

Company Number  
03262598

THE COMPANIES ACT 1985  
A PUBLIC COMPANY LIMITED BY SHARES  
**MEMORANDUM OF ASSOCIATION**  
**OF**  
**BLUEBAY ASSET MANAGEMENT PLC**  
**(the "Company")**

(adopted by written resolution passed on 1 November 2006, to take effect on the Company's re-registration as a public limited company, expected to be on 15 November 2006)

1. The Company's name is BlueBay Asset Management plc.
2. The Company is a public limited company.
3. The Company's registered office is to be situated in England and Wales.
4. The Company's objects are:
  - (a) To carry on business as a general commercial company and any trade or business whatsoever and any lawful purpose pursuant to the Act.
  - (b) To carry on any other trade or business whatever which can in the opinion of the Board of Directors be advantageously carried on in connection with or ancillary to any of the businesses of the Company.
  - (c) To purchase or by any other means acquire and take options over any property whatever, and any rights or privileges of any kind over or in respect of any property.
  - (d) To apply for, register, purchase, or by other means acquire and protect, prolong and renew, whether in the United Kingdom or elsewhere any patents, patent rights, brevets d'invention, licences, secret processes, trade marks, designs, protections and concessions and to disclaim, alter, modify, use and turn to account and to manufacture under or grant licences or privileges in respect of the same, and to expend money in experimenting upon, testing and improving any patents, inventions or rights which the Company may acquire or propose to acquire.
  - (e) To acquire or undertake the whole or any part of the business, goodwill, and assets of any person, firm, or company carrying on or proposing to carry on any of the businesses which the Company is authorised to carry on and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company, or to acquire an interest in, amalgamate with, or enter

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into partnership or into any arrangement for sharing profits, or for co-operation, or for mutual assistance with any such person, firm or company, or for subsidising or otherwise assisting any such person, firm or company, and to give or accept, by way of consideration for any of the acts or things aforesaid or property acquired, any shares, debentures, debenture stock or securities that may be agreed upon, and to hold and retain, or sell, mortgage and deal with any shares, debentures, debenture stock or securities so received.

- (f) To improve, manage, construct, repair, develop, exchange, let on lease or otherwise, mortgage, charge, sell, dispose of, turn to account, grant licences, options, rights and privileges in respect of, or otherwise deal with all or any part of the property and rights of the Company.
- (g) To invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined and to hold or otherwise deal with any investments made.
- (h) To lend and advance money or give credit on any terms and with or without security to any person, firm or company (including without prejudice to the generality of the foregoing any holding company, subsidiary or fellow subsidiary of, or any other company associated in any way with, the Company), to enter into guarantees, contracts of indemnity and suretyships of all kinds, to receive money on deposit or loan upon any terms, and to secure or guarantee in any manner and upon any terms the payment of any sum of money or the performance of any obligation by any person, firm or company (including without prejudice to the generality of the foregoing any such holding company, subsidiary, fellow subsidiary or associated company as aforesaid).
- (i) To borrow and raise money in any manner and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, standard security, lien or other security upon the whole or any part of the Company's property or assets (whether present or future), including its uncalled capital, and also by a similar mortgage, charge, standard security, lien or security to secure and guarantee the performance by the Company of any obligation or liability it may undertake or which may become binding on it.
- (j) To draw, make, accept, endorse, discount, negotiate, execute and issue cheques, bills of exchange, promissory notes, bills of lading, warrants, debentures, and other negotiable or transferable instruments.
- (k) To apply for, promote, and obtain any Act of Parliament, order, or licence of the Department of Trade or other authority for enabling the Company to carry any of its objects into effect, or for effecting any modification of the Company's constitution, or for any other purpose which may seem calculated directly or indirectly to promote the Company's interests, and to oppose any proceedings or applications which may seem calculated, directly or indirectly, to prejudice the Company's interests.
- (l) To enter into any arrangements with any government or authority (supreme, municipal, local or otherwise) that may seem conducive to the attainment of the Company's objects or any of them, and to obtain from any such government or authority any charters, decrees, rights, privileges or concessions which the Company may think desirable and to carry out, exercise, and comply with any such charters, decrees, rights, privileges, and concessions.
- (m) To subscribe for, take, purchase, or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stock,

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bonds, obligations or securities issued or guaranteed by any other company constituted or carrying on business in any part of the world, and debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority, municipal, local or otherwise, in any part of the world.

- (n) To control, manage, finance, subsidise, co-ordinate or otherwise assist any company or companies in which the Company has a direct or indirect financial interest, to provide secretarial, administrative, technical, commercial and other services and facilities of all kinds for any such company or companies and to make payments by way of subvention or otherwise and any other arrangements which may seem desirable with respect to any business or operations of or generally with respect to any such company or companies.
- (o) To promote any other company for the purpose of acquiring the whole or any part of the business or property or undertaking or any of the liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company or to enhance the value of any property or business of the Company, and to place or guarantee the placing of, underwrite, subscribe for, or otherwise acquire all or any part of the shares or securities of any such company as aforesaid.
- (p) To sell or otherwise dispose of the whole or any part of the business or property of the Company, either together or in portions, for such consideration as the Company may think fit, and in particular for shares, debentures, or securities of any company purchasing the same.
- (q) To act as agents or brokers and as trustees for any person, firm or company, and to undertake and perform sub-contracts.
- (r) To remunerate any person, firm or company rendering services to the Company either by cash payment or by the allotment to him or them of shares or other securities of the Company credited as paid up in full or in part or otherwise as may be thought expedient.
- (s) To pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company, or to contract with any person, firm or company to pay the same, and to pay commissions to brokers and others for underwriting, placing, selling, or guaranteeing the subscription of any shares or other securities of the Company.
- (t) To support and subscribe to any charitable or public object and to support and subscribe to any institution, society, or club which may be for the benefit of the Company or its Directors or employees, or may be connected with any town or place where the Company carries on business; to give or award pensions, annuities, gratuities, and superannuation or other allowances or benefits or charitable aid and generally to provide advantages, facilities and services for any persons who are or have been Directors of, or who are or have been employed by, or who are serving or have served the Company, or any company which is a subsidiary of the Company or the holding company of the Company or a fellow subsidiary of the Company or the predecessors in business of the Company or of any such subsidiary, holding or fellow subsidiary company and to the wives, widows, children and other relatives and dependants of such persons; to make payments towards insurance; and to set up, establish, support and maintain superannuation and other funds or schemes (whether contributory or non-contributory) for the benefit of any of such persons and of their wives, widows, children and other relatives and dependants; and to set up, establish, support and

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maintain profit sharing or share purchase schemes for the benefit of any of the employees of the Company or of any such subsidiary, holding or fellow subsidiary company and to lend money to any such employees or to trustees on their behalf to enable any such purchase schemes to be established or maintained.

- (u) Subject to and in accordance with due compliance with the provisions of Sections 155 to 158 (inclusive) of the Act (if and so far as such provisions shall be applicable), to give, whether directly or indirectly, any kind of financial assistance (as defined in Section 152(1)(a) of the Act) for any such purpose as is specified in Section 151(1) and/or Section 151(2) of the Act.
- (v) To distribute among the Members of the Company in kind any property of the Company of whatever nature.
- (w) To procure the Company to be registered or recognised in any part of the world.
- (x) To do all or any of the things or matters aforesaid in any part of the world and either as principals, agents, contractors or otherwise, and by or through agents, brokers, sub-contractors or otherwise and either alone or in conjunction with others.
- (y) To do all such other things as may be deemed incidental or conducive to the attainment of the Company's objects or any of them.

