

## SHAREHOLDERS' AGREEMENT

This Shareholders' Agreement (this "**Agreement**") is dated March 9<sup>th</sup> 2020 by and amongst:

**Forsythe Ltd**, a Company incorporated under the laws of Bermuda (Company Registration Number: 55403), having its registered office at Century House, 16 Par-La-Ville Road, Hamilton HM 08, Bermuda (hereinafter referred to as the "**Company**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns) of the First part;

**And**

- (1) **Ms ARIEL XANDRA BURT** (Swiss Passport No. X4689188) of Im Schilf 24, Freienbach, 8807, Switzerland ("**Ms Burt**");
- (2) **Mr LLUIS TORRENT JEREZ** (Spanish Passport No. PAI929215) of The Merton Tower, Block 1, Flat C 19/F, New Praya 38, Kennedy Town, Hong Kong ("**Mr Torrent**");

The Company and Shareholders are hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

### WHEREAS:

- (A) The Company is an exempt company limited by shares incorporated in Bermuda. As of the Effective Date, the Company has an issued and paid-up share capital of S\$100 consisting of 100 Ordinary Shares.
- (B) This Agreement sets out the terms upon which the Shareholders have agreed to participate together in the ownership, management and operation of the Company.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein, and other considerations, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 **Definitions:** In this Agreement, unless the context otherwise requires, the following definitions shall apply:

**Acceptance Date** has the meaning given to it in Clause 11.2(b).

**Accepting Shareholder** has the meaning given to it in Clause 11.2(c).

**Act** means the Companies Act of Bermuda.

**Agreement** means this agreement including any schedule or annexure to it and any document in agreed form.

**Applicable Law** means any applicable law, rule, regulation, ordinance, order, treaty, judgment, notification, decree, by-law, governmental approval, directive, guideline, requirement or other governmental restriction, or any similar form of decision of, or

determination by, or any interpretation, policy or administration, having the force of law and shall include any of the foregoing, injunction, permit or decision of government, authority, agency, court having jurisdiction over the matter in question, whether in effect as of the date of this Agreement or thereafter, in Bermuda or countries where the Company operates.

**Assets** means any assets or properties of every kind, nature, character, and description (whether immovable, movable, tangible, intangible, absolute, accrued, fixed or otherwise) as now operated, hired, rented, owned or leased by a Person, including cash, cash equivalents, securities, accounts and notes receivable, real estate, plant and machinery, equipment, trademarks, brands, patents, copyrights, trade secrets, other Intellectual Property Rights, furniture, fixtures and insurance, and include any contractual rights.

**Board of Directors** or **Board** means the board of Directors of the Company.

**Business** means the business of the Company.

**Business Day** means a day on which banks in Bermuda are open for general banking business (excluding Saturdays, Sundays and days which have been gazetted as public holidays in Bermuda).

**Business Plan** means the business plan and operating budget for the Company, as amended or updated from time to time.

**Committee(s)** shall mean committees of the Board.

**Company** means Forsythe Ltd (Company Registration No. 55403), a company incorporated in Bermuda with its registered address at Century House, 16 Par-La-Ville Road, Hamilton HM 08, Bermuda.

**Constitution** means the constitution of the Company as amended, varied, and/or supplemented from time to time.

**Director** means a director of the Board, including where applicable an alternate Director.

**Dividends** in relation to any Shareholder, means all rights, dividends, cash distribution and other sums in whatsoever nature that are or may become payable by the Company to the Shareholder in its capacity as the holder of the Shares.

**Encumbrance** means (i) any voting agreement, interest, option, right of first offer, refusal or transfer restriction in favor of any person; (ii) any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, security interest, trust, title retention, infringement, interference, restriction of any nature, or other encumbrances, covenants or conditions or any preferential or other arrangements that have the effect of granting or constituting a charge or security interest of any kind or conferring any priority of payment in respect of any obligation of any person and includes without limitation any right granted by a transaction which, though in legal terms, is not the granting of security but which has an economic or financial effect similar to the granting of security under Applicable Law; and (iii) any adverse claim as to title, possession or use.

**Financial Year** means each 12-month period ending on 31<sup>st</sup> December of each year.

**Intellectual Property Rights** means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, copyright (including rights in computer software) and moral rights, database rights, semi-conductor topography rights, utility models, rights in know-how, trade secrets, and other intellectual property rights and proprietary data, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world which are held or beneficially owned by the Company.

**Offer Price** has the meaning given to it in Clause 11.2(a).

**Ordinary Shares** means ordinary shares in the share capital of the Company.

**Shares** means shares in the share capital of the Company.

**Shareholder** means any party to this Agreement holding Shares, including any who has executed a Deed of Accession and Ratification.

**Surviving Clauses** means Clauses 12 to 18 (both inclusive) and any other provision expressed to survive the termination of this Agreement or which by its nature or context is contemplated to survive the termination of this Agreement.

**Transfer** means any sale, assignment, transfer, grant of lease or other disposition of any legal, equitable or other interest or the creation of an Encumbrance.

**Transfer Offer** has the meaning given to it in Clause 11.2(a).

**Transfer Shares** has the meaning given to it in Clause 11.2(a).

**Transferring Shareholder** has the meaning given to it in Clause 11.2(a).

**US\$ or USD** shall mean United States Dollars, the lawful currency of the United States of America.

1.2 **Interpretation:** In this Agreement, unless the context otherwise requires:

- (a) the headings in this Agreement are for convenience of reference only and shall not affect the interpretation or be used in the construction of this Agreement;
- (b) references to **Clauses** and **Schedules** shall refer to clauses and Schedule of this Agreement;
- (c) references to an agreement or document (including a reference to this Agreement) shall refer to the agreement or document as amended, supplemented, novated or replaced;
- (d) references to writing shall include any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form, whether in a physical document or in an electronic communication or form or otherwise;
- (e) references to the singular shall include references to the plural and vice versa;
- (f) references to persons shall include individuals, bodies corporate (wherever incorporated), unincorporated associations and partnerships;
- (g) references to a party to this Agreement or another agreement or document shall include the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives);

- (h) references to any gender shall include all genders;
- (i) references to time shall be to Bermuda time;
- (j) references to legislation or to a provision of legislation shall include a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (k) mentioning anything after **includes, including, for example,** or similar expressions, does not limit what else might be included;
- (l) any reference to **days** means calendar days and **months** means calendar months;
- (m) nothing in this Agreement is to be interpreted against a Party solely on the ground that the Party put forward this Agreement or a relevant part of it; and
- (n) references to Parties or Shareholders are references to each of those persons separately so that, for example, a representation or warranty by those persons is given by each of them separately.

## 2. THE BUSINESS AND CONDUCT OF SHAREHOLDERS

- 2.1 The Business shall be confined to development, engineering design, investment, asset management (construction and operation) and consultancy services in energy management and clean energy services unless otherwise agreed in writing by all Shareholders. Each Shareholder shall use reasonable endeavours to promote the interests of the Company in connection with the Business.
- 2.2 Each Shareholder shall, to the extent permitted by law, take such actions as are within his/her power and use the voting and other rights available to him/her to ensure that the Company, the Board and the management of the Company, conduct the Business in a proper and efficient manner with sound business practice and for the Company's benefit.
- 2.3 The Shareholders shall cause the affairs of the Company to be conducted in accordance with the terms set out in this Agreement and the Constitution. If there is any inconsistency or conflict between the provisions of this Agreement and of the Constitution during the continuance of this Agreement, to the extent permitted by law, (i) the provisions of this Agreement shall prevail as between the Shareholders, and (ii) the Shareholders shall procure that the Constitution be amended to reflect the provisions of this Agreement.

## 3. SHARE CAPITAL

- 3.1 As at the date of this Agreement, the share capital of the Company is as follows:

Name of Shareholder	Number of Shares	Shareholding Proportion
ARIEL XANDRA BURT	50	50%
LLUIS TORRENT JEREZ	50	50%

- 3.2 Each Shareholder shall not at any time, without the prior written consent of the Majority Shareholders, create or permit to subsist any Encumbrance on or affecting any of the Shares held by it.

#### 4. FINANCING

- 4.1 It is envisaged that the Company shall be self-financed from the cash flow of its Business in the mid and long term. For the short term, the Board will seek further finance from the Shareholders' own funds or from companies controlled by the Shareholders or from external investors or banks.
- 4.2 There is no obligation on the Shareholders to provide any finance to the Company but, if they do so, the Shareholders shall each provide such further finance in their respective Shareholding Proportions on the same terms unless they unanimously agree in writing. In the short term, the Shareholders unanimously agree that they will be providing finance in different proportions.

#### 5. DISTRIBUTION OF PROFITS

- 5.1 **Repayment of the Loans:** Prior to any Distributable Profits, the Company shall repay the Loans to the Shareholders and to the companies which on behalf of the Shareholders have provided funds to build-up the Company's business in the short term.
- 5.2 **Distributable Profits:** The Company shall pay all the Shareholders a part of profit. All calculations shall be undertaken by the Directors of the Company. If any conflict exists between the calculations of the Parties and the Directors of the Company, such conflict shall be referred to the auditors of the Company whose decision shall prevail.
- 5.3 Subject to the Applicable Law, the Shareholders shall procure that the Company shall distribute by way of dividends in respect of each financial year an amount determined by the company directors.
- 5.4 Notwithstanding anything to the contrary in this Agreement, the Company shall at all times retain sufficient cash to meet all regulatory requirements under the Applicable Law and operating expenses with a sufficient buffer to be determined in the sole discretion of the Directors.

#### 6. BUDGETS AND FINANCIAL MATTERS

- 6.1 The Shareholders may procure that at least two (2) months prior to the start of each Financial Year of the Company (other than the Financial Year in which this Agreement is entered into), the Company prepares and distributes to the Board, a draft annual Budget for the following Financial Year.
- 6.2 If the Board fails to adopt a Budget for a Financial Year then:
- (a) each Shareholder shall ensure that each Director nominated by it, if any, continues to use his/her best endeavours to adopt a Budget for the Financial Year; and
  - (b) until the Board approves a Budget for the Financial Year, the Budget for the immediately preceding Financial Year shall, to the extent applicable, apply in respect of the current Financial Year.
- 6.3 The Shareholders shall procure that the Company prepares its financial statements in accordance with International Standards.
- 6.4 The Company may request its auditor to conduct an annual audit of the financial statements of the Company in accordance with applicable accounting standards and laws.

- 6.5 Each Shareholder shall be entitled to examine the books, records and accounts kept by the Company and any other information the Shareholder may reasonably require keeping it informed about the business and affairs of the Company.
- 6.6 Without prejudice to the generality of Clause 6.3, the Parties may procure that (other than the Financial Year in which this Agreement is entered into) the following are prepared and that each Shareholder is provided with copies of:
- (a) the unaudited consolidated annual accounts and report of the Company for each Financial Year as soon as they are available and in any event within one hundred eighty (180) days of the end of the relevant Financial Year;
  - (b) the annual Budget and business plan for the next Financial Year, within sixty (60) days of the end of the relevant Financial Year; and
  - (c) Directors' reports, notices of meetings of the Company and all other circulars and notices issued or given to any of the Shareholders relating to the Business.

## 7. BOARD OF DIRECTORS

7.1 The Board of Directors for the Company will consist in two (2) Directors as follows:

- (a) Ms Ariel Xandra Burt or a nominee of Ms Burt
- (b) Mr Lluís Torrent Jerez or a nominee of Mr Torrent

### 7.2 Appointment and Removal

- (a) The right of any Party under this Agreement to nominate a Director shall include the right to remove such Director from office at any time, and to determine from time to time the period during which such Director shall be in office. Whenever a Director ceases to hold office for whatever reason, the Party who nominated (and would be entitled to nominate) such Director shall have the right to nominate another Director in his stead.
- (b) Every nomination or removal of a Director by a Party under this Agreement shall be notified in writing to the other Parties and the secretary of the Company. The Shareholders shall exercise their voting rights in the Company to give effect to any such appointment or removal.
- (c) A Director shall be entitled at any time and from time to time to appoint, in writing, any person to act as his alternate and to terminate the appointment of such person and in that connection the provisions of the Constitution shall be complied with. Such alternate director shall be entitled while holding office as such to receive notices of meetings of the Board and to attend and vote as a Director at any such meeting at which the Director appointing him is not present and generally to exercise all the powers, rights, duties and authorities and to perform all functions of his appointer. Further, such alternate director shall be entitled to exercise the vote of the Director appointing him at any meeting of the Board and if such alternate director represents more than one (1) Director, such alternate director shall be entitled to one (1) vote for every Director he represents.

### 7.3 Board Meetings and Quorum

- (a) The Board may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. The Directors may participate in a meeting

of the Board by means of a conference telephone, conference video or other similar communications equipment by which all persons participating in the meeting can hear one another, without the need for a Director to be in the physical presence of another Director. A Director participating in a meeting in this manner shall be considered to be present in person at such meeting and shall be counted in the quorum for such meeting.

- (b) Any Director may call a Board meeting by giving to each of the other Directors not less than seven (7) days' written notice, together with an agenda of the business to be transacted at the meeting, and unless the Directors otherwise agree, no business shall be transacted at such meeting except for that specified in such agenda.
- (c) No meeting of the Board shall transact any business unless a quorum is present at the start of and throughout the meeting. The quorum for any meeting of the Board shall be two (2) Directors present in person. If a quorum for any meeting of the Board is not present within 30 minutes after the time appointed for the meeting or if during the meeting such a quorum is no longer present, the meeting shall be adjourned to the same day, time and place of the following week unless otherwise agreed by all the Directors. The quorum at that adjourned meeting shall be any two (2) Directors present in person.

#### 7.4 Voting and Resolutions in Writing

- (a) At any Board meeting, each Director present personally shall be entitled to one (1) vote and all questions arising at any meeting or adjourned meeting shall be decided by a simple majority of votes by the Directors present and voting at the meeting.
- (b) A resolution in writing circulated to all the Directors and signed by majority of the Directors for the time being shall be valid and effective as if it had been passed at a meeting of the Directors duly convened and held. Such resolution may consist of several documents in the like form each signed by one or more Directors. The expressions "**in writing**" and "**signed**" include any writing or signature of any Director delivered by fax or any other form of electronic transmission.

### 8. SHAREHOLDERS' MEETING

#### 8.1 General Meetings

- (a) The Company shall hold general meetings of the Shareholders ("**General Meetings**") as required under the Act and Constitution, and as and when deemed necessary, provided that at least one General Meeting shall be held every calendar year. The General Meetings shall be called by a notice delivered to each of the Shareholders at their respective email addresses (as notified to the Company from time to time), at least twenty-one (21) days prior to the date of such meetings (or a shorter notice if allowed under the Act), along with the agenda setting out in detail the businesses proposed to be transacted and all relevant documents thereto. All notices shall be sent to the Shareholders through email. The Shareholders shall not consider or take any decision on any matter that is not included in the meeting's agenda.
- (b) The Shareholders may participate in a General Meeting by means of a conference telephone or a video conference telephone or similar communications equipment by which all persons participating in the meeting are able to hear and be heard by

all other participants without the need for a Shareholder to be in the physical presence of another Shareholder(s) and participation in the meeting in this manner shall be deemed to constitute presence in person at such meeting. The Shareholders participating in any such meeting shall be counted in the quorum for such meeting and subject to there being a requisite quorum stated above (Quorum at General Meeting) at all times during such meeting, all resolutions agreed by the Shareholders in such meeting shall be deemed to be as effective as a resolution passed at a General Meeting in person of the Shareholders duly convened and held. A meeting conducted by means of a conference telephone or a video conference telephone or similar communications equipment as aforesaid is deemed to be held at the place agreed upon by the Shareholders attending the meeting, provided that at least one of the Shareholders present at the meeting was at that place for the duration of the meeting.

## 8.2 Quorum

- (a) No general meeting may transact any business unless a quorum is present at the start of and throughout the meeting. The quorum for all general meetings shall be two (2) Shareholders present in person or by proxy.
- (b) If a quorum is not present within 30 minutes from the scheduled start of a general meeting, the meeting shall be adjourned to the same day, time and place of the following week, or such other date, time and place as the Board may determine and notify to the Shareholders. A quorum at such adjourned general meeting shall consist of two (2) Shareholders present in person or by proxy.

## 8.3 Voting and Resolutions in Writing

- (a) All resolutions of the Shareholders shall be passed by a majority of the votes cast at such meeting on such resolutions.
- (b) Save as otherwise provided in this Agreement, a resolution in writing circulated to and signed by all the Shareholders in accordance with and subject to the provisions of the Constitution and the laws of Bermuda for the time being shall be valid and effective as if it had been passed at a general meeting of the Company duly convened and held. Such resolution may consist of several documents in the like form each signed by one or more Shareholders. The expressions **in writing** and **signed** include any writing or signature of any Shareholder delivered by fax or any other form of electronic transmission.

## 8.4 Reserved Matter Deadlock

- (a) There is a Reserved Matter Deadlock if a shareholders' resolution is proposed at a General Meeting or by circulation, in respect of a Reserved Matter, and the required majority is not met.
- (b) Any Shareholder may within fourteen (14) days of the meeting at which the Reserved Matter Deadlock arises (the first Business Day being the next Business Day after such meeting), serve notice on all other Shareholders ("**Reserved Matter Deadlock Notice**"):
  - (i) stating that, in its opinion, a Reserved Matter Deadlock has occurred; and
  - (ii) identifying the matter giving rise to the Reserved Matter Deadlock.
- (c) The Shareholders undertake that they shall use all reasonable endeavours in good faith to resolve the dispute comprising the subject matter of the Reserved Matter



Deadlock within fifteen (15) Business Days of a Reserved Matter Deadlock Notice being served.

- (d) If, at the end of the period specified in previous clause, the Reserved Matter Deadlock has not been resolved, the matter shall not proceed.

## 9. RESERVED MATTERS

9.1 None of the actions below shall be taken by the Company or the Board without the prior written consent of the Majority Shareholders:

- (a) Changing the name of the Company.
- (b) Any alteration to the Constitution.
- (c) Distribution of capital or profits by dividends, capitalization of reserves or otherwise;
- (d) Listing of the securities of the Company and registration rights attendant thereto, in any market;
- (e) Any substantial change in business scope, any diversification into business areas unrelated to its existing businesses;
- (f) Entering into any industry that is significantly different from the current business, or termination of any business, or change in nature and/or scope of the business of the Company;
- (g) Voluntary liquidation or dissolution of the Company;
- (h) Approve the timing, structure, pricing and other details relating to any IPO or any Trade Sale of the Company;
- (i) The issue of new shares and increase, reduction, sub-division, cancellation or variation of the Company's issued share capital or the issue or grant of any option over the share capital of the Company or the issue of any new class of shares in the capital of the Company or the issue of any convertible securities by the Company;
- (j) Any amendment to or change in the rights, preferences, privileges or powers of any shares or securities in the Company, including the Shares;
- (k) The purchase, sale, or other disposition of fixed assets of the Company other than in the ordinary course of business;
- (l) Any recapitalization, reclassification, split, spin-off or any bankruptcy proceedings;
- (m) Doing, permitting or allowing to be done any act or thing whereby the Company or its subsidiaries may be wound-up, or entering into any compromise or arrangement;
- (n) Merging or amalgamating with any other company or undertaking, acquiring directly or indirectly any interest in any shares or other securities convertible into shares of any other company, or forming or acquiring any subsidiary;
- (o) Borrowing or guaranteeing or creating or granting any encumbrance over the whole or any part of the business, undertakings or assets of the Company or its subsidiaries or over any shares in the Company or factoring, assigning, discounting or otherwise disposing of any book debts or other debts of the Company or agree to do so, if in

each case the value of such obligation exceeds 10% of the net asset value of the Company;

- (p) Making any purchase of real estate;
- (q) Disposing (including, without limitation, the liquidation, dissolution, sale, licence or transfer) or acquiring, or investing in, any undertaking, assets (including, without limitation, copyright, trademarks, service marks, patents or other intellectual property rights and any interest in any land or real property) or shares or other equity interests by the Company;
- (r) Any sale, pledge, mortgage, transfer, or disposal of the Company's assets in an amount in excess of USD 10,000 (United States Dollars Ten Thousand), except in the ordinary course of business;
- (s) Appointing of all personnel/business heads and employees whose gross annual compensation exceeds USD 10,000 (United States Dollars Ten Thousand); and setting the terms of any personnel proposed to be hired by the Company, who are related to or are affiliates of the directors, or the shareholders of the Company;
- (t) Transacting with a related party;
- (u) Any change to the Company's accounting principle or policy;
- (v) Any amendment of any provision in the Constitution;
- (w) The provision of any credit, or the making of any loan (including any loans to the directors or shareholders of the Company) or advance to, or for, any person, company or body, issue of any debt security over USD 10,000 (United States Dollars Ten Thousand);
- (x) Approving of the rules of any employee share option scheme and determining the maximum number of options/shares that can be issued pursuant to such a scheme;
- (y) Entering into strategic alliances and key licensing contracts.
- (z) The exercise of the Company's powers to provide guarantees or indemnities except in the ordinary course of business; and
- (aa) The grant by the Company of any power of attorney the subject matter of which is connected in any way to a Reserved Matter.

## 10. ISSUE OF NEW SECURITIES

- 10.1 All new issues of New Securities by the Company shall be offered for subscription in the first instance to each of the Shareholders in their respective Shareholding Proportions, unless otherwise unanimously agreed by the Shareholder in writing. Any such offer shall be made by notice specifying the number and class of New Securities, the price at which the same are offered and the time (being not less than ten (10) Business Days, unless the Shareholder to whom the offer is made otherwise agree) by which the offer if not accepted will be deemed to be declined ("**Pre-emption Period**").
- 10.2 After the expiration of the Pre-emption Period or in the event that none of the Shareholders have applied for the New Securities, the Company shall have the right, for a period of three (3) months thereafter, to offer any New Securities not subscribed for by any of the Shareholders to any third party at a price and on terms no more favourable to such third party than the terms upon which they were offered to the Shareholders, provided that it

shall be a condition precedent to such subscription that each third party subscribing for such New Securities agrees to execute a Deed of Accession and Ratification prior to the registration of the name of such third party.

## 11. TRANSFER OF SHARES

11.1 No Shareholder shall transfer, grant any security interest over, or otherwise dispose of or give any person any rights in or over any share or interest in any share in the Company save with the consent in writing of the other Shareholders.

11.2 Save as otherwise provided in this Agreement, any Transfer of Shares by a Shareholder shall comply with the following procedures:

- (a) If a Shareholder ("**Transferring Shareholder**") wishes to Transfer any of his Shares ("**Transfer Shares**"), that Transferring Shareholder shall first offer in writing (each such offer to each of the other Shareholders referred to as a "**Transfer Offer**") those Transfer Shares to the other Shareholders in (as nearly as may be) proportion to their respective Shareholding Proportions at a price ("**Offer Price**") and on such terms and conditions as may be determined by the Transferring Shareholder and which Offer Price and terms and conditions shall be set out in the Transfer Offer.
- (b) A Transfer Offer may be accepted by the relevant Shareholder as to all but not some only of the Transfer Shares comprised in the Transfer Offer within ten (10) Business Days from the date of the Transfer Offer (the "**Acceptance Date**") by written notice to the Transferring Shareholder and failing such acceptance shall be deemed to have been declined.
- (c) A Shareholder who accepts the Transfer Offer ("**Accepting Shareholder**") may, in addition to accepting the Transfer Offer, indicate that he wishes to purchase such number of additional Transfer Shares ("**Excess Transfer Shares**") as he may specify on the same terms and conditions of the Transfer Offer in the event that any other Shareholder does not accept the Transfer Offer. The Transferring Shareholder shall be bound to sell any Excess Transfer Shares to the relevant Shareholders where any Shareholder does not take up the Transfer Offer. In the event of competition between Accepting Shareholders, the Excess Transfer Shares available shall be allocated amongst those Shareholders in (as nearly as may be) proportion to their respective Shareholding Proportions.
- (d) Completion of the sale and purchase of Transfer Shares and Excess Transfer Shares shall take place on such date as may be agreed between the relevant Shareholders and failing such agreement, on the date falling ten (10) Business Days after the Acceptance Date.
- (e) In the event that any Transfer Shares are not purchased by other Shareholders pursuant to sub-clauses (a) to (d) above, such Transfer Shares may be offered by the Transferring Shareholder for sale to non-Shareholders during a period of not more than three (3) months after the Acceptance Date on terms and conditions, including price, not more favourable than those comprised in the Transfer Offer.
- (f) All Shares transferred shall be transferred free from all Encumbrances together with all rights, benefits and advantages attached thereto as at the date of the Transfer

Offer except the right to any dividend declared but not paid prior to the date of the relevant Transfer Offer.

## 12. CONFIDENTIALITY

- 12.1 Each Party agrees to hold this Agreement confidential and not to disclose this Agreement, any matter contemplated within this Agreement or such information to third parties without the prior consent of the other Parties hereto, provided that the Investors shall be allowed to disclose such confidential information to their respective Affiliates.
- 12.2 The obligation of confidentiality under this Clause 12 shall not apply to any information which is:
- (a) publicly available or becomes publicly available otherwise than as a result of a breach of this Clause 12;
  - (b) lawfully in the possession of the receiving party prior to its disclosure to the receiving party by the disclosing party and is or becomes free from any restriction on its subsequent disclosure or use by the receiving party;
  - (c) received in good faith by the receiving party from a third party and is not knowingly used or disclosed in breach of this Clause 12;
  - (d) independently acquired by the receiving party as a result of work carried out by an employee or agent to whom no disclosure of such information had been made;
  - (e) such disclosure is to an adviser of the disclosing party who has agreed to maintain the confidentiality of such information; or
  - (f) required to be disclosed by any Applicable Law, provided that to the maximum extent permitted by the Applicable Law, the party under an obligation to disclose shall give the other Parties the reasonable opportunity to comment on any such announcement or release before it is made or issued and the approval of the Company and the Investors (such approval not to be unreasonably withheld or delayed) shall be required for any specific reference in such announcement or release to that Party (or any of their connected persons) or their respective affairs or investments.

## 13. REPRESENTATIONS AND WARRANTIES

- 13.1 Each Party represents and warrants to the other Parties that:
- (a) He/She has the full power and authority to enter into, perform and comply with the terms and conditions contained in this Agreement and this Agreement has been validly authorised;
  - (b) His/Her obligations and covenants set out in this Agreement will constitute legal, valid and binding obligations and will be enforceable in accordance with their respective terms;
  - (c) the entry into, delivery of and performance by him/her of his obligations under, and the transactions contemplated by, this Agreement do not and will not conflict with or result in any breach or violation of its constitutive documents (if applicable) or any law, regulation, court order, judgment or arbitral award applicable to him/her;

- (d) there is no suit, action, arbitration, legal, administrative, insolvency or other proceeding or governmental investigation pending or to its best knowledge and belief, threatened against him which may affect his/her ability to perform its obligations under this Agreement; and
- (e) no composition in satisfaction of any of its debts, and no compromise or arrangement between him/her and his/her creditors has been proposed, sanctioned or approved.

#### 14. DURATION AND TERMINATION

- 14.1 This Agreement shall commence on the Effective Date and shall continue in full force and effect until terminated in accordance with the provisions of this Clause 14.
- 14.2 This Agreement shall cease and determine upon the earliest of the following events:
  - (a) if all Shareholders unanimously agree in writing;
  - (b) upon the dissolution and liquidation (whether compulsory or voluntary) of the Company; and
  - (c) such time when there are less than two (2) Shareholders remaining (but without prejudice to Clause 14.4).
- 14.3 The termination of this Agreement from any cause shall not release any Party from any liability (including any liability in respect of antecedent breaches of this Agreement) which at the time of termination has already accrued, or which thereafter may accrue. The termination of this Agreement, howsoever caused, and the ceasing by any Party to hold any Shares shall not affect the Surviving Clauses, which shall continue to have full force and effect, or any provision of this Agreement which is expressly or by implication provided to come into effect on or to continue in effect after such termination or cessation.
- 14.4 A Shareholder who ceases to hold any Shares shall cease to be bound by or have any rights pursuant to the terms of this Agreement (save with respect to the Surviving Clauses and to the exercise of any of its rights or the performance, discharge and observance of any of its liabilities and obligations (whether actual or contingent) arising out of or in connection with this Agreement up to and including the date of such cessation). The relationship between the remaining Shareholders shall continue to be governed by the terms of this Agreement as may be appropriately amended.

#### 15. NOTICES

- 15.1 All notices, demands or other communications required or permitted to be given or made under this Agreement shall be in writing and delivered personally or sent by electronic mail or prepaid registered post addressed to the intended recipient thereof at its address or electronic mail address set out under his name below (or to such other address, electronic mail address or facsimile number as he may from time to time notify the others.

**If to Ms Burt:**

Attention: Ariel Xandra Burt  
Address: Im Schilf 24, Freienbach 8807  
Switzerland  
Email: burt@caero.com

**If to Mr Torrent:**

Attention: Lluís Torrent Jerez  
Address: The Merton Tower, Block 1,  
19F/C, New Praya 38, Kennedy Town,  
Hong Kong

Email: lluis.torrent@quantum.group

- 15.2 Any such notice, demand or communication shall be deemed to have been duly served:
- (a) if delivered by hand, when delivered;
  - (b) if delivered by electronic mail, at the time of transmission; and
  - (c) if delivered by post, on the second (2<sup>nd</sup>) Business Day after the date of posting (if sent by local mail) and on the seventh (7<sup>th</sup>) Business Day after the date of posting (if sent by air mail),
- provided that in each case where delivery by hand, facsimile transmission or electronic mail occurs after 6:00 pm on any day, service shall be deemed to occur at 9:00 am the next Business Day.
- 15.3 A Party may notify any other Party to a change of its name, relevant addressee, address, facsimile number or electronic mail address for the purposes of this Clause 15 provided that such notice shall only be effective on:
- (a) the date specified in the notice as the date on which the change is to take place; or
  - (b) if no date is specified or the date specified is less than five (5) Business Days after the date on which notice is given, the date following five (5) Business Days after notice of any change has been given.
- 15.4 The provisions of this Clause 15 shall not apply to the service of any proceedings or other documents in any legal action.

**16. DISPUTE RESOLUTION**

- 16.1 The Parties agree to negotiate in good faith to resolve any dispute between them regarding this Agreement within ten business (10) days. If the negotiations do not resolve the dispute to the reasonable satisfaction of the Parties, then each Party shall nominate a person with respectable professional standing and unimpeachable conduct as its representative. These representatives shall, within ten business (10) days of a written request by any Party to call such a meeting, meet in person and shall attempt in good faith to resolve the dispute.
- 16.2 Upon the Parties being unable to appoint the representatives as aforesaid, or if the disputes cannot be resolved by such persons in such meeting as aforesaid, in such event, the disputes or differences shall be submitted to final and binding arbitration at the request of any Party, upon written notice to that effect to the other Parties.
- 16.3 Accordingly, any dispute arising out of or in connection with this Agreement including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Bermuda in accordance with the Arbitration Rules of the Bermuda Arbitration Centre for the time being in force which rules are deemed to be incorporated by reference into this Clause. A Party may require any other dispute between the same parties concerning any other agreement relating to the Company which is also expressed to be subject to arbitration in accordance with the Arbitration Rules of the Bermuda Arbitration Centre to be resolved in the same arbitration as the dispute concerning this Agreement, provided that the Tribunal considers it reasonable to accede to that requirement in the circumstances.

- 16.4 The Tribunal shall consist of 1 arbitrator to be appointed by the Bermuda Arbitration Centre. The seat of arbitration shall be Bermuda.
- 16.5 The language of the arbitration shall be English. Any arbitration award by the arbitrator shall be final and binding upon the Parties, shall not be subject to appeal, and shall be enforced by judgment of a court of competent jurisdiction. The costs of arbitration shall be at the discretion of the arbitrator.
17. **MISCELLANEOUS**
- 17.1 **Amendments.** No modification, amendment or variation of this Agreement shall be binding unless it is in writing and duly executed by the Parties.
- 17.2 **Assignment.** Unless otherwise provided in this Agreement, this Agreement is personal to the Parties and no Party shall assign, transfer, mortgage, charge, subcontract or deal in any other manner with any of his rights and obligations under this Agreement without the prior written consent of the other Parties.
- 17.3 **Costs.** Unless otherwise agreed in writing by the Parties, each Party shall bear its own costs and expenses arising out of or in relation to the preparation, negotiation, execution and performance of this Agreement.
- 17.4 **Counterparts.** This Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Any Party hereto may enter into this Agreement by signing any such counterpart.
- 17.5 **Entire Agreement.** This Agreement (and all documents entered on or about the same date in respect of the same subject matter) constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 17.6 **Further assurances.** Each Party agrees and covenants that, at any time and from time to time, it will promptly execute and deliver to the other Party such further instruments and documents and take such further action as the other Party may reasonably require in order to carry out the full intent and purpose of this Agreement and to comply with applicable laws.
- 17.7 **Intellectual Property Rights:** All Intellectual Property Rights created through research by any/all employees of the Company would be the exclusive property of the Company and all statutory protection, including patents, trademarks, copyrights, industrial designs etc., arising out of such work shall be filed in the name of the Company.
- 17.8 **No Partnership or Agency:** Nothing in this Agreement (or any of the arrangements contemplated herein) shall be deemed to constitute a partnership between the Parties hereto, nor, except as may be expressly provided herein, constitute any Party as the agent of another Party for any purpose, or entitle any Party to commit or bind another Party in any manner.
- 17.9 **Third Party Rights.** No person, other than the Parties, shall have any right to enforce any term or condition of this Agreement under the Contracts (Rights of Third Parties) Act.

- 17.10 **Severance.** If any term or provision in this Agreement shall be held by any court or other competent authority to be invalid or void or illegal or unenforceable, in whole or in part, under any enactment or any rule or principle of law, such term or provision shall to that extent be deemed not to form a part of this Agreement, but the legality, validity or enforceability of the remaining terms of this Agreement shall not be affected.
- 17.11 **Variation:** No variation of this Agreement (or of any of the documents referred to in this Agreement) shall be valid unless it is made by an instrument in writing and signed by duly authorised representatives of each of the parties hereto. The expression “variation” shall include any variation, amendment, supplement, deletion or replacement however effected.
- 17.12 **Waiver.** No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18. **GOVERNING LAW AND JURISDICTION**

- 18.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of Bermuda.
- 18.2 Any dispute, whether contractual or not, arising out of or in connection with this Agreement (including any question regarding its existence, validity or termination) shall be subject to the exclusive jurisdiction of the Bermuda Courts.

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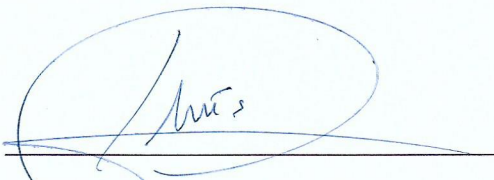


**IN WITNESS WHEREOF** this Agreement has been signed by or on behalf of the Parties on the day and year first above written.

Signed by

  
\_\_\_\_\_  
ARIEL XANDRA BURT

Signed by

  
\_\_\_\_\_  
LLUIS TORRENT JEREZ

[Signature page to FORSYTHE LTD shareholders' agreement]