entered against the Company or any Subsidiary thereof under the bankruptcy laws in effect at such time;
Liabilities	means losses, claims, damages, liabilities, joint or several, judgments, fines, penalties, interest, settlements or other amounts;
Liquidation	means: (i) any Insolvency Event; (ii) any Sale of the Company or (iii) any dissolution or winding up of the Company, other than any dissolution, liquidation or winding up in connection with any reincorporation of the Company in another jurisdiction;
Minimum Shareholder	means a Shareholder of record of the Company meeting the minimum requirements set forth for eligible shareholders to submit shareholder proposals under Rule 14a-8 of the Exchange Act or any applicable rules thereunder as may be amended or promulgated thereunder from time to time;
Nonvoting Class A Common Shares	Disqualified Class A Common Shares, Tax Disqualified I Class A Common Shares and Tax Disqualified II Class A Common Shares;
notice	means written notice as further provided in these Bye-laws unless otherwise specifically stated;
Officer	means any person appointed by the Board to hold an office in the Company;
Proceeding	means claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, and whether formal or informal and including appeals, at law or in equity, by or before any Governmental Authority;
Realized Cash	means all amounts received in respect of any Class A Common Share held by an investor in any round of equity raising of the Company, whether such amount is in cash, securities or otherwise, including, without

limitation, all dividends and other distributions, including assets, all proceeds received from the sale of such Class A Common Shares and all proceeds received from a Sale of the Company or a Liquidation of the Company (including, for the avoidance of doubt, all holdbacks, escrows, earn outs and other deferred payments upon the receipt of such amounts by such investor, and any amounts received in accordance with Bye-law 4.5), with the value of any distributed assets being the fair market value of such assets at the time of distribution as reasonably determined by the Board, and which amounts shall not include securities received as a result of share splits, including a share split in the form of a share dividend and all other pro rata distributions of shares, *provided*, that solely for purposes of determining the Return of Investment Amount, Realized Cash shall also include all amounts deemed to have been received by such investor based on the volume weighted average closing trading price for such Class A Common Shares during the ninety (90) preceding trading days before any date of determination;

Register of  
Directors and Officers

means the register of directors and officers referred to in these Bye-laws;

Register of Shareholders

means the register of shareholders referred to in these Bye-laws;

Registered Office

means the registered office of the Company, which shall be at such place in Bermuda as the Board shall from time to time appoint;

Registration Rights  
Agreement

means that certain Third Amended and Restated Registration Rights Agreement, by and between the Company and certain Shareholders, dated as of April 4, 2014, as amended, supplemented or modified from time to time;

Related Insured Entity

means any Person who is (directly or indirectly) insured or reinsured by any of the Company's Subsidiaries as specified in Schedule 1 hereto or by any ceding company as specified in Schedule 1 hereto to which the Company's Subsidiaries provide

reinsurance; *provided*, after the date hereof, such Schedule may be amended by the Board and shall be published in each case thereafter on the Company's website. This definition is intended to comply with the intent of Section 953(c) of the Code and will be interpreted accordingly;

Relative Class B

Ownership Percentage

means, with respect to the Smallest Class B 9.9% U.S. Person and with respect to a Shareholder, at any time the percentage of the total number of Class B Controlled Shares directly held by such Shareholder at such time that are attributed to such Smallest Class B 9.9% U.S. Person;

Relevant Securities

means (i) Class A Common Shares, (ii) Transferred Class B Common Shares and (iii) New Securities;

Resident Representative

means any person appointed to act as resident representative and includes any deputy or assistant resident representative;

Resolution

means a resolution of the Shareholders approved by Shareholders entitled to vote for the election of directors to the Board or, where required, of a separate class or separate classes of Shareholders, adopted in a general meeting, in each case in accordance with the provisions of these Bye-laws;

Return of Investment

Amount

means the aggregate, without duplication, of all (i) dividends (whether in cash or in specie), (ii) consideration in redemption and (iii) Realized Cash received or deemed to have been received by an investor with respect to each Class A Common Share;

Sale of the Company

means (i) the sale or transfer of all or substantially all of the Company's assets to a Third Party; (ii) the sale or transfer of outstanding Equity Securities to a Third Party; or (iii) a business combination involving the Company and one or more additional Persons by means of merger, consolidation, scheme of arrangement, amalgamation, share exchange or similar transaction, in each case in clauses (ii) and (iii) above under circumstances in which the Third Party, immediately following such transaction, holds 51%

or more of the aggregate economic value of the outstanding Equity Securities. A sale (or multiple sales) of one or more Subsidiaries of the Company (whether by way of merger, consolidation, reorganization or sale of all or substantially all of the assets or securities or otherwise) which constitutes all or substantially all of the consolidated assets or revenues of the Company shall be deemed a Sale of the Company;

SEC	means the U.S. Securities and Exchange Commission;
Securities Act	means the U.S. Securities Act of 1933, as amended;
Secretary	means the person appointed to perform any or all of the duties of secretary of the Company and includes any deputy or assistant secretary and any person appointed by the Board to perform any of the duties of the Secretary;
Shareholder	means the person registered in the Register of Shareholders as the holder of shares in the Company and, when two or more persons are so registered as joint holders of shares, means the person whose name stands first in the Register of Shareholders as one of such joint holders or all of such persons, as the context so requires;
Shareholders Agreement	means that certain Sixth Amended and Restated Shareholders Agreement of the Company, by and between the Company and certain Shareholders, dated as of April 4, 2014, as amended, supplemented or modified from time to time;
Smallest Class B 9.9% U.S. Person	means, at any time, the Class B 9.9% U.S. Person whose Adjustment Controlled Shares constitute the smallest percentage of the Total Voting Power among all Class B 9.9% U.S. Persons as of such time; <i>provided</i> , that in the event of a tie the Smallest Class B 9.9% U.S. Person shall be the Class B 9.9% U.S. Person whose full legal name is first alphabetically;
Specified Number	means the quotient of (i) the percentage of the Total Voting Power represented by the Class A Common

	Shares, <u>divided by</u> (ii) 9.9%, rounded up to the nearest whole number;
Specified Shareholders	means Persons owning no Relevant Securities which are treated as Controlled Shares of any Applicable Shareholder holding Applicable Securities, or any Tax Attributed Affiliate of such an Applicable Shareholder, that is a Tentative 9.9% Shareholder;
Subscription Agreements	means those certain Subscription Agreements by and among the Company and certain Shareholders entered into prior to the date hereof;
Subsidiary	means, with respect to any Person, any other Person the majority of whose equity securities or voting securities able to elect the board of directors or comparable governing body are directly or indirectly owned or controlled by such Person;
Tax Attributed Affiliates	means, with respect to any Shareholder, any person (i) related (within the meaning of Section 953(c) of the Code) to such Shareholder or (ii) to whom the ownership of the Class A Common Shares held by such Shareholder is attributed pursuant to Section 958 of the Code;
Tentative 9.9% Shareholder	means a Person that, but for adjustments to the voting rights of Relevant Securities pursuant to Bye-law 4.4, would be a 9.9% Shareholder;
Third Party	means any Person, or any Group of Persons, who, immediately prior to a proposed Sale of the Company, held less than 10% of the aggregate economic value of the outstanding Equity Securities; <i>provided</i> , that the Company and its Subsidiaries shall not be a Third Party or a member of a Group of Persons constituting a Third Party;
Total Voting Power	means the total votes attributable to all shares of the Company issued and outstanding;
Treasury Share	means a share of the Company that was or is treated as having been acquired and held by the Company and has been held continuously by the Company since it was so acquired and has not been cancelled;

U.S. Person	means a “United States person”, as such term is defined in Section 957(c) of the Code; and
Voting Ratio	means, with respect to any share in the Company, a fraction (i) the numerator of which is the percentage of the Total Voting Power represented by such share and (ii) the denominator of which is a fraction (expressed as a percentage) (a) the numerator of which is the value of that share and (b) the denominator of which is the total value of all outstanding shares in the Company.

1.2 In these Bye-laws, the following terms have the meanings set forth in the sections indicated:

<u>Term</u>	<u>Bye-law</u>
AHL Cause	88.4
Apollo Designated Voting Security	4.7(b)
Apollo Employee Shareholders	4.2(d)
cause	44.1
Chairman	49(c)
Class B Adjustment Condition	4.2(b)(iii)
Class B Restructuring	4.2(b)(ii)(C)
Common Shares	4.1
Company Merger Vote	4.2(f)
Company Opportunity	57.1
Conflicts Committee	67.1
Covered Arrangement	23.4(b)
Covered Person	56.1
Disqualified Class A Common Share	4.2(a)
Escrow	4.5(d)
Group 1 Preference Amount	4.5(a)
Group 2 Preference Amount	4.5(a)
Group 3 Preference Amount	4.5(a)
Group 4 Preference Amount	4.5(a)
Group M Preference Amount	4.5(a)
IMA Termination Effective Date	88.1
IMA Termination Election Date	88.1
IMA Termination Notice	88.1
Indemnified Persons	56.12

Insurance Subsidiaries	57.1
New IMA	88.1
New Securities	4.2(b)(ii)(C)
Other Holders	40.11
public announcement	23.6
Reallocation	4.5(g)
Shareholder Affiliates	56.12
Specified Parties	57.1
Subject Holder	4.5(g)
Tax Disqualified I Class A Common Share	4.2(a)
Tax Disqualified II Class A Common Share	4.2(a)
Transferred Class B Common Shares	4.2(b)(ii)(A)
Valid IMA Termination Notice	88.1
Vice Chairman	49(c)
Voting Commitment	40.7

- 1.3** In these Bye-laws, where not inconsistent with the context:
- (a) words denoting the plural number include the singular number and vice versa;
  - (b) words denoting the masculine gender include the feminine and neuter genders;
  - (c) words importing “person” or “Person” shall be construed in the broadest sense and means and includes a natural person, a partnership, a corporation, an association, a joint share company, a limited liability company, a trust, a joint venture, an unincorporated organization and any other entity and any federal, state, municipal, foreign or other government, governmental department, commission, board, bureau, agency or instrumentality, or any private or public court or tribunal;
  - (d) the words:
    - (i) “may” shall be construed as permissive; and
    - (ii) “shall” shall be construed as imperative; and
  - (e) unless otherwise provided herein, words or expressions defined in the Act shall bear the same meaning in these Bye-laws.
- 1.4** In these Bye-laws expressions referring to writing or its cognates shall, unless the contrary intention appears, include facsimile, printing, lithography, photography, electronic mail and other modes of representing words in visible form.
- 1.5** Headings used in these Bye-laws are for convenience only and are not to be used or relied upon in the construction hereof.
- 1.6** The rights and obligations set forth in these Bye-laws may be modified or restricted by any shareholders agreement entered into by two or more Shareholders or by the Company and one or more Shareholders, *provided*, that any such modification or restriction shall apply only to the parties to such shareholders agreement.

## **SHARES**

### **2. Power to Issue Shares**

- 2.1** Subject to these Bye-laws and to any Resolution to the contrary and without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, the Board shall have the power and authority to the fullest extent permitted under the Act, but subject to all contractual restrictions to which the Company is bound, to issue any unissued shares on such terms and conditions as it may determine and any shares or class of shares may be issued with such preferred,

deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise as the Board may by resolution prescribe, and to fix or alter the number of shares comprising any such class or series.

**2.2** The authority of the Board with respect to each such class or series shall include, without any limitation of the foregoing, the right to determine and fix the following preferences and powers, which may vary as between different classes or series of shares:

- (a) the distinctive designation of such class or series and the number of shares to constitute such class or series;
- (b) the rate at which any dividends on the shares of such class or series shall be declared and paid, or set aside for payment, whether dividends at the rate so determined shall be cumulative or accruing, and whether the shares of such class or series shall be entitled to any participating or other dividends in addition to dividends at the rate so determined, and if so, on what terms;
- (c) the right or obligation, if any, of the Company to redeem shares of the particular class or series and, if redeemable, the price, terms and manner of such redemption;
- (d) the special and relative rights and preferences, if any, and the amount or amounts per share, which the shares of such class or series shall be entitled to receive upon any voluntary or involuntary liquidation, dissolution or winding up of the Company;
- (e) the terms and conditions, if any, upon which shares of such class or series shall be convertible into, or exchangeable for, shares of capital stock of any other class or series, including the price or prices or the rate or rates of conversion or exchange and the terms of adjustment, if any;
- (f) the obligation, if any, of the Company to retire, redeem or purchase shares of such series pursuant to a sinking fund or fund of a similar nature or otherwise, and the terms and conditions of such obligation;
- (g) voting rights, if any, including special voting rights with respect to the election of directors and matters adversely affecting any such class or series; and
- (h) limitations, if any, on the issuance of additional shares of such class or series or any shares of any other class or series.

**2.3** Subject to the Act, any preference shares may be issued or converted into shares that (at a determinable date or at the option of the Company or the holder) are liable to be redeemed on such terms and in such manner as may be determined by the Board (before the issue or conversion).

**3. Power of the Company to Purchase its Shares**

- 3.1** The Company may purchase its own shares for cancellation or acquire them as Treasury Shares in accordance with the Act on such terms as the Board shall think fit.
- 3.2** The Board may exercise all the powers of the Company to purchase or acquire all or any part of its own shares in accordance with the Act.

**4. Rights Attaching to Shares**

- 4.1** Subject to any Resolution to the contrary (and without prejudice to any special rights conferred thereby on the holders of any other shares or class of shares), the common share capital of the Company shall be divided into Class A Common Shares, Class B Common Shares and Class M Common Shares (collectively, the “Common Shares”). In accordance with Bye-law 2.2, the Board may authorize the creation and issuance of one or more series of preference shares.
- 4.2** Prior to the occurrence of an Apollo Termination Event, the voting rights of the Common Shares shall be as follows:
- (a) Subject to adjustment by Bye-law 4.2(b), Bye-law 4.2(e) and Bye-law 4.2(f), the Class A Common Shares shall collectively represent 55% of the Total Voting Power. Subject to adjustment by Bye-law 4.2(b), Bye-law 4.2(e), Bye-law 4.2(f) and Bye-law 4.4, each Class A Common Share shall be entitled to a number of votes equal to 55 multiplied by a fraction, the numerator of which is 1 and the denominator of which is, without duplication, (i) the total number of Class A Common Shares outstanding at the time such determination is made less (ii) the total number of Nonvoting Class A Common Shares (if any). Notwithstanding the foregoing, subject to Bye-law 4.2(f), (x) no Class A Common Share (other than any Apollo Designated Voting Security) held by a Shareholder who also owns (or whose Tax Attributed Affiliates own) (in each case, directly, indirectly or constructively, pursuant to Section 958 of the Code) Class B Common Shares (a “Disqualified Class A Common Share”), (y) no Class A Common Share held by a Shareholder (other than a Shareholder who is a member of the Apollo Group) who also owns (or whose Tax Attributed Affiliates own) (in each case, directly, indirectly or constructively, pursuant to Section 958 of the Code), any equity interests (for this purpose, including any instrument or arrangement that is treated as an equity interest for U.S. federal income tax purposes) of Apollo Global Management, LLC or AP Alternative Assets, L.P. (each a “Tax Disqualified I Class A Common Share”) and (z) no Class A Common Share (other than any Apollo Designated Voting Security) held by a Shareholder who is a member of the Apollo Group (but only, in the case of this clause (z), at a time in which any member of the Apollo Group holds any Class B Common Shares) (each a “Tax Disqualified II Class A Common”

Share”) shall have a right to vote, and such Nonvoting Class A Common Shares shall not be counted in determining the voting power of a Class A Common Share pursuant to the immediately preceding sentence.

(b) (i) Subject to adjustment by the following provisions of this Bye-law 4.2(b), Bye-law 4.2(e) and Bye-law 4.2(f), the Class B Common Shares shall collectively represent 45% of the Total Voting Power. The voting power of the Class B Common Shares shall be allocated among all holders of Class B Common Shares on a pro rata basis except as provided elsewhere in this Bye-law 4.2.

(ii) Any holder of Class B Common Shares that is a member of the Apollo Group may, from time to time, with the consent of the holders of a majority of the Class B Common Shares, reduce the voting power attributable to its Class B Common Shares set forth in Bye-law 4.2(b)(i) (determined prior to application of Bye-law 4.2(b)(ii)–(vii)) by:

(A) transferring any of such holder’s Class B Common Shares to any other person (who may or may not be a member of the Apollo Group) and designating in a written notice delivered to the transferee and the Company (1) the aggregate voting power of such holder’s Class B Common Shares being transferred, (2) the exclusion of such transferred Class B Common Shares from Bye-law 4.2(e) and (3) the corresponding decrease in the aggregate voting power of such holder’s Class B Common Shares not so transferred (such transferred Class B Common Shares, the “Transferred Class B Common Shares”), *provided, however*, that such transfer shall not be permitted to the extent such reallocation would cause the Voting Ratio with respect to any Class B Common Share to be greater than fifteen (15),

(B) transferring, by written notice delivered to the Company, a designated percentage of voting power of its Class B Common Shares to (1) one or more other holders of Class B Common Shares, but only with the written consent of such other holders, which shall be delivered to the Company, (2) all other holders of Class B Common Shares, pro rata, or (3) the Class A Common Shares, as a class; *provided*, that (x) such transfer shall be permitted with respect to any Class B Common Share only to the extent that such transfer would not cause the Voting Ratio of such Class B Common Share to be greater than fifteen (15) and (y) any such transfer of voting power to the Class A Common Shares as a class shall result in a corresponding reduction in the collective voting power attributable to the Class B Common Shares as a class, or

(C) converting any of such holder's Class B Common Shares, on a one-for-one basis or other basis as may be determined by a majority of the Class B Common Shares, into a new series or class of securities of the Company issued in accordance with these Bye-laws having such voting rights as the holders of a majority of the Class B Common Shares may determine (the "New Securities") and any such transfer or conversion, a "Class B Restructuring"; *provided*, that (1) any Class B Restructuring may modify the voting power of the Class B Common Shares being transferred or converted as the holders of a majority of the Class B Common Shares may determine, (2) following any Class B Restructuring the aggregate voting power of any outstanding Class B Common Shares and any such new class or series of shares shall not exceed 45% of the Total Voting Power, and (3) that no Class B Restructuring shall result in the Total Voting Power equaling a number other than 100,

*and provided further*, that the rights of any Transferred Class B Common Shares and New Securities shall be subject to Bye-law 4.4.

(iii) (A) If, after adjustment by Bye-law 4.2(b)(ii), 4.2(b)(vii), Bye-law 4.2(e) and Bye-law 4.2(f), and before application of this Bye-law 4.2(b)(iii) or Bye-law 4.2(b)(iv), (1) there are one or more Class B 9.9% U.S. Persons whose aggregate Adjustment Controlled Shares constitute more than (a) twenty-four and nine-tenths percent (24.9%) of the Total Voting Power or (b) twenty-four and nine-tenths percent (24.9%) of the aggregate value of all outstanding shares of the Company, or (2) there are one or more Class B 9.9% U.S. Persons that are classified as individuals, estates or trusts for U.S. federal income tax purposes (clauses (1) and (2) together, the "Class B Adjustment Condition"), then the adjustments described in Bye-law 4.2(b)(iii)(B) to the allocation of the voting power of the Class B Common Shares shall be made in the order there listed (but in all cases subject to Bye-law 4.2(b)(iv) and Bye-law 4.2(b)(vii)).

(B)

(1) First, the voting power of the Class B Common Shares directly held by the Adjustment Shareholder or Adjustment Shareholders that are attributable to the Smallest Class B 9.9% U.S. Person shall be reduced (but not below zero (0)) until the Class B Adjustment Condition is no longer met or such Smallest Class B 9.9% U.S. Person is no longer a Class B 9.9% U.S. Person (taking into account any reallocation of voting power pursuant to clause (2) below), whichever requires the smallest reduction in voting power.

(2) Second, the aggregate voting power reduced in clause (1) above shall be reallocated pro rata among the Class B Common Shares (other

than any Transferred Class B Common Shares) directly held by all other Shareholders.

(3) Third, the adjustments described in clause (1) and the reallocation described in clause (2) above shall be reapplied serially to the next Smallest Class B 9.9% U.S. Person until the Class B Adjustment Condition is no longer met.

(4) Any excess voting power that cannot be reallocated pursuant to clauses (1), (2) and (3) above shall be transferred pursuant to Bye-law 4.2(b)(v), and thereafter clause (3) above shall not apply.

(iv) Notwithstanding Bye-law 4.2(b)(iii)(B)(2), the pro rata reallocation of the voting power of the Class B Common Shares pursuant to Bye-law 4.2(b)(iii)(B)(2) shall not be permitted to the extent such reallocation would cause (A) a U.S. Person to become a Class B 9.9% U.S. Person (determined after application of Bye-law 4.2(b)(iii)), or (B) the Voting Ratio with respect to any Class B Common Share to be greater than fifteen (15). Any voting power that cannot be reallocated on a pro rata basis among all of the Class B Common Shares (other than any Transferred Class B Common Shares) directly held by all other Shareholders due to this Bye-law 4.2(b)(iv) shall nonetheless be reallocated to such shares to the maximum extent possible without violating the limitations contained in this Bye-law 4.2(b)(iv).

(v) If, after adjustment by Bye-law 4.2(b)(iii), Bye-law 4.2(e) and Bye-law 4.2(f), and before application of this Bye-law 4.2(b)(v), clause (1) of the Class B Adjustment Condition continues to be met, then the holders of Class B Common Shares shall be deemed to have made an irrevocable election under Bye-law 4.2(e) to reduce the percentage of the Total Voting Power represented by the Class B Common Shares (and correspondingly increase the percentage of the Total Voting Power represented by the Class A Common Shares) to the extent necessary so that the Class B Adjustment Condition is no longer met, *provided*, that the Total Voting Power represented by the Class B Common Shares shall not be reduced, or shall be reduced to a lesser extent, if so determined by unanimous vote or written consent of all Affected Class B Shareholders, if all such votes or consents are received by the Company no later than 2 Business Days prior to the date of the relevant vote. If the Total Voting Power represented by the Class B Common Shares is reduced pursuant to this Bye-law 4.2(b)(v), it shall not again be increased.

(vi) Notwithstanding Bye-laws 4.2(b)(ii)–(v), any two or more holders of Class B Common Shares that are members of the Apollo Group may, at any time and from time to time, elect to allocate the voting power attributable to their Class B Common Shares set forth in Bye-law 4.2(b)(i) (determined prior to application of Bye-law 4.2(b)(ii)–(v)) among their Class B Common Shares (or allocated from their Class B Common Shares to other Class B

Common Shares or to the Class A Common Shares as a class) in a manner different from that set forth in Bye-law 4.2(b)(ii)–(v), provided, that in no event shall an election under this Bye-law 4.2(b)(vi) be permitted to result in (1) any person who was not an Inclusion Shareholder immediately prior to such election becoming an Inclusion Shareholder or (ii) the Company (or any of its Subsidiaries) being treated as a “controlled foreign corporation” (within the meaning of Section 957(a) or (b) of the Code) with respect to any Inclusion Shareholder, unless it was treated as such with respect to such Inclusion Shareholder immediately prior to such election. Any election under this Bye-law 4.2(b)(vi) shall be made by delivery to the Company of a written notice, signed by each electing holder, specifying the manner in which the voting power attributable to the Class B Common Shares of the electing holders shall be allocated. The voting power allocation provisions specified in an election under this Bye-law 4.2(b)(vi) shall have the same effect as if set forth in these Bye-laws.

(vii) Notwithstanding Bye-laws 4.2(b)(ii)–(v), any holder of Class B Common Shares that is a member of the Apollo Group may elect to have the amount of voting power attributable to such holder’s Class B Common Shares be subject to such additional limitations as may be specified by such holder. Such election shall be made by delivering to the Company a written notice specifying such additional limitations. Any voting power that must be allocated away from a holder’s Class B Common Shares pursuant to an election under this Bye-law 4.2(b)(vii) shall be reallocated pro rata among the Class B Common Shares (other than any Transferred Class B Common Shares) directly held by all other Shareholders; provided, however, that such reallocation shall be permitted with respect to any Class B Common Share only to the extent that such reallocation would not cause the Voting Ratio of such Class B Common Share to be greater than fifteen (15), and any voting power not able to be reallocated to Class B Common Shares shall be instead be reallocated to the Class A Common Shares as a class.

- (c) The Class M Common Shares shall have no right to vote on any matters to be voted on by the Shareholders (including, without limitation, any election or removal of directors) and the Class M Common Shares shall not be included in determining the number of shares voting or entitled to vote on such matters, except as provided in Bye-law 4.2(f) and where required under Bermuda law.
- (d) Notwithstanding anything to the contrary herein, the aggregate votes conferred by the Class A Common Shares held by all employees of the Apollo Group that are Shareholders (including, for the avoidance of doubt, any Class A Common Shares held by an employee of the Apollo Group through a corporation, limited liability company, limited partnership or trust created for the benefit of such employee or one or more of such employee’s parents,

spouse, siblings or descendants for estate planning purposes) (“Apollo Employee Shareholders”) shall be reduced pro rata to the extent necessary such that all such Class A Common Shares held by all Apollo Employee Shareholders shall constitute collectively no more than 3% of the Total Voting Power. This clause shall not affect the respective aggregate voting power of the Class A Common Shares of 55% of the Total Voting Power and the Class B Common Shares of 45% of the Total Voting Power, subject to adjustment by Bye-law 4.2(b), Bye-law 4.2(e) and Bye-law 4.2(f). Any voting rights of Apollo Employee Shareholders that are limited by this Bye-law 4.2(d) (subject to Bye-law 4.2(e)) shall reduce the voting power of each Apollo Employee Shareholder pro-rata, and increase the voting power of the Specified Shareholders (other than Apollo Employee Shareholders) holding Class A Common Shares in the same manner as specified in, and subject to the operation of, Bye-law 4.4(a)(iii).

- (e) The holders of the Class B Common Shares, by a vote of the majority of the Class B Common Shares, may at any time and from time to time elect to reduce the percentage of the Total Voting Power represented by the Class B Common Shares (and correspondingly increase the percentage of the Total Voting Power represented by the Class A Common Shares, so that the Total Voting Power remains equal to 100), subject to further adjustment by Bye-law 4.2(f) (including, without limitation, by an election that results in increased voting rights attributable to the Class A Common Shares), and if so provided by the terms of such election, such election shall be irrevocable.
- (f) Notwithstanding Bye-law 4.2(a), Bye-law 4.2(b), Bye-law 4.2(c) and Bye-law 4.2(e), in connection with any vote of Shareholders to approve a merger or amalgamation with respect to the Company (a “Company Merger Vote”), any issued and outstanding Nonvoting Class A Common Share and each Class M Common Share, shall have the power to vote in connection with any such Company Merger Vote. Solely in connection with any such Company Merger Vote, such Nonvoting Class A Common Shares and Class M Common Shares shall collectively represent 0.1% of the Total Voting Power (such voting power allocated equally among the Nonvoting Class A Common Shares and Class M Common Shares) with the Total Voting Power attributable to each of the voting Class A Common Shares and Class B Common Shares being reduced by such percentage on a pro rated basis determined based on Total Voting Power of each such class.

**4.3** From and after the occurrence of an Apollo Termination Event, the voting rights of the Common Shares shall be as follows:

- (a) Subject to Bye-law 4.3(c), the Class A Common Shares shall represent 100% of the Total Voting Power. Subject to Bye-law 4.4, each Class A Common Share shall be entitled to one vote per Class A Common Share.

Notwithstanding the foregoing, subject to Bye-law 4.3(b), no Tax Disqualified I Class A Common Share shall have the right to vote.

- (b) Subject to Bye-law 4.3(c), the Class M Common Shares shall have no right to vote on any matters to be voted on by the Shareholders (including, without limitation, any election or removal of directors) and the Class M Common Shares shall not be included in determining the number of shares voting or entitled to vote on such matters, except where required under Bermuda law and as provided in this Bye-law 4.3(b).
- (c) In connection with any Company Merger Vote, any Tax Disqualified I Class A Common Share or Class M Common Share that is not otherwise entitled to vote in accordance with this Bye-law 4.3 shall have the power to vote in connection with any such Company Merger Vote. Solely in connection with any such Company Merger Vote, such Tax Disqualified I Class A Common Shares and Class M Common Shares shall collectively represent 0.1% of the Total Voting Power (such voting power allocated equally among the Tax Disqualified I Class A Common Shares and Class M Common Shares) with the Total Voting Power attributable to the Class A Common Shares (other than Tax Disqualified I Class A Common Shares) being reduced by such percentage on a pro rated basis.

#### 4.4

- (a) The voting rights of the Relevant Securities shall be subject to the following provisions (*provided*, that this Bye-law 4.4(a) shall not apply at any time that there are fewer than the Specified Number of holders of Relevant Securities (for this purpose, treating all such holders that are classified as disregarded entities with the same regarded owner for U.S. federal income tax purposes, together with such regarded owner as one such holder), excluding Disqualified Shareholders):
  - (i) Other than with respect to any Tentative 9.9% Shareholder, except upon the consent of at least 75% of the Board and any Applicable Shareholder holding Controlled Shares of such Tentative 9.9% Shareholder, the voting power of each Applicable Security is hereby adjusted (and shall be automatically adjusted in the future) to the extent necessary so that no Applicable Shareholder holding Applicable Securities, and no Tax Attributed Affiliate of any such Applicable Shareholder, is a 9.9% Shareholder. For the avoidance of doubt, the Board may, in its discretion, grant its consent for purposes of the exception provided in the immediately preceding sentence for any individual Applicable Shareholder or group of Applicable Shareholders and need not grant its consent for all Applicable Shareholders. The Board shall from time to time, including prior to any time at which a vote of Shareholders is taken,

take all reasonable steps necessary to ascertain through communications with Shareholders or otherwise (including by reviewing publicly-filed ownership reports of Shareholders filed pursuant to Section 16 of the Securities Exchange Act of 1934, as amended) whether there exists, or will exist at the time any vote of Shareholders is taken, an Applicable Shareholder holding Applicable Securities, or a Tax Attributed Affiliate of such an Applicable Shareholder, that is a Tentative 9.9% Shareholder.

- (ii) In the event that an Applicable Shareholder holding Applicable Securities, or a Tax Attributed Affiliate of such an Applicable Shareholder, that is a Tentative 9.9% Shareholder exists, the aggregate votes conferred by the Applicable Securities held by an Applicable Shareholder and treated as Controlled Shares of that Tentative 9.9% Shareholder shall be reduced to the extent necessary such that the Controlled Shares of the Tentative 9.9% Shareholder will constitute no more than 9.9% of the Total Voting Power.
  - (iii) The votes attributable to the Relevant Securities (other than any Transferred Class B Common Shares) of Specified Shareholders shall, in the aggregate, be increased across such Specified Shareholders *pro rata* based on the then current voting power attributable to Relevant Securities, as applicable, by the same number of votes subject to reduction as described above. Such increase shall apply to all such Specified Shareholders in proportion to the voting power attributable to their Relevant Securities, at that time; *provided*, that such increase shall be limited as to any Specified Shareholder to the extent necessary to avoid causing such Specified Shareholder, or any of its Tax Attributed Affiliates, to be a 9.9% Shareholder. The adjustments of voting power described in this Bye-law 4.4 shall apply repeatedly until there would be no 9.9% Shareholder or until successive application would not result in any change in the voting power of any Relevant Securities.
- (b) The Board may deviate from any of the principles described in this Bye-law 4.4 and determine that Relevant Securities held by a Specified Shareholder shall carry different voting rights (or no voting rights) as it determines appropriate (1) to avoid the existence of any 9.9% Shareholder or (2) (i) to avoid adverse tax, legal or regulatory consequences to the Company or any of its Affiliates or (ii) upon the request of a Specified Shareholder, to avoid adverse tax, legal or regulatory consequences for such Specified Shareholder or any of its Affiliates or direct or indirect owners.

(c)

- (i) The Board shall have the authority to request from any Person holding, directly or indirectly, Applicable Securities or Class B Common Shares, and such Person shall provide, as promptly as reasonably practicable, such information as the Board may require for the purpose of determining whether any Person's voting rights are to be adjusted pursuant to these Bye-laws. If such Person fails to reasonably respond to such a request, or submits incomplete or inaccurate information in response to such a request, the Company may, in its sole and absolute discretion, determine that such Person's Applicable Securities or Class B Common Shares shall carry no voting rights or reduced voting rights, in which case such Applicable Securities or Class B Common Shares shall not carry any voting rights or shall carry only such reduced voting rights until otherwise determined by the Company in its sole and absolute discretion.
- (ii) Any Person shall give notice to the Company within ten days following the date that such Person acquires actual knowledge that it is a Tentative 9.9% Shareholder or that its Applicable Securities are Controlled Shares of a Tentative 9.9% Shareholder.
- (iii) Notwithstanding the foregoing, no Person shall be liable to any other Person or the Company for any losses or damages resulting from a Shareholder's failure to respond to, or submission of incomplete or inaccurate information in response to, a request under paragraph (i) above or from such Person's failure to give notice under paragraph (ii) above. The Board may rely on the information provided by a Person under this Bye-law 4.4(c) in the satisfaction of its obligations under this Bye-law 4.4. The Company may, but shall have no obligation to, provide notice to any Person of any adjustment to its voting power that may result from the application of this Bye-law 4.4.

#### 4.5

- (a) The Common Shares shall be entitled to such dividends, in proportion to the number of Class A Common Shares, Class B Common Shares and Class M Common Shares held by such holder, as the Board may from time to time declare, *provided*, that (A) the holders of Class M-1 Common Shares shall be entitled to receive dividends declared by the Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the date of issuance of such Class M-1 Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to \$10 per share (the "Group 1 Preference Amount"), (B) the holders of Class M-2 Common Shares shall be entitled to receive dividends declared by the

Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the date of issuance of such Class M-2 Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to \$10.77 per share (the “Group 2 Preference Amount”), (C) the holders of Class M-3 Common Shares shall be entitled to receive dividends declared by the Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the date of issuance of such Class M-3 Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to \$13.46 per share (the “Group 3 Preference Amount”), (D) the holders of Class M-4 Common Shares shall be entitled to receive dividends declared by the Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the date of issuance of such Class M-4 Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to \$26.00 per share (the “Group 4 Preference Amount”) and (E) the holders of any other class of Class M Common Shares shall be entitled to receive dividends declared by the Board, if any, only if, on the date of declaration of such dividend, previous Return of Investment Amounts shall have been received (or deemed received where applicable) since the initial issuance date of such Class M Common Shares with respect to any Class A Common Shares and Class B Common Shares in an amount equal to a price per share and with such priority of distribution and payment of such dividends with respect to such Class M Common Shares to be designated by the Board (collectively with the Group 1 Preference Amount, the Group 2 Preference Amount, the Group 3 Preference Amount and the Group 4 Preference Amount, the “Group M Preference Amount”); *provided*, that the payment of dividends on any Class M Common Shares issued as a “restricted share” shall be subject to any vesting and other rights or limitations set forth in any applicable Company incentive plan or restricted share award agreement.

- (b) In addition to the foregoing, upon a Liquidation, after payment or provision for payment of the debts and other liabilities of the Company, distributions out of the remaining assets of the Company available for distribution to its Shareholders shall be made as follows: (i) first, the holders of the Class A Common Shares and Class B Common Shares (on a pro-rata basis based upon the number of Class A Common Shares and Class B Common Shares held by each such holder in proportion to the total number of Class A Common Shares and Class B Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the Group 1 Preference Amount to the holders of Class A Common Shares and Class B Common Shares

described in such definition (less any amounts paid as dividends in respect of the Group 1 Preference Amount pursuant to clause (a) above); (ii) second, the holders of Class A Common Shares, Class B Common Shares and Class M-1 Common Shares (on a pro-rata basis based upon the number of Class A Common Shares, Class B Common Shares and Class M-1 Common Shares held by each such holder in proportion to the total number of Class A Common Shares, Class B Common Shares and Class M-1 Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the Group 2 Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of the Group 2 Preference Amount pursuant to clause (a) above); (iii) third, the holders of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares and Class M-2 Common Shares (on a pro-rata basis based upon the number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares and Class M-2 Common Shares held by each such holder in proportion to the total number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares and Class M-2 Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the Group 3 Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of the Group 3 Preference Amount pursuant to clause (a) above); (iv) fourth, the holders of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares and Class M-3 Common Shares (on a pro-rata basis based upon the number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares and Class M-3 Common Shares held by each such holder in proportion to the total number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares and Class M-3 Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the Group 4 Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of the Group 4 Preference Amount pursuant to clause (a) above); (v) fifth, the holders of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares, Class M-3 Common Shares and Class M-4 Common Shares (on a pro-rata basis based upon the number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares, Class M-3 Common Shares and Class M-4 Common Shares held by each such holder in proportion to the total number of Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares, Class M-3 Common Shares and Class M-4 Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the Group 5 Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of the Group 5 Preference Amount pursuant to clause (a) above).

M-4 Common Shares then outstanding), shall be entitled to receive in the aggregate all distributions until such time as aggregate distributions are made in an amount equal to the applicable Group M Preference Amount to the holders of Class A Common Shares and Class B Common Shares described in such definition (less any amounts paid as dividends in respect of such Group M Preference Amount pursuant to clause (a) above) and (vi) thereafter, the holders of Common Shares (on a pro-rata basis based upon the number of Common Shares held by each such holder in proportion to the total number of Common Shares then outstanding) shall be entitled to receive in the aggregate all distributions, subject to any preference of any other Class M Common Shares set forth in such designation.

- (c) Unless and until the Group 1 Preference Amount is satisfied, the Class A Common Shares and Class B Common Shares, which shall rank *pari passu* with respect to one another, shall rank senior to the Class M Common Shares in terms of dividends and only after the Group 1 Preference Amount has been fully satisfied will dividends be paid pro rata to the Class A Common Shares, the Class B Common Shares and the Class M-1 Common Shares as a whole. After the Group 1 Preference Amount has been satisfied, but unless and until the Group 2 Preference Amount is satisfied, the Class A Common Shares, Class B Common Shares and Class M-1 Common Shares, which shall rank *pari passu* with respect to one another, shall rank senior to the Class M-2 Common Shares in terms of dividends, and only after the Group 2 Preference Amount has been fully satisfied will dividends be paid pro rata to the Class A Common Shares, the Class B Common Shares, the Class M-1 Common Shares and the Class M-2 Common Shares as a whole. After the Group 2 Preference Amount has been satisfied, but unless and until the Group 3 Preference Amount is satisfied, the Class A Common Shares, Class B Common Shares, Class M-1 Common Shares and Class M-2 Common Shares, which shall rank *pari passu* with respect to one another, shall rank senior to the Class M-3 Common Shares in terms of dividends, and only after the Group 3 Preference Amount has been fully satisfied will dividends be paid pro rata to the Class A Common Shares, the Class B Common Shares, the Class M-1 Common Shares, the Class M-2 Common Shares and the Class M-3 Common Shares as a whole. After the Group 3 Preference Amount has been satisfied, but unless and until the Group 4 Preference Amount is satisfied, the Class A Common Shares, Class B Common Shares, Class M-1 Common Shares, Class M-2 Common Shares and Class M-3 Common Shares, which shall rank *pari passu* with respect to one another, shall rank senior to the Class M-4 Common Shares in terms of dividends, and only after the Group 4 Preference Amount has been fully satisfied will dividends be paid pro rata to the Common Shares as a whole, subject to any preference of the Class A Common Shares, the Class B Common Shares, the Class M-1 Common Shares, the Class M-2 Common Shares, the Class M-3 Common Shares and the Class M-4 Common Shares over any other series of Class M

Common Shares set forth in such designation and the preference of any series of Class M Common Shares over another series of Class M Common Shares.

- (d) Notwithstanding anything to the contrary in this Bye-law 4.5, if, as a result of any applicable escrow, holdback or other similar contingency provision (collectively, “Escrow”) contained in any transaction document governing any Liquidation, the assets and funds to be distributed upon the occurrence of such Liquidation are insufficient to permit the payment of the full applicable Group M Preference Amount that, in each case, would be payable in the absence of the Escrow, the Company shall ensure that the transaction document relating to such Liquidation shall provide that the remainder of the assets or funds upon the release of such Escrow shall be reallocated among the Class A Common Shares, Class B Common Shares, and Class M Common Shares in a manner to reflect what each such Shareholder would have received if such assets or funds had been distributed by the Company to such Shareholders in a Liquidation for cash and the proceeds thereof had been distributed in accordance with the provisions of Bye-law 4.5.
- (e) In the event of a Liquidation resulting from circumstances set forth in either clause (ii) or clause (iii) of the definition of Sale of the Company, the “remaining assets of the Company available for distribution” (as referred to in clause (b) above) shall be deemed to be the aggregate consideration to be paid to all holders of Class A Common Shares, Class B Common Shares, and Class M Common Shares participating in such Liquidation. In connection with such a Liquidation, the holders of the Class A Common Shares, Class B Common Shares and Class M Common Shares shall allocate the aggregate consideration to be paid to all such Shareholders participating in such Liquidation among such Shareholders, such that each such Shareholder shall receive the same portion of the aggregate consideration from such Liquidation that such Shareholder would have received if such aggregate consideration had been distributed by the Company in a Liquidation caused by circumstances other than those set forth in clause (ii) or clause (iii) of the definition of Sale of the Company.
- (f) If any or all of the proceeds payable to the Shareholders in connection with a Liquidation are in a form other than cash or marketable securities, the fair market value of such consideration shall be determined in good faith by the Board.
- (g) Any time a holder of Class M Common Shares (a “Subject Holder”) receives consideration pursuant to the sale or transfer of such Class M Common Shares and the applicable Group M Preference Amount has not been satisfied, such consideration shall be reallocated among the Class A Common Shares, Class B Common Shares and Class M Common Shares in a manner to reflect what each such Shareholder would have received if such aggregate

consideration had been distributed by the Company to such Shareholders in a Liquidation for cash and the proceeds thereof had been distributed in accordance with the provisions of Bye-law 4.5 (a “Reallocation”). Any consideration reallocated to the Class A Common Shares and Class B Common Shares pursuant to this Bye-law 4.5(g) shall be included in determining whether, pursuant to Bye-law 4.5, dividends or distributions in an amount equal to the applicable Group M Preference Amount has been paid with respect to Class A Common Shares and Class B Common Shares. At any time after the Group 1 Preference Amount, Group 2 Preference Amount, Group 3 Preference Amount, Group 4 Preference Amount or any other Group M Preference Amount, as applicable, is satisfied following a Reallocation (on a pro forma basis without regard to any Reallocation), the Company shall pay or cause to be paid to each Subject Holder, out of amounts otherwise available for distribution to the Shareholders, an amount equal to the amount reallocated from such Subject Holder pursuant to this Bye-law 4.5(g).

**4.6** The Class B Common Shares and Class M Common Shares shall be convertible into Class A Common Shares pursuant to the following terms and conditions:

- (a) The Class M Common Shares shall be convertible into Class A Common Shares in accordance with, and subject to the terms and conditions of, the award agreements governing the granting of such shares.
- (b) The Class B Common Shares shall be converted or convertible as follows:
  - (i) Upon notice to the Company, a holder of Class B Common Shares may convert any or all of its Class B Common Shares into Class A Common Shares, and upon receipt of such notice by the Company such Class B Common Shares shall immediately and automatically convert into an equal number of Class A Common Shares on a one-for-one basis, by way of redemption and reissue (for the avoidance of doubt, no Class A Common Share acquired by conversion of Class B Common Shares pursuant to this provision shall be an Apollo Designated Voting Security).
  - (ii) Concurrently with or immediately prior to a sale, transfer, exchange or other disposition (including by dividend or other distribution) of any Class B Common Shares by a holder thereof, such holder shall notify the Company in writing of such transfer and such Class B Common Shares shall immediately and automatically convert into an equal number of Class A Common Shares on a one-for-one basis, by way of redemption and reissue; *provided, however*, that no conversion shall occur with respect to Class B Common Shares transferred (i) to a member of the Apollo Group or (ii) pursuant to Bye-law 4.2(b)(ii)(A). Neither the Company nor any of its

Subsidiaries shall issue or sell Class B Common Shares to any Person, other than a member of the Apollo Group.

- (iii) Upon an Apollo Termination Event or the election of the holders of a majority of the outstanding Class B Common Shares (as evidenced in writing to the Board), all outstanding Class B Common Shares shall immediately and automatically convert into an equal number of Class A Common Shares on a one-for-one basis, by way of redemption and reissue.
- (iv) For the avoidance of doubt, any Class A Common Share acquired by conversion of Class B Common Shares shall be subject to the voting restrictions set forth in Bye-laws 4.2 and 4.4.

#### 4.7

- (a) At any time prior to an Apollo Termination Event, and upon notice to the Company, any member of the Apollo Group may convert any or all of its Class A Common Shares into Class B Common Shares, and upon receipt of such notice by the Company such Class A Common Shares shall immediately and automatically convert into an equal number of Class B Common Shares on a one-for-one basis, by way of redemption and reissue. If such member of the Apollo Group holds both Class A Common Shares and Apollo Designated Voting Securities that consist of Class A Common Shares, then such member of the Apollo Group shall specify whether, and how many, of the shares being converted into Class B Common Shares constitute Apollo Designated Voting Securities.
- (b) At any time prior to an Apollo Termination Event, in connection with its purchase of any Class A Common Shares or other voting securities (other than any Class B Common Shares) of the Company from the Company or any other Shareholder, a member of the Apollo Group may designate, in writing to the Board, prior to such purchase, its intention that any or all such purchased Class A Common Shares or such other voting securities constitute voting Class A Common Shares or such other class or series of voting securities and such securities, when purchased by such member shall constitute voting Class A Common Shares or such other class or series of voting securities for all purposes of these Bye-laws (such designated securities, when held by a member of the Apollo Group, "Apollo Designated Voting Securities"). At the election of the holders of a majority of the Class B Common Shares as evidenced in writing to the Board, the right of any member of the Apollo Group to acquire Apollo Designated Voting Securities may be terminated, *provided*, that such termination shall not affect the voting rights of any Apollo Designated Voting Securities outstanding at the time of such termination.

- 4.8** Any Class A Common Shares or Class B Common Shares issued upon conversion of Class A Common Shares, Class B Common Shares or Class M Common Shares pursuant to Bye-laws 4.6 and 4.7 shall be subject to the terms and restrictions of these Bye-laws applicable to Class A Common Shares and Class B Common Shares, including those contained in Bye-laws 4.2, 4.3 and 4.4 (subject to any exceptions set forth in those sections, including exceptions applicable to the Apollo Group and the Apollo Designated Voting Securities).
- 4.9** All the rights attaching to a Treasury Share shall be suspended and shall not be exercised by the Company while it holds such Treasury Share and, except where required by the Act, all Treasury Shares shall be excluded from the calculation of any percentage or fraction of the share capital, or shares, of the Company.
- 4.10** All determinations to be made in connection with the application of the provisions set forth in this Bye-law 4 shall be made by the Company in its sole discretion, and any such determination shall be binding on all Shareholders and holders of securities of the Company.
- 4.11** By way of example, if a holder of Class A Common Shares, who does not hold Nonvoting Class A Common Shares, and who is entitled to 50% of the economic value of the Company but is only entitled to 9.9% of the Total Voting Power pursuant to Bye-law 4.4 transfers all of such holder's shares in equal amounts to two unaffiliated third parties (neither of whom (x) is a Disqualified Shareholder or (y) owns any Class B Common Shares), then each such third-party transferee shall be entitled to 25% of the economic value of the Company and up to 9.9% of the Total Voting Power (subject to Bye-law 4.4).

## **5. Tax Restrictions**

The following restrictions apply to each Shareholder or holder of Equity Securities, other than the Apollo Group:

- 5.1** No Shareholder or holder of Equity Securities (or, to its actual knowledge, any direct or indirect beneficial owner thereof) who is a "United States shareholder" of the Company (within the meaning of Section 953(c) of the Code), nor any "related person" (within the meaning of Section 953(c) of the Code) to such Shareholder or holder of Equity Securities (or such owner), shall at any time knowingly permit itself to be a Related Insured Entity. No Shareholder or holder of Equity Securities who is a U.S. Person, shall knowingly permit itself (or, to its actual knowledge, any direct or indirect beneficial owner thereof) to own (directly, indirectly or constructively pursuant to Section 958 of the Code) outstanding capital stock of the Company or Equity Securities possessing 50% or more of (i) the total voting power of the Common Shares or Equity Securities (excluding any Apollo Designated Voting Securities), or (ii) the total value of the Common Shares or Equity Securities. No Shareholder or holder of Equity Securities (or, to its actual knowledge, any direct or indirect beneficial owner thereof) nor any "related person" (within the meaning

of Section 953(c) of the Code) to such Shareholder or holder of Equity Securities (or such owner) (in all cases, excluding any member of the Apollo Group) shall (i) acquire any interests (for this purpose, including any instrument or arrangement that is treated as an equity interest for U.S. federal income tax purposes) in AP Alternative Assets, L.P. or Apollo Global Management, LLC or (ii) make any investment, or enter into a transaction, that, to the actual knowledge of such Shareholder at the time such Shareholder, holder of Equity Securities, owner or related person becomes bound to make the investment or enter into the transaction, would cause such Shareholder, holder of Equity Securities, owner or related person, or any other U.S. Person, to own (directly, indirectly or constructively pursuant to Section 958 of the Code) outstanding capital stock of the Company or Equity Securities possessing 50% or more of (a) the total voting power of the Common Shares or Equity Securities entitled to vote or (b) the total value of the Common Shares or Equity Securities.

- 5.2** Notwithstanding anything contained herein to the contrary, no Shareholder shall transfer any Equity Securities if, to the actual knowledge of such Shareholder at the time of such transfer, following such transfer, in the aggregate, 19.9% or more of the total voting power of either the outstanding capital stock of the Company or Equity Securities entitled to vote or 19.9% of the total value of either the outstanding capital stock of the Company or Equity Securities would be owned directly or indirectly (under the principles of Section 953(c)(3)(A) of the Code) by one or more Persons who are either (i) both “United States shareholders” of the Company (within the meaning of Section 953(c) of the Code) and Related Insured Entities or (ii) both related to “United States shareholders” of the Company (within the meaning of Section 953(c) of the Code) and Related Insured Entities.
- 5.3** All determinations to be made in connection with the application of the provisions set forth in Bye-laws 5.1 through 5.2 shall be made by the Board in its sole discretion, and any such determination shall be binding on all Shareholders, it being understood that a Shareholder will in no instance be liable for monetary damages with respect to a breach of this Bye-law 5. The Board may, at any time, and from time to time, request evidence and/or require representations that the restrictions set forth in this Bye-law 5 have not, or will not, be breached. Each Shareholder agrees to furnish such evidence to the Board promptly upon request therefor. The Board may waive any provision in this Bye-law 5 with respect to any Shareholder without granting similar waivers to any other Shareholder. The Board and any particular Shareholder may agree in writing to amend the application of the provisions of this Bye-law 5 with respect to such Shareholder, and the Board shall not be required to enter into similar agreements with other Shareholders.
- 5.4** In the event any Shareholder or holder of Equity Securities becomes aware that there is a material risk that it, any of its direct or indirect beneficial owners and/or any “related person” (within the meaning of Section 953(c) of the Code) to such Shareholder or holder of Equity Securities (or such owner) has violated any provision

contained in this Bye-law 5 (without regard to any knowledge qualifier therein), such Shareholder or holder of Equity Securities will be obligated to notify the Board as promptly as possible. In the event any Shareholder or holder of Equity Securities violates Bye-law 5.1 (without regard to any knowledge qualifier therein), at the discretion of the Board, such Shareholder or holder of Equity Securities shall, and shall cause any direct or indirect beneficial owner of such Shareholder or holder of Equity Securities and any “related person” (within the meaning of Section 953(c) of the Code) to such Shareholder or holder of Equity Securities to (x) sell some or all of its Common Shares or Equity Securities at fair market value (as mutually agreed by the Company and such Shareholder in good faith) as directed by the Board and/or (y) allow the Company to repurchase some or all of its Common Shares or Equity Securities at fair market value (as determined by the Company and such Shareholder in good faith); *provided*, that if the Company and such Shareholder cannot mutually agree on the fair market value of the Common Shares or Equity Securities to be sold or repurchased in accordance with this Bye-law 5.4, then fair market value shall be determined by an investment banking firm of national recognition, which firm shall be reasonably acceptable to the Company and such Shareholder or holder of Equity Securities. The determination of fair market value by such investment banking firm shall be final and binding upon the parties. If the Company and such Shareholder or holder of Equity Securities are unable to agree upon an acceptable investment banking firm within ten (10) days after the date either party proposed that one be selected, the investment banking firm will be selected by an arbitrator located in the City of New York, New York selected by the American Arbitration Association (or if such organization ceases to exist, the arbitrator shall be chosen by a court of competent jurisdiction). The arbitrator shall select the investment banking firm (within ten (10) days of his appointment) from a list, jointly prepared by the Company and such Shareholder or holder of Equity Securities, of not more than six investment banking firms of national standing in the United States, of which no more than three may be named by the Company and no more than three may be named by such Shareholder or holder of Equity Securities. The arbitrator may consider, within the ten-day period allotted, arguments from the parties regarding which investment banking firm to choose, but the selection by the arbitrator shall be made in its sole discretion from the list of six. The selection by the arbitrator of such investment banking firm shall be final and binding upon the parties. The Company and such Shareholder or holder of Equity Securities shall each pay one-half of the fees and expenses of the investment banking firms and arbitrator (if any) used to determine the fair market value. If required by any such investment banking firm or arbitrator, the Company shall execute a retainer and engagement letter containing reasonable terms and conditions, including, without limitation, customary provisions concerning the rights of indemnification and contribution by the Company in favor of such investment banking firm or arbitrator and its officers, directors, partners, employees, agents and Affiliates. The parties shall provide to the investment banking firm, on a confidential basis, such information it reasonably requests to perform its duties.

**5.5** Notwithstanding anything to the contrary herein, upon a breach of this Bye-law 5 (without regard to any knowledge qualifier therein), the breaching Shareholder or holder of Equity Securities shall be required to take any reasonable action the Board deems appropriate.

**6. Calls on Shares**

**6.1** The Board may make such calls as it thinks fit upon the Shareholders in respect of any moneys (whether in respect of nominal value or premium) unpaid on the shares allotted to or held by such Shareholders and, if a call is not paid on or before the day appointed for payment thereof, the Shareholders may at the discretion of the Board be liable to pay the Company interest on the amount of such call at such rate as the Board may determine, from the date when such call was payable up to the actual date of payment. The Board may differentiate between the holders as to the amount of calls to be paid and the times of payment of such calls.

**6.2** The joint holders of a share shall be jointly and severally liable to pay all calls and any interest, costs and expenses in respect thereof.

**6.3** The Company may accept from any Shareholder the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up.

**7. [Reserved]**

**8. Share Certificates**

**8.1** Every Shareholder shall be entitled to a certificate under the common seal (or a facsimile thereof) of the Company or bearing the signature (or a facsimile thereof) of a Director or the Secretary or a person expressly authorised to sign specifying the number and, where appropriate, the class of shares held by such Shareholder and whether the same are fully paid up and, if not, specifying the amount paid on such shares. The Board may by resolution determine, either generally or in a particular case, that any or all signatures on certificates may be printed thereon or affixed by mechanical means.

**8.2** The Company shall be under no obligation to complete and deliver a share certificate unless specifically called upon to do so by the person to whom the shares have been allotted.

**8.3** The holder of any shares of the Company, promptly upon discovery, shall notify the Company of any loss, destruction or mutilation of the certificate therefor, and the Board may, in its discretion, cause to be issued to such holder a new certificate or certificates for such shares, upon the surrender of the mutilated certificates or, in the case of loss or destruction of the certificate, upon satisfactory proof of such loss or destruction, and the Board may, in its discretion, require the owner of the lost or

destroyed certificate or its legal representative to give the Company a bond in such sum and with such surety or sureties as it may direct to indemnify the Company against any claim that may be made against it on account of the alleged loss or destruction of any such certificate.

**9. Fractional Shares**

The Company may issue its shares in fractional denominations and deal with such fractions to the same extent as its whole shares and shares in fractional denominations shall have in proportion to the respective fractions represented thereby all of the rights of whole shares including (but without limiting the generality of the foregoing) the right to vote, to receive dividends and distributions and to participate in a winding-up.

## **REGISTRATION OF SHARES**

**10. Register of Shareholders**

**10.1** The Board shall cause to be kept in one or more books a Register of Shareholders and shall enter therein the particulars required by the Act.

**10.2** The Register of Shareholders shall be open to inspection without charge at the Registered Office of the Company on every Business Day, subject to such reasonable restrictions as the Board may impose, so that not less than two hours in each Business Day be allowed for inspection. The Register of Shareholders may, after notice has been given in accordance with the Act, be closed for any time or times not exceeding in the whole thirty days in each year.

**11. Registered Holder Absolute Owner**

The Company shall be entitled to treat the registered holder of any share as the absolute owner thereof and accordingly shall not be bound to recognise any equitable claim or other claim to, or interest in, such share on the part of any other person.

**12. Transfer of Registered Shares**

**12.1** The following transfer restrictions are in addition to any transfer restrictions that may apply pursuant to the terms of any contract or other agreement between the Shareholders as among themselves or with any third parties or that the Company may enter into with any of its Shareholders.

- 12.2** An instrument of transfer shall be in writing in the form of the following, or as near thereto as circumstances admit, or in such other form as the Board may accept:

Transfer of a Share or Shares  
Athene Holding Ltd. (the "Company")

FOR VALUE RECEIVED.....[amount], I, [name of transferor] hereby sell, assign and transfer unto [transferee] of [address], [number] shares of the Company.

DATED this [ ] day of [ ], 20[ ]

Signed by: In the presence of:

\_\_\_\_\_  
Transferor    Witness

\_\_\_\_\_  
Transferee    Witness

- 12.3** Such instrument of transfer shall be signed by or on behalf of the transferor and transferee, *provided*, that in the case of a fully paid share, the Board may accept the instrument signed by or on behalf of the transferor alone. The transferor shall be deemed to remain the holder of such share until the same has been registered as having been transferred to the transferee in the Register of Shareholders.
- 12.4** The Board may refuse to recognise any instrument of transfer unless it is accompanied by the certificate in respect of the shares to which it relates and by such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.
- 12.5** The joint holders of any share may transfer such share to one or more of such joint holders, and the surviving holder or holders of any share previously held by them jointly with a deceased Shareholder may transfer any such share to the executors or administrators of such deceased Shareholder.
- 12.6** The Board may in its absolute discretion refuse to register the transfer of a share if, and only if, all applicable consents, authorisations and permissions of any governmental body or agency in Bermuda have not been obtained. If the Board refuses to register a transfer of any share, the Secretary shall, within three months after the date on which the transfer was lodged with the Company, send to the transferor and transferee notice of the refusal.
- 12.7** If a Shareholder who is a party to the Registration Rights Agreement transfers any shares which are subject to the provisions of the Registration Rights Agreement, the transferee of such shares and any subsequent transferee of those shares shall be subject to the provisions of such Registration Rights Agreement and the Board may refuse to register any such transfer that is in violation of the restrictions on transfer contained therein; provided, that no such transfer shall be prohibited by this provision

or refused, and the shares subject to such transfer shall no longer be subject to the provisions of the Registration Rights Agreement or this Bye-law 12.7, to the extent that (x) such transfer was made pursuant to (i) an effective registration statement or (ii) a waiver by the Company or (y) at the time of such transfer, the shares subject to such transfer are not then currently subject to a restriction on trading or transfer pursuant to the lock-up or holdback provisions of the Registration Rights Agreement. If the Board refuses to register such a transfer, the Secretary shall, within three months after the date on which the transfer was lodged with the Company, send to the transferor and transferee notice of the refusal.

**13. Transfer Agent; Registrar; Rules Respecting Certificates**

**13.1** The Company may maintain one or more transfer offices or agencies where shares of the Company shall be transferable. The Company may also maintain one or more registry offices where such shares shall be registered. The Board may make such rules and regulations as it may deem expedient concerning the issue, transfer and registration of share certificates in accordance with Applicable Laws and the rules of any stock exchange or quotation system on which shares of the Company may be then listed or quoted.

**14. Transmission of Registered Shares**

**14.1** Subject to the terms of any contracts or other agreements by and between the Shareholders or by and between the Company and any of its Shareholders, in the case of the death of a Shareholder, the survivor or survivors where the deceased Shareholder was a joint holder, and the legal personal representatives of the deceased Shareholder where the deceased Shareholder was a sole holder, shall be the only persons recognised by the Company as having any title to the deceased Shareholder's interest in the shares. Nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by such deceased Shareholder with other persons. Subject to the Act, for the purpose of this Bye-law, legal personal representative means the executor or administrator of a deceased Shareholder or such other person as the Board may, in its absolute discretion, decide as being properly authorised to deal with the shares of a deceased Shareholder.

**14.2** Any person becoming entitled to a share in consequence of the death or bankruptcy of any Shareholder may be registered as a Shareholder upon such evidence as the Board may deem sufficient or may elect to nominate some person to be registered as a transferee of such share, and in such case the person becoming entitled shall execute in favour of such nominee an instrument of transfer in writing in the form, or as near thereto as circumstances admit, of the following:

Transfer by a Person Becoming Entitled on Death/Bankruptcy of a Shareholder  
Athene Holding Ltd. (the "Company")

I/We, having become entitled in consequence of the [death/bankruptcy] of [name and address of deceased/bankrupt Shareholder] to [number] share(s) standing in the Register of Shareholders of the Company in the name of the said [name of deceased/bankrupt Shareholder] instead of being registered myself/ourselves, elect to have [name of transferee] (the "Transferee") registered as a transferee of such share(s) and I/we do hereby accordingly transfer the said share(s) to the Transferee to hold the same unto the Transferee, his or her executors, administrators and assigns, subject to the conditions on which the same were held at the time of the execution hereof; and the Transferee does hereby agree to take the said share(s) subject to the same conditions.

DATED this [ ] day of [ ], 20[ ]

Signed by: In the presence of:

\_\_\_\_\_  
Transferor    Witness

\_\_\_\_\_  
Transferee    Witness

- 14.3** On the presentation of the foregoing materials to the Board, accompanied by such evidence as the Board may require to prove the title of the transferor, the transferee shall be registered as a Shareholder. Notwithstanding the foregoing, the Board shall, in any case, have the same right to decline or suspend registration as it would have had in the case of a transfer of the share by that Shareholder before such Shareholder's death or bankruptcy, as the case may be.
- 14.4** Where two or more persons are registered as joint holders of a share or shares, then in the event of the death of any joint holder or holders the remaining joint holder or holders shall be absolutely entitled to such share or shares and the Company shall recognise no claim in respect of the estate of any joint holder except in the case of the last survivor of such joint holders.

## **ALTERATION OF SHARE CAPITAL**

### **15. Power to Alter Capital**

- 15.1** The Company may if authorised by Resolution increase, divide, consolidate, subdivide, change the currency denomination of, diminish or otherwise alter or reduce its share capital in any manner permitted by the Act.
- 15.2** Where, on any alteration or reduction of share capital, fractions of shares or some other difficulty would arise, the Board may deal with or resolve the same in such manner as it thinks fit.

### **16. Variation of Rights Attaching to Shares**

Subject to any contract or agreement by and between the Shareholders or by and between the Company and any of its Shareholders, which contains provisions affecting the rights attaching to shares of the Company, if, at any time, the share capital is divided into different

classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class, as the case may be) may, whether or not the Company is being wound-up, be varied with the consent in writing of the holders of a majority of the issued shares of that class (as the case may be) or with the sanction of a resolution passed by a majority of the votes cast at a separate general meeting of the holders of the shares of the class at which meeting the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class, as the case may be. The rights conferred upon the holders of the shares of any class issued with preferred or other rights 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.

## **DIVIDENDS AND CAPITALISATION**

### **17. Dividends**

- 17.1** The Board may, subject to these Bye-laws and in accordance with the Act, declare a dividend to be paid to all holders of Common Shares, subject to Bye-law 4.5 in proportion to the number of Common Shares held by them that are entitled to share in such dividend pursuant to Bye-law 4.5, and such dividend may be paid in cash or wholly or partly in specie in which case the Board may fix the value for distribution in specie of any assets. No unpaid dividend shall bear interest as against the Company.
- 17.2** In the event of a distribution in specie, the value of any distributed assets shall be the fair market value of such assets at the time of distribution as reasonably determined by the Board.
- 17.3** The Board may declare and pay dividends on one or more class of shares of the Company to the extent one or more classes of shares of the Company ranks senior to or has priority or a preference over another class of shares of the Company.
- 17.4** The Board may fix, in advance, a date as the record date for the purpose of determining the Shareholders entitled to receive payment of any dividend or other distribution or the allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of shares, or in order to make a determination of the Shareholders for the purpose of any other lawful action, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than sixty (60) calendar days prior to such action. If no record date is fixed by the Board, the record date for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.
- 17.5** The Company may pay dividends in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

**17.6** The Board may declare and make such other distributions (in cash or in specie) to the Shareholders as may be lawfully made out of the assets of the Company. No unpaid distribution shall bear interest as against the Company.

**18. Power to Set Aside Profits**

The Board may, before declaring a dividend, set aside out of the surplus or profits of the Company, such amount as it thinks proper as a reserve to be used to meet contingencies or for equalising dividends or for any other purpose.

**19. Method of Payment**

**19.1** Any dividend, interest, or other moneys payable in cash in respect of the shares may be paid by cheque or draft sent through the post directed to the Shareholder at such Shareholder's address in the Register of Shareholders, or to such person and to such address as the holder may in writing direct.

**19.2** In the case of joint holders of shares, any dividend, interest or other moneys payable in cash in respect of shares may be paid by cheque or draft sent through the post directed to the address of the holder first named in the Register of Shareholders, or to such person and to such address as the joint holders may in writing direct. If two or more persons are registered as joint holders of any shares any one can give an effectual receipt for any dividend paid in respect of such shares.

**19.3** The Board may deduct from the dividends or distributions payable to any Shareholder all moneys due from such Shareholder to the Company on account of calls or otherwise.

**20. Capitalisation**

**20.1** The Board may capitalise any amount for the time being standing to the credit of any of the Company's share premium or other reserve accounts or to the credit of the profit and loss account or otherwise available for distribution by applying such amount in paying up unissued shares to be allotted as fully paid bonus shares pro rata to the Shareholders.

**20.2** The Board may capitalise any amount for the time being standing to the credit of a reserve account or amounts otherwise available for dividend or distribution by applying such amounts in paying up in full, partly or nil paid shares of those Shareholders who would have been entitled to such amounts if they were distributed by way of dividend or distribution.

## **MEETINGS OF SHAREHOLDERS**

**21. Annual General Meetings**

Subject to any provisions of the Act and the rules of any stock exchange or quotation system on which the Company's common equity securities may be then listed or quoted, an annual general meeting shall be held by December 31 of each year at such place, date and time as shall be determined by the Board.

**22. Special General Meetings; Requisitioned General Meetings**

**22.1** A special general meeting may be called by the Secretary for any purpose at any time in accordance with these Bye-laws upon the request of any of (i) the Chairman, (ii) the Vice Chairman, (iii) the Chief Executive Officer of the Company or (iv) a majority of the Board.

**22.2** The Board shall, on the requisition of Shareholders holding shares at the date of the deposit of the requisition not less than ten percent (10%) of the Total Voting Power, forthwith proceed to convene a special general meeting and the provisions of the Act shall apply. Subject to applicable law, Shareholders requisitioning such special general meeting shall be responsible for all costs incurred to convene such meeting.

**23. Purposes of Annual General Meetings; Proposals of Other Business by Shareholders**

**23.1** At each annual general meeting, the Shareholders shall elect the members of the Board then subject to election in accordance with the procedures set forth in these Bye-laws and subject to Applicable Law and the rules of any stock exchange or quotation system on which shares of the Company may be then listed or quoted. At any such annual general meeting any other business properly brought before the meeting may be transacted.

**23.2** To be properly brought before an annual general meeting, business (other than nominations of directors, which must be made in compliance with, and shall be exclusively governed by, Bye-law 40) must be (a) specified in the notice of the meeting (or any supplement thereto) given to Shareholders by or at the direction of the Board in accordance with Bye-laws 24 and 25 below, (b) otherwise properly brought before the meeting by or at the direction of the Board or (c) otherwise properly brought before the meeting by a Shareholder who (1) is a Minimum Shareholder at the time of giving of the notice provided for in this Bye-law 23 and at the time of the annual general meeting, (2) is entitled to vote at such meeting and (3) complies with the notice procedures set forth in this Bye-law 23.

**23.3** For any such business to be properly brought before any annual general meeting pursuant to clause (c) of Bye-law 23.2, the Shareholder must have given timely notice thereof in writing, either by personal delivery or express or registered mail (postage prepaid), to the Secretary at the Registered Office not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the one-year anniversary of the date of the annual general meeting for the immediately preceding year. However, in the event that the date of the annual general meeting is more than 30 days before or after such anniversary date, in order to be

timely, a Shareholder's notice must be received by the Secretary at the Registered Office not later than the later of (x) the close of business 90 days prior to the date of such annual general meeting and (y) if the first public announcement of the date of such advanced or delayed annual general meeting is less than 100 days prior to such date, 10 days following the date of the first public announcement of the annual general meeting date. In no event shall the public announcement of an adjournment or postponement of an annual general meeting, or such adjournment or postponement, commence a new time period or otherwise extend any time period for the giving of a Shareholder's notice as described herein.

**23.4** Any such notice of other business shall set forth as to each matter the Shareholder proposes to bring before the annual general meeting:

- (a) a brief description of the business desired to be brought before the annual general meeting, the reasons for conducting such business at the annual general meeting and the text of any proposal regarding such business (including the text of any resolutions proposed for consideration and, if such business includes a proposal to amend these Bye-laws, the text of the proposed amendment), which shall not exceed 1,000 words;
- (b) as to the Shareholder giving notice and any beneficial owner on whose behalf the proposal is made, (1) the name and address of such Shareholder (as it appears in the Register of Shareholders) and such beneficial owner on whose behalf the proposal is made, (2) the class and number of Equity Securities which are, directly or indirectly, owned beneficially or of record by any such Shareholder and by such beneficial owner, respectively, or their respective Affiliates (naming such Affiliates), as of the date of such notice, (3) a description of any agreement, arrangement or understanding (including, without limitation, any swap or other derivative or short positions, profit interests, options, hedging transactions, and securities lending or borrowing arrangement) to which such Shareholder or any such beneficial owner or their respective Affiliates is, directly or indirectly, a party as of the date of such notice (x) with respect to any Equity Securities or (y) the effect or intent of which is to mitigate loss to, manage the potential risk or benefit of share price changes (increases or decreases) for, or increase or decrease the voting power of such Shareholder or beneficial owner or any of their Affiliates with respect to Equity Securities or which may have payments based in whole or in part, directly or indirectly, on the value (or change in value) of any Equity Securities (any agreement, arrangement or understanding of a type described in this clause (3), a "Covered Arrangement") and (4) a representation that the Shareholder is a holder of record of shares of the Company entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business;

- (c) a description of any direct or indirect material interest by security holdings or otherwise of the Shareholder and of any beneficial owner on whose behalf the proposal is made, or their respective Affiliates, in such business (whether by holdings of securities, or by virtue of being a creditor or contractual counterparty of the Company or of a third party, or otherwise), and all agreements, arrangements and understandings between such Shareholder or any such beneficial owner or their respective Affiliates and any other person or persons (naming such person or persons) in connection with the proposal of such business by such Shareholder;
- (d) a representation whether the Shareholder or the beneficial owner intends or is part of a Group which intends (i) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Company's Common Shares (or other Equity Securities) required to approve or adopt the proposal and/or (ii) otherwise to solicit proxies from Shareholders in support of such proposal;
- (e) an undertaking by the Shareholder and any beneficial owner on whose behalf the proposal is made to (i) notify the Company in writing of the information set forth in clauses (b)(2), (b)(3) and (c) above as of the record date (set in accordance with Bye-law 24 below) for the meeting promptly (and, in any event, within five (5) Business Days) following the later of the record date or the date notice of the record date is first disclosed by public announcement and (ii) update such information thereafter within two (2) Business Days of any change in such information and, in any event, as of close of business on the day preceding the meeting date; and
- (f) any other information relating to such Shareholder, any such beneficial owner and their respective Affiliates that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, such proposal pursuant to Section 14 of the Exchange Act, to the same extent as if the shares of the Company were registered under the Exchange Act.

**23.5** Notwithstanding anything to the contrary, the notice requirements set forth herein with respect to the proposal of any business pursuant to this Bye-law 23, other than nominations for directors which must be made in compliance with, and shall be exclusively governed by, Bye-law 40, shall be deemed satisfied by a Shareholder if such Shareholder has submitted a proposal to the Company in compliance with Rule 14a-8 of the Exchange Act and such Shareholder's proposal has been included in a proxy statement that has been prepared by the Company to solicit proxies for the annual general meeting; *provided*, that such Shareholder shall have provided the information required by Bye-law 23.4; *provided, further*, that the information required by Bye-law 23.4(b) may be satisfied by providing the information to the Company required pursuant to Rule 14a-8(b) of the Exchange Act.

**23.6** Notwithstanding anything in these Bye-laws to the contrary: (a) no other business brought by a Shareholder (other than the nominations of directors, which must be made in compliance with, and shall be exclusively governed by, Bye-law 40) shall be conducted at any annual general meeting except in accordance with the procedures set forth in this Bye-law 23; and (b) unless otherwise required by Applicable Law and the rules of any stock exchange or quotation system on which shares of the Company may be then listed or quoted, if a Shareholder intending to bring business before an annual general meeting in accordance with this Bye-law 23 does not (x) timely provide the notifications contemplated by clause (e) of Bye-law 23.4 above, or (y) timely appear in person or by proxy at the meeting to present the proposed business, such business shall not be transacted, notwithstanding that proxies in respect of such business may have been received by the Company or any other person or entity.

Except as otherwise provided by Applicable Law or these Bye-laws, the presiding officer of any annual general meeting shall have the power and duty to determine whether any business proposed to be brought before an annual general meeting was proposed in accordance with the foregoing procedures (including whether the Shareholder solicited or did not so solicit, as the case may be, proxies in support of such Shareholder's proposal in compliance with such Shareholder's representation as required by clause (d) of Bye-law 23.4) and if any business is not proposed in compliance with Bye-law 23, to declare that such defective proposal shall be disregarded. The requirements of this Bye-law 23 shall apply to any business to be brought before an annual general meeting by a Shareholder other than nominations of directors (which must be made in compliance with, and shall be exclusively governed by, Bye-law 40) and other than matters properly brought under Rule 14a-8 of the Exchange Act. For purposes of these Bye-laws, "public announcement" shall mean disclosure in a press release of the Company reported by the Dow Jones News Service, Associated Press or comparable news service or in a document publicly filed or furnished by the Company with or to the SEC pursuant to Section 13, 14 or 15(b) of the Exchange Act.

**23.7** Nothing in this Bye-law 23 shall be deemed to affect any rights of (a) Shareholders to request inclusion of proposals in the Company's proxy statement pursuant to applicable rules and regulations under the Exchange Act or (b) the holders of any series of preferred shares, or any other series or class of shares authorised to be issued by the Company, to make proposals pursuant to any applicable provisions thereof.

Notwithstanding the foregoing provisions of this Bye-law 23, a Shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Bye-law, if applicable.

## **24. Notice**

**24.1** Not less than 21 days' nor more than 60 days' notice of an annual general meeting shall be given to each Shareholder entitled to attend and vote thereat, stating the

date, place and time at which the meeting is to be held, that the election of Directors up for election at that meeting will take place thereat, and as far as practicable, the other business to be conducted at the meeting.

- 24.2** Not less than 21 days' nor more than 60 days' notice of a special general meeting shall be given to each Shareholder entitled to attend and vote thereat, stating the date, time, place and the general nature of the business to be considered at the meeting.
- 24.3** The Board may fix any date as the record date for determining the Shareholders entitled to receive notice of and to vote at any general meeting.
- 24.4** A general meeting shall, notwithstanding that it is called on shorter notice than that specified in these Bye-laws, be deemed to have been properly called if it is so agreed by (i) all the Shareholders entitled to attend and vote thereat in the case of an annual general meeting; and (ii) by a majority in number of the Shareholders having the right to attend and vote at the meeting, being a majority together holding not less than 95% in nominal value of the shares giving a right to attend and vote thereat in the case of a special general meeting.
- 24.5** The accidental omission to give notice of a general meeting to, or the non-receipt of a notice of a general meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

## **25. Giving Notice and Access**

- 25.1** A notice of a general meeting may be given by the Company to a Shareholder:
- (a) by delivering it to such Shareholder in person; or
  - (b) by sending it by letter mail or courier to such Shareholder's address in the Register of Shareholders; or
  - (c) by transmitting it by electronic means (including facsimile and electronic mail, but not telephone) in accordance with such directions as may be given and expressly consented to by such Shareholder to the Company for such purpose; or
  - (d) in accordance with Bye-law 25.4.
- 25.2** Any notice required to be given to a Shareholder in connection with a general meeting shall, with respect to any shares held jointly by two or more persons, be given to whichever of such persons is named first in the Register of Shareholders and notice so given shall be sufficient notice to all the holders of such shares.
- 25.3** Any notice in connection with a general meeting (save for one delivered in accordance with Bye-law 25.4) shall be deemed to have been served at the time when the same would be delivered in the ordinary course of transmission and, in proving

such service, it shall be sufficient to prove that the notice was properly addressed and prepaid, if posted, and the time when it was posted, delivered to the courier, or transmitted by electronic means.

**25.4** Where a Shareholder indicates his consent (in a form and manner satisfactory to the Board), to receive information or documents by accessing them on a website rather than by other means, or receipt in this manner is otherwise permitted by the Act, the Company may deliver such information or documents by notifying the Shareholder of the availability of such and including therein the address of the website, the place on the website where the information or document may be found, and instructions as to how the information or document may be accessed on the website.

**25.5** In the case of information or documents delivered in accordance with Bye-law 25.4, service shall be deemed to have occurred when (i) the Shareholder is notified in accordance with that Bye-law; and (ii) the information or document is published on the website.

## **26. Postponement of General Meeting**

The Secretary, at the request of the Board, may postpone any general meeting called in accordance with these Bye-laws (other than a meeting requisitioned under these Bye-laws) provided that notice of postponement is given to the Shareholders before the time for such meeting. Fresh notice of the date, time and place for the postponed meeting shall be given to each Shareholder in accordance with these Bye-laws.

## **27. Electronic Participation in Meetings**

Shareholders may participate in any general meeting by such telephonic, electronic or other communication facilities or means as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

## **28. Quorum at General Meetings**

**28.1** Unless otherwise expressly required by Applicable Law, at any general meeting, the presence in person or by proxy of Shareholders entitled to cast a majority of the Total Voting Power shall constitute a quorum for the entire meeting, notwithstanding the withdrawal of Shareholders entitled to cast a sufficient number of votes in person or by proxy to reduce the number of votes represented at the meeting below a quorum; *provided*, that shares of the Company belonging to the Company or any of its Subsidiaries shall neither be counted for the purpose of determining the presence of a quorum nor entitled to vote at any general meeting.

**28.2** At any general meeting at which a quorum shall be present, a majority of those present in person or by proxy may adjourn the meeting from time to time without notice other than an announcement of such at the meeting. In the absence of a quorum,

the officer presiding thereat pursuant to Bye-law 29 shall have power to adjourn the meeting from time to time until a quorum shall be present. Notice of any adjourned meeting other than an announcement of such at the meeting shall not be required to be given, except as provided in Bye-law 28.4 below and except where expressly required by Applicable Law.

- 28.3** At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting originally called, but only those Shareholders entitled to vote at the meeting as originally noticed shall be entitled to vote at any adjournment or adjournments thereof unless a new record date is fixed by the Board.
- 28.4** If an adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given in the manner specified in these Bye-laws to each Shareholder of record entitled to vote at the meeting.

**29. Chairman to Preside at General Meetings**

The Chairman of the Board shall preside at all general meetings for which the Chairman is present. If the Chairman is absent, the Vice Chairman shall preside. For any meeting where both the Chairman and Vice Chairman are absent, a presiding officer shall be appointed or elected by those present at the meeting and entitled to vote.

**30. Voting on Resolutions**

- 30.1** Other than as set forth in these Bye-laws, any question proposed for the consideration of the Shareholders at any general meeting shall be decided by the affirmative votes of a majority of the Total Voting Power cast in accordance with these Bye-laws (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4) and in the case of an equality of votes the Resolution shall fail.
- 30.2** At any general meeting a Resolution put to the vote of the meeting shall, in the first instance, be voted upon by a show of hands and, subject to any rights or restrictions for the time being lawfully attached to any class of shares and subject to these Bye-laws, every Shareholder present in person and every person holding a valid proxy at such meeting shall be entitled to such number of votes attaching to the Common Shares held by such Shareholder (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4) and shall cast such vote by raising his hand.
- 30.3** In the event that a Shareholder participates in a general meeting by telephone, electronic or other communication facilities or means, the chairman of the meeting shall direct the manner in which such Shareholder may cast his vote on a show of hands.

**30.4** At any general meeting, if an amendment is proposed to any Resolution under consideration and the chairman of the meeting rules on whether or not the proposed amendment is out of order, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.

**30.5** At any general meeting, a declaration by the chairman of the meeting that a question proposed for consideration has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in a book containing the minutes of the proceedings of the Company shall, subject to these Bye-laws, be conclusive evidence of that fact.

**31. [Reserved.]**

**32. Power to Demand a Vote on a Poll**

**32.1** Notwithstanding the foregoing, a poll may be demanded by any of the following persons:

- (a) the chairman of such meeting; or
- (b) any Shareholder or Shareholders or Group present in person or represented by proxy and holding between them not less than 10% of the Total Voting Power; or
- (c) any Shareholder or Shareholders present in person or represented by proxy holding shares in the Company conferring the right to vote at such meeting, being shares on which an aggregate sum has been paid up equal to not less than 10% of the total amount paid up on all such shares conferring such right.

**32.2** Where a poll is demanded, subject to any rights or restrictions for the time being lawfully attached to any class of shares (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4), every person present at such meeting shall have the number of votes corresponding to each such Common Share of which such person is the holder or for which such person holds a proxy, and such vote shall be counted by ballot as described herein, or in the case of a general meeting at which one or more Shareholders are present by telephone, electronic or other communication facilities or means, in such manner as the chairman of the meeting may direct and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded and shall replace any previous resolution upon the same matter which has been the subject of a show of hands. A person entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.

**32.3** A poll demanded for the purpose of electing a chairman of the meeting or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and in such manner during such meeting as the

chairman (or acting chairman) of the meeting may direct. Any business other than that upon which a poll has been demanded may be conducted pending the taking of the poll.

**32.4** Where a vote is taken by poll, each person physically present and entitled to vote shall be furnished with a ballot paper on which such person shall record his vote in such manner as shall be determined at the meeting having regard to the nature of the question on which the vote is taken, and each ballot paper shall be signed or initialled or otherwise marked so as to identify the voter and the registered holder in the case of a proxy. Each person present by telephone, electronic or other communication facilities or means shall cast his vote in such manner as the chairman of the meeting shall direct. At the conclusion of the poll, the ballot papers and votes cast in accordance with such directions shall be examined and counted by a committee of not less than two Shareholders or proxy holders appointed by the chairman of the meeting for the purpose and the result of the poll shall be declared by the chairman of the meeting.

**33. Voting by Joint Holders of Shares**

In the case of joint holders, the vote of the senior who tenders a vote (whether in person or by proxy) shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register of Shareholders.

**34. Instrument of Proxy**

**34.1** Any Shareholder entitled to vote at any general meeting may vote either in person or by his or her attorney-in-fact or proxy.

**34.2** An instrument appointing a proxy shall be in writing in substantially the following form or such other form as the Board or the chairman of the meeting shall accept:

Proxy  
Athene Holding Ltd. (the "Company")

I/We, [insert names here], being a Shareholder of the Company with [number] shares, HEREBY APPOINT [name] of [address] or failing him, [name] of [address] to be my/our proxy to vote for me/us at the meeting of the Shareholders to be held on the [ ] day of [ ], 20[ ] and at any adjournment thereof. (Any restrictions on voting to be inserted here.)

Signed this [ ] day of [ ], 20[ ]

\_\_\_\_\_  
Shareholder(s)

**34.3** The instrument appointing a proxy must be received by the Company at the Registered Office or at such other place or in such manner as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in

relation to the meeting at which the person named in the instrument appointing a proxy proposes to vote, and an instrument appointing a proxy which is not received in the manner so prescribed shall be invalid.

**34.4** A Shareholder who is the holder of two or more shares may appoint more than one proxy to represent him and vote on his behalf in respect of different shares.

**34.5** The decision of the chairman of any general meeting as to the validity of any appointment of a proxy shall be final.

### **35. Representation of Corporate Shareholder**

A corporation which is a Shareholder may, by written instrument, authorise such person or persons as it thinks fit to act as its representative at any meeting and any person so authorised shall be entitled to exercise the same powers on behalf of the corporation which such person represents as that corporation could exercise if it were an individual Shareholder, and that Shareholder shall be deemed to be present in person at any such meeting attended by its authorised representative or representatives.

### **36. Adjournment of General Meeting**

The chairman of a general meeting may, with the consent of the Shareholders at any general meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting. Unless the meeting is adjourned to a specific date, place and time announced at the meeting being adjourned, fresh notice of the date, place and time for the resumption of the adjourned meeting shall be given to each Shareholder entitled to attend and vote thereat in accordance with these Bye-laws.

### **37. Written Resolutions of Shareholders**

**37.1** Subject to these Bye-laws, anything which may be done by resolution of the Company in a general meeting or by resolution of a meeting of any class of the Shareholders may, without a meeting, be done by written resolution in accordance with this Bye-law.

**37.2** Notice of a written resolution shall be given, and a copy of the resolution shall be circulated to all Shareholders who would be entitled to attend a meeting and vote thereon. The accidental omission to give notice to, or the non-receipt of a notice by, any Shareholder does not invalidate the passing of a resolution.

**37.3** A written resolution is passed when it is signed by, or in the case of a Shareholder that is a corporation, on behalf of, the Shareholders who at the date that the notice is given represent more than 55% of the Total Voting Power.

**37.4** A resolution in writing may be signed in any number of counterparts.

- 37.5** A resolution in writing made in accordance with this Bye-law is as valid as if it had been passed by the Company in general meeting or by a meeting of the relevant class of Shareholders, as the case may be, and any reference in any Bye-law to a meeting at which a resolution is passed or to Shareholders voting in favour of a resolution shall be construed accordingly.
- 37.6** A resolution in writing made in accordance with this Bye-law shall constitute minutes for the purposes of the Act.
- 37.7** This Bye-law shall not apply to:
- (a) a resolution passed to remove an Auditor from office before the expiration of his term of office; or
  - (b) a resolution passed for the purpose of removing a Director before the expiration of his term of office.
- 37.8** For the purposes of this Bye-law, the effective date of the resolution is the date when the resolution is signed by, or in the case of a Shareholder that is a corporation whether or not a company within the meaning of the Act, on behalf of, the last Shareholder whose signature results in the necessary Total Voting Power being achieved and any reference in any Bye-law to the date of passing of a resolution is, in relation to a resolution made in accordance with this Bye-law, a reference to such date.

**38. Directors Attendance at General Meetings**

The Directors shall be entitled to receive notice of, attend and be heard at any general meeting.

## **DIRECTORS AND OFFICERS**

**39. Election of Directors**

- 39.1** Directors shall be elected or appointed in the first place at the statutory meeting of the Company and, except in the case of a casual vacancy or removal, shall hold office until the annual general meeting at which such Director's term is due to expire.
- 39.2** Any vote of Shareholders taken in respect of Director elections shall be in compliance with Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, to the same extent as if the shares of the Company were registered under the Exchange Act.
- 39.3** For the avoidance of doubt, any Shareholder participating in the election of Directors shall be subject to the limitations on voting rights described in Bye-laws 4.2, 4.3 and 4.4.

**40. Nomination of Directors for Election**

- 40.1** Nominations of persons for election as Directors may be made at an annual general meeting only by (a) the Board or (b) by any Shareholder of the Company who (1) is a Minimum Shareholder at the time of giving of the notice provided for in this Bye-law 40 and at the time of the annual general meeting, (2) is entitled to vote for the election of Directors at such annual general meeting and (3) complies with the notice procedures set forth in this Bye-law 40. Notwithstanding anything to the contrary set forth in these Bye-laws, clause (b) of this Bye-law 40.1 shall be the exclusive means for a Shareholder to make nominations of persons for election to the Board at an annual general meeting.
- 40.2** Any Shareholder entitled to vote for the election of Directors may nominate a person or persons for election as Directors only if written notice of such Shareholder's intent to make such nomination is given in accordance with the procedures set forth in this Bye-law 40, either by personal delivery or express or registered mail (postage prepaid), to the Secretary at the Registered Office not earlier than the close of business on the 120th day and not later than the close of business on the 90th day prior to the one-year anniversary of the date of the annual general meeting for the immediately preceding year. However, in the event that the date of the annual general meeting is more than 30 days before or after such anniversary date, in order to be timely, a Shareholder's notice must be received by the Secretary at the Registered Office not later than the later of (x) the close of business 90 days prior to the date of such annual general meeting and (y) if the first public announcement of the date of such advanced or delayed annual general meeting is less than 100 days prior to such date, 10 days following the date of the first public announcement of the annual general meeting date. In no event shall the public announcement of an adjournment or postponement of an annual general meeting, or such adjournment or postponement, commence a new time period or otherwise extend any time period for the giving of a Shareholder's notice as described herein. Shareholders may nominate a person or persons (as the case may be) for election to the Board only as provided in this Bye-law and only for such class(es) or slate(s) as are specified in the Company's notice of meeting as being up for election at such annual general meeting.
- 40.3** Each such notice of a Shareholder's intent to make a nomination of a Director shall set forth:
- (a) as to the Shareholder giving notice and any beneficial owner on whose behalf the nomination is made, (1) the name and address of such Shareholder (as it appears in the Register of Shareholders) and any such beneficial owner on whose behalf the nomination is made, (2) the class and number of Equity Securities which are, directly or indirectly, owned beneficially and of record by such Shareholder and any such beneficial owner, respectively, or their respective Affiliates (naming such Affiliates), as of the date of such notice, (3) a description of any Covered Arrangement to which such Shareholder or beneficial owner, or their respective Affiliates, directly or indirectly, is a party as of the date of such notice, (4) any other information relating to such

Shareholder and any such beneficial owner that would be required to be disclosed in a proxy statement in connection with a solicitation of proxies for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder and (5) a representation that the Shareholder is a holder of record of shares of the Company entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in such Shareholder's notice;

- (b) a description of all arrangements or understandings between the Shareholder or any beneficial owner, or their respective Affiliates, and each nominee or any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the Shareholder;
- (c) a representation whether the Shareholder or the beneficial owner is or intends to be part of a Group which intends (i) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Company's Common Shares (or other Equity Securities) required to elect the Director or Directors nominated and/or (ii) otherwise to solicit proxies from Shareholders in support of such nomination or nominations;
- (d) as to each person whom the Shareholder proposes to nominate for election or reelection as a Director, (1) all information relating to such person as would have been required to be included in a proxy statement filed in connection with a solicitation of proxies for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, (2) a description of any Covered Arrangement to which such nominee or any of his or her Affiliates is a party as of the date of such notice, (3) the written consent of each nominee to being named in the proxy statement as a nominee and to serving as a Director if so elected and (4) whether, if elected, the nominee intends to tender any advance resignation notice(s) requested by the Board in connection with subsequent elections, such advance resignation to be contingent upon the nominee's failure to receive a majority vote and acceptance of such resignation by the Board; and
- (e) an undertaking by the Shareholder of record and each beneficial owner, if any, to (i) notify the Company in writing of the information set forth in clauses (a)(2), (a)(3), (b) and (d) above as of the record date for the meeting promptly (and, in any event, within five (5) Business Days) following the later of the record date or the date notice of the record date is first disclosed by public announcement and (ii) update such information thereafter within two (2) Business Days of any change in such information and, in any event, as of close of business on the day preceding the meeting date.

- 40.4** No person shall be eligible for election as a Director unless nominated in accordance with the procedures set forth in these Bye-laws. Except as otherwise provided by Applicable Law or these Bye-laws, the presiding officer of any meeting of Shareholders to elect Directors or the Board may, if the facts warrant, determine that a nomination was not made in compliance with the foregoing procedure or if the Shareholder solicits proxies in support of such Shareholder's nominee(s) without such Shareholder having made the representation required by clause (c) of Bye-law 40.3; and if the presiding officer or the Board should so determine, it shall be so declared to the meeting, and the defective nomination shall be disregarded. Notwithstanding anything in these Bye-laws to the contrary, unless otherwise required by Applicable Law or the rules of any stock exchange or quotation system on which shares of the Company may be then listed or quoted, if a Shareholder intending to make a nomination at a general meeting in accordance with this Bye-law 40 does not (i) timely provide the notifications contemplated by clause (e) of Bye-law 40.3, or (ii) timely appear in person or by proxy at the annual general meeting to present the nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such nomination may have been received by the Company or any other person or entity.
- 40.5** Notwithstanding the foregoing provisions of this Bye-law 40, any Shareholder intending to make a nomination at an annual general meeting in accordance with this Bye-law 40, and each related beneficial owner, if any, shall also comply with all requirements of the Exchange Act and the rules and regulations thereunder applicable to the same extent as if the shares of the Company were registered under the Exchange Act with respect to the matters set forth in these Bye-laws; *provided, however*, that any references in these Bye-laws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the requirements applicable to nominations made or intended to be made in accordance with clause (b) of Bye-law 40.1.
- 40.6** Nothing in this Bye-law 40 shall be deemed to affect any rights of the holders of any series of preferred shares, or any other series or class of shares authorized to be issued by the Company, to elect directors pursuant to the terms thereof.
- 40.7** To be eligible to be a nominee for election or reelection as a Director pursuant to Bye-law 40.1(b), a person must deliver (not later than the deadline prescribed for delivery of notice) to the Secretary at the Registered Office a written questionnaire prepared by the Company with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary upon written request) that such person: (i) is not and will not become a party to (A) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a Director, will act or vote on any issue or question (a "Voting

Commitment”) that has not been disclosed to the Company or (B) any Voting Commitment that could limit or interfere with such person’s ability to comply, if elected as a Director, with such person’s duties under Applicable Law; (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Company with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a Director that has not been disclosed therein; (iii) in such person’s individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a Director, and will comply with, Applicable Law and corporate governance, conflict of interest, corporate opportunity, confidentiality and stock ownership and trading policies and guidelines of the Company that are applicable to Directors generally and (iv) if elected as a Director, will act in the best interests of the Company and its Shareholders and not in the interest of any individual constituency. The Nominating and Governance Committee shall review all such information submitted by the Shareholder with respect to the proposed nominee and determine whether such nominee is eligible to act as a Director. The Company and the Nominating and Governance Committee may require any proposed nominee to furnish such other information as may reasonably be required by the Company to determine the eligibility of such proposed nominee to serve as an Independent Director or that could be material to a reasonable Shareholder’s understanding of the independence, or lack thereof, of such nominee.

- 40.8** At each annual general meeting of the Shareholders for the election of Directors at which a quorum is present, each Director or slate of Directors shall be elected by the vote of the majority of the votes cast with respect to the Director or slate, excluding abstentions. For purposes of this Bye-law 40.8, a majority of the votes cast shall mean that the number of shares voted “for” a Director or slate of Directors must exceed the number of votes “against” that Director or slate of Directors.
- 40.9** At the request of the Board, any person nominated for election as a director of the Company shall furnish to the Secretary the information that is required to be set forth in a Shareholders’ notice of nomination pursuant to Bye-law 40.
- 40.10** Any Shareholder proposing to nominate a person or persons for election shall be responsible for, and bear the costs associated with, soliciting votes from any other voting Shareholder and distributing materials to such Shareholders prior to the annual general meeting in accordance with these Bye-laws and applicable SEC rules. A Shareholder shall include any person or persons such Shareholder intends to nominate for election in its own proxy statement and proxy card.
- 40.11** Unless prohibited by Applicable Law, the Company shall promptly (but in any event within five (5) Business Days of receipt of written request from any Shareholder proposing to nominate a person or persons for election) provide to such proposing Shareholder the names and addresses of all persons and entities who are record

holders of the Company's shares, other than Class M Common Shares (the "Other Holders"), *provided*, that if any Other Holder has requested that its identity or address be kept confidential, then the Company shall (at the expense of such Shareholder) promptly (but in any event within five (5) Business Days of receipt of a written request) forward to such Other Holder any materials provided by such Shareholder in relation to the person or persons such Shareholder intends to nominate for election and a notice requesting that such Other Holder contact such Shareholder.

**41. [Reserved]**

**42. Number of Directors**

The number of Directors which shall constitute the entire Board shall be such as from time to time shall be determined by Resolution adopted by a majority of the entire Board, but the number shall not be less than two or more than seventeen; *provided*, that the tenure of a Director shall not be affected by a decrease in the number of Directors so made by the Board.

**43. Term of Office of Directors**

The Directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the number of Directors constituting the Board, Class I to hold office initially for a term expiring at the annual general meeting to be held in 2016, Class II to hold office initially for a term expiring at the annual general meeting to be held in 2017, and Class III to hold office initially for a term expiring at the annual general meeting to be held in 2018. At each succeeding annual general meeting beginning in 2016, successors to the class of Directors whose term expires at that annual general meeting shall be elected for a three (3) year term with each Director to hold office in such class until his or her successor shall have been duly elected and qualified, or until such Director's earlier death, resignation or removal. If the number of Directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of Directors in each class as nearly equal as possible, and any additional Director of any class elected to fill a vacancy resulting from an increase in such class or from the removal from office, death, disability, resignation or disqualification of a Director or other cause shall hold office for a term that shall coincide with the remaining term of that class, but in no event will a decrease in the authorized number of Directors shorten the term of any incumbent Director.

**44. Removal of Directors**

**44.1** Subject to any provision to the contrary in these Bye-laws, a director may only be removed for cause and not otherwise. The removal of a director for cause shall be effected either (i) by the Board by affirmative vote of a majority of the Directors at any duly called meeting of the Board or (ii) by the Shareholders holding a majority of the Total Voting Power at any general meeting called and held in accordance with these Bye-laws. For purposes of this Bye-law 44.1, "cause" shall mean a conviction for a criminal offence involving dishonesty or engaging in conduct which brings the

Director or the Company into disrepute or which results in a material financial detriment to the Company.

**44.2** If a Director is removed from the Board under this Bye-law 44, the Board may fill the vacancy. Persons appointed by the Board to fill a vacancy shall be approved by an affirmative vote of a majority of the Board and shall be subject to election at the immediately succeeding annual general meeting.

#### **45. Vacancy in the Office of Director**

**45.1** The office of Director shall be vacated immediately if the Director:

- (a) is prohibited from being a Director by law;
- (b) is or becomes bankrupt or insolvent;
- (c) is or becomes of unsound mind or a patient for any purpose of any statute or Applicable Law relating to mental health and the Board resolves that his office is vacated, or dies;
- (d) by virtue of holding the office of Director causes the Company to be taxed in an adverse manner; or
- (e) resigns his office by notice to the Secretary.

**45.2** If there is a vacancy on the Board occurring as a result of the death, disability, disqualification or resignation of any Director, or on account of an increase in the number of members of the Board or a failure to elect a Director at an annual general meeting, the Board may appoint any person as a Director on an interim basis until the next annual general meeting, *provided*, that such person has been approved to serve as a Director by the Nominating and Governance Committee. The Board vacancy shall be submitted to a vote at the next succeeding annual general meeting irrespective of class.

#### **46. Remuneration of Directors**

The remuneration (if any) of the Directors shall be determined by the Board or an appropriate committee thereof delegated by the Board. The Directors shall also be paid all reasonable travel, hotel and related expenses incurred by them in attending and returning from the meetings of the Board, any committee appointed by the Board, general meetings, or in connection with the business of the Company or their duties as Directors generally. The Company shall also bear reasonable travel, hotel and related expenses incurred by any advisors to the Board related to such matters.

#### **47. Defect in Appointment**

All acts done in good faith by the Board, any Director, a member of a committee appointed by the Board, any person to whom the Board may have delegated any of its powers, or any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director or person acting as aforesaid, or that he was, or any of them were, disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director or act in the relevant capacity.

**48. Directors to Manage Business**

The business of the Company shall be managed and conducted by the Board. In managing the business of the Company, the Board may exercise all such powers of the Company as are not, by the Act or by these Bye-laws, required to be exercised by the Company in general meeting.

**49. Powers of the Board of Directors**

The Board may:

- (a) appoint, suspend, or remove any manager, secretary, clerk, agent or employee of the Company and may fix their remuneration and determine their duties;
- (b) exercise all the powers of the Company to borrow money and to mortgage or charge or otherwise grant a security interest in its undertaking, property and uncalled capital, or any part thereof, and may issue debentures, debenture stock and other securities whether outright or as security for any debt, liability or obligation of the Company or any third party;
- (c) designate a Chairman of the Board (the "Chairman") and a Vice Chairman of the Board (the "Vice Chairman");
- (d) appoint one or more Directors to the office of managing director or chief executive officer of the Company, who shall, subject to the control of the Board, supervise and administer all of the general business and affairs of the Company;
- (e) appoint a person to act as manager of the Company's day-to-day business and may entrust to and confer upon such manager such powers and duties as it deems appropriate for the transaction or conduct of such business;
- (f) by power of attorney, appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Board, to be an attorney of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board) and for such period and subject to such conditions as it may think fit and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board may

think fit and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions so vested in the attorney;

- (g) procure that the Company pays all expenses incurred in promoting and incorporating the Company;
- (h) delegate any of its powers (including the power to sub-delegate) to a committee of one or more persons appointed by the Board which may consist partly or entirely of non-Directors, *provided*, that every such committee shall conform to such directions as the Board shall impose on them; and *provided, further*, that the meetings and proceedings of any such committee shall be governed by the provisions of these Bye-laws regulating the meetings and proceedings of the Board, so far as the same are applicable and are not superseded by directions imposed by the Board;
- (i) delegate any of its powers (including the power to sub-delegate) to any person on such terms and in such manner as the Board may see fit;
- (j) present any petition and make any application in connection with the liquidation or reorganisation of the Company;
- (k) in connection with the issue of any share, pay such commission and brokerage as may be permitted by law; and
- (l) authorise any company, firm, person or body of persons to act on behalf of the Company for any specific purpose and in connection therewith to execute any deed, agreement, document or instrument on behalf of the Company.

#### **50. Register of Directors and Officers**

The Board shall cause to be kept in one or more books at the Registered Office of the Company a Register of the Directors and Officers of the Company and shall enter therein the particulars required by the Act.

#### **51. Appointment of Officers**

The Board may appoint such officers (who may or may not be Directors) as the Board may determine.

#### **52. Appointment of Secretary**

The Secretary shall be appointed by the Board from time to time.

#### **53. Duties of Officers**

The Officers shall have such powers and perform such duties in the management, business and affairs of the Company as may be delegated to them by the Board from time to time.

**54. Remuneration of Officers**

The Officers shall receive such remuneration as the Board may determine.

**55. Conflicts of Interest**

**55.1** Any Director, or any Director's firm, partner or any company with whom any Director is associated, may act in any capacity for, be employed by or render services to the Company and such Director or such Director's firm, partner or company shall be entitled to remuneration as if such Director were not a Director. Nothing herein contained shall authorise a Director or Director's firm, partner or company to act as Auditor to the Company.

**55.2** A Director who is directly or indirectly interested in a contract or proposed contract or arrangement with the Company shall declare the nature of such interest as required by the Act.

**55.3** Following a declaration being made pursuant to this Bye-law, a Director may vote in respect of any contract or proposed contract or arrangement in which such Director is interested and may be counted in the quorum for such meeting and, to the fullest extent permitted by Applicable Law, the interested Director shall not be liable to account to the Company for any profit realized thereby. To the fullest extent permitted by Applicable Law, in the event that one or more interested Directors are disqualified or elect to be recused from voting on a matter, or one or more Directors are later found to have an interest or conflict that should have been declared, the matter shall be approved or stand approved if it is or was approved by a majority of the votes cast by the Directors that do not have any interest or conflict in the matter, even if less than a quorum.

**55.4** Subject to the Act and any further disclosure required thereby, a general notice to the Directors by a Director or officer declaring that he is a director or officer or has an interest in any business entity and is to be regarded as interested in any transaction or arrangement made with that business entity shall be sufficient declaration of interest in relation to any transaction or arrangement so made.

**55.5** This Bye-law 55 shall be subject to any U.S. securities laws and the rules of any exchange or quotation system on which the Company's shares are then listed.

**56. Indemnification and Exculpation**

**56.1** To the fullest extent permitted by Applicable Law, but subject to the limitations expressly provided in this Bye-law 56, (i) the past, present and future (x) Directors, Resident Representative, Secretary and other Officers (such term to include any person appointed to any committee by the Board), (y) any consultants participating in any Company equity incentive plan, and (z) liquidators or trustees (if any) for the time being acting in relation to any of the affairs of the Company or any Subsidiary

thereof, (ii) any Person who is or was an employee or agent of the Company or a director, officer, employee or agent of any of the Company's Subsidiaries and who, while an employee or agent of the Company or a director, officer, employee or agent of any of the Company's Subsidiaries, is or was also an officer, director, employee, managing director, general or limited partner, manager, member, shareholder, agent or other Affiliate of any member of the Apollo Group or of any Affiliate of any member of the Apollo Group (other than the Company and its Subsidiaries) and (iii) any other Person who, while a Director or Officer, is or was serving at the request of the Company as a director, officer, employee or agent of another corporation or of a partnership, limited liability company, joint venture, trust, enterprise, nonprofit entity or other entity, including service with respect to employee benefit plans (each, a "Covered Person") shall be indemnified and secured harmless by the Company from and against all Liabilities and Expenses arising from any and all threatened, pending or completed Proceedings, in which any Covered Person may be involved, or is threatened to be involved, as a party or otherwise, by reason of (A) in the case of any Covered Person described in the preceding clauses (i) and (iii), its status as a Covered Person or (B) in the case of any Covered Person described in the preceding clause (ii), the fact that such Covered Person is or was an employee or agent of the Company, or is or was a director, officer, employee or agent of any of the Company's Subsidiaries, acting in relation to the affairs of the Company or any such Subsidiary, whether arising from acts or omissions to act occurring before or after the date of the adoption of these Bye-laws; *provided, however*, that a Covered Person shall not be indemnified and held harmless if there has been a final and non-appealable judgment entered by a court of competent jurisdiction determining that, in respect of the matter for which the Covered Person is seeking indemnification pursuant to this Bye-law 56, the Covered Person acted fraudulently and/or dishonestly in relation to the Company; *provided further*, subject in all respects to Bye-law 56.12, no Covered Person shall be entitled to indemnification from the Company (nor any amounts provided for under Bye-law 56.2) for any acts or omissions of such Covered Person in such Covered Person's role as a director, officer, consultant, representative or agent of AAM. Notwithstanding the preceding sentence, except as otherwise described in Bye-law 56.10, the Company shall be required to indemnify a Person described in such sentence in connection with any Proceeding (or part thereof) commenced by such Person only if the commencement of such Proceeding (or part thereof) by such Person was authorised by the Board. To the fullest extent permitted by Applicable Law, each Shareholder agrees to waive any claim or right of action such Shareholder might have, whether individually or by or in right of the Company, against any Covered Person on account of any action taken by such Covered Person, or the failure of such Covered Person to take any action in the performance of such Covered Person's duties with or for the Company or any subsidiary thereof; *provided, that* such waiver shall not extend to any matter in respect of any fraud or dishonesty in relation to the Company or its Subsidiaries which may attach to such Covered Person.

- 56.2** To the fullest extent permitted by Applicable Law, Expenses incurred by a Covered Person in appearing at, participating in or defending any indemnifiable Proceeding pursuant to this Bye-law 56 shall, from time to time, be advanced by the Company prior to a final and non-appealable disposition of the Proceeding in which it is determined that the Covered Person is not entitled to be indemnified upon receipt by the Company of an undertaking by or on behalf of the Covered Person to repay such amount if it ultimately shall be determined that the Covered Person is not entitled to be indemnified pursuant to this Bye-law 56. Notwithstanding the immediately preceding sentence, except as otherwise provided in Bye-law 56.10, the Company shall be required to indemnify a Covered Person pursuant to the immediately preceding sentence in connection with any Proceeding (or part thereof) commenced by such Person only if the commencement of such Proceeding (or part thereof) by such Person was authorised by the Board.
- 56.3** The indemnification and advancement of Expenses provided by this Bye-law 56 shall be in addition to any other rights to which a Covered Person may be entitled under these Bye-laws or any agreement between the Company and such Covered Person, pursuant to a vote of a majority of disinterested Directors with respect to such matter, as a matter of law, in equity or otherwise, both as to actions in the Covered Person's capacity as a Covered Person and as to actions in any other capacity, and shall continue as to a Covered Person who has ceased to serve in such capacity.
- 56.4** The Company may purchase and maintain insurance on behalf of a Covered Person, and such other Persons as the Board shall determine, against any Liability that may be asserted against, or Expense that may be incurred by, such Person in connection with the Company's activities or any such Person's activities on behalf of the Company, regardless of whether the Company would have the power to indemnify such Person against such Liability or Expense under the provisions of these Bye-laws or Applicable Law.
- 56.5** For purposes of this Bye-law 56 (i) the Company shall be deemed to have requested a Covered Person to serve as fiduciary of an employee benefit plan whenever the performance by it of its duties to the Company also imposes duties on, or otherwise involves services by, such Covered Person to the plan or participants or beneficiaries of the plan and (ii) excise taxes assessed on a Covered Person with respect to an employee benefit plan pursuant to Applicable Law shall constitute "fines" within the meaning of "Liabilities".
- 56.6** A Covered Person shall not be denied indemnification in whole or in part under this Bye-law 56 because the Covered Person had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by these Bye-laws.
- 56.7** Except with respect to any Shareholder Affiliate, which shall be a third party beneficiary of the rights set forth in Bye-law 56.12, the provisions of this Bye-law 56 are for the benefit of the Covered Persons and their heirs, successors, assigns,

executors and administrators and shall not be deemed to create any rights for the benefit of any other Persons.

- 56.8** Each Covered Person shall, in the performance of his, her or its duties, be fully protected in relying in good faith upon the records of the Company and on such information, opinions, reports or statements presented to the Company by any of the Officers, Directors or employees of the Company, or any of the officers, directors or employees of the Company's Subsidiaries, or committees of the Board, or by any other Person (including legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisers selected by or on behalf of it) as to matters such Covered Person reasonably believes are within such other Person's professional or expert competence.
- 56.9** No amendment, modification or repeal of this Bye-law 56 or any provision hereof or, to the fullest extent permitted by Applicable Law, any modification of Applicable Law, shall in any manner terminate, reduce or impair the right of any past, present or future Covered Person to be indemnified or to have such Covered Person's Expenses advanced by the Company, nor the obligations of the Company to indemnify or advance Expenses to any such Covered Person under and in accordance with the provisions of this Bye-law 56 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or-in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.
- 56.10** If a claim for indemnification (following the final disposition of the Proceeding for which indemnification is being sought) or advancement of Expenses under this Bye-law 56 is not paid in full within thirty (30) days after a written claim therefor by any Covered Person has been received by the Company, such Covered Person may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the Expenses of prosecuting such claim, including reasonable attorneys' fees.
- 56.11** This Bye-law 56 shall not limit the right of the Company, to the extent and in the manner permitted by Applicable Law, to indemnify and to advance Expenses to, and purchase and maintain insurance on behalf of Persons other than Covered Persons.
- 56.12** The Company hereby acknowledges that the indemnitees under this Bye-law 56 (the "Indemnified Persons") may have certain rights to indemnification, advancement of Expenses and/or insurance provided by shareholders, members of the Apollo Group, or other Affiliates of the Company or Affiliates of members of the Apollo Group ("Shareholder Affiliates") separate from the indemnification and advancement of Expenses provided by the Company under these Bye-laws. The Company hereby agrees (i) that it is the indemnitor of first resort (i.e., its obligations to the Indemnified Persons under these Bye-laws are primary and any obligation of any Shareholder Affiliate to advance Expenses or to provide indemnification for the same Expenses or Liabilities incurred by the Indemnified Persons are secondary), (ii) that the

Company shall be required to advance the full amount of Expenses incurred by the Indemnified Persons and shall be liable for the full amount of all Expenses and Liabilities paid in settlement to the extent legally permitted and as required by Bye-law 56, without regard to any rights the Indemnified Persons may have against any Shareholder Affiliate, and (iii) that the Company irrevocably waives, relinquishes and releases the Shareholder Affiliates from any and all claims against the Shareholder Affiliates for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by any Shareholder Affiliate on behalf of a Indemnified Person with respect to any claim for which such Indemnified Person has sought indemnification from the Company pursuant to Bye-law 56 shall affect the foregoing and the Shareholder Affiliates shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of the Indemnified Person against the Company. For the avoidance of doubt, no Person providing directors' or officers' or similar insurance obtained or maintained by or on behalf of the Company, and of its Affiliates or any of the foregoing's respective Subsidiaries, including any Person providing such insurance obtained or maintained pursuant to Bye-law 56.4, shall be, or be deemed to be, a Shareholder Affiliate.

- 56.13** No Covered Person shall be personally liable either to the Company or to any of its Shareholders for monetary damages for breach of fiduciary duty as a Covered Person, except to the extent such exemption from liability or limitation thereof is not permitted under Applicable Law as the same exists or may hereafter be amended. Any amendment, modification or repeal of this Bye-law inconsistent with the foregoing sentence shall not adversely affect any right or protection of a Covered Person in respect of any act or omission occurring prior to the time of such amendment, modification or repeal.
- 56.14** Any Person purchasing or otherwise acquiring any interest in any shares of the Company shall be deemed to have notice of and to have consented to the provisions of this Bye-law 56.
- 56.15** This Bye-law 56 may not be rescinded, altered or amended (a) unless in accordance with the Act and (b) until the same has been approved by the Board and at least 50% of the Total Voting Power (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4).

## **BUSINESS OPPORTUNITIES**

### **57. Business Opportunities**

- 57.1** To the fullest extent permitted by Applicable Law, the Company, on behalf of itself and its Subsidiaries, other than its Subsidiaries that are insurance companies which are regulated by a governmental entity ("Insurance Subsidiaries"), waives and renounces any right, interest or expectancy of the Company and/or its Subsidiaries,

other than its Insurance Subsidiaries, in, or in being offered an opportunity to participate in, business opportunities of any kind, nature or description that are from time to time presented to (x) any member of the Apollo Group or an Affiliate of any member of the Apollo Group (other than the Company and its Subsidiaries), (y) any of the Directors or any of their respective Affiliates (other than the Company and its Subsidiaries), or (z) any Officer, employee or agent of the Company, or any director, officer, employee or agent of any of the Company's Subsidiaries, who is also, and is presented such business opportunity in his or her capacity as, an officer, director, employee, managing director, general or limited partner, manager, member, shareholder, agent or other Affiliate of any member of the Apollo Group or of any Affiliate of any member of the Apollo Group (other than the Company and its Subsidiaries), in the case of each of clauses (x), (y) and (z), excluding the Chief Executive Officer of the Company (the Persons described in clauses (x), (y) and (z), "Specified Parties" and each, a "Specified Party"), or of which any Specified Parties have or gain knowledge, whether or not the opportunity is competitive with the business of the Company or its Subsidiaries or in the same or similar lines of business as the Company or its Subsidiaries or one that the Company or its Subsidiaries might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so, and each Specified Party shall have no duty (statutory, fiduciary, contractual or otherwise) to communicate or offer such business opportunity to the Company and, to the fullest extent permitted by Applicable Law, shall not be liable to the Company or any of its Subsidiaries, other than its Insurance Subsidiaries, for breach of any statutory, fiduciary, contractual or other duty, as a Director, Officer, employee or agent of the Company, or a director, officer, employee or agent of any of the Company's Subsidiaries, as the case may be, or otherwise, by reason of the fact that such Specified Party pursues or acquires such business opportunity, directs such business opportunity to another Person or fails to present or communicate such business opportunity, or information regarding such business opportunity, to the Company or its Subsidiaries. Notwithstanding the foregoing, the Company and its Subsidiaries do not renounce any right, interest or expectancy in any business opportunity offered to a Specified Party who is a Director or Officer if such business opportunity is expressly offered for the Company or its Subsidiaries to such person solely in his or her capacity as a Director or Officer (a "Company Opportunity"); *provided, however*, that all of the protections of this Bye-law 57 shall otherwise apply to the Specified Parties with respect to such Company Opportunity, including the ability of the Specified Parties to pursue or acquire such Company Opportunity, directly or indirectly, or to direct such Company Opportunity to another person, if and to the extent that the Company or the applicable Subsidiary of the Company, as applicable, determines not to pursue such Company Opportunity or if it is subsequently determined by the Board or any committee thereof (or board of directors or other governing body of such Subsidiary or any committee thereof), or by any court of competent jurisdiction, that the business opportunity was not in the line of business of the Company or such Subsidiary, as applicable, was not of material or practical advantage to the Company or such Subsidiary, as applicable, or was one that the Company or such Subsidiary, as applicable, was not financially capable of

undertaking. For the avoidance of doubt, notwithstanding anything to the contrary set forth herein or otherwise, to the fullest extent permitted by Applicable Law, the Company, on behalf of itself and its Subsidiaries, other than its Insurance Subsidiaries, hereby waives and renounces any right, interest or expectancy of the Company or its Subsidiaries to participate in or be offered an opportunity to participate in any business or business opportunity of any member of the Apollo Group or its Affiliates (other than the Company and its Subsidiaries), except to the extent such right, interest or expectancy is expressly granted to the Company or any of its Subsidiaries under a binding agreement between or among the Company and/or its Subsidiaries, on the one hand, and any member of the Apollo Group or its Affiliates (other than the Company and its Subsidiaries), on the other hand.

- 57.2** No amendment, modification or repeal of this Bye-law 57 or any provision hereof or, to the fullest extent permitted by Applicable Law, any modification of Applicable Law, shall in any manner terminate, reduce or impair the right of any Person under and in accordance with the provisions of this Bye-law 57 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.
- 57.3** This Bye-law 57 shall not limit any protections or defenses available to, or indemnification or advancement rights of, any Specified Party under any agreement, these Bye-laws, vote of the Board, Applicable Law or otherwise.
- 57.4** Any Person purchasing or otherwise acquiring any interest in any shares of the Company shall be deemed to have notice of and to have consented to the provisions of this Bye-law 57.
- 57.5** Notwithstanding anything to the contrary herein, under no circumstances shall the provisions of this Bye-law 57 (other than this Bye-law 57.5) apply to (or result in or be deemed to result in a limitation or elimination of) any duty (contractual, fiduciary or otherwise, whether at law or in equity) owed by any Specified Party who is also an Officer, employee or agent of the Company, or any director, officer, employee or agent of any of its Subsidiaries (other than any such Specified Party who is also an officer, director, employee, managing director, general or limited partner, manager, member, shareholder, agent or other Affiliate of any member of the Apollo Group or of any Affiliate of any member of the Apollo Group (other than the Company and its Subsidiaries)), and any business opportunity waived or renounced by any Person pursuant to such other provisions of this Bye-law 57 shall be expressly reserved and maintained (and shall not be waived or renounced) by such Person as to any such Specified Party.
- 57.6** This Bye-law 57 may not be rescinded, altered or amended (a) unless in accordance with the Act and (b) until the same has been approved by the Board and at least 50% of the Total Voting Power (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4).

## MEETINGS OF THE BOARD OF DIRECTORS

### 58. Board Meetings

The Board may meet for the transaction of business, adjourn and otherwise regulate its meetings as it sees fit. A resolution put to the vote at a meeting of the Board shall be carried by the affirmative votes of a majority of the votes cast and in the case of an equality of votes cast the resolution shall fail.

### 59. Notice of Board Meetings

Upon the requisition of (i) the Chairman or Vice Chairman of the Board, (ii) a majority of the Directors, (iii) the Chief Executive Officer of the Company or (iv) a majority of the Independent Directors, the Secretary shall summon a meeting of the Board. Notice of a meeting of the Board shall be deemed to be duly given to a Director if it is given to such Director verbally (including in person or by telephone) or otherwise communicated or sent to such Director by post, electronic means or other mode of representing words in a visible form at such Director's last known address or in accordance with any other instructions given by such Director to the Company for this purpose.

### 60. Electronic Participation in Meetings

Subject to Applicable Law, Directors may participate in any meeting by such telephonic, electronic or other communication facilities or means as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

### 61. Quorum at Board Meetings

The quorum necessary for the transaction of business at a meeting of the Board shall be two (2) Directors; *provided, that* at any meeting where only two (2) Directors are in attendance any Board action taken at such meeting must be approved unanimously.

### 62. Board to Continue in the Event of Vacancy

The Board may act notwithstanding any vacancy in its number but, if and so long as its number is reduced below the number fixed by these Bye-laws as the quorum necessary for the transaction of business at meetings of the Board, the continuing Directors or Director may act for the purpose of (i) summoning a general meeting; or (ii) preserving the assets of the Company.

### 63. Chairman to Preside

Unless otherwise agreed by a majority of the Directors attending, the Chairman, if there be one, shall act as chairman at all meetings of the Board at which such person is present. In his absence a chairman shall be appointed or elected by the Directors present at the meeting.

**64. Written Consent**

A written consent signed by all the Directors, which may be in counterparts, shall be as valid as if a resolution in respect thereof had been passed at a meeting of the Board duly called and constituted, such written consent to be effective on the date on which the last Director signs such written consent.

**65. Validity of Prior Acts of the Board**

No regulation or alteration to these Bye-laws made by the Company in a general meeting shall invalidate any prior act of the Board which would have been valid if that regulation or alteration had not been made.

## **CONFLICTS**

**66. Resolution of Conflicts**

For so long as any Class B Common Shares remain outstanding, none of the Company or any of its Subsidiaries shall enter into or amend any contract or agreement with a member of the Apollo Group, unless such contract or agreement or amendment is:

- (a) fair and reasonable to the Company and its Subsidiaries, taking into account the totality of the relationships between the parties involved (including other transactions that may be or have been particularly favorable or advantageous to the Company and its Subsidiaries); or
- (b) entered into on an arm's-length basis; or
- (c) approved by a majority of the disinterested Directors; or
- (d) approved by the holders of a majority of the issued and outstanding Class A Common Shares; or
- (e) approved by the Conflicts Committee in accordance with its charter and guidelines as they may be amended from time to time.

Notwithstanding the above, all Apollo Conflicts, as defined in the charter of the Conflicts Committee, shall be approved by the Conflicts Committee unless such conflict is specifically exempted from approval in accordance with the Conflicts Committee charter and guidelines as they may be amended from time to time.

**67. Conflicts Committee**

**67.1** The Board shall constitute a committee comprised solely of Directors who are not general partners, directors, managers, officers or employees of the Apollo Group (the "Conflicts Committee").

- 67.2** The Conflicts Committee shall consist of up to five (5) individuals designated by the Board. The Conflicts Committee shall have a chairman, who shall be designated by the Board or, if the Board so delegates, by the Conflicts Committee. The vote necessary to approve any action at a meeting of the Conflicts Committee shall be a majority of the entire Conflicts Committee.
- 67.3** The Conflicts Committee may meet in person, by telephone or video conference call or in any other manner in which the Board is permitted to meet under Applicable Law and may also take action by written consent of the number and identity of Conflicts Committee members who have not less than the minimum number of votes that would be necessary to take such action at a meeting at which all Conflicts Committee members entitled to vote were present and voted.
- 67.4** The Conflicts Committee, upon the affirmative vote of a majority of the entire Committee, shall have the authority to engage consultants to assist in the evaluation of conflicts matters. It shall have the sole authority to retain and terminate any such consultants, including sole authority to approve the consultants' fees and other retention terms; *provided*, that fees and expenses incurred in connection with the engagement of any such consultant are reasonable.

## **CORPORATE RECORDS**

### **68. Minutes**

The Board shall cause minutes to be duly entered in books provided for the purpose:

- (a) of all elections and appointments of Officers;
- (b) of the names of the Directors present at each meeting of the Board and of any committee appointed by the Board; and
- (c) of all resolutions and proceedings of general meetings of the Shareholders, meetings of the Board, meetings of managers and meetings of committees appointed by the Board.

### **69. Place Where Corporate Records Kept**

Minutes prepared in accordance with the Act and these Bye-laws shall be kept by the Secretary at the Registered Office of the Company.

### **70. Form and Use of Seal**

- 70.1** The Company may adopt a seal in such form as the Board may determine. The Board may adopt one or more duplicate seals for use in or outside Bermuda.
- 70.2** A seal may, but need not, be affixed to any deed, instrument, share certificate or document, and if the seal is to be affixed thereto, it shall be attested by the signature

of (i) any Director, or (ii) any Officer, or (iii) the Secretary, or (iv) any person authorised by the Board for that purpose.

**70.3** A Resident Representative may, but need not, affix the seal of the Company to certify the authenticity of any copies of documents.

## ACCOUNTS

### **71. Books of Account**

**71.1** The Board shall cause to be kept proper records of account with respect to all transactions of the Company and in particular with respect to:

- (a) all amounts of money received and expended by the Company and the matters in respect of which the receipt and expenditure relates;
- (b) all sales and purchases of goods by the Company; and
- (c) all assets and liabilities of the Company.

**71.2** Such records of account shall be kept at the principal place of business of the Company, or subject to the Act, at such other place as the Board thinks fit and shall be available for inspection by the Directors during normal business hours.

### **72. Financial Year End**

The financial year end of the Company may be determined by resolution of the Board and failing such resolution shall be 31<sup>st</sup> December in each year.

## AUDITS

### **73. Annual Audit**

Subject to any rights to waive laying of accounts or appointment of an Auditor pursuant to the Act, the accounts of the Company shall be audited at least once in every year.

### **74. Appointment of Auditor**

**74.1** Subject to the Act, at the annual general meeting or at a subsequent special general meeting in each year, an independent representative of the Shareholders shall be appointed by them as Auditor of the accounts of the Company.

**74.2** The Auditor may be a Shareholder but no Director, Officer or employee of the Company shall, during his continuance in office, be eligible to act as an Auditor of the Company.

### **75. Remuneration of Auditor**

Save in the case of an Auditor appointed pursuant to Bye-law 80, the remuneration of the Auditor shall be fixed by the Company in a general meeting or in such manner as the Shareholders may determine. In the case of an Auditor appointed pursuant to Bye-law 80, the remuneration of the Auditor shall be fixed by the Board.

**76. Duties of Auditor**

**76.1** The financial statements provided for by these Bye-laws shall be audited by the Auditor in accordance with generally accepted auditing standards. The Auditor shall make a written report thereon in accordance with generally accepted auditing standards.

**76.2** The generally accepted auditing standards referred to in this Bye-law may be those of a country or jurisdiction other than Bermuda or such other generally accepted auditing standards as may be provided for in the Act. If so, the financial statements and the report of the Auditor shall identify the generally accepted auditing standards used.

**77. Access to Records**

The Auditor shall at all reasonable times have access to all books kept by the Company and to all accounts and vouchers relating thereto, and the Auditor may call on the Directors or Officers for any information in their possession relating to the books or affairs of the Company.

**78. Financial Statements**

Subject to any rights to waive laying of accounts pursuant to the Act, financial statements as required by the Act shall be laid before the Shareholders in a general meeting.

**79. Distribution of Auditor's Report**

The report of the Auditor shall be submitted to the Shareholders in a general meeting.

**80. Vacancy in the Office of Auditor**

The Board may fill any casual vacancy in the office of the Auditor.

## **VOLUNTARY WINDING-UP AND DISSOLUTION**

**81. Winding-Up**

Subject to Bye-law 4 and any agreement contemplated by Bye-law 1.5 to the contrary, if the Company shall be wound up the liquidator may, with the sanction of a Resolution, divide amongst the Shareholders in specie or in kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may, for such purpose, set such value as he deems fair upon any property to be divided as aforesaid and

may determine how such division shall be carried out as between the Shareholders or different classes of Shareholders. Subject to Bye-law 4 and any agreement contemplated by Bye-law 1.5 to the contrary, the liquidator may, with the like sanction, vest the whole or any part of such assets in the trustees upon such trusts for the benefit of the Shareholders as the liquidator shall think fit, but so that no Shareholder shall be compelled to accept any shares or other securities or assets whereon there is any liability.

## **CHANGES TO CONSTITUTION; EXCLUSIVE JURISDICTION**

### **82. Changes to Bye-laws**

No Bye-law may be rescinded, altered or amended and no new Bye-law may be made save in accordance with the Act and until the same has been approved by a resolution of the Board and by a Resolution; *provided*, that any such action that would materially, adversely and disproportionately affect the rights, obligations, powers or preferences of any class of shares without similarly affecting the rights, obligations, powers or preferences of all classes of shares shall require a vote of the majority of the issued and outstanding shares constituting such class so affected.

### **83. Changes to the Memorandum of Association**

No alteration or amendment to the Memorandum of Association may be made save in accordance with the Act and until same has been approved by a resolution of the Board and by a Resolution.

### **84. Exclusive Jurisdiction**

In the event that any dispute arises concerning the Act or out of or in connection with these Bye-laws, including any question regarding the existence and scope of any Bye-law and/or whether there has been any breach of the Act or these Bye-laws by an Officer or Director (whether or not such a claim is brought in the name of a Shareholder or in the name of the Company), any such dispute shall be subject to the exclusive jurisdiction of the Supreme Court of Bermuda.

### **85. Discontinuance**

The Board may exercise all the powers of the Company to discontinue the Company to a jurisdiction outside Bermuda pursuant to the Act.

## **CERTAIN MATTERS RELATING TO SUBSIDIARIES**

### **86. Voting of Subsidiary Shares**

**86.1** Notwithstanding any other provision of these Bye-laws to the contrary (but subject to Bye-law 86.2), if the Company, in its capacity as a shareholder of any Subsidiary of the Company, has the right to vote at a general meeting or special meeting of such

Subsidiary (whether in person or by its attorney-in-fact or proxy) (or by written resolution in lieu of a general meeting or special meeting), and the subject matter of the vote is (a) the appointment, removal or remuneration of directors of a non-U.S. Subsidiary of the Company or (b) any other subject matter with respect to a non-U.S. Subsidiary that legally requires the approval of the shareholders of such non-U.S. Subsidiary, the Board shall refer the subject matter of the vote to the Shareholders and seek authority from the Shareholders entitled to vote for the Board for the Company's corporate representative or proxy to vote with respect to the resolution proposed by such Subsidiary. The Board shall cause the Company's corporate representative or proxy to vote the Company's shares in such Subsidiary pro rata to the votes received at the general meeting of the Company, with votes for or against the directing resolution being taken, respectively, as an instruction for the Company's corporate representative or proxy to vote the appropriate proportion of its share for and the appropriate proportion of its shares against the resolution proposed by such Subsidiary. For the avoidance of doubt, for purposes of this Bye-law 86 and Bye-law 87, the term "non-U.S. Subsidiary" shall mean a Subsidiary that is treated as a non-U.S. person for U.S. federal income tax purposes. The Board shall have authority to resolve any ambiguity in this Bye-law 86 or Bye-law 87. All votes referred to the Company's Shareholders pursuant to this Bye-law 86.1 shall give effect to and otherwise be subject to the voting power restrictions of Bye-laws 4.2, 4.3 and 4.4.

**86.2** If the Board in its discretion, determines that the application of Bye-law 86.1(b) with respect to a particular vote is not necessary to achieve the purposes of this Bye-law 86, it may waive the application of Bye-law 86.1(b) with respect to such vote.

**87. Bye-laws or Articles of Association of Certain Subsidiaries**

The Board shall require that the Bye-laws or Articles of Association or similar organizational documents of each non-U.S. Subsidiary of the Company shall contain provisions substantially similar to Bye-law 86.1 and Bye-law 87. The Company shall enter into agreements, as and when determined by the Board, with each such non-U.S. Subsidiary, only if and to the extent reasonably necessary and permitted under Applicable Law, to effectuate or implement this Bye-law.

**88. Termination of IMAs**

**88.1** Except as set forth in Bye-law 88.2, the Company shall not, and shall cause each Subsidiary of the Company not to, elect to terminate the IMA or any other investment advisory or investment management agreement by and between the Company or any of its Subsidiaries and a member of the Apollo Group (a "New IMA") (a) on any date other than June 4, 2023 or any two (2)-year anniversary of such date (each, an "IMA Termination Election Date") and (b) unless it has provided written notice to AAM or the member of the Apollo Group that is a party to such New IMA, as applicable, of such termination at least thirty (30) days, but not more than ninety (90) days, prior to the applicable IMA Termination Election Date (an "IMA

Termination Notice"); *provided*, that (i) the IMA or any New IMA may only be terminated by the Company or a Subsidiary of the Company with the approval of at least two-thirds (2/3) of the Independent Directors in accordance with the immediately following sentence (an IMA Termination Notice delivered with such approval and in accordance with Bye-law 88.1(a) and (b), a "Valid IMA Termination Notice") and (ii) notwithstanding any such election to terminate or delivery of a Valid IMA Termination Notice, no such termination shall be effective on any date earlier than the second annual anniversary of the applicable IMA Termination Election Date (the "IMA Termination Effective Date"). Notwithstanding anything to the contrary contained in this Bye-law 88.1, the Board shall not approve any election to terminate the IMA or any New IMA on any IMA Termination Election Date pursuant to this Bye-law 88.1 unless at least two-thirds (2/3) of the Independent Directors agree that an event described in clause (iii) or (iv) of the definition of AHL Cause occurred with respect to the IMA or such New IMA, as applicable. If the Company and/or applicable Subsidiary of the Company does not provide a Valid IMA Termination Notice with respect to an IMA Termination Election Date, then the Company or such Subsidiary may only elect to terminate such IMA or New IMA under this Bye-law 88.1 on the next IMA Termination Election Date, and neither the Company nor any Subsidiary of the Company shall terminate any such IMA or New IMA in accordance with this Bye-law 88.1 without providing a Valid IMA Termination Notice. Furthermore, beginning on June 4, 2019, the IMA and any New IMA shall be subject to an initial term of four (4) years from such date; *provided* that, on each IMA Termination Election Date after June 4, 2019, beginning with the IMA Termination Election Date on June 4, 2023, to the extent no Valid IMA Termination Notice has been delivered in accordance with this Bye-law 88.1 with respect to the IMA or any New IMA, the term of the IMA and each such New IMA shall be extended automatically without any further action or obligation by any persons (including, without limitation, the parties thereto or hereto) for a period of two (2) additional years; *provided, further* that, if a Valid IMA Termination Notice has been previously delivered in accordance with this Bye-law 88.1 and has not been rescinded prior to the applicable IMA Termination Effective Date, this sentence shall no longer be of any force or effect with respect to the IMA or such New IMA that is the subject of such delivered Valid IMA Termination Notice and the term of the IMA or such New IMA subject to such Valid IMA Termination Notice shall continue through the end of the IMA Remediation Period. Notwithstanding anything to the contrary, the term of any IMA or New IMA shall be extended for the IMA Remediation Period.

- 88.2** Notwithstanding anything to the contrary in Bye-law 88.1, the Company and/or the applicable Subsidiary of the Company may terminate the IMA or any New IMA upon the occurrence of an event described in clause (i) or (ii) of the definition of AHL Cause with respect to the IMA or such New IMA, as applicable; *provided*, that any termination of the IMA or any New IMA by the Company or Subsidiary of the Company, as applicable, for such AHL Cause shall require the approval of at least two-thirds (2/3) of the Independent Directors and the delivery of written notice to

AAM or such member of the Apollo Group that is a party to such New IMA, as applicable, of such termination for such AHL Cause at least thirty (30) days prior to the effective date of such termination; provided, further, that in each case AAM or the member of the Apollo Group that is a party to the applicable IMA or New IMA, as applicable, shall have the right to dispute such determination of the Independent Directors within thirty (30) days after receiving notice from the Company of such determination, in which case the parties to such IMA or New IMA, as applicable, shall submit the question as to whether the conditions of AHL Cause have been met to binding arbitration in accordance with Section 12 of the seventh amended and restated fee agreement dated June 10, 2019 between the Company and AAM, as amended from time to time, and such IMA or New IMA, as applicable, shall continue to remain in effect during the period of the arbitration.

**88.3** For the avoidance of doubt, subject in all respects to the other provisions of this Bye-law 88 and the definition of AHL Cause, any termination of the IMA or any New IMA by the Company and/or any Subsidiary of the Company shall require the approval of at least two-thirds (2/3) of the Independent Directors. Notwithstanding anything to the contrary herein, for purposes of this Bye-law 88 and the definition of AHL Cause, (x) no officer or employee of the Company or any of its Subsidiaries shall constitute an Independent Director and (y) no officer or employee of (1) any member of the Apollo Group described in clauses (i) through (iv) of the definition of Apollo Group or (2) Apollo Global Management, LLC or any of its Subsidiaries (excluding any Subsidiary that constitutes any portfolio company (or investment) of (A) an investment fund or other investment vehicle whose general partner, managing member or similar governing person is owned, directly or indirectly, by Apollo Global Management, LLC or by one or more of its Subsidiaries or (B) a managed account agreement (or similar arrangement) whereby Apollo Global Management, LLC or one or more of its Subsidiaries serves as general partner, managing member or in a similar governing position) shall constitute an Independent Director.

**88.4** This Bye-law 88 may not be rescinded, altered or amended (a) unless in accordance with the Act and (b) until the same has been approved by at least two-thirds (2/3) of the Independent Directors and at least 50% of the Total Voting Power (which for the avoidance of doubt will take into account the application of Bye-laws 4.2, 4.3 and 4.4).

AHL Cause means, (i) with respect to the IMA, a material violation of Applicable Law relating to AAM's advisory business, and with respect to a New IMA, a material violation of Applicable Law relating to the advisory business of the member of the Apollo Group that is a party to such New IMA, in each case that is materially detrimental to the Company, (ii) the gross negligence, willful misconduct or reckless disregard of any of the obligations of AAM under the IMA or the member of the Apollo Group that is a party to the applicable New IMA under such New IMA, as applicable, that is materially detrimental to the Company (iii) the unsatisfactory long

term performance of AAM under the IMA, or the member of the Apollo Group that is a party to the applicable New IMA under such a New IMA, as applicable, that is materially detrimental to the Company, as determined in the sole discretion of at least two-thirds (2/3) of the Independent Directors, acting in good faith or (iv) a determination in the sole discretion of at least two-thirds (2/3) of the Independent Directors, acting in good faith, that the fees charged by AAM under the IMA, or by the member of the Apollo Group that is a party to the applicable New IMA under such New IMA, as applicable, are unfair and excessive compared to a Comparable Asset Manager, *provided, however*, in the case of clauses (iii) and (iv), the Independent Directors shall deliver written notice of such finding to AAM or such other member of the Apollo Group, as applicable, and AAM or such other member of the Apollo Group, as applicable, shall have until the applicable IMA Termination Effective Date to address the Independent Directors' concerns and; *provided further*, that in the case of clause (iv), AAM or such other member of the Apollo Group, as applicable, shall have a right to lower its fees to match a Comparable Asset Manager. If AAM or such member of the Apollo Group has addressed the Independent Directors' concerns (with the assessment of whether the Independent Directors' concerns have been addressed being rendered thereby in good faith with the approval of at least two-thirds (2/3) of the Independent Directors) or, if applicable, lowered its fees to match a Comparable Asset Manager, then the applicable IMA Termination Notice shall be deemed rescinded and of no further force or effect. For the avoidance of doubt, the occurrence of an event constituting AHL Cause under the IMA shall not constitute an event of AHL Cause under any New IMA and vice versa, unless such event of AHL Cause shall be separately established thereunder.

IMA Remediation Period means, with respect to any Valid IMA Termination Notice, the period between the applicable IMA Termination Election Date and the applicable IMA Termination Effective Date.

**Schedule 1****Related Party Insurance****Athene Holding Ltd. Insurance Subsidiaries:**

1. Athene Life Re Ltd.
2. Athene Annuity & Life Assurance Company
3. Athene Life Insurance Company of New York
4. Athene Annuity & Life Assurance Company of New York
5. Structured Annuity Reinsurance Company
6. Athene Annuity and Life Company
7. Athene Re USA IV, Inc.
8. Athene Annuity Re Ltd.

**Current Ceding Companies:**

1. Western United Life Assurance Company
2. American Equity Investment Life Insurance Company
3. American Pioneer Life Insurance Company
4. American Progressive Life and Health Insurance Company of New York
5. Constitution Life Insurance Company
6. Union Bankers Life Insurance Company
7. Pennsylvania Life Insurance Company
8. The Pyramid Life Insurance Company
9. Jefferson National Life Insurance Company
10. Athene Annuity & Life Assurance Company
11. Continental Assurance Company
12. Reassure America Life Insurance Company
13. Eagle Life Insurance Company
14. Liberty Bankers Life Insurance Company
15. Athene Annuity & Life Assurance Company of New York
16. Athene Annuity and Life Company
17. Structured Annuity Reinsurance Company
18. Transamerica Life Insurance Company
19. Midland National Life Insurance Company

20. North American Company for Life and Health Insurance
21. Athene Re USA IV, Inc.
22. Sentinel Security Life Insurance Company
23. Athene Life Insurance Company of New York
24. Royal Neighbors of America
25. Fidelity Security Life Insurance Company
26. The Lincoln National Life Insurance Company
27. Massachusetts Mutual Life Insurance Company
28. Brighthouse Life Insurance Company
29. Brighthouse Life Insurance Company of NY
30. Life Insurance Company of the Southwest
31. Voya Insurance and Annuity Company
32. Reliastar Life Insurance Company
33. Athora Lebensversicherung AG

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## **Section 4: EX-10.1 (EXHIBIT 10.1)**

Exhibit 10.1

### **SEVENTH AMENDED AND RESTATED FEE AGREEMENT**

This Seventh Amended and Restated Fee Agreement (this “Agreement”), dated as of June 10, 2019 (the “Effective Date”), amends and restates that certain Sixth Amended and Restated Fee Agreement between Athene Asset Management LLC (“AAM”) and Athene Holding Ltd. (“AHL”), dated June 7, 2018 (the “Prior Agreement”).

WHEREAS, from time to time, AHL and certain current or future direct or indirect subsidiaries of AHL (each, other than any ACRA Entity (as defined below), a “Subsidiary”) or a Subsidiary’s reinsurance counterparty (each, other than any ACRA Entity, a “Reinsurance Counterparty”) have entered into, will enter into or desire to enter into investment management agreements with AAM pursuant to which Subsidiaries and Reinsurance Counterparties pay AAM management fees and agree to indemnify AAM in certain circumstances;

WHEREAS, from time to time, AAM and one or more investment manager(s), not affiliated with Apollo (as hereinafter defined), acting for a Reinsurance Counterparty (each, a “Reinsurance-Related Third Party Manager”) have entered into, will enter into or desire to enter into a sub-advisory arrangement with respect to an investment management agreement between such Reinsurance-Related Third Party Manager and a Reinsurance Counterparty pursuant to which AAM will act as a sub-advisor with respect to certain assets of such Reinsurance Counterparty;

WHEREAS, from time to time, AAM and sub-advisers (each, a “Sub-Adviser”) have entered into, will enter into or desire to enter into sub-advisory arrangements with respect to the foregoing investment management agreements and/or sub-advisory agreements pursuant to which AAM will pay such Sub-Advisers management fees, be liable for expenses of such Sub-Advisers and indemnify such Sub-Advisers in certain circumstances;

WHEREAS, from time to time, AAM, on the one hand, and the Subsidiaries and their Reinsurance Counterparties, on the other hand, have entered into, will enter into or desire to enter into shared service and cost reimbursement arrangements pursuant to which Subsidiaries and Reinsurance Counterparties reimburse AAM (or AAM reimburses AHL or its Subsidiaries or their Reinsurance Counterparties) for its expenses relating to such shared services and other costs incurred; and

WHEREAS, AHL and AAM desire to provide for consistent fees and shared service and cost reimbursement arrangements and a consistent standard of care/liability and indemnity on an enterprise-wide basis across AHL and the Subsidiaries and their Reinsurance Counterparties (but not including any Athora Entity), in each case on terms AAM and AHL have determined to be consistent with commercial standards.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. Definitions.

- a. "AAM" has the meaning set forth in the preamble.
- b. "AAM/AHL Investment Management Agreement" has the meaning set forth in Section 9.
- c. "Accounts" means all investment accounts of or relating to AHL and/or the Subsidiaries, whether or not managed by AAM, including, without limitation, surplus accounts and

funds withheld accounts, investment accounts of any Reinsurance Counterparty in which AAM is acting as an advisor or sub-advisor or in a similar capacity, modified coinsurance accounts and reinsurance trusts supporting reinsurance agreements entered into by AHL and/or the Subsidiaries, provided, however, “Accounts” shall not include (i) investment accounts of any Athora Entity (or, for the avoidance of doubt, any ACRA Entity), (ii) any surplus account, funds withheld account, modified coinsurance account, reinsurance trust or other investment account of any Subsidiary or Reinsurance Counterparty, or any subaccount thereof, established for the purpose of maintaining assets supporting business ceded or retroceded to an Athora Entity (or, for the avoidance of doubt, any ACRA Entity), or (iii) investment accounts of AHL or a Subsidiary which is managed by Apollo Asset Management Europe LLP and/or Apollo Management International LLP.

d. “ACRA” means Athene Co-Invest Reinsurance Affiliate 1A Ltd.

e. “ACRA Accounts” means all investment accounts of or relating to any ACRA Entity, whether or not managed by AAM, including, without limitation, surplus accounts and funds withheld accounts, investment accounts of any reinsurance counterparty of ACRA or a subsidiary thereof in which AAM is acting as an advisor or sub-advisor or in a similar capacity, modified coinsurance accounts and reinsurance trusts supporting reinsurance agreements entered into by any ACRA Entity, provided, however, “ACRA Accounts” shall not include investment accounts of or relating to any ACRA Entity which are managed by Apollo Asset Management Europe LLP and/or Apollo Management International LLP.

f. “ACRA Backbook Value” means \$2,508,773,595.

g. “ACRA Entity” means (i) ACRA or any direct or indirect subsidiary thereof, (ii) any alternative investment vehicle formed by ACRA for the purpose of entering into any transaction with AHL or any Subsidiary or (iii) any person that AAM and AHL hereafter jointly designate in writing as an “ACRA Entity”.

h. “Agreement” has the meaning set forth in the preamble.

i. “AHL” has the meaning set forth in the preamble.

j. “AHL IM Fees” means, with respect to a month, the amount equal to:

- (i) the Base Management Fee with respect to such month; plus
- (ii) with respect to any asset in an Account as of the last day of such month (determined as of the end of such day) that is none of (A) a Third Party Sub-Advised Asset, (B) a Base Fee Only Asset, (C) an Excluded Asset and (D) a Special Asset, one-twelfth of the Asset Management Fee with respect to such asset as of the last day of such month; plus
- (iii) with respect to any Special Asset in an Account as of the last day of such month (determined as of the end of such day), any fee that has been mutually agreed upon by AHL and Apollo with respect to such Special Asset that is payable during such month; minus
- (iv) the aggregate amount payable to Apollo with respect to such month and the assets taken into account in determining the fee amounts described in

clauses (i), (ii) and (iii) of this definition of “AHL IM Fees” by AHL, the Subsidiaries, the Reinsurance Counterparties and the Reinsurance-Related Third Party Managers pursuant to any one or more investment management, sub-advisory or other agreements or arrangements.

- k. “Apollo” means Apollo Global Management, LLC and its subsidiaries collectively, including AAM.
- l. “Applicable IMA” has the meaning set forth in Section 7.
- m. “Applicable SAA” has the meaning set forth in Section 7.
- n. “Asset Management Fee” has the meaning set forth on Schedule I.
- o. “Athora Entity” means any of Athora Holding Ltd. or its direct or indirect subsidiaries.
- p. “Athora Funding Agreement” means a Funding Agreement issued to an Athora Entity by a Subsidiary that is a client of AAM (each, an “AHL Sub Client”), provided, that the assets backing such Funding Agreement are all managed by, and subject to fees payable to, AAM hereunder and/or under the applicable investment management agreement between AAM and such AHL Sub Client.
- q. “AUSA” means Athene USA Corporation, a Subsidiary.
- r. “Backbook Value” means \$103,443,295,887.
- s. “Base Fee Only Asset” means, without limiting Section 4(d), any asset classified as of the applicable date of determination in accordance with AAM’s (or a Sub-Advisor’s, if applicable) then existing policies as either (i) cash or a cash equivalent, (ii) a U.S. treasury security, (iii) an alternative asset or (iv) non-preferred equity.
- t. “Base Management Fee” means, with respect to any month, the amount equal to:
  - (i) (A) if the Backbook Value is less than the aggregate market value of the assets in the Accounts, other than the Excluded Assets, as of the end of the last day of such month, one-twelfth of the sum of (1) 0.225% of (x) the Backbook Value minus (y) the ACRA Backbook Value and (2) 0.075% of the ACRA Backbook Value; or
  - (B) if the aggregate market value of the assets in the Accounts, other than the Excluded Assets, as of the end of the last day of such month is less than or equal to the Backbook Value, one-twelfth of the sum of (1) 0.225% of such aggregate market value of such assets in the Accounts and (2) 0.075% of one-third of the aggregate market value of the assets in the ACRA Accounts, other than the Excluded Assets, as of the last day of such month; provided, that in no event will the amount set forth in this clause (i)(B) exceed one-twelfth of the sum of clauses (1) and (2) of clause (i)(A) above; plus

- (ii) one-twelfth of 0.15% of the Incremental Value as of the last day of such month.
- u. “Book Yield” means, with respect to a Book Yield Capped Asset and as of the last day of any month, the gross book yield of such Book Yield Capped Asset determined as of such day pursuant to Section 4(b).
- v. “Book Yield Capped Asset” means any asset in an Account that is (or was) acquired on or after January 1, 2019.
- w. “Bye-laws” has the meaning set forth in Section 11(a).
- x. “Core Asset” has the meaning set forth on Schedule I.
- y. “Core Plus Asset” has the meaning set forth on Schedule I.
- z. “Core Ratio” means, with respect to each year ended December 31, beginning on December 31, 2019, the quotient of:
  - (i) the average of the aggregate market value of the Core Assets and Core Plus Assets in the Accounts as of March 31, June 30, September 30 and December 31 of such year; and
  - (ii) the average of the aggregate market value of the assets in the Accounts as of March 31, June 30, September 30 and December 31 of such year;

provided, however, no Excluded Asset or Base Fee Only Asset shall be included in determining any average in either clause (i) or (ii).

- aa. “Effective Date” has the meaning set forth in the preamble.
- bb. “Excluded Asset” means any asset that Apollo and AHL mutually agree from time to time constitutes an Excluded Asset.
- cc. “FA Rebate Amount” means, with respect to any Athora Funding Agreement, an amount, determined by AAM as of the end of each month with respect to such month, equal to the product of (a) the FA Value as of the end of such month and (b) one-twelfth of 0.10%.
- dd. “FA Value” means, as of any date of determination with respect to any Athora Funding Agreement, the outstanding deposit amount thereunder (provided, that to the extent that such Funding Agreement is issued in a currency other than U.S. Dollars, the outstanding deposit amount of such Funding Agreement shall be converted to U.S. Dollars by AAM using the mid-spot rate applicable to such currency exchanges reported by Bloomberg as the of the end of the last business day of the applicable month or reported by such other source as reasonably determined by AAM if Bloomberg is not available. For purposes of determining the applicable FA Rebate Amount, the FA Value of an Athora Funding Agreement will be increased (or decreased) by positive (or negative) Applicable Quarterly Net Investment Margin beginning on the first day of the first full fiscal quarter after such Athora Funding Agreement was issued and on the first day of each fiscal quarter thereafter. As used herein, the “Applicable Net Investment Margin” shall mean the investment margin on deferred annuities determined in accordance with GAAP and published by AHL in its then most recent annual report filed with the SEC (or such other audited source as may be agreed

by the parties), and the “Applicable Quarterly Net Investment Margin” shall be the Applicable Net Investment Margin divided by 4. Notwithstanding the foregoing, when the outstanding deposit amount under any Athora Funding Agreement has been reduced to zero, the FA Rebate Amount with respect to such Athora Funding Agreement shall be zero and the FA Value of such Athora Funding Agreement shall be zero.

ee. “Funding Agreement” means a financial contract issued by an insurance company and identified as a Guaranteed Interest Contract on the applicable insurance company’s financial statements, which contract generally provides for the accumulation of funds at guaranteed rates for a specified time period with repayment to the holder thereof in lump sum or installments. For the avoidance of doubt, “Funding Agreement” does not include annuity contracts or contracts that provide for payments to or by the applicable insurer based on the occurrence of a contingency, including without limitation, a mortality or morbidity contingency.

ff. “Incremental Value” means, as of any date of determination, the greater of (i) the amount equal to (A) the sum of (x) the aggregate market value of the assets in the Accounts, other than any Excluded Asset, as of the end of the day of such date of determination and (y) the ACRA Backbook Value minus (B) the Backbook Value and (ii) zero.

gg. “Other Service Agreement” means an agreement entered into between AAM and AHL or a Subsidiary pursuant to which AAM will allocate to AHL or such Subsidiary a portion of the Other Service Compensation paid or payable by AAM. For purposes of the definition of “Unpaid Other Service Compensation”, an Other Service Agreement means an agreement pursuant to which AAM would be compensated by AHL or the applicable Subsidiary for Other Service Compensation paid or payable by AAM in respect of the services provided by employees of AAM to Subsidiaries or paid or payable in respect of shared employees, as if such services were being performed under an agreement substantially similar to an Other Service Agreement entered into between AAM and any other Subsidiary.

hh. “Other Service Compensation” means (A) employee and consulting compensation and related benefits and expenses, including payroll taxes, paid by AAM and (B) AAM’s expenses relating to agreements or arrangements with third parties for the provision of services, products and/or equipment to AAM and/or AHL and the Subsidiaries which will be shared with or passed through by AAM to AHL or the Subsidiaries, as the case may be. With respect to (A), such compensation, benefits, expenses and taxes shall be allocated by AAM to AHL or the applicable Subsidiary based on reasonable allocations of employees’ time performing services for such Subsidiary, with such allocations made by AAM at cost without markup. With respect to (B), expenses are allocated by AAM to AHL or the applicable Subsidiary based on reasonable estimates of usage by AHL and/or such Subsidiaries, with such allocations at cost without markup.

ii. “Prior Agreement” has the meaning set forth in the preamble.

jj. “Reinsurance Counterparty” has the meaning set forth in the recitals.

kk. “Reinsurance-Related Third Party Manager” has the meaning set forth in the recitals.

ll. “Special Asset” means an asset that Apollo and AHL mutually agree from time to time constitutes a Special Asset.

mm. “Sub-Advisor” has the meaning set forth in the recitals.

nn. “Subsidiaries” has the meaning set forth in the recitals.

oo. “Third Party Sub-Advised Asset” means any asset in an Account that both (i) is the subject of an investment sub-advisory arrangement with a Sub-Advisor which is not Apollo and (ii) AHL and Apollo have mutually agreed from time to time to treat as a Third Party Sub-Advised Asset for purposes of this Agreement.

pp. “Unpaid Other Service Compensation” means any amount or amounts (i) payable to AAM pursuant to any Other Service Agreement or (ii) which would have been payable to AAM if an Other Service Agreement had been entered into between AAM and the applicable Subsidiary, in each case, where such Subsidiary cannot pay or has not paid, for any reason, such amount or amounts on its own behalf.

2. Fees. AHL shall pay, in accordance with Section 6 of this Agreement, the AHL IM Fees each month; provided, that, following the Effective Date, (i) the parties shall recalculate the AHL IM Fees with respect to the period from January 1, 2019 to the Effective Date as if the amendment and restatement of the Prior Agreement by this Agreement occurred on January 1, 2019 and (ii) if the aggregate amount of such recalculated AHL IM Fees exceeds the aggregate amount of AHL IM Fees that AHL paid under the Prior Agreement with respect to such period, AHL shall pay the amount of such excess to AAM in accordance with Section 6 of this Agreement, and if the aggregate amount of AHL IM Fees that AHL paid under the Prior Agreement with respect to such period exceeds the aggregate amount of such recalculated AHL IM Fees, AAM shall pay the amount of such excess to AHL (which may be by means of rebate or discount) in accordance with Section 6 of this Agreement. For the avoidance of doubt, no AHL IM Fees or other compensation shall be payable by AHL or any Subsidiary with respect to investment accounts of (i) an Athora Entity or (ii) except as otherwise expressly set forth herein, an ACRA Entity.

3. AHL IM Fee Rebates and Other Fee Adjustments.

a. Subject to the terms and conditions below, AAM shall rebate or discount, without duplication, AHL IM Fees paid or payable by or on behalf of AHL to AAM as follows: for monthly invoicing periods ended after the date hereof and for each calendar month-end thereafter, an amount equal to the aggregate FA Rebate Amounts as of such calendar month-end.

b. AHL shall provide (or cause to be provided) to AAM such information as may be reasonably requested by AAM to assist in the determination of the FA Rebate Amount, including, without limitation:

i. Promptly upon execution of an Athora Funding Agreement, a report detailing the outstanding principal balance of such funding agreement, its date of issue and its maturity date (or payment dates if not a bullet payment);

ii. If an Athora Funding Agreement is denominated in a currency other than U.S. Dollars, AHL shall provide written notice (which may be in the form of an electronic mail) to AAM promptly after the end of each calendar month of the mid-spot rate applicable to such currency exchanges reported by Bloomberg as of the end of the last business day of the applicable month;

iii. Promptly after each anniversary of the effectiveness of an Athora Funding Agreement, AHL shall provide to AAM written notice of the Applicable Net Investment

Margin for the prior 12 months with respect to such AHL Sub-Client with reasonable detail of the calculation thereof; and

iv. On a monthly basis, a report detailing the outstanding balance of each Athora Funding Agreement (with reasonable detail of its calculation thereof) as of the prior month end then subject to an FA Rebate Amount and the AHL client issuer thereof, the date of issue of any such funding agreement and such funding agreement's maturity date (or its payment dates, if not a bullet payment).

For the avoidance of doubt, AAM shall not be required to provide any rebate unless and until the information required by AAM hereunder has been provided to AAM. To the extent that AAM or AHL, acting in good faith, disagrees with any of the information contained in any of the foregoing reports discussed in this clause (b) or in respect of the amounts of any rebate provided under this Section 3, the parties agree to negotiate a resolution to such disagreement in good faith.

c. If the Core Ratio with respect to a year exceeds 60%, AAM shall rebate or discount an amount equal to the product of (i) 0.025% and (ii) the sum of the Incremental Value as of the end of each calendar quarter of such year divided by 4. If the Core Ratio with respect to a year is less than 50%, AHL shall pay to AAM an amount equal to the product of (i) 0.025% and (ii) the sum of the Incremental Value as of the end of each calendar quarter of such year divided by 4.

#### 4. Valuation.

a. Unless the parties otherwise agree in writing, AHL (or one of its subsidiaries) (and not AAM) shall be responsible for determining, in good faith, the value of the assets in the Accounts and, if applicable, the ACRA Accounts in accordance with AHL's valuation policies and procedures (from time to time in effect). AHL agrees to (i) provide valuations on the Accounts and, if applicable, the ACRA Accounts no less often than on a monthly basis and (ii) determine the Core Ratio with respect to each year as promptly as practicable after the end of such year, but no later than the last day of February of the following year.

b. Unless the parties otherwise agree in writing, AHL (or one of its subsidiaries) (and not AAM) shall determine the gross book yield of each Book Yield Capped Asset as of the last day of each month in good faith in accordance with AHL's valuation policies and procedures (from time to time in effect).

c. AHL's valuation policies and procedures shall be reasonably acceptable to AAM.

d. The parties further agree to negotiate in good faith as to any disputes regarding valuation of the assets in the Accounts and, if applicable, the ACRA Accounts or any methodologies used by AHL to value the assets for purposes of determining fees accruing hereunder or in connection with any Account or, if applicable, any ACRA Account, including with respect to (i) any determination of the gross book yield of a Book Yield Capped Asset pursuant to Section 4(b), (ii) any determination of whether an amount is payable (including by rebate or discount) pursuant to Section 3(c) and (iii) any determination of whether or not an asset constitutes a Base Fee Only Asset, a Special Asset, a Core Asset, a Core Plus Asset, a High Alpha Asset or a Yield Asset (which negotiation with respect to this clause (iii) shall take into account the yield, duration and risk profile of such asset). Additionally, in the event that an asset in an Account or, if applicable, an ACRA Account is classified as of an applicable date of determination in accordance with AAM's (or a Sub-

Advisor's, if applicable) then existing policies within a category that was not contemplated by this Agreement as of the Effective Date, AHL and AAM shall negotiate in good faith to determine whether such asset should constitute a Base Fee Only Asset, a Core Asset, a Core Plus Asset, a High Alpha Asset or a Yield Asset.

5. Sub-Adviser Fees; Unpaid Other Service Compensation. In addition to the other payment obligations contained herein: (a) to the extent that AAM has paid or is obligated to pay fees or expenses to any Sub-Adviser in respect of any Account, AHL shall pay on behalf of AAM, or reimburse AAM for, such Sub-Adviser fees and expenses (for the avoidance of doubt, without duplication for any sub-advisory management fees and expenses which have already been paid by or on behalf of any such Account); and (b) AHL shall pay to AAM any Unpaid Other Service Compensation. Notwithstanding the foregoing, and for the avoidance of doubt, clause (a) of the immediately preceding sentence shall only obligate AHL to pay, or reimburse AAM for, a Sub-Adviser fee that is paid or payable by AAM to another Apollo entity to the extent such Sub-Adviser fee either (i) is (or has been, if applicable) approved by the AHL Conflicts Committee or (ii) does not require approval by the AHL Conflicts Committee under the AHL Conflicts Committee procedures in effect on the date on which such Sub-Adviser fee is implemented.

6. Payments. Any amount payable by a party hereto (the "Paying Party") hereunder (including payments made under Section 5) will be paid to the other party within 10 business days following receipt by the Paying Party of an invoice for such amount, detailing the calculation of such amount. AHL shall have the option, at its sole discretion, to cause to be paid by AUSA, on behalf of AHL, any payments or reimbursements due by AHL hereunder.

7. Indemnification.

a. The parties agree that the provisions set forth in Section 7(b) (the "Standard Indemnity") constitute the commercial standard of care and indemnification provisions that are intended to govern the relationship between AAM and the applicable owner of each Account. The parties also recognize that, for various reasons, the applicable investment management agreement (the "Applicable IMA") between AAM and the owner of any given Account or the applicable sub-advisory agreement (the "Applicable SAA") between AAM and the applicable Reinsurance-Related Third Party Manager may not contain a standard of care and/or indemnification provision or may contain a standard of care and/or indemnification provision that deviates from the Standard Indemnity. In the event that AAM is liable to any Reinsurance-Related Third Party Manager or to the owner of any Account for any Loss, or fails to receive indemnification from such Reinsurance-Related Third Party Manager or from the owner of such Account for any Loss, in each case, in a manner where AAM would not have been liable for such Loss or would have received indemnification for such Loss if the Applicable IMA or the Applicable SAA included the Standard Indemnity, it is the intent of the parties that AHL will indemnify and hold harmless AAM for such Loss.

b. To the fullest extent permitted by applicable law, and notwithstanding any provision in any Applicable IMA or Applicable SAA to the contrary, AHL shall hold harmless and indemnify AAM, its officers, directors, principals, employees, agents or nominees (each, an "Investment Manager Party") from and against any and all losses (including, without limitation, (i) any payments made by an Investment Manager Party to the owner of an Account or to a Reinsurance-Related Third Party Manager and (ii) any special, incidental, exemplary, consequential, punitive, lost profits or indirect damages paid by an Investment Manager Party, even if such damages are paid to the owner of an Account or to a Reinsurance-Related Third Party Manager and even if such Investment Manager Party is advised of the possibility or likelihood of the same), damages, claims, costs, actions,

liabilities, suits, proceedings, settlements, Account expenses or other expenses including, without limitation, any liabilities imposed or sought to be imposed on or claims asserted against such Investment Manager Party (including, in each case, reasonable attorney's fees and disbursements) (each a "Loss"), which an Investment Manager Party may incur or suffer arising out of or in connection with the performance of its obligations under this Agreement, the Applicable IMA or the Applicable SAA; provided, however, that this indemnity shall not apply to any Loss to the extent caused by AAM's gross negligence, willful misconduct, fraud, or, at any time that any assets of any Account constitute "plan assets" subject to ERISA, breach of fiduciary duty under ERISA, in respect of its obligations and duties under this Agreement, the Applicable IMA or the Applicable SAA with respect to any Account (in each case, as determined by a court of competent jurisdiction in a final non-appealable judgment); provided, further, that any amounts payable to an Investment Manager Party under this Section 7 shall be offset by any amounts actually paid to such Investment Manager Party with respect to such Loss by the owner of the applicable Account or the applicable Reinsurance-Related Third Party Manager to the extent that such payment would be duplicative of payments made hereunder. The foregoing indemnity is in addition to, and shall not constitute a waiver or limitation of any rights which an Investment Manager Party may have under, applicable law or any other agreement. For purposes of this Section 7(b), references to AAM include each Sub-Adviser that is an affiliate of AAM.

c. The parties understand that certain United States federal and state securities laws impose liabilities under certain circumstances on persons who act in good faith, and therefore nothing in this Agreement will waive or limit any rights that any party may have under those laws.

8. Governing Law. To the extent consistent with any mandatorily applicable federal law, this Agreement shall be governed by the laws of the State of New York without giving effect to any principles of conflicts of law thereof that would permit or require the application of the law of another jurisdiction and are not mandatorily applicable by law.

9. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of this Agreement; provided, that unpaid accrued payment obligations arising under any prior version of this Agreement shall not be affected by this Agreement. As of the date hereof, there are no understandings between the parties with respect to the subject matter of this Agreement other than as expressed herein or as set forth in (i) that certain Investment Management Agreement, dated as of October 31, 2012, by and between AAM and AHL (as amended, supplemented or otherwise modified from time to time, the "AAM/AHL Investment Management Agreement") and (ii) that certain Applicable 2016 Liability Fee Discount, dated as of September 30, 2016, by and between AHL and AAM.

10. Counterparts; Amendment; Interpretation. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may not be modified or amended, except by an instrument in writing signed by the party to be bound or as may otherwise be provided for herein. This Agreement applies to all Accounts, Applicable IMAs, Applicable SAAs, ACRA Accounts (as applicable) and other applicable agreements, whether in place as of the date hereof or entered into on or after the date hereof.

11. Termination.

a. This Agreement shall remain in effect unless and until terminated in accordance with the immediately following sentence. This Agreement shall automatically terminate, without any further action on the part of any of the parties hereto or any other person, if all (but not less than all) investment management agreements, investment advisory agreements and sub-advisory agreements between Apollo Global Management, LLC and/or any of its subsidiaries (including AAM), on the one hand, and AHL, any of the Subsidiaries, Reinsurance Counterparties and/or Reinsurance-Related Third Party Managers, on the other hand, have been terminated in accordance with (x) their respective terms and (y) AHL's bye-laws as in effect from time to time (the "Bye-laws") (to the extent the Bye-laws are applicable to such a termination) and none of such agreements have been replaced by any similar investment management agreement or investment advisory agreement for the benefit of AHL or any of the Subsidiaries; provided, that, (i) any payments or obligations due hereunder, including, but not limited to, the payments or obligations as described in Sections 2, 3, 5, 6 and 7 herein, that accrued, or are otherwise payable or rebatable, with respect to any day prior to the date of such termination of this Agreement (with applicable amounts calculated ratably based on the actual number of days in the calendar quarter that preceded such termination of this Agreement) shall be payable by AHL, or rebatable to AHL, as applicable, within 10 business days (or, if such amount is not determinable within such period, then within 3 business days after such amount is determined) of such termination of this Agreement, (ii) in no event shall any payments or obligations due hereunder, including, but not limited to, the payments or obligations as described in Sections 2, 3, 5, 6 and 7 herein, accrue, or otherwise be payable or rebatable, with respect to any day or period beginning on or after the date of such termination of this Agreement and (iii) Sections 4 (for so long as AAM manages any Account of a Reinsurance Counterparty of AHL or any Subsidiary or acts as a sub-advisor to any Reinsurance-Related Third Party Manager), 7 through 10, and this Section 11 (including the defined terms relating thereto), shall survive such termination of this Agreement. For purposes of clarification, unless this Agreement is terminated in accordance with the immediately preceding sentence, this Agreement shall continue to apply with respect to an Account (and all of the other Accounts) even if the AAM/AHL Investment Management Agreement relating to such Account is terminated pursuant to its terms or otherwise.

b. If this Agreement terminates pursuant to Section 11(a) prior to all investment management agreements, investment advisory agreements and sub-advisory agreements between Apollo Global Management, LLC and/or any of its subsidiaries (including AAM), on the one hand, and ACRA Entities, on the other hand, having been terminated in accordance with their respective terms, then AAM and AHL shall use their good faith efforts to enter into a replacement fee agreement that addresses the portions of this Agreement that relate to ACRA Entities and the ACRA Accounts.

12. Arbitration. Any arbitration referenced in Bye-law 88.2 of the Bye-laws shall be settled by arbitration in New York City in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, and any award rendered thereon shall be enforceable in any court of competent jurisdiction. Without giving effect to Section 8, any such arbitration and this Section 12 shall be governed by Title 9 of the U.S. Code (Arbitration).

\* \* \* \* \*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the date first written above.

ATHENE ASSET MANAGEMENT LLC

By: \_\_\_\_\_ Name:  
Title:

ATHENE HOLDING LTD.

By: \_\_\_\_\_ Name:  
Title:

## SCHEDULE I ASSET MANAGEMENT FEES

The “Asset Management Fee” means, with respect to any asset in an Account as of any date of determination:

- (i) if such asset constitutes a Core Asset as of such date of determination, 0.065% of the market value of such asset as of such date of determination;
- (ii) if such asset constitutes a Core Plus Asset as of such date of determination, 0.13% of the market value of such asset as of such date of determination;
- (iii) if such asset constitutes a Yield Asset as of such date of determination, 0.375% of the market value of such asset as of such date of determination; and
- (iv) if such asset constitutes a High Alpha Asset as of such date of determination, 0.70% of the market value of such asset as of such date of determination;

provided, however, if such asset constitutes a Book Yield Capped Asset, the Asset Management Fee with respect to such asset as of any date of determination shall not exceed 10% of such asset’s Book Yield as of such date. For purposes of this definition, the determination of whether an asset constitutes a Core Asset, Core Plus Asset, Yield Asset or High Alpha Asset, and the determination of the market value of an asset, shall be made as of the end of the day of the applicable date of determination.

A “Core Asset” means, without limiting Section 4(d), any asset classified as of the applicable date of determination in accordance with AAM’s (or a Sub-Advisor’s, if applicable) then-existing policies (i) as an investment grade corporate (public), (ii) as a municipal security, (iii) as an agency residential or commercial mortgage-backed security, (iv) as an obligation of any governmental agency or government sponsored entity that is not expressly backed by the U.S. government or (v) with respect to which Apollo and AHL have mutually agreed following the Effective Date to constitute as a core asset category or a core asset.

A “Core Plus Asset” means, without limiting Section 4(d), any asset classified as of the applicable date of determination in accordance with AAM’s (or a Sub-Advisor’s, if applicable) then-existing policies (i) as an investment grade corporate (private), (ii) as a fixed rate first lien commercial mortgage loan (CML), (iii) as an obligation issued or assumed by a financial institution (such an institution, a “Financial Issuer”) and determined by AAM to be “Tier 2 Capital” under the Basel III recommendations developed by the Basel Committee on Banking Supervision (or any successor to such recommendations) or (iv) with respect to which Apollo and AHL have mutually agreed following the Effective Date to constitute as a core plus asset category or a core plus asset.

A “High Alpha Asset” means, without limiting Section 4(d), any asset classified as of the applicable date of determination in accordance with AAM’s (or a Sub-Advisor’s, if applicable) then-existing policies (i) as a subordinated commercial mortgage loan, (ii) as a sub-investment grade collateralized loan obligation, (iii) as unrated preferred equity, (iv) as a debt obligation originated by MidCap, (v) as a commercial mortgage loan for redevelopment or construction or secured by non-traditional real estate, (vi) as sub-investment grade infrastructure debt, (vii) as a loan originated directly by Apollo (other than MidCap) and made to a borrower by an Apollo client that was made either directly, sourced privately from a financial sponsor, by debtors seeking a direct loan or financed bilaterally, (viii) as an agency mortgage derivative or (ix) with respect to which Apollo and AHL have mutually agreed following the Effective Date to constitute as a high alpha asset category or a high alpha asset.

A “Yield Asset” means, without limiting Section 4(d), any asset classified as of the applicable date of determination in accordance with AAM’s (or a Sub-Advisor’s, if applicable) then-existing policies (i) as a non-agency residential mortgage-backed security, (ii) as an investment grade collateralized loan obligation, (iii) as an asset-backed security (both insurance-linked securities and non-insurance-linked securities) that is not a residential mortgage-backed security, a commercial mortgage-backed security or a collateralized loan obligation, (iv) as a commercial mortgage-backed security, (v) as an emerging market investment, (vi) as a sub-investment grade corporate (private and public), (vii) as a subordinated debt obligation, hybrid security or surplus note issued or assumed by a Financial Issuer, (viii) as rated preferred equity, (ix) as a residential mortgage loan (RML), (x) as a bank loan, (xi) as investment grade infrastructure debt, (xii) as a floating rate commercial mortgage loan on slightly transitional or stabilized traditional real estate or (xiii) with respect to which Apollo and AHL have mutually agreed following the Effective Date to constitute as a yield asset category or a yield asset.

An asset shall constitute only one of a Core Asset, a Core Plus Asset, a High Alpha Asset or a Yield Asset as of any date of determination. If an asset can be described as two or more of a Core Asset, a Core Plus Asset, a High Alpha Asset or a Yield Asset, such asset shall be deemed to fall solely within the category most specific to such asset.

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## **Section 5: EX-10.2 (EXHIBIT 10.2)**

Exhibit 10.2

### **ATHENE HOLDING LTD. 2019 SHARE INCENTIVE PLAN**

#### **ARTICLE I PURPOSE OF THE PLAN**

The purpose of the ATHENE HOLDING LTD. 2019 SHARE INCENTIVE PLAN (the “Plan”) is (i) to further the growth and success of Athene Holding Ltd., a Bermuda exempted company limited by shares (the “Company”) and its Subsidiaries (as hereinafter defined) by enabling directors and employees of, or consultants to, the Company, its Subsidiaries and the Asset Management Company (as hereinafter defined) to personally participate and share in the Company’s growth and success, and (ii) to provide a means of rewarding outstanding performance by such persons to the growth and success of the Company and its Subsidiaries. Awards granted under the Plan (the “Awards”) shall be nonqualified share options (referred to herein as “NSOs”), share options intended to constitute incentive stock options for purposes of Section 422 of the Code (referred to herein as “ISOs” and, together with NSOs, as “Options”), rights to purchase Shares, restricted shares (referred to herein as “Restricted Shares”), restricted share units (referred to herein as “Restricted Share Units”), performance awards (“Performance Awards”) and other awards settleable in, or based upon, Shares (“Other Share-Based Awards”).

#### **ARTICLE II DEFINITIONS**

As used in the Plan, the following terms shall have the meanings set forth below:

“Affiliate” means with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, such Person and/or one or more Affiliates thereof. As used in this definition and the definition of the term “control,” including the correlative terms “controlling,” “controlled by” and “under common control with,” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies (whether through the ownership of securities or any partnership or other ownership interests, by contract or otherwise) of a Person.

“Asset Management Company” means Athene Asset Management LLC, a Delaware limited liability company, and any successor entity or new entity that performs similar functions for the Company and its Subsidiaries.

“Award” has the meaning set forth in Article I hereof.

“Award Agreement” means any writing (including any electronic document) setting forth the terms of an award that has been duly authorized and approved by the Board, the Committee or an authorized delegate and evidencing an Award hereunder between the Company and the recipient of such Award.

“Board” means the Board of Directors of the Company.

“Change in Control” has the meaning set forth in Section 10.2.

“Code” means the Internal Revenue Code of 1986, as amended.

“Committee” means the committee(s) or subcommittee(s) appointed by the Board to administer the Plan; *provided, however*, that with respect to any Awards granted to an individual who is subject to Section 16 of the Exchange Act, the Committee shall consist of two or more members of the Board, each of whom is intended to be (A) a “Non-Employee Director” within the meaning of Rule 16b-3 under the Exchange Act and (B) “independent” within the meaning of the rules of the New York Stock Exchange or any other stock exchange on which Shares are then traded. The Board or Committee may delegate the authority to grant Awards to any individual not described above to a committee of one or more members of the Board who are not Non-Employee Directors within the meaning of Rule 16b-3 under the Exchange Act.

“Company” has the meaning set forth in Article I hereof.

“Corporate Transaction” has the meaning set forth in Section 10.1 hereof.

“Effective Date” means the date the Plan is adopted by the Company’s shareholders at the 2019 Annual General Meeting of Shareholders, provided that the adoption of the Plan is approved by the shareholders within 12 months before or after such Effective Date.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Fair Market Value” means the closing price of Shares on any national securities exchange or any national market system (the “Market”) on that date, or if no prices are reported on that date, on the last preceding date on which such prices of Shares are so reported. The Committee may, however, provide with respect to one or more Awards that the Fair Market Value shall equal the closing price of Shares on the Market on the last trading day preceding the date in question or the average of the high and low trading prices of Shares on the Market for the date in question or the most recent trading day. If Shares are not then listed on any national securities exchange but is traded over the counter at the time determination of its Fair Market Value is required to be made, its Fair Market Value shall be deemed to be equal to the average between the reported high and low sales prices of Shares on the most recent date on which Shares were publicly traded. If the Shares are not publicly traded at the time a determination of its Fair Market Value is made, the Committee shall reasonably determine its Fair Market Value in good faith as it deems appropriate (such determination will be made in the manner that satisfies Section 409A of the Code).

“Incumbent Director” has the meaning set forth in Section 10.2 hereof.

“ISOs” has the meaning set forth in Article I hereof.

“Maximum Share Amount” has the meaning set forth in Section 3.5 hereof.

“Notice” has the meaning set forth in Section 5.6 hereof.

“NSOs” has the meaning set forth in Article I hereof.

“Option” has the meaning set forth in Article I hereof.

“Option Price” means the purchase price per Share subject to an Option, as determined pursuant to Section 5.4 hereof.

“Participant” has the meaning set forth in Article IV hereof.

“Person” shall be construed broadly and shall include, without limitation, an individual, a partnership, a corporation, an association, a joint stock company, a limited liability company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

“Plan” has the meaning set forth in Article I hereof.

“Performance Award” has the meaning set forth in Article I hereof.

“Performance Measures” means the criteria and objectives, established by the Committee, which shall be satisfied or met (i) as a condition to the grant or exercisability of all or a portion of an Option or (ii) during the applicable Performance Period as a condition to a Participant’s receipt of all or part of a performance-based Award under the Plan. Such criteria and objectives may include one or more of the following corporate-wide or subsidiary, division, operating unit, operating segment, reporting segment or individual measures: the attainment by a Share of a specified Fair Market Value for a specified period of time; the attainment of a specified book value per share; earnings per share; return to shareholders (including dividends); return on assets; return on equity; operating income or earnings of the

Company before or after taxes, interest and/or depreciation; revenues (including premiums); net investment earned rate; net spread; taxes; expenses (including commissions); market share; cash flow or cost reduction goals; interest expense; return on investment; return on investment capital; return on operating costs; economic value created; operating margin; gross margin; the achievement of annual operating profit plans; net income; earnings before interest, depreciation and/or amortization; operating earnings after interest expense and before incentives, and/or extraordinary or special items; operating earnings; operating expenses, net cash provided by operations; and strategic business criteria, consisting of one or more goals based on meeting specified market penetration, meeting specified credit rating targets, geographic business expansion goals, cost targets, sales, sales or business volumes, days sales outstanding goals, customer and/or employee satisfaction, reductions in errors and omissions, reductions in lost business, management of employment practices and employee benefits, supervision of litigation, information technology, quality and quality audit scores, productivity, efficiency, meeting targets related to the timing of financial statements and goals relating to acquisitions or divestitures, or any other goal selected by the Committee whether or not listed herein. Each such goal may be expressed on an absolute or relative basis and may include comparisons based on current internal targets, the past performance of the Company (including the performance of one or more subsidiaries, divisions, operating units, operating segments or reporting segments) or the past or current performance of other companies (or a combination of such past and current performance). In addition to the ratios specifically enumerated above, performance goals may include comparisons relating to capital (including, but not limited to, the cost of capital), shareholders' equity, shares outstanding, assets or net assets, sales, or any combination thereof. The applicable performance measures may be applied on a pre- or post-tax basis and may be adjusted to include or exclude components of any performance measure, including, without limitation, special charges such as restructuring or impairment charges, debt refinancing costs, extraordinary or noncash items, unusual, nonrecurring or one-time events affecting the Company or its financial statements or changes in law or accounting principles ("Adjustment Events"). In the sole discretion of the Committee, the Committee may amend or adjust the Performance Measures or other terms and conditions of an outstanding award in recognition of any Adjustment Events. Performance goals shall be subject to such other special rules and conditions as the Committee may establish at any time.

"Performance Period" means the time period during which the Performance Measures applicable to a performance-based Award must be satisfied or met.

"Prior Plan" shall mean the Athene Holding Ltd. 2016 Share Incentive Plan, Athene Holding Ltd. 2014 Share Incentive Plan, the Amended and Restated Athene Holding Ltd. 2012 Share Incentive Plan, the Amended and Restated Athene Holding Ltd. 2009 Share Incentive Plan, and each other equity plan maintained by the Company under which awards are outstanding as of the effective date of this Plan.

"Purchase Price" has the meaning set forth in Section 6.2 hereof.

"Restricted Shares" means an Award granted to a Participant pursuant to Article VII hereof.

"Restricted Share Unit" means an Award granted to a Participant pursuant to Article VIII hereof.

"Securities Act" means the Securities Act of 1933, as amended.

"Shares" means Class A common shares of the Company.

"Share Award" means an Award to purchase Shares under Article VI of the Plan.

"Subsidiary" means (i) any corporation or other entity of which the Company owns securities or interests having a majority, directly or indirectly, of the ordinary voting power in electing the board of directors, managers, general partners or similar governing Persons thereof, (ii) for purposes of determining eligibility to receive an Award (other than an ISO) and become a Participant in the Plan, any other entity of which the Company owns securities or interests representing a majority, directly or indirectly, of the value of such entity, and (iii) for purposes of determining eligibility to receive an ISO and become a Participant in the Plan, any affiliated corporation or other business entity in which the Company owns voting securities possessing at least 50% of the combined voting power of all classes of voting securities of such affiliated corporation or entity.

“Substitute Award” shall mean an Award granted under this Plan upon the assumption of, or in substitution for, outstanding equity awards previously granted by a company or other entity in connection with a corporate transaction, including a merger, combination, consolidation or acquisition of property or stock; *provided, however*, that in no event shall the term “Substitute Award” be construed to refer to an award made in connection with the cancellation and repricing of an Option or share appreciation right.

“Tax Date” has the meaning set forth in Article XV hereof.

“Ten Percent Shareholder” means a person who owns, directly or indirectly, shares possessing more than 10% of the total combined voting power of all voting securities of the Company, or any parent or Subsidiary. Indirect ownership of such voting securities shall be determined in accordance with Section 424(d) of the Code.

“Termination Date” means the tenth anniversary of the Effective Date.

“Termination of Relationship” means, with respect to each Participant, the termination of the Participant’s services as an employee or director of, or consultant to, the Company, its Subsidiaries and the Asset Management Company for any reason, including, subject to Section 409A of the Code, as a result of the Subsidiary to which the Participant provides services no longer being a Subsidiary of the Company because of a sale, divestiture or other disposition of such Subsidiary.

### ARTICLE III ADMINISTRATION OF THE PLAN; SHARES SUBJECT TO THE PLAN

#### 3.1 Committee.

The Plan shall be administered by the Committee. The term “Committee” shall, for all purposes of the Plan, be deemed to refer to the Board if the Board is administering the Plan.

#### 3.2 Procedures.

The Committee shall adopt such rules and regulations as it shall deem appropriate concerning the holding of meetings and the administration of the Plan. A majority of the Committee shall constitute a quorum and the actions of the entire Committee present at a meeting, or actions approved in writing by the entire Committee, shall be the actions of the Committee.

#### 3.3 Interpretation; Powers of Committee.

Except as otherwise set forth in the Plan, the Committee shall have all powers with respect to the administration of the Plan, including the authority to:

- (a) determine eligibility and the particular persons or classes of persons who will receive Awards;
- (b) select eligible persons for participation in the Plan, grant Awards to eligible persons or eligible classes of persons, determine the price and number of securities to be offered or awarded to any of such persons, determine the dollar value subject to any Performance Awards, determine the other specific terms and conditions of Awards consistent with the express limits of the Plan, establish the installments (if any) in which such Awards will become exercisable or will vest and the respective consequences thereof (or determine that no delayed exercisability or vesting is required), and establish the events of termination or reversion of such Awards;
- (c) approve the forms of Award Agreements, which need not be identical either as to type of Award or among Participants;
- (d) construe and interpret the provisions of the Plan and any Award Agreement or other agreement defining the rights and obligations of the Company and Participants under the Plan, make factual determinations with

respect to the administration of the Plan, further define the terms used in the Plan, and prescribe, amend and rescind rules and regulations relating to the administration of the Plan;

(e) cancel, modify, or waive the Company's rights with respect to, or modify, discontinue, suspend, or terminate any or all outstanding Awards held by Participants;

(f) take action to (i) accelerate the exercisability or vesting of, or waive the vesting conditions applicable to, any Award, including all or a portion of any applicable restriction period applicable to any outstanding Award, (iii) waive all or a portion of any Performance Period applicable to any outstanding Award or (iii) waive or deem to be satisfied the Performance Measures (if any) applicable to any outstanding Award at the target or any other level; and

(g) make all other determinations and take such other action as contemplated by this Plan or as may be necessary or advisable for the administration of this Plan and the effectuation of its purposes.

All decisions of the Committee shall be made in good faith and shall be conclusive and binding on all Participants in the Plan.

### 3.4 Delegation.

The Committee may delegate some or all of its power and authority hereunder to the Board or a subcommittee thereof or, subject to applicable law, to the Chief Executive Officer and President or such other executive officer as the Committee deems appropriate; *provided, however*, that the Committee may not delegate its power and authority to the President and Chief Executive Officer or other executive officer of the Company with regard to the selection for participation in this Plan of an officer, director or other person subject to Section 16 of the Exchange Act or decisions concerning the timing, pricing or amount of an Award to such an officer, director or other person.

No member of the Board or Committee, and neither the Chief Executive Officer and President or any other executive officer to whom the Committee delegates any of its power and authority hereunder, shall be liable for any act, omission, interpretation, construction or determination made in connection with this Plan in good faith, and the members of the Board and the Committee and the Chief Executive Officer and President and any other executive officer shall be entitled to indemnification and reimbursement by the Company in respect of any claim, loss, damage or expense (including attorneys' fees) arising therefrom to the full extent permitted by law (except as otherwise may be provided in the Company's Certificate of Incorporation or Bye-Laws, each as may be amended from time to time) and under any directors' and officers' liability insurance that may be in effect from time to time

### 3.5 Number of Shares.

Subject to the provisions of Article X (relating to adjustments upon changes in capital structure and other Corporate Transactions), the aggregate number of Shares with respect to which Awards may be granted under the Plan shall not exceed 4,250,000 (reduced by the number of Shares granted under the Prior Plan between February 12, 2019 and the date the shareholders approve the Plan, the "Maximum Share Amount"), of which the Maximum Share Amount may be issued pursuant to the exercise of ISOs granted under the Plan. The number of Shares that remain available for future Awards under the Plan shall be reduced by the sum of the aggregate number of Shares which become subject to outstanding Options, Awards of Restricted Shares and Restricted Share Units, Share Awards, Performance Awards and Other Share-Based Awards. To the extent that Shares subject to an outstanding Option, Award of Restricted Shares or Restricted Share Units, Share Award, Performance Award or Other Share-Based Award granted under the Plan or a Prior Plan are not issued or delivered by reason of (i) the expiration, termination, cancellation or forfeiture of such Award or (ii) the settlement of such Award in cash, then except to the extent prohibited by law or applicable listing or regulatory requirements, such Shares shall again be available under this Plan, other than for grants of ISOs. Notwithstanding anything in this Section 3.5 to the contrary, Shares subject to an Award may not be made available for issuance under this Plan if such Shares are: (i) Shares used to pay the Option Price of an Option, (ii) Shares that were subject to an Option or stock-settled share appreciation right and were not issued or delivered upon the net settlement or net exercise of such Option or share appreciation right, (iii) Shares delivered to or withheld by the Company

to pay withholding taxes related to an Award under this Plan or (iv) Shares repurchased on the open market with the proceeds of an Option exercise.

The number of Shares for Awards under this Plan shall not be reduced by available shares under a shareholder approved plan of a company or other entity which was a party to a corporate transaction with the Company (as appropriately adjusted to reflect such corporate transaction) which become subject to Awards granted under this Plan (subject to applicable stock exchange requirements).

Shares to be delivered under this Plan shall be made available from authorized and unissued Shares, or authorized and issued Shares reacquired and held as treasury shares or otherwise or a combination thereof.

#### **ARTICLE IV ELIGIBILITY**

Awards may be granted under the Plan only to persons who are employees, directors, consultants, agents and independent contractors, and persons expected to become employees, directors, consultants, agents and independent contractors, of the Company, any of its Subsidiaries or the Asset Management Company as the Committee in its sole discretion may select from time to time. Each such person to whom an Award is granted under the Plan is referred to herein as a “Participant.” To effectuate the grant of Awards to persons who are employees, directors, consultants, agents and independent contractors, and persons expected to become employees, directors, consultants, agents and independent contractors of the Asset Management Company, Awards may be granted to the Asset Management Company for allocation by the Asset Management Company to such persons. The Committee’s selection of a person to participate in this Plan at any time shall not require the Committee to select such person to participate in this Plan at any other time. For purposes of this Plan and except as otherwise provided for in an Award Agreement, references to employment by the Company shall also mean employment by a Subsidiary, and references to employment shall include service as a non-employee director or independent contractor. The Committee shall determine, in its sole discretion, the extent to which a Participant shall be considered employed during any periods during which such Participant is on an approved leave of absence. The aggregate grant date fair value of Shares that may be awarded or granted during any fiscal year of the Company to any non-employee director shall not exceed \$500,000.

#### **ARTICLE V SHARE OPTIONS**

##### **5.1 General.**

Options may be granted under the Plan at any time and from time to time on or prior to the Termination Date. Each Option granted under the Plan shall be designated as either an NSO or an ISO, as determined by the Committee in its sole discretion, and shall be subject to the terms and conditions applicable to such Options set forth in the Plan. Each Option shall be evidenced by an Award Agreement incorporating the terms and provisions of the Plan that shall be executed by the Company and the Participant. The Award Agreement shall specify the number of Shares for which such Option shall be exercisable, the Option Price (as defined in Section 5.4 below) for such Shares and the other terms and conditions of the Option, in each case, as determined by the Committee. Notwithstanding any provision of the Plan to the contrary, (a) an ISO may only be granted to an employee of the Company or its Subsidiaries and (b) Options may only be granted to persons who are employees, directors, consultants, agents and independent contractors, and persons expected to become employees, directors, consultants, agents and independent contractors of the Company and its Subsidiaries.

##### **5.2 Vesting and Exercisability.**

The Committee, in its sole discretion, shall determine whether and to what extent any Options are exercisable and subject to vesting based upon continued service of the Participant, upon the Participant’s performance of duties or upon any other basis. The Committee may, in its discretion, establish Performance Measures which shall be satisfied or met as a condition to the grant or vesting of an Option or to the exercisability of all or a portion of an Option. The Committee shall determine whether an Option shall become exercisable in cumulative or non-cumulative installments

and in part or in full at any time. An exercisable Option, or portion thereof, may be exercised only with respect to whole Shares. Prior to the exercise of an Option, the holder of such Option shall have no rights as a shareholder of the Company with respect to the Shares subject to such Option.

### 5.3 **Termination of Relationship.**

All of the terms relating to the exercise, cancellation or other disposition of an Option (a) upon a Participant's Termination of Relationship whether by reason of disability, retirement, death or any other reason, or (b) during a paid or unpaid leave of absence, shall be determined by the Committee and, in the case of the foregoing clause (a), set forth in the applicable Award Agreement and, in the case of the foregoing clause (b), set forth either in the applicable Award Agreement or Company policies.

### 5.4 **Option Price.**

The Option Price shall be determined by the Committee and set forth in the Award Agreement. In no event, however, may the Committee determine an Option Price that is less than (a) 100% of the Fair Market Value of the Share on the date of grant, or (b) in the case of an ISO granted to a Participant who is a Ten Percent Shareholder, 110% of the Fair Market Value of the Share on the date of grant. Notwithstanding the foregoing, in the case of an Option that is a Substitute Award, the Option Price per Share of the Shares subject to such Option may be less than 100% of the Fair Market Value per Share on the date of grant, provided, that the excess of: (i) the aggregate Fair Market Value (as of the date such Substitute Award is granted) of the shares subject to the Substitute Award, over (ii) the aggregate Option Price thereof does not exceed the excess of: (x) the aggregate fair market value (as of the time immediately preceding the transaction giving rise to the Substitute Award, such fair market value to be determined by the Committee) of the shares of the predecessor company or other entity that were subject to the grant assumed or substituted for by the Company, over (y) the aggregate purchase price of such shares.

### 5.5 **Term of Options.**

Each Option granted under the Plan, to the extent not previously exercised, shall cease to be exercisable, automatically terminate and become null and void and be of no further force or effect upon such date or dates as are set forth in the applicable Award Agreement, consistent with the terms of the Plan. In addition, an ISO granted to a Participant who is a Ten Percent Shareholder may not be exercised more than five (5) years after its date of grant and no other Option may be exercised more than ten (10) years after its date of grant.

By its terms, an ISO shall be exercisable in any calendar year only to the extent that the aggregate Fair Market Value (determined on the date of grant) of the Shares with respect to which all incentive stock options granted to the Participant are exercisable for the first time during such calendar year does not exceed the applicable limitation set forth in the Code (currently \$100,000). Incentive stock options granted under the Plan and all other plans of the Company or any Subsidiary shall be aggregated for purposes of determining whether such limitation has been exceeded. If the ISOs that first become exercisable in a calendar year exceed such limitation, the excess Options will automatically be treated as NSOs to the extent permitted by law.

### 5.6 **Method of Exercise.**

A Participant (or other person, as provided in [Section 11.2](#)) may exercise an Option (for the Shares represented thereby) granted under the Plan, in whole or in part, as provided in the Award Agreement evidencing his or her Option by:

(a) delivering a written notice (the "Notice") to the Secretary of the Company or his or her designee specifying the whole number of Shares with respect to which the Option is being exercised; and

(b) by accompanying such notice with payment therefor in full (or by arranging for such payment to the Company's satisfaction) (i) in cash (by wire transfer of immediately available funds to a bank account of the Company designated by the Committee or by delivery of a personal or certified check payable to the Company) or (ii) to the

extent permitted by the Committee, in its sole discretion, and set forth in such Participant's Award Agreement (but, subject in any case, to the applicable limitations of Rule 16b-3 under the Exchange Act):

(A) by delivery of previously owned whole Shares (either actual delivery or by attestation) for which the holder has good title, free and clear of all liens and encumbrances, with a Fair Market Value (determined on the date of exercise) equal to the aggregate Option Price payable pursuant to the Option by reason of such exercise; provided, that any fraction of a Share which would be required to pay such Option Price shall be disregarded and the remaining amount due shall be paid in cash by the Participant;

(B) by authorizing the Company to withhold whole Shares which would otherwise be delivered upon exercise of the Option having an aggregate Fair Market Value, determined as of the date of exercise, equal to the aggregate Option Price payable by reason of such exercise; provided, that any fraction of a Share which would be required to pay such Option Price shall be disregarded and the remaining amount due shall be paid in cash by the Participant;

(C) in cash delivered by a broker-dealer acceptable to the Company to whom the Participant has submitted an irrevocable notice of exercise; or

(D) by a combination of methods set forth in this Section 5.6; and

(c) by executing such documents as may be required under the applicable Award Agreement or as the Committee may request.

#### 5.7 Delivery of Shares.

No Shares shall be issued until the full Option Price therefor and any withholding taxes thereon, as described in Article XV, have been paid (or arrangement made for such payment to the Company's satisfaction). Shares shall be issued to the Participant (or other person exercising the applicable Option in accordance with the provisions of Section 11.2) in certificate or book entry form, as determined by the Committee in its sole discretion. Neither the Participant nor any person exercising an Option in accordance with the provisions of Section 11.2 shall have any rights or privileges as a shareholder of the Company with respect to any Shares issuable upon exercise of an Option granted under the Plan until the Shares have been issued.

#### 5.8 No Dividend Equivalents.

Notwithstanding anything in an Award Agreement to the contrary, the holder of an Option shall not be entitled to receive dividend equivalents with respect to the number of Shares subject to such Option.

### ARTICLE VI SHARE AWARDS

#### 6.1 General.

Share Awards may be granted under the Plan at any time and from time to time on or prior to the Termination Date. Each Share Award shall be evidenced by an Award Agreement that shall be executed by the Company and the Participant. The Award Agreement shall specify the terms and conditions of the Share Award, including without limitation the number of Shares covered by the Share Award, the Purchase Price, if any, for such Shares, the deadline for the purchase of such Shares and any other terms and conditions applicable to such Share Award, in each case, as determined by the Committee.

#### 6.2 Purchase Price; Payment.

The price (the "Purchase Price"), if any, at which each Share covered by the Share Award may be purchased pursuant to a Share Award shall be determined by the Committee and set forth in the applicable Award Agreement. The

Company shall not be obligated to issue any Shares purchased under this Article VI unless and until it receives full payment of the aggregate Purchase Price therefor, if any, and all other conditions to the grant of the Share Award, as reasonably determined by the Committee, have been satisfied. The Purchase Price, if any, of any Shares subject to a Share Award must be paid in full at the time of the purchase.

## **ARTICLE VII RESTRICTED SHARES**

### **7.1 General.**

Awards of Restricted Shares may be awarded either alone or in addition to other Awards granted under the Plan. Each Award of Restricted Shares shall be evidenced by an Award Agreement that shall be executed by the Company and the Participant. The Award Agreement shall specify the number of Shares to be awarded to Participants, the conditions for vesting, the time or times within which such Awards may be subject to forfeiture, and any other terms and conditions applicable to the Restricted Shares, in each case, as determined by the Committee.

### **7.2 Awards and Certificates.**

During the restricted period, Restricted Shares shall be evidenced in such manner as the Committee may deem appropriate, including book-entry registration or issuance of one or more share certificates. Any certificate issued in respect of Restricted Shares shall be registered in the name of such Participant and shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Award, substantially in the following form:

“The sale or other transfer of Shares represented by this certificate, whether voluntary, involuntary, or by operation of law, is subject to certain restrictions on transfer as set forth in the ATHENE HOLDING LTD. 2019 SHARE INCENTIVE PLAN and in an Award Agreement. A copy of the Plan and such Award Agreement may be obtained from ATHENE HOLDING LTD.”

The Committee may require that the certificates evidencing such Shares be held in custody by the Company until the restrictions thereon shall have lapsed and that, as a condition of any Award of Restricted Shares, the Participant shall have delivered a share power, endorsed in blank, relating to the Shares covered by such Award in the event such Award is forfeited in whole or in part. If and when any applicable restricted period expires without a prior forfeiture of Restricted Shares (and upon the satisfaction or attainment of applicable Performance Measures, if applicable), subject to the Company's right to require payment of any taxes in accordance with Article XV, the restrictions shall be removed from the requisite number of any Shares that are held in book entry form (and, if applicable, non-legended certificates evidencing ownership of the requisite number of Shares shall be delivered to the Participant).

### **7.3 Terms and Conditions.**

(a) The Committee may condition the vesting of Restricted Shares upon continued service of the Participant, upon the Participant's performance of duties, upon the attainment of specified Performance Measures during an applicable Performance Period or upon any other basis determined by the Committee in its sole discretion. The provisions of Restricted Share Awards need not be the same with respect to each recipient.

(b) The holder of an Award of Restricted Shares shall have such rights as a shareholder of the Company (if any), including but not limited to, voting rights, the right to receive dividends and the right to participate in any capital adjustment applicable to all holders of Shares, in each case, only to the extent as set forth in the Award Agreement relating to Restricted Shares ; *provided, however*, that a distribution or dividend with respect to Restricted Shares subject to performance-based vesting conditions, including a regular cash dividend, shall be deposited with the Company and shall be subject to the same restrictions as the Restricted Shares with respect to which such distribution was made.

(c) All of the terms relating to the satisfaction of Performance Measures and the termination of a restricted period or a Performance Period relating to an Award of Restricted Shares, or any forfeiture or cancellation of such Award (i) upon a Participant's Termination of Relationship whether by reason of Disability, retirement, death or any

other reason, or (b) during a paid or unpaid leave of absence, shall be determined by the Committee and, in the case of the foregoing clause (a), set forth in the applicable Award Agreement and, in the case of the foregoing clause (b), set forth either in the applicable Award Agreement or Company policies.

## ARTICLE VIII RESTRICTED SHARE UNITS

### 8.1 General.

Awards of Restricted Share Units are Awards denominated in Shares that will be settled by delivery of Shares (including Restricted Shares) to the Participant or, only to the extent specified in the applicable Award Agreement, by the payment of cash based upon the Fair Market Value of a specified number of Shares. Restricted Share Units may be awarded either alone or in addition to other Awards granted under the Plan. Each Award of Restricted Share Units shall be evidenced by an Award Agreement that shall be executed by the Company and the Participant. The Award Agreement shall specify the number of Restricted Share Units to be awarded to Participants, whether such Award will be settled in Shares (including Restricted Shares), cash or a combination of both, the conditions for vesting, the time or times within which such Restricted Share Units may be subject to forfeiture and any other terms and conditions applicable to the Restricted Share Units, in each case, as determined by the Committee.

### 8.2 Terms and Conditions.

The Committee may, in connection with the grant of Restricted Share Units, condition the vesting thereof upon the continued service of the Participant, upon the Participant's performance of duties, upon the attainment of specified Performance Measures during an applicable Performance Period or upon any other basis determined by the Committee in its sole discretion. An Award of Restricted Share Units shall be settled as and when the Restricted Share Units vest or at a later time specified by the Committee or in accordance with an election of the Participant, if the Committee so permits. Except as otherwise set forth in an Award Agreement for Restricted Share Units, prior to the settlement of a Restricted Share Unit Award in Shares (including Restricted Shares), a Participant shall have no rights as a shareholder of the Company with respect to the Shares subject to such Award; *provided, however*, that the Award Agreement may specify whether the Participant shall be entitled to receive dividend equivalents, and, if determined by the Committee, interest on, or the deemed reinvestment of, any deferred dividend equivalents, with respect to the number of Shares subject to the Award of Restricted Stock Units, *provided* that any dividend equivalents with respect to Restricted Stock Units subject to performance-based vesting conditions shall be subject to the same vesting conditions as the underlying award.

All of the terms relating to the satisfaction of Performance Measures and the termination of a restricted period or a Performance Period relating to an Award of Restricted Share Units, or any forfeiture or cancellation of such Award (i) upon a Participant's Termination of Relationship whether by reason of disability, retirement, death or any other reason, or (b) during a paid or unpaid leave of absence, shall be determined by the Committee and set forth in the applicable Award Agreement.

## ARTICLE IX PERFORMANCE AWARDS AND OTHER SHARE-BASED AWARDS

### 9.1 Performance Awards.

Performance Awards are Awards which provide a Participant the right to receive cash, Shares (including Restricted Shares) or a combination thereof contingent upon the attainment of specified Performance Measures within a specified Performance Period. Performance Awards may be awarded either alone or in addition to other Awards granted under the Plan. Each Performance Award shall be evidenced by an Award Agreement that shall be executed by the Company and the Participant. The applicable Award Agreement shall specify whether such Performance Award will be settled in Shares (including Restricted Shares), cash or a combination thereof, the conditions for vesting, the applicable Performance Measures and Performance Period and any other terms and conditions applicable to the Performance Award, in each case, as determined by the Committee. Except as otherwise set forth in an Award Agreement

for a Performance Award, prior to the settlement of a Performance Award in Shares (including Restricted Shares), a Participant shall have no rights as a shareholder of the Company with respect to the Shares subject to such Award; *provided, however*, that the Award Agreement may specify whether the Participant shall be entitled to receive dividend equivalents, and, if determined by the Committee, interest on, or the deemed reinvestment of, any deferred dividend equivalents, with respect to the number of Shares subject to the Performance Award, *provided* that any dividend equivalents with respect to a Performance Award subject to performance-based vesting conditions shall be subject to the same vesting conditions as the underlying award.

## 9.2 Other Share-Based Awards.

Other Awards of Shares and other Awards that are valued in whole or in part by reference to, or are otherwise based upon, Shares, including (without limitation) share appreciation rights and dividend equivalents, may be granted under the Plan. Each Other Share-Based Award shall be evidenced by an Award Agreement that shall be executed by the Company and the Participant. The Committee shall determine the time or times at which grants of such Awards will be awarded, the number of Shares to be awarded to Participants, the conditions for vesting, the time or times within which such Awards may be subject to forfeiture and any other terms and conditions applicable to the Other Share-Based Awards, consistent with the terms of the Plan. Notwithstanding any provision of the Plan to the contrary, share appreciation rights may only be granted to persons who are employees, directors, consultants, agents and independent contractors, and persons expected to become employees, directors, consultants, agents and independent contractors of the Company and its Subsidiaries. Notwithstanding anything herein to the contrary, (i) the base price of a share appreciation right shall be no less than 100% of the Fair Market Value of a Share on the date of grant, (ii) no share appreciation right may be exercised more than ten (10) years after its date of grant and (iii) the holder of a share appreciation right shall not be entitled to receive dividend equivalents with respect to the number of Shares subject to such share appreciation right.

## 9.3 Termination of Relationship.

All of the terms relating to the satisfaction of Performance Measures and the termination of a restricted period or a Performance Period relating to a Performance Award or Other Share-Based Award, or any forfeiture or cancellation of such Award (i) upon a Participant's Termination of Relationship whether by reason of disability, retirement, death or any other reason, or (b) during a paid or unpaid leave of absence, shall be determined by the Committee and set forth in the applicable Award Agreement.

## ARTICLE X ADJUSTMENTS

### 10.1 Changes in Capital Structure.

In the event of any equity restructuring (within the meaning of Financial Accounting Standards Board Accounting Standards Codification Topic 718, Compensation—Stock Compensation or applicable successor guidance) that causes the per Share value to change, such as a stock dividend, stock split, spinoff, rights offering or recapitalization through an extraordinary dividend, the number and class of securities available under this Plan or specified in any section of this Plan, the terms of each outstanding Option (including the number and class of securities subject to each outstanding Option and the Option Price per share) and the terms of each outstanding Restricted Share Award, Restricted Share Unit Award, Performance Award and Other Share-Based Award (including the number and class of securities subject thereto), shall be appropriately adjusted by the Committee, such adjustments to be made in the case of outstanding Options or share appreciation rights without an increase in the aggregate purchase price and in accordance with Section 409A of the Code. In the event of any other change in corporate capitalization, including a merger, consolidation, reorganization, or partial or complete liquidation of the Company (a "Corporate Transaction"), such equitable adjustments described in the foregoing sentence may be made as determined to be appropriate and equitable by the Committee to prevent dilution or enlargement of rights of participants. In either case, the decision of the Committee regarding any such adjustment shall be final, binding and conclusive.

Notwithstanding anything herein to the contrary, no adjustment shall be made for cash dividends (except as described in this Section 10.1) or any new issuance of securities by the Company for consideration (except in connection with a Corporate Transaction).

## 10.2 Change in Control.

Subject to the terms of an applicable Award Agreement, if a Change in Control occurs, the Board (as constituted prior to such Change in Control) may, in its discretion:

(a) require that Options, Shares, Restricted Shares, Restricted Share Units, Performance Awards or other Stock-Based Awards outstanding under the Plan, at the effective time of the Change in Control, be assumed and continued on substantially the same vesting and other terms and conditions as a like Award with respect to shares of common stock of the successor or acquiring company (or a parent company). If an Option is assumed, the number of shares and exercise price per share covered by the assumed Award will be adjusted in accordance with the principles set forth in Sections 1.424-1(a)(5) and 1.409A-1(b)(5)(v)(D) of the Treasury Regulations. If a Restricted Share, Restricted Share Unit or other Award is assumed, the number of shares covered by the assumed Award will be a whole number that reflects the exchange ratio or value of the transaction consideration applicable with respect to holders of Shares in connection with the Change in Control;

(b) require that Options, Shares, Restricted Shares, Restricted Share Units, Performance Awards or Other Share-Based Awards outstanding under the Plan, in whole or in part, be surrendered to the Company by the Participant, and be immediately cancelled by the Company, and to provide for the Participant to receive (i) a cash payment in an amount equal to (A) in the case of an Option or share appreciation right, the number of Shares then subject to the portion of such Option or share appreciation right surrendered multiplied by the excess, if any, of the Fair Market Value of a Share as of the date of the Change in Control (or the value per Share as received or to be received by shareholders of the Company in connection with the Change in Control), over the Option Price or base price per Share subject to such Option or share appreciation right, (B) in the case of an Award denominated in Shares, the number of Shares then subject to the portion of such Award surrendered (if Performance Measures are applicable to such Award, to the extent to which such Performance Measures have been satisfied or deemed satisfied) multiplied by the Fair Market Value of a Share as of the date of the Change in Control (or the value per Share as received or to be received by shareholders of the Company), and (C) in the case of a Performance Award denominated in cash, the value of such Performance Award then subject to the portion of such Award surrendered to the extent the Performance Measures (if applicable to such Award) have been satisfied or deemed satisfied; (ii) shares of the corporation or other entity resulting from such Change in Control, or a parent thereof, having a fair market value not less than the amount determined under clause (i) above; or (iii) a combination of the payment of cash pursuant to clause (i) above and the issuance of shares pursuant to clause (ii) above; and/or

(c) provide that (i) some or all outstanding Options or share appreciation rights become exercisable in full or in part, either immediately or upon a subsequent termination of employment or service, (ii) the restriction period applicable to some or all outstanding Awards lapse in full or in part, either immediately or upon a subsequent termination of employment or service, (iii) the Performance Period applicable to some or all outstanding Awards lapse in full or in part and (iv) the Performance Measures applicable to some or all outstanding Awards shall be deemed to be satisfied at the target or any other level.

(d) A "Change of Control" of the Company shall be deemed to have occurred upon the occurrence of any of the following events:

(i) the acquisition, other than from the Company, by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 50% or more of either the then outstanding Shares of the Company or the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors, but excluding, for this purpose, any such acquisition by the Company or any of its Subsidiaries, or any employee benefit plan (or related trust) of the Company or its Subsidiaries, or any corporation or other company with respect to which, following such acquisition, more than 50% of, respectively,

the then outstanding Shares of such corporation and the combined voting power of the then outstanding voting securities of such corporation entitled to vote generally in the election of all or substantially all directors is then beneficially owned, directly or indirectly, by the individuals and entities who were the beneficial owners, respectively, of Shares and voting securities of the Company immediately prior to such acquisition in substantially the same proportion as their ownership, immediately prior to such acquisition, of the then outstanding Shares of the Company or the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors, as the case may be;

(ii) the consummation of a reorganization, merger or consolidation of the Company, in each case, with respect to which all or substantially all of the individuals and entities who were the respective beneficial owners of Shares and voting securities of the Company immediately prior to such reorganization, merger or consolidation do not, following such reorganization, merger or consolidation, beneficially own, directly or indirectly, more than 50% of, respectively, the then outstanding Shares and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the corporation or other company resulting from such reorganization, merger or consolidation;

(iii) during any twenty-four (24) month period, individuals who, as of the beginning of such period, constitute the Board (the “Incumbent Directors”) cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to the beginning of such period whose election or nomination for election was approved by a vote of at least a majority of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) shall be an Incumbent Director; *provided, however*, that no individual initially elected or nominated as a director of the Company as a result of an actual or threatened election contest with respect to directors or as a result of any other actual or threatened solicitation of proxies by or on behalf of any person other than the Board shall be deemed to be an Incumbent Director;

(iv) a complete liquidation or dissolution of the Company or of the sale or other disposition of all or substantially all of the assets of the Company; or

(v) a “Sale of the Company” as defined in the Eleventh Amended and Restated Bye-laws of the Company, as they may be further amended, supplemented, restated or otherwise modified from time to time.

In no event shall a Change in Control include any bona fide primary or secondary public offering following the occurrence of the initial public offering of the Company.

## ARTICLE XI RESTRICTIONS ON AWARDS

### 11.1 Compliance With Securities Laws.

No Awards shall be granted under the Plan, and no Shares shall be issued and delivered pursuant to Awards granted under the Plan, unless and until the Company and/or the Participant shall have complied with all applicable Federal, state or foreign registration, listing and/or qualification requirements and all other requirements of law or of any regulatory agencies having jurisdiction.

All Awards granted under the Plan and all Shares, other securities, cash or other property delivered pursuant to an Award are subject to forfeiture, recovery by the Company or other action pursuant to any clawback or recoupment policy which the Company may adopt from time to time, including without limitation any such policy which the Company may be required to adopt under the Dodd-Frank Wall Street Reform and Consumer Protection Act and implementing rules and regulations thereunder, or as otherwise required by law.

The Committee in its discretion may, as a condition to the delivery of any Shares pursuant to any Award granted under the Plan, require the applicable Participant (i) to represent in writing that the Shares received pursuant to such

Award are being acquired for investment and not with a view to distribution and (ii) to make such other representations and warranties as are deemed reasonably appropriate by the Committee.

**11.2 Nonassignability; Nontransferability of Awards.**

No Award granted under this Plan shall be assignable or otherwise transferable by the Participant, except by designation of a beneficiary, by will or by the laws of descent and distribution, or as otherwise provided in the applicable Award Agreement. An Award may be exercised during the lifetime of the Participant only by the Participant, unless the Participant becomes subject to a disability. If a Participant dies or becomes subject to a disability, his Options shall thereafter be exercisable, during the period specified in the applicable Award Agreement (as the case may be), by his designated beneficiary or if no beneficiary has been designated in writing, by his executors or administrators to the full extent (but only to such extent) to which such Options were exercisable by the Participant at the time of (and after giving effect to any vesting that may occur in connection with) his death or disability.

**11.3 No Right to an Award or Grant.**

Neither the adoption of the Plan nor any action of the Board or the Committee shall be deemed to give an employee, director, consultant or independent contractor any right to be granted an Award under the Plan, except as may be evidenced by an Award Agreement duly executed on behalf of the Company, and then only to the extent of and on the terms and conditions expressly set forth in the Award Agreement. The Plan will be unfunded. The Company will not be required to establish any special or separate fund or to make any other segregation of funds or assets to assure the payment of any Award.

**11.4 No Evidence of Employment or Service.**

Nothing contained in the Plan or in any Award Agreement shall confer upon any Participant any right with respect to the continuation of his employment by or service with the Company, any of its Subsidiaries or the Asset Management Company or interfere in any way with the right of the Company, any such Subsidiary or the Asset Management Company, in its sole discretion (subject to the terms of any separate agreement to the contrary), at any time to terminate such employment or service or to increase or decrease the compensation of the Participant from the rate in existence at the time of the grant of an Award.

**11.5 Rights as Shareholder.**

Except as otherwise provided herein, no person shall have any right as a shareholder of the Company with respect to any Shares or other equity security of the Company which is subject to an Award hereunder unless and until such person becomes a shareholder with respect to such Shares or equity security.

**11.6 No Repricing.**

The Committee shall not, without the approval of the shareholders of the Company, (i) reduce the Option Price or base price of any previously granted Option or share appreciation right, (ii) cancel any previously granted Option or share appreciation right in exchange for another Option or share appreciation right with a lower Option Price or base price or (iii) cancel any previously granted Option or share appreciation right in exchange for cash or another award if the Option Price of such Option or the base price of such share appreciation right exceeds the Fair Market Value of a Share on the date of such cancellation, in each case, other than in connection with a Change in Control or the adjustment provisions set forth in Article X.

**ARTICLE XII  
TERM OF THE PLAN**

This Plan shall become effective on the Effective Date and, unless terminated earlier by the Board, shall terminate on the Termination Date. No Awards may be granted after the Termination Date; *provided, however*, that no ISO may be granted later than ten years after the date on which the Plan was approved by the Board. Any Award

outstanding as of the Termination Date shall remain in effect and the terms of the Plan will apply until such Award terminates as provided in the Plan or the applicable Award Agreement.

### **ARTICLE XIII AMENDMENT OF PLAN**

The Plan may be modified or amended in any respect, and at any time or from time to time, by the Board. Notwithstanding the foregoing, the Plan may not be modified or amended as it pertains to any existing Award Agreement without the consent of an applicable Participant where such modification or amendment would materially impair the rights of such Participant, it being understood that the modification of Option Price, exercise period, purchase price, repurchase price or vesting terms shall be deemed to materially impair the rights of Participants, unless such modifications are made pursuant to Article X. In addition, no such amendment shall be made without the approval of the Company's shareholders to the extent such approval is required by applicable law, rule or regulation, including any rule of the New York Stock Exchange, or if Shares are not listed on the New York Stock Exchange, any rule of the principal stock exchange on which Shares are then traded.

### **ARTICLE XIV CAPTIONS**

The use of captions in the Plan is for convenience. The captions are not intended to provide substantive rights.

### **ARTICLE XV WITHHOLDING TAXES**

Upon any grant, vesting, exercise or payment of any Award, the Company shall have the right to require payment by the Participant of any Federal, state, local or other taxes which may be required to be withheld or paid in connection with such Award. A Participant may satisfy such obligation in cash or to the extent permitted by the Committee, in its sole discretion, and set forth in such Participant's Award Agreement a Participant may also satisfy such obligation by any of the following means: (i) in the case of an Option, a cash payment by a broker-dealer acceptable to the Company to whom the Participant has submitted an irrevocable notice of exercise, (ii) delivery to the Company of previously owned whole Shares (for which the holder has good title, free and clear of all liens and encumbrances) having an aggregate Fair Market Value determined as of the date the obligation to withhold or pay taxes arises in connection with the Award (the "Tax Date") in the amount necessary to satisfy any such obligation, (iii) authorizing the Company to withhold whole Shares which would otherwise be delivered upon exercise or settlement of the Award having an aggregate Fair Market Value determined as of the Tax Date, equal to the amount necessary to satisfy any such obligation, or (iv) any combination of cash, (ii) and (iii). Unless the Committee determines that more Shares may be delivered or withheld without an adverse accounting consequence to the Company, Shares to be delivered or withheld may not have an aggregate Fair Market Value in excess of the amount required to be withheld except that any fraction of a Share which would be required to satisfy such an obligation shall be rounded up to the nearest whole number.

### **ARTICLE XVI SECTION 83(b) ELECTION**

To the extent permitted by the Board or Committee, and unless otherwise provided in an Award Agreement, each recipient of Restricted Shares may, but is not obligated to, make an election under Section 83(b) of the Code to be taxed currently with respect to such Award. The election permitted under this Article XVI shall comply in all respects with and shall be made within the period of time prescribed under Section 83(b) of the Code. Each Participant shall prepare such forms as are required to make an election under Section 83(b) of the Code. The Company shall have no liability to any grantee who fails to make a permitted Section 83(b) election in a timely manner. In addition, the Company shall have no liability and makes no representation regarding the advisability of making an election under Section 83(b) of the Code, or regarding the tax, financial and other consequences of Awards.

**ARTICLE XVII  
CODE SECTION 409A COMPLIANCE**

It is the intent of the Company that the Awards under this Plan and the Committee's exercise of authority or discretion with respect thereto shall either be exempt from or comply with and avoid the imputation of any tax, penalty or interest under Section 409A of the Code. The Plan and the terms and conditions of the awards granted under this Plan shall be construed and interpreted consistent with that intent.

Notwithstanding any contrary provision in the Plan or any Award Agreement, any payment(s) of "nonqualified deferred compensation" (within the meaning of Section 409A of the Code) that are otherwise required to be made under the Plan or any Award Agreement to a "specified employee" (as defined under Section 409A of the Code) as a result of his or her termination of service shall be delayed for the first six (6) months following such termination of service and shall instead be paid as soon as administratively practicable following the end of such six-month period (or, if earlier, within 10 business days following the date of death of the specified employee).

**ARTICLE XVIII  
SECTION 16 COMPLIANCE**

It is intended that the Plan and any Award made to a Participant subject to Section 16 of the Exchange Act will meet all of the requirements of Rule 16b-3. Accordingly, unless otherwise provided by the Committee, if any provisions of the Plan or any Award would disqualify the Plan or the Award, or would otherwise not comply with Rule 16b-3, such provision or Award will be construed or deemed amended to conform to Rule 16b-3.

**ARTICLE XIX  
OTHER PROVISIONS**

Each Award granted under the Plan may contain such other terms and conditions not inconsistent with the Plan as may be determined by the Committee, in its sole discretion.

**ARTICLE XX  
NUMBER AND GENDER**

With respect to words used in the Plan, the singular form shall include the plural form, the masculine gender shall include the feminine gender, and vice versa, as the context requires.

**ARTICLE XXI  
MISCELLANEOUS**

**21.1 Subsidiary Employees.**

In the case of a grant of an Award to an employee or director of or consultant to any Subsidiary of the Company or the Asset Management Company, the Company may, if the Committee so directs, issue or transfer the Shares, if any, covered by the Award to the Subsidiary or the Asset Management Company for such lawful consideration as the Committee may specify, upon the condition or understanding that the Subsidiary or the Asset Management Company will transfer the Shares to the employee, director or consultant in accordance with the terms of the Award specified by the Committee pursuant to the provisions of the Plan.

**21.2 Foreign Employees and Foreign Law Considerations.**

The Committee may grant Awards to individuals who are eligible to participate in the plan who are foreign nationals, who are located outside the United States or who are not compensated from a payroll maintained in the United States, or who are otherwise subject to (or could cause the Company to be subject to) legal or regulatory provisions of countries or jurisdictions outside the United States, on such terms and conditions different from those specified in the

Plan as may, in the judgment of the Committee, be necessary or desirable to foster and promote achievement of the purposes of the Plan, and, in furtherance of such purposes, the Committee may make such modifications, amendments, procedures, or subplans as may be necessary or advisable to comply with such legal or regulatory provisions.

**ARTICLE XXII  
GOVERNING LAW**

All questions concerning the construction, interpretation and validity of the Plan and the instruments evidencing the Awards granted hereunder shall be governed by and construed and enforced in accordance with the domestic laws of the State of Delaware, without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. In furtherance of the foregoing, the internal law of the State of Delaware will control the interpretation and construction of this Plan, even if under such jurisdiction's choice of law or conflict of law analysis, the substantive law of some other jurisdiction would ordinarily apply.