**AND** so that:-

- (1) None of the objects set forth in any sub-clause of this Clause shall be restrictively construed but the widest interpretation shall be given to each such object, and none of such objects shall, except where the context expressly so requires, be in any way limited or restricted by reference to or inference from any other object or objects set forth in such sub-clause, or by reference to or inference from the terms of any other sub-clause of this Clause, or by reference to or inference from the name of the Company.
  - (2) None of the sub-clauses of this Clause and none of the objects therein specified shall be deemed subsidiary or ancillary to any of the objects specified in any other such sub-clause, and the Company shall have as full a power to exercise each and every one of the objects specified in each sub-clause of this Clause as though each such sub-clause contained the objects of a separate Company.
  - (3) The word "Company" in this Clause, except where used in reference to the Company, shall be deemed to include any partnership or other body of persons, whether incorporated or unincorporated and whether domiciled in the United Kingdom or elsewhere.
  - (4) In this Clause the expression "the Act" means the Companies Act 1985, but so that any reference in this Clause to any provision of the Act shall be deemed to include a reference to any statutory modification or re-enactment of that provision for the time being in force.
5. The liability of the Members is limited.
6. The Company's authorised share capital is £200,000 represented by 6,000,000 A Shares of 1p each, 6,000,000 B Shares of 1p each, 303,900 C Shares of 10p each and 4,961,000 D Shares of 1p each.

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THE COMPANIES ACT 1985  
A PUBLIC COMPANY LIMITED BY SHARES  
  
**ARTICLES OF ASSOCIATION**  
  
**OF**  
  
**BLUEBAY ASSET MANAGEMENT PLC**  
  
**(the "Company")**

(adopted by written resolution passed on 01 November 2006 to take effect on the Company's re-registration as a public limited company, expected to be on 15 November 2006)

**PRELIMINARY**

1. None of the regulations contained or incorporated in Table A shall apply to the Company. For the purposes of these articles, Table A means Table A in the Schedule to the Companies (Tables A to F) Regulations 1985, as amended by the Companies (Tables A to F) (Amendment) Regulations 1985.

**INTERPRETATION**

2. (1) In these articles:

"**Act**" means the Companies Act 1985 including any statutory modification or re-enactment of it for the time being in force;

"**A Shares**" means A ordinary shares of 1 penny each in the capital of the Company and  
"**A Shareholder**" means a holder of any of them;

"**Barclays Group**" comprises Barclays Bank PLC and each member of Barclays Bank PLC's Wholly-Owned Group;

"**Board**" or "**directors**" means the board of directors of the Company;

"**B Shares**" means B ordinary shares of 1 penny each in the capital of the Company and  
"**B Shareholder**" means a holder of any of them;

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are generally open in London for normal business;

"**C Shares**" means C ordinary shares of 10 pence each in the capital of the Company and

**"C" Shareholder** means a holder of any of them;

**"D" Shares** means D ordinary shares of 1 penny each in the capital of the Company and

**"D" Shareholder** means a holder of any of them;

**"clear days"** in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

**"Connected Person"** in relation to an individual means his spouse, child or remoter issue;

**"Conversion Event"** means the event detailed in clause 3A(6) of the Shareholders Agreement;

**"Defaulting Investor"** means any A Shareholder which fails to make any payment due to be made by it pursuant to clauses 2 and 3 of the Shareholders Agreement;

**"employees"** shall be deemed to include consultants and directors (other than Institutional Directors and the chairman) and the terms **"employee"** and **"employed"** shall be construed accordingly;

**"equity share"** means any share other than a share which, either as respects dividends or as respects capital, only carries the right to participate up to a specified amount in a distribution;

**"executed"** includes any mode of execution;

**"Fair Price"** means:

- (a) the price which an investment bank appointed by the Company, to report to the Company, the A Shareholders and the B Shareholders, states in writing to be in its opinion the fair value of the shares concerned on a sale as between a willing seller and a willing purchaser and in determining such fair value the investment bank shall be instructed in particular:
  - (i) to have regard to the rights and restrictions attached to such shares in respect of income and capital but to disregard any other special rights or restrictions attached to such shares;
  - (ii) to disregard whether such shares represent a minority or a majority interest;
  - (iii) if the Company is then carrying on business as a going concern, to assume that it will continue to do so,

and the shareholders shall disclose to the investment bank any information which may be relevant to it in giving its opinion and shall be entitled to make representations to the investment bank providing that the investment bank (all of whose charges shall be borne by the Company) shall be considered to be acting as experts and not as arbitrators and their decision shall be final and binding; or

- (b) such other price as may be agreed between the transferor and the Board, with the consent of more than 50 per cent. of the holders of B Shares from time to time in issue and Institutional Consent;

**"Family Trust"** means a trust (whether arising under a settlement, declaration of trust, testamentary disposition or on an intestacy) under which no immediate beneficial interest in the shares in question is for the time being or may in future be vested in any person other than the member or former member establishing the trust or a Connected Person of that member or former member;

**"Flotation"** means the unconditional granting of permission for any of the equity shares in the Company to be dealt in on any recognised investment exchange (within the meaning of section 207 of the Financial Services Act 1986);

**"Group"** means the Company and its subsidiaries from time to time and **"Group Company"** means any of them;

**"holder"** in relation to shares in the Company means the member whose name is entered in the Company's register of members as the holder of the shares;

**"Institutional Consent"** means prior written approval of the Majority Holders;

**"Institutional Directors"** means those directors of the Company appointed under articles 90 and 91 as Institutional Directors (or their respective alternates);

**"Institutional Group"** means the Barclays Group and the Shinsei Group;

**"Investor"** means each of Barclays Capital, the investment banking division of Barclays Bank PLC and Shinsei Bank, Ltd. and **"Investors"** means both of them;

**"Listing"** means the admission of all or any of the ordinary share capital of the Company to the Official List of the UK Listing Authority and to trading on the main market of the London Stock Exchange or the grant of permission for the same to be traded on the Alternative Investment Market of the London Stock Exchange or the admission of the same to, or the grant of permission by any like authority for the same to be traded on, any other equivalent or similar share market;

**"Majority Holders"** means the holders of more than 70 per cent. of the A Shares in issue for the time being;

**"Non-Defaulting Investor"** means any Investor which is not a Defaulting Investor;

**"office"** means the registered office of the Company;

**"Original Managers"** means Hugh John Ramsay Willis of Harroway House, The Harrow Way, Whitechurch, Hampshire RG28 7QT and Mark Nicholas John Poole of Shefford House, Great Shefford, Hungerford, Berkshire, RG17 7EF;

**"paid up"** includes credited as paid up;

**"seal"** means any common seal of the Company or any official seal or securities seal which the Company may have or be permitted to have under the Statutes;

**"secretary"** means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

**"Shareholders Agreement"** means the agreement dated 3 July, 2001 made between (inter alia) the Company (1), Barclays Capital, the investment banking division of Barclays Bank PLC (2) and Shinsei Bank Ltd. (3) as the same may be amended from time to time;

**"Shinsei Group"** comprises Shinsei Bank, Ltd. and each member of Shinsei Bank, Ltd.'s Wholly-Owned Group;

**"Statutes"** means the Act and every other statute, statutory instrument, regulation or order for the time being in force concerning companies registered under the Act;

**"Subscription Price"** means, in relation to a share, the amount paid up upon that share plus the amount of any premium at which that share was issued, to the extent the same has not been distributed by way of bonus issue or repayment of capital in respect of that share;

**"these articles"** means these articles of association, as from time to time altered;

**"United Kingdom"** means the United Kingdom of Great Britain and Northern Ireland;

**"Wholly-Owned Group"** in relation to a company, means that company, all its wholly-owned subsidiaries, all holding companies of which it is a wholly-owned subsidiary and all other wholly-owned subsidiaries of each of those holding companies.

- (2) Unless the context otherwise requires, words or expressions contained in these articles bear the same meaning as in the Act but excluding any statutory modification of them not in force when these articles become binding on the Company.
- (3) References in these articles to the transfer of a share include the transfer or other disposal of any beneficial interest in that share.

## **SHARE CAPITAL**

3. The authorised share capital of the Company at the date of adoption of these articles is £200,000, represented by 6,000,000 A Shares of 1p each, 6,000,000 B Shares of 1p each, 303,900 C Shares of 10p each and 4,961,000 D Shares of 1 p each.
4. Subject to the provisions of the Act and without prejudice to any rights attached to any existing shares, any share may be issued with such rights or restrictions as the Company may by ordinary resolution determine.
5. Subject to the provisions of the Act, shares may be issued which are to be redeemed or are to be liable to be redeemed at the option of the Company or the holder on such terms and in such manner as may be provided by these articles.
6. The Company may exercise the powers of paying commissions conferred by the Act. Subject to the provisions of the Act, any such commission may be satisfied by the payment



of cash or by the allotment of fully or partly paid shares or partly in one way and partly in the other.

7. Except as required by law, no person shall be recognised by the Company as holding any share upon any trust and (except as otherwise provided by these articles or by law) the Company shall not be bound by or recognise any interest in any share except an absolute right to the entirety of it in the holder.
8. Shares which are comprised in the authorised share capital of the Company shall be under the control of the directors who may (subject to Section 80 of the Act) allot, grant options over or otherwise dispose of the shares to such persons, on such terms and in such manner as they think fit PROVIDED THAT save with Institutional Consent and the approval of the holders of more than 50 per cent. of the B Shares in issue from time to time or as provided in the Shareholders Agreement:
  - (a) before issuing any equity shares in the Company, or any rights to subscribe for or convert securities into equity shares in the Company, the directors shall offer them for subscription to every person who at the date of the offer holds equity shares other than C Shares in the Company (the "**Offer**");
  - (b) the Offer shall be made by notice in writing stating the number or amount of shares (or rights to shares) being offered, the price at which they are being offered (the "**Offer Price**") and any other terms of the Offer;
  - (c) the Offer shall remain open for the period (being not less than 30 days) specified in the notice and, if not accepted within that period, the Offer will be deemed to be declined by the holder concerned;
  - (d) the directors shall allot the shares or rights to subscribe or convert (in the case of competition) to those holders who apply for them in proportion (as far as practicable) to the aggregate nominal value of the equity shares in the Company then held by them respectively, but so that an applicant shall not be allotted more shares or rights than the number for which he has applied; and
  - (e) any share or right not taken up under the Offer may (at any time up to three months after the expiry of the Offer) be allotted by the directors at such price (being not less than the Offer Price), on such terms (being no less favourable to the Company than the terms of the Offer), in such manner and to such persons as the directors think fit, subject to the provisions of article 22(2).
9. Section 89(1) of the Act (which regulates the power to allot equity securities, as defined in section 91(1) of the Act) is excluded.

### CONVERSION

- 9A(1) On a Conversion Event, each A Share not transferred in accordance with clauses 3A(2), 3A(3) and 3A(4) of the Shareholders Agreement shall convert into one Deferred Share.
- (2) Immediately following Conversion, the Company shall give written notice to the relevant A Shareholder informing him of the number of Deferred Shares (if any) of which he is the holder and that A Shareholder shall, promptly following receipt of such notice, deliver to the

Company the share certificate(s) relating to the A Shares of which he was, prior to Conversion, a holder and the Company shall, on receipt of such certificate(s), deliver to him (a) new certificate(s) in respect of the A Shares and/or Deferred Shares of which, after Conversion, he is a holder.

- (3) The Deferred Shares shall enjoy the following rights and be subject to the following restrictions:
- (a) a Deferred Share shall entitle its holder on a return of capital on a winding-up (but not otherwise) only to repayment of the amount paid up on that share after repayment to each A Shareholder of a sum equal to the capital paid up on each A Share plus £10,000,000 per A Share;
  - (b) a Deferred Share shall not entitle its holder to receive any dividend or other distribution of the Company;
  - (c) a Deferred Share shall not entitle its holder to receive notice of, or to attend and vote at, any general meeting of the Company; and
  - (d) Deferred Shares shall be redeemable at the instance of the Company by payment to each holder of Deferred Shares of £0.01 for every 1,000 Deferred Shares (or part of 1,000 Deferred Shares) held by him, whereupon those Deferred Shares shall be deemed to be redeemed and cancelled and the holder of those Deferred Shares shall tender his certificate in respect of those shares to the Company for cancellation.

#### **ALTERATION OF SHARE CAPITAL**

10. The Company may with the unanimous consent of the A Shareholders and B Shareholders for the time being:
- (a) increase its share capital by new shares of such amount as the resolution prescribes;
  - (b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
  - (c) subject to the provisions of the Act, sub-divide its shares, or any of them, into shares of smaller amount and the resolution may determine that, as between the shares resulting from the sub-division, any of them may have any preference or advantage as compared with the others; and
  - (d) cancel shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.
11. Whenever as a result of a consolidation of shares any members would become entitled to fractions of a share, the directors may, on behalf of those members, sell the shares representing the fractions for the best price reasonably obtainable to any person (including, subject to the provisions of the Act, the Company) and distribute the net proceeds of sale in due proportion among those members, and the directors may authorise some person to execute an instrument of transfer of the shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money

nor shall his title to the shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

12. Subject to the provisions of the Act the Company may, with the unanimous consent of the A Shareholders and B Shareholders, reduce its share capital, any capital redemption reserve and any share premium account in any way.

### **VARIATION OF SHARE RIGHTS**

- 13.(1) Whenever the capital of the Company is divided into different classes of shares, and provided the consent of the holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent has been obtained, all or any of the rights for the time being attached to any class of shares in issue may from time to time (whether or not the Company is being wound up) be varied with the consent in writing of the holders of three-fourths in nominal value of the issued shares of that class or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of those shares provided that no such consent of the C Shareholders shall be required in order to vary any rights attaching to the C Shares.
- (2) All the provisions of these articles relating to general meetings of the Company or to the proceedings at general meetings shall apply, *mutatis mutandis*, to every such separate general meeting of the holders of a class of shares, except that:
- (a) the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy at least three fourths in nominal amount of the issued shares of the class;
  - (b) at an adjourned meeting the necessary quorum shall be one person holding shares of the class or his proxy;
  - (c) every holder of shares of the class shall, on a poll, have one vote in respect of every shares of the class held by him; and
  - (d) a poll may be demanded by any one holder of shares of the class whether present in person or by proxy.
- (3) Unless otherwise expressly provided by the terms of their issue the rights attached to any class of shares shall not be deemed to be varied by:
- (a) the creation or issue of further shares ranking *pari passu* with them and not in priority to them; or
  - (b) any alteration to these articles made conditional upon, or otherwise in connection with, a Flotation which does not adversely affect any income, voting or capital rights attaching to them.

### **INCOME, CAPITAL AND VOTING: SPECIAL RIGHTS AND RESTRICTIONS**

#### **A Shares and B Shares**

14. On a return of capital on a winding up but not otherwise the assets of the Company available for distribution to the holders of A Shares , B Shares and C Shares shall be applied:
- (a) first, in paying to the A Shareholders the Subscription Price for the A Shares or, if there are insufficient assets to repay such amount in full, in repaying such amount rateably between the A Shareholders;
  - (b) second, in paying to the B Shareholders the Subscription Price for the B Shares or, if there are insufficient assets to repay such amount in full, in repaying such amount rateably between the B Shareholders; and
  - (c) third, in distributing any surplus assets remaining after the payments under paragraphs (a) and (b) above rateably between the A Shareholders, B Shareholders and C Shareholders.
15. Subject to any other provision of these articles, the C Shares shall rank pari passu with the A Shares and B Shares in all respects other than C Shareholders shall not be entitled to receive notice of, attend or vote at general meetings of the Company or meetings of holders of the same class of share. The D Shares shall rank pari passu with the C Shares in all respects other than: (i) the D Shares shall entitle their holders to receive notice of, attend and vote at general meetings of the Company or meetings of the holders of the same class of shares save that such voting rights shall only become exercisable following a Listing, and (ii) the D Shares shall possess all the consent, first refusal and other rights awarded to A Shares and B Shares under any provision of these articles from time to time (including but not limited to first refusal, consent and other rights arising under articles 8, 10, 12, 13, 14, 21, 22(2), 31, 34, 35, 38, 41, 45, 46, 49, 55, 56, 65, 90, 91, 119, 120 and 127 of the articles, for so long as such articles are in force), save that such consent, first refusal and other rights shall only become exercisable following a Listing, and for these purposes the D Shares shall be deemed to be a single class of shares together with, as appropriate, all A Shares and all B Shares.

### **TRANSMISSION OF SHARES**

16. If a member of the Company (being an individual) dies he shall be deemed immediately prior to his death to have served the Company a Transfer Notice in respect of shares held by him.
17. If any resolution is passed or process indicated for the winding-up, administration or voluntary arrangement or any analogous proceeding of any member (being a corporate member) of the Company, it shall be deemed immediately prior to the passing of any such resolution or initiation of any such process to have served on the Company a Transfer Notice in respect of the shares held by it.
18. Upon a Transfer Notice being deemed to have been served on the Company under article 16 or 17 above, the provisions of article 21 shall apply to the relevant shares. The Specified Price shall be the Fair Price as at the date of death of the relevant member or, as the case may be, of the resolution or initiation of the relevant proceedings and the directors shall give notice under article 21(3) as soon as the Specified Price is ascertained.
19. The Company shall hold the purchase price on trust for the member's survivor or personal representative as appropriate.

### PERMITTED TRANSFERS

20.(1) The following transfers of shares may be made free of the restrictions in article 21:

- (a) a transfer by an individual to a Connected Person or the trustees of his Family Trust;
- (b) a transfer by the trustees of a Family Trust of shares held by them in that capacity to any new trustees of that Family Trust;
- (c) a transfer by the trustees of a Family Trust of shares held by them in that capacity to a person who has an immediate beneficial interest under the Family Trust or to the settlor;
- (d) a transfer of shares by a corporate member to another member of its Wholly-Owned Group;
- (e) a transfer made with the consent of holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent by or to the trustees (acting in that capacity) of a trust established for the benefit of employees of the Group;
- (f) any other transfer with the consent of holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent; and
- (g) in the case of an A Shareholder only, a transfer made because that A Shareholder,
  - (i) is required for any legal or regulatory reason to transfer its A Shares, in which case it shall transfer its A Shares in accordance with article 21;
  - (ii) is likely to incur a material tax liability if it fails to transfer its A Shares, in which case it shall transfer its A Shares in accordance with article 21; or
  - (iii) is permitted to make that transfer pursuant to clause 2(2)(c) or clause 13 of the Shareholders Agreement,

but a trustee of a Family Trust may not transfer shares subject to that trust to a Connected Person of his except where permitted under subparagraph (c).

- (2) If any Family Trust whose trustees hold shares in the Company ceases to be a Family Trust or any Connected Person holding shares in the Company ceases to be a Connected Person, the trustees shall without delay notify the Company that such event has occurred and, if the Board so resolves, they shall be deemed to have served the Company with a Transfer Notice in respect of those shares.
- (3) If a corporate member holding shares transferred to it under article 20(1)(d) ceases to be a member of the same Wholly-Owned Group as the original corporate member who held such shares, the corporate member then holding those shares shall without delay notify the Company that such event has occurred and transfer its shares to another member of such Wholly-Owned Group.
- (4) If there is a change in the controller (or, if more than one, any of them) of a corporate member, or of any holding company of a corporate member, or of that member itself then

that member shall notify the Company that such event has occurred and, if the Board is of the reasonable belief that such change may have a material adverse affect on the Company, it may, with the consent of the holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent (the affected corporate member being unable to participate in any vote), resolve that such member shall be deemed to have served the Company with a Transfer Notice in respect of all of the shares registered in its name and the shares of that member shall be immediately disenfranchised so that the member shall not be entitled to receive notice of, attend or vote at general meetings of the Company or meetings of holders of the same class of share. The affected corporate member shall be permitted to require the Company to specify in the Transfer Notice that unless all of the shares held by it, and in respect of which the Transfer Notice is deemed served, are transferred, none shall be transferred. The Specified Price for the purposes of the Transfer Notice shall be the Fair Price as at the date it was resolved that a Transfer Notice be deemed served. If the holders of the A Shares and B Shares decline to purchase all or part of the Offered Shares within the relevant period, the Board, with the consent of the holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent (the affected corporate member being unable to participate in any vote), may procure a third party to purchase all or any part of the Offered Shares not purchased by the A Shareholders and the B Shareholders at the Specified Price. Upon purchase of the Offered Shares, either by the A Shareholders, B Shareholders or the procured third party, the shares shall be re-enfranchised. If all or (if the affected corporate member has not specified that all of its shares be transferred) any part of the Offered Shares are not purchased by either the A Shareholders, the B Shareholders or the procured third party, the shares still belonging to the affected corporate member shall be re-enfranchised. For the purposes of this paragraph a person is the "**controller**" of a corporate member if he has the power or ability to direct the management or the policies of the corporate member, whether through the ownership of voting capital, by contract or otherwise.

- (5) If a member at any time attempts or purports to transfer a share otherwise than in accordance with these articles he shall, unless the Board with the consent of the holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent shall otherwise resolve, be deemed immediately before the attempt to have served the Company with a Transfer Notice in respect of the share.
- (6) If a Transfer Notice is deemed to have been served on the Company, the provisions of article 21 shall apply to the relevant shares. The Specified Price shall be the Fair Price as at such date as the Board may specify and the directors shall give notice under article 21(3) as soon as the Specified Price is ascertained.

### TRANSFER OF SHARES

- 21.(1) Except as otherwise provided in articles 20 and 29 to 31 no member, shall be entitled to transfer his shares without first offering them to the A Shareholders and B Shareholders pursuant to this article. The offer may be in respect of all or part only of the shares held by the proposing transferor and shall be made by the proposing transferor by notice in writing to the Company (a "**Transfer Notice**"). The proposing transferor may at the same time serve copies of such notice on all (but not some only) of the A Shareholders and B Shareholders (or other of them as the case may be).
- (2) The Transfer Notice shall specify the shares offered (the "**Offered Shares**") and the price at which they are offered (the "**Specified Price**"). The Transfer Notice shall constitute the

directors as the agent of the proposing transferor for the sale of the Offered Shares to other holders of equity shares at the Specified Price. The Transfer Notice may contain a provision that, unless all the Offered Shares are sold under this article, none shall be sold. The Transfer Notice may not be revoked unless the directors, with Institutional Consent, otherwise decide.

- (3) On receipt by the Company of the Transfer Notice the directors shall as soon as practicable give notice to all the holders of A Shares and B Shares (other than the proposing transferor) of the number and description of the Offered Shares and the Specified Price. The notice shall invite each of the A Shareholders and B Shareholders (or the others of them as the case may be) to state in writing to the Company within 40 days whether it/he is willing to purchase any, and if so what maximum number, of the Offered Shares. The directors shall at the same time give a copy of the notice to the proposing transferor. An A Shareholder or B Shareholder who expresses a willingness to purchase Offered Shares is referred to below as a **"Purchaser"**.
- (4) On the expiration of the 40 day period the directors shall allocate the Offered Shares to or amongst the Purchasers and such allocation shall be made so far as practicable as follows:
  - (a) Offered Shares shall be allocated to Purchasers pro rata to the nominal amount of equity shares in the Company held by them and, unless requested by any Purchaser, being an existing holder of A Shares or B Shares, shall not be redesignated to that class of share to which the equity shares already held by that Purchaser belong but on request shall be so redesignated;
  - (b) if the Transfer Notice states that the proposing transferor is not willing to transfer part only of the Offered Shares, no allocation will be made unless all the Offered Shares are allocated.
- (5) On the allocation being made, the directors shall give details of the allocation in writing to the proposing transferor and each Purchaser and, on the fourteenth day after such details are given, the Purchasers to whom the allocation has been made shall be bound to pay the purchase price for, and to accept a transfer of, the Offered Shares allocated to them respectively and the proposing transferor shall be bound, on payment of the purchase price, to transfer the Offered Shares to the respective Purchasers to whom the allocation has been made.
- (6) If after becoming bound to transfer any Offered Shares the proposing transferor fails to do so, the Company may receive the purchase price and the directors may appoint a person to execute an instrument of transfer of those Offered Shares in favour of the Purchasers to whom the allocation has been made and shall (subject to article 22) cause the names of the Purchasers to be entered in the register of members of the Company as the holders of the Offered Shares and shall hold the purchase price in trust for the proposing transferor. The receipt of the Company shall be a good discharge to the Purchasers and, after their names have been entered in the register of members of the Company under this provision, the validity of the transactions shall not be questioned by any person.
- (7) If following the expiry of the 40 day period referred to in paragraph (4) any of the Offered Shares have not been allocated under that paragraph, the proposing transferor may (subject to the provisions of articles 22 and 30) at any time within a period of 180 days after the expiry

of the 40 day period transfer the Offered Shares not allocated to any person and at any price (being not less than the Specified Price) provided that:

- (a) if the Transfer Notice contained a provision that, unless all the Offered Shares are sold under this article, none shall be sold, he shall not be entitled to transfer any of the Offered Shares unless all the Offered Shares are so transferred; and
- (b) the directors may require to be satisfied that those shares are being transferred under a bona fide sale for the consideration stated in the transfer without any deduction, rebate or allowance to the purchaser and, if not so satisfied, may refuse to register the instrument of transfer.

22.(1) The directors shall refuse to register a proposed transfer not made under or permitted by these articles.

(2) The directors shall (unless he is already a party to the Shareholders Agreement or the Board shall otherwise resolve with the consent of the holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent) also refuse to register an allottee or transferee of A Shares or B Shares unless he has executed an undertaking (in the form specified in the Shareholders Agreement) whereby such allottee or transferee undertakes to adhere to and be bound by the provisions of the Shareholders Agreement.

(3) The directors may refuse to register a transfer of a share on which the Company has a lien. They may also refuse to register a transfer unless:

- (i) it is lodged at the office or at such other place as the directors may appoint and is accompanied by the certificate for the shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer; and
- (ii) it is in respect of only one class of share.

23. If the directors refuse to register a transfer of a share, they shall within one month after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.

24. The instrument of transfer of a share may be in any usual form or in any other form which the directors may approve and shall be executed by or on behalf of the transferor and, unless the share is fully paid, by or on behalf of the transferee.

25. A person executing an instrument of transfer of a share is deemed to remain the holder of that share until the name of the transferee is entered in the register of members of the Company in respect of it.

26. The registration of transfers of shares or of transfers of any class of shares may be suspended at such times and for such periods (not exceeding 30 days in any year) as the directors may determine.

27. No fee shall be charged for the registration of any instrument of transfer or other document relating to or affecting the title to any share.



28. The Company shall be entitled to retain any instrument of transfer which is registered, but any instrument of transfer which the directors refuse to register shall be returned to the person lodging it when notice of the refusal is given.

#### **LEAVER PROVISIONS FOR B SHARES**

- 29.(1) For the purposes of this article:

**"Bad Leaver"** means a Leaver:

- (a) who voluntarily terminates (other than for compassionate reasons agreed in advance by the Board) his employment agreement with the Company; or
- (b) whose employment agreement is terminated for Good Cause by the Company.

**"Good Cause"** means the Leaver's:

- (a) resignation as an employee or director of the Company (other than at the direction of the Board) other than for compassionate reasons agreed in advance by the Board;
- (b)
  - (i) failure to secure or loss of any necessary regulatory approvals to carry out his role or any material aspect of it because of the conduct or default of the Leaver; or
  - (ii) failure to secure or loss of any necessary regulatory approval for or in respect of the Company or any subsidiary which is directly attributable to the conduct or default of the Leaver;
- (c) conviction of a non-motoring criminal offence which is of a sufficiently serious nature to be inconsistent with his continued employment by the Company;
- (d)
  - (i) material breach of any obligation under the Leaver's employment agreement which involves fraud, theft, dishonesty, the breach of his restrictive covenants or of his duty of fidelity to the Company;
  - (ii) material breach of any obligation under the Leaver's employment agreement as a result of any act by him which he knew would result in material damage to the Company or any of its subsidiaries (for the time being) or to its business reputation or to the business reputation of any such entity (or where he was reckless as to whether that act would have such a result) which, if capable of remedy, has not been remedied by him within 30 days after having received written notice of the breach from the Board and entitles the Company to summarily dismiss the Leaver, provided always that such material damage occurs or the Board has reasonable grounds for believing such material damage will occur; or
- (e) repeated breach of any obligation under the Leaver's employment agreement which, if capable of remedy, has not been remedied by him within 30 days after having received written notice of the breach from the Board, which has resulted or will result in material damage to the Company or any of its subsidiaries (for the time

being) or to its business reputation or to the business reputation of any such entity, and entitles the Company to dismiss the Leaver;

- (f) material breach of the Shareholders Agreement by the Leaver which has resulted or will result in material damage to the Company or any of its subsidiaries or to the business reputation of any such entity.

**"Good Leaver"** means a Leaver who is not a Bad Leaver.

**"Leaver"** means an Original Manager.

**"Leaver's Shares"** means at the date a person becomes a Leaver:

- (i) shares held by the Leaver;
  - (ii) shares which have been transferred by the Leaver to a transferee in accordance with article 20(1) and/or by such transferee to another person in accordance with article 20(1) (**"Transferred Shares"**); and
  - (iii) shares which have been allotted in respect of Transferred Shares by way of rights, bonus or otherwise.
- (2) Upon a person becoming a Leaver the terms upon which the Leaver's Shares shall be transferred to the remaining A Shareholders and B Shareholders or retained by the Leaver (as the case may be) shall be determined as follows:
- (a) if the Leaver is a Good Leaver, the Leaver shall be entitled to retain the Leaver's Shares but the Leaver's Shares shall be disenfranchised so that the Leaver shall not be entitled to receive notice of, attend or vote at general meetings of the Company or meetings of the holders of the same class of share provided that in attributing value to the Leaver's Shares for the purposes of the transfer of them in accordance with these articles, it shall be assumed that the Leaver's Shares have not been so disenfranchised and upon any such transfer of the Leaver's Shares, they shall be so re-enfranchised; or
  - (b) if the Leaver is a Bad Leaver, his shares shall be transferred and the price payable per share shall be the lower of par value and the Fair Price.

The Fair Price shall be calculated as at the earlier of the date the Leaver becomes a Leaver or (if applicable) the date the Leaver gave or received notice of the cessation of his employment.

- (3) Upon the fifth anniversary of the date of this agreement a Good Leaver and any permitted transferee shall be deemed to have served a Transfer Notice in respect of all Leaver's Shares held by them. The provisions of article 21, other than article 21(7), shall apply to such a transfer and the Specified Price shall be the Fair Price as at the date the Transfer Notice was deemed served but shall assume the re-enfranchisement of those shares. The directors shall give notice under subparagraph 21(3) as soon as the Specified Price is ascertained. Upon a transfer, the shares shall be re-enfranchised. Upon receipt by the Company of the purchase price it shall pay that amount (the **"Retained Amount"**) into a joint deposit account with Barclays Bank PLC (the **"Account"**) opened in the names of Barclays Capital's Solicitors and

the Managers' Solicitors and the Retained Amount shall be dealt with in accordance with subparagraph (4) below.

- (4) If, within a period of 12 months from the date on which the Transfer Notice was deemed served in accordance with subparagraph (3) above, an Exit occurs, the price received by any transferee of the Leaver's Shares for such number of the Leaver's Shares transferred to it pursuant to subclause (3) above (the "**Exit Price**") shall be calculated by the Company's auditors. If the Exit Price exceeds such part of the Retained Amount representing the number of Leaver's Shares held by that transferee, the transferee of the Leaver's Shares shall pay, providing it has received the consideration payable for its shares on the Exit, to the Leaver such additional amount as the Leaver would have received if he had transferred such number of his Leaver's Shares upon the Exit as that transferee transferred and the Retained Amount, together with all interest accrued thereon, shall be released from the Account to the Leaver.

If the Exit Price is less than such part of the Retained Amount representing that number of the Leaver's Shares held by the transferee, an amount equal to the Exit Price shall be released from the Account to the Leaver, together with any interest accrued thereon. Any amount remaining in the Account, together with any interest accrued thereon, shall be transferred to the transferees of the Leaver's Shares pro rata to the number of Leaver's Shares acquired by each of them.

If the Exit Price is equal to the Retained Amount, the Retained Amount, together with any interest accrued thereon,, shall be released from the Account to the Leaver.

- (5) Upon a transfer of shares in accordance with article 29(2)(b), the directors shall be constituted agent of the Leaver for the sale of his shares to other holders of equity shares of the Company. The directors shall as soon as practicable give notice to all holders of equity shares (other than the Leaver) that the Leaver's Shares are to be transferred and shall invite each of the members to state in writing to the Company within 28 days whether it/he is willing to purchase any, and if so what maximum number, of the Leaver's Shares.
- (6) Upon expiration of the 28 day period referred to in article 29(5) the Company shall allocate the Leaver's Shares among the members willing to purchase the Leaver's Shares on the same basis as is set out in article 21(4)(a).
- (7) Upon the allocation being made, the members willing to purchase the Leaver's Shares shall be bound to pay the price determined in accordance with article 29(2)(b), and accept the transfer of the Leaver's Shares allocated to them respectively and the Leaver shall be bound, upon payment of the price to him, to transfer the Leaver's Shares to the relevant members.
- (8) The provisions of article 21(6) shall apply to this article as appropriate.
- (9) Any Leaver's Shares which are the subject of articles 29(2)(b) and 29(5) to 29(8) and which are not transferred in accordance with articles 29(2)(b) and 29(5) to 29(8) shall be disenfranchised so that the Leaver shall not be entitled to receive notice of, attend or vote at general meetings of the Company or meetings of holders of the same class of share and shall cease to be eligible to receive dividends provided that all Leaver's Shares so disenfranchised shall on a transfer in accordance with articles 29(2)(b) and 29(5) to 29(8) be re-enfranchised.

- (10) Once any shareholder becomes a Bad Leaver, any transfer of shares by him (or shares connected with him) under article 20(1) shall be prohibited (save for any transfer under article 20(1)(f)).

### LEAVER PROVISIONS FOR C SHARES

29A(1) For the purposes of this article:

**"Bad Leaver"** means a Leaver who is not a Good Leaver;

**"Good Leaver"** means a Leaver whose cessation of employment occurs as a result of:

- (i) a subsidiary of the Company ceasing to be a subsidiary of the Company;
- (ii) death, permanent ill-health or disability or retirement at normal retirement age;
- (iii) redundancy;
- (iv) its termination by the Company other than because of the Leaver's serious misconduct or because the Leaver has, in the opinion of the Company, been underperforming over a period of time.

**"Leaver"** means any person who becomes an employee of the Company and a holder of C Shares or any of its subsidiaries and who subsequently ceases to be so employed (and does not continue to be so employed) for any reason; and

**"Leaver's Shares"** means at the date a person becomes a Leaver:

- (i) shares held by the Leaver;
- (ii) shares which have been transferred by the Leaver in accordance with article 20(1) (**"Transferred Shares"**); and
- (iii) shares which have been allotted in respect of Transferred Shares by way of rights, bonus or otherwise (**"Derived Shares"**).

(2) Upon a person becoming a Leaver:

- (a) unless the Board with Institutional Consent and the consent of holders of more than 50 per cent. of the B Shares from time to time in issue otherwise resolves, any Transfer Notice previously issued or deemed issued in relation to the Leaver's Shares shall immediately be cancelled (unless all the shares subject to it have already been sold) and no further Transfer Notice shall be issued or deemed issued in respect of that Leaver's Shares (except under (b) below) unless and until the 120 day period referred to in (b) below shall have expired with no resolution of the Board having been passed thereunder or, if such a resolution has been so passed, until the provisions of this article have been complied with; and
- (b) if the Board with Institutional Consent and the consent of holders of more than 50 per cent. of the B Shares from time to time in issue within 120 days so resolves, the

Leaver shall, and each person holding any Leaver's Shares shall, in respect of the Leaver's Shares held by him be deemed to have authorised the directors (subject only to receiving the consideration therefor) to transfer the Leaver's Shares (or such of them as the directors with Institutional Consent and the consent of holders of more than 50 per cent. of the B Shares from time to time in issue may resolve) to such persons (being employees or officers, or prospective employees or officers, of the Group or persons who undertake/intend to transfer those shares to such persons) as the Board with Institutional Consent and the consent of holders of more than 50 per cent. of the B Shares from time to time in issue may nominate within 60 days of such resolution.

- (3) On a transfer under paragraph (2) the price per share shall be determined as follows:
- (a) if the Leaver is a Good Leaver, the price shall be the Fair Price; or
  - (b) if the Leaver is a Bad Leaver, the price shall be the lower of the Subscription Price and the Fair Price, unless the transferor and the Board with Institutional Consent and the consent of holders of more than 50 per cent. of the B Shares from time to time in issue agree some other price.

The Fair Price shall be calculated as at the date the Leaver becomes a Leaver or (if applicable and if the Board with Institutional Consent and the consent of holders of more than 50 per cent. of the B Shares from time to time in issue so resolves) the date the Leaver gave or received notice of the cessation of his employment.

- (4) If the Board has passed a resolution under paragraph (2)(b) then, unless the resolution stipulated otherwise, none of the relevant Leaver's Shares shall entitle the holder to receive notice of, attend or vote at general meetings of the Company or, subject to the statutes, meetings of the holders of shares of the same class, provided that all shares so disenfranchised shall on a transfer in accordance with this article, or on expiry of the 60 day period referred to in paragraph (2)(b), be re-enfranchised.
- (5) If, having become a Leaver, that Leaver or any of his permitted transferees acquires any shares ("**Relevant Shares**") by virtue of any rights held by that Leaver or his permitted transferees, the following provisions shall, if the Board with Institutional Consent and the consent of holders of more than 50 per cent. of the B Shares from time to time in issue so resolves at any time, apply:
- (a) any Transfer Notice previously issued or deemed issued in relation to any of the Relevant Shares shall immediately be cancelled (unless all the shares subject to it have already been sold);
  - (b) each holder of Relevant Shares shall be deemed to have authorised the directors (subject only to receiving the consideration therefor) to transfer the Relevant Shares held by him (or such of them as the directors may, with Institutional Consent and the consent of holders of more than 50 per cent. of the B Shares from time to time in issue, resolve) to such persons as the Board with Institutional Consent and the consent of holders of more than 50 per cent. of the B Shares from time to time in issue may nominate within 60 days of the resolution; and
  - (c) the price shall be determined in accordance with paragraph (3) above.

### CHANGE OF CONTROL AND DRAG ALONG

30.(1) Notwithstanding the provisions on the transfer of shares in these articles, no transfer of A Shares and B Shares which would result, if made and registered, in a person obtaining an interest in 49 per cent. or more of the A Shares and B Shares in aggregate, shall be made or registered unless:

- (a) an Approved Offer is made; or
- (b) the transfer is made pursuant to the terms of a Sale Agreement.

(2) For the purposes of this article and article 31:

**"Approved Offer"** means an offer in writing for all the shares in issue (including any which may be allotted during the offer period or upon the offer becoming unconditional pursuant to the exercise or conversion of options or rights to subscribe for or securities convertible into shares in existence at the date of such offer) on equal terms for all the relevant holders of the A Shares, B Shares and C Shares as if those shares were one class and which is stipulated to be open for acceptance for at least 60 days and any acceptance which is stipulated to be subject to the provisions of article 31(3) below.

**"Sale Agreement"** means an agreement for the sale of all the A Shares, B Shares and C Shares not already held by the relevant Purchaser.

(3) Any transfer of shares pursuant to an Approved Offer or a Sale Agreement shall not be subject to the restrictions on transfer contained in these articles.

31.(1) Each of the holders of the A Shares, B Shares and C Shares shall within 40 days of receipt of the Approved Offer inform the Company in writing of whether it accepts the Approved Offer.

(2) If the holders of 75 per cent. or more of the A Shares and B Shares which are the subject of an Approved Offer and in issue at the date of the offer, accept the offer, subject to subparagraph (3) below, the directors, the Institutional Directors or the Majority Holders may authorise some person to execute on behalf of any member, including any C Shareholder, who has not accepted the Approved Offer, any form of acceptance of the offer and/or a transfer of shares in favour of the offeror (or as he may nominate) and the consideration for the shares may be received by the Company on behalf of such member. Upon any transfer of C Shares, the rights attaching to the C Shares shall be varied so that they shall carry the right to receive notice of, attend and vote at general meetings of the Company or meetings of the holders of the same class of share. Upon the Company receiving such consideration and transfer (duly stamped), and subject to article 22, the offeror shall be entered in the register of members of the Company. The certificate in respect of any shares so transferred, in the name of the original member, shall be deemed to be cancelled and a new certificate shall be issued in the name of the offeror or its nominee. The receipt of the Company for the consideration shall be a good discharge to the offeror who shall not be bound to see to the application of it, and after such registration in exercise of the above powers the validity of the proceedings shall not be questioned by any person. The Company shall hold the consideration on behalf of the relevant member in a separate bank account on trust for that member pending delivery of the cancelled certificate.

- (3) If on the expiry of the 40 day period, the Company has received acceptances from holders of 75 per cent. or more of the A Shares and B Shares, the Company shall notify any A Shareholder and B Shareholder who has not accepted the Approved Offer and invite that A Shareholder and B Shareholder to accept or match (the "**Matching Offer**") the Approved Offer within 15 days of the date of the notice. If a Matching Officer is made, all remaining members, including the C Shareholders, shall be informed by the Company and shall accept the Matching Offer. The directors, the Institutional Directors or the Majority Holders may authorise some person to execute on behalf of any member, including a C Shareholder, who has not accepted the Matching Offer, any form of acceptance of the Matching Offer and/or a transfer of shares in favour of the offeror (or as he may nominate) and the consideration for the shares may be received by the Company on behalf of such member. Upon any transfer of C Shares, the rights attaching to the C Shares shall be varied so that they shall carry the right to receive notice of, attend and vote at general meetings of the Company or meetings of the holders of the same class of share. If no A Shareholder or B Shareholder makes a Matching Offer within the relevant period, the provisions of article 31(2) above shall apply.
- (4) The holders of more than 75 per cent. of the A Shares and B Shares may execute a Sale Agreement (and any document to be executed pursuant to a Sale Agreement) on behalf of any of the other shareholders, including any C Shareholder, provided that the terms of sale applicable to each shareholder on whose behalf the Sale Agreement or other document is executed pursuant to this article 31(4) (a "**Relevant Seller**") are no less favourable than those applicable to any other holder of A Shares, B Shares or C Shares under the Sale Agreement.

### SHARE CERTIFICATES

32. Every member, upon becoming the holder of any shares, shall be entitled without payment to one certificate for all the shares of each class held by him (and, upon transferring a part of his holding of shares of any class, to a certificate for the balance of such holding) or several certificates each for one or more of his shares upon payment for every certificate after the first of such reasonable sum as the directors may determine. Every certificate shall specify the number, class and distinguishing numbers (if any) of the shares to which it relates and the amount or respective amounts paid up on those shares. The Company shall not be bound to issue more than one certificate for shares held jointly by several persons and delivery of a certificate to one joint holder shall be a sufficient delivery to all of them.
33. If a share certificate is defaced, worn-out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and payment of the expenses reasonably incurred by the Company in investigating evidence as the directors may determine but otherwise free of charge, and (in the case of defacement or wearing-out) on delivery up of the old certificate.

### LIEN

34. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) payable at a fixed time or called in respect of that share. The directors may, with the consent of more than 50 per cent. of the holders of B Shares from time to time in issue and Institutional Consent, at any time declare any share to be wholly or in part exempt from the provisions of this article. The Company's lien on a share shall extend to any amount payable in respect of it.

35. The Company may sell, in such manner as the directors, with the consent of more than 50 per cent. of the holders of B Shares from time to time in issue and Institutional Consent, determine, any shares on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen clear days after notice has been given to the holder of the share or to the person entitled to it in consequence of the death or bankruptcy of the holder, demanding payment and stating that if the notice is not complied with the shares may be sold.
36. To give effect to a sale the directors may authorise some person to execute an instrument of transfer of the shares sold to, or in accordance with the directions of, the purchaser. The title of the transferee to the shares shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
37. The net proceeds of the sale, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable, and any residue shall (upon surrender to the Company for cancellation of the certificate for the shares sold and subject to a like lien for any moneys not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

#### **CALLS ON SHARES AND FORFEITURE**

38. Subject to the terms of allotment, the directors may, with the consent of more than 50 per cent. of the holders of B Shares from time to time in issue and Institutional Consent, make calls upon the members in respect of any moneys unpaid on their shares (whether in respect of nominal value or premium) and each member shall (subject to receiving at least fourteen clear days' notice specifying when and where payment is to be made) pay to the Company as required by the notice the amount called on his shares. A call may be required to be paid by instalments. A call may, before receipt by the Company of any sum due under it, be revoked in whole or part and payment of a call may be postponed in whole or part, in each case with the consent of more than 50 per cent. of the holders of B Shares from time to time in issue and Institutional Consent. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect of which the call was made.
39. A call shall be deemed to have been made at the time when the resolution of the directors authorising the call was passed.
40. The joint holders of a share shall be jointly and severally liable to pay all calls in respect of it.
41. If a call remains unpaid after it has become due and payable the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due and payable until it is paid at the rate fixed by the terms of allotment of the share or in the notice of the call or, if no rate is fixed, at the appropriate rate (as defined by the Act) but the directors may, with the consent of more than 50 per cent. of the holders of B Shares from time to time in issue and Institutional Consent, waive payment of the interest wholly or in part.
42. An amount payable in respect of a share on allotment or at any fixed date, whether in respect of nominal value or premium or as an instalment of a call, shall be deemed to be a call and if it is not paid the provisions of these articles shall apply as if that amount had become due and payable by virtue of a call.



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43. Subject to the terms of allotment, the directors may make arrangements on the issue of shares for a difference between the holders in the amounts and times of payment of calls on their shares.
44. If a call remains unpaid after it has become due and payable the directors may give to the person from whom it is due not less than fourteen clear days' notice requiring payment of the amount unpaid together with any interest which may have accrued. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the shares in respect of which the call was made will be liable to be forfeited.
45. If the notice is not complied with any share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the directors, with the consent of more than 50 per cent. of the holders of B Shares from time to time in issue and Institutional Consent, and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.
46. Subject to the provisions of the Act, a forfeited share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the directors, with the consent of more than 50 per cent. per cent. of the holders of B Shares from time to time in issue and Institutional Consent, determine either to the person who was before the forfeiture the holder or to any other person and at any time before sale, re-allotment or other disposition, the forfeiture may be cancelled on such terms as the directors, with the consent of more than 50 per cent. of the holders of B Shares from time to time in issue and Institutional Consent, think fit. Where for the purposes of its disposal a forfeited share is to be transferred to any person the directors may authorise some person to execute an instrument of transfer of the share to that person.
47. A person any of whose shares have been forfeited shall cease to be a member in respect of them and shall surrender to the Company for cancellation the certificate for the shares forfeited but shall remain liable to the Company for all moneys which at the date of forfeiture were presently payable by him to the Company in respect of those shares with interest at the rate at which interest was payable on those moneys before the forfeiture or, if no interest was so payable, at the appropriate rate (as defined in the Act) from the date of forfeiture until payment but the directors may waive payment wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
48. A statutory declaration by a director or the secretary that a share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share and the declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the share and the person to whom the share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his title to the share be affected by any irregularity in or invalidity of the proceedings in reference to the forfeiture or disposal of the share.

#### **PURCHASE OF OWN SHARES**

49. Subject to the provisions of the Act and with the unanimous consent of the A Shareholders and B Shareholders, the Company may purchase its own shares (including any redeemable shares) and make a payment in respect of the purchase or redemption of its own shares

otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of shares.

### **GENERAL MEETINGS**

50. All general meetings other than annual general meetings shall be called extraordinary general meetings.
51. The directors or any Institutional Director may call general meetings and, on the requisition of members pursuant to the provisions of the Act, the directors shall forthwith proceed to convene an extraordinary general meeting for a date not later than eight weeks after receipt of the requisition. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any member of the Company may call a general meeting.
- 52.(1) A general meeting or a meeting of any class of members of the Company may consist of a conference between members some or all of whom are in different places provided that each member who participates is able:
- (a) to hear each of the other participating members addressing the meeting; and
  - (b) if he so wishes, to address all of the other participating members simultaneously,
- whether directly, by conference telephone or by any other form of communications equipment (whether in use when these articles are adopted or not) or by a combination of those methods.
- (2) A quorum is deemed to be present if those conditions are satisfied in respect of at least the number of members required to form a quorum.
- (3) A meeting held in this way is deemed to take place at the place where the largest group of participating members is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates.
- (4) A resolution put to the vote of a meeting shall be decided by each member indicating to the chairman (in such manner as the chairman may direct) whether the member votes in favour of or against the resolution or abstains.
- (5) References in this article to members shall include their duly appointed proxies and, in the case of corporate members, their duly authorised representatives.

### **NOTICE OF GENERAL MEETINGS**

53. An annual general meeting and an extraordinary general meeting calling for the passing of a special resolution or a resolution appointing a person as a director shall be called by at least twenty-one clear days' notice. All other extraordinary general meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed:
- (a) in the case of an annual general meeting, by all the members entitled to attend and vote at the meeting; and

- (b) in the case of any other meeting by a majority in number of the members having a right to attend and vote being a majority together holding not less than ninety-five per cent. in nominal value of the shares giving that right.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such.

Subject to the provisions of these articles and to any restrictions imposed on any shares, the notice shall be given to all the members, to all persons entitled to a share in consequence of the death or bankruptcy of a member and to the directors and auditors.

54. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

### **PROCEEDINGS AT GENERAL MEETINGS**

55. No business shall be transacted at a meeting unless all A Shareholders and B Shareholders are present in person or by proxy or by duly authorised representative (in the case of a corporation) to constitute a quorum.
56. If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the directors may determine. In the event of an A Shareholder or B Shareholder failing to attend two duly convened meetings (having received the required notice), those members present at the next meeting may constitute a quorum notwithstanding the absence of such A Shareholder or B Shareholder.
57. The chairman, if any, of the board of directors or in his absence some other director nominated by the directors shall preside as chairman of the meeting, but if neither the chairman nor such other director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the directors present shall elect one of their number to be chairman and, if there is only one director present and willing to act, he shall be chairman.
58. If no director is willing to act as chairman, or if no director is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.
59. A director shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting and at any separate meeting of the holders of any class of shares in the Company.
60. The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be

given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.

61. Subject to article 52 a resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:
- (a) by the chairman; or
  - (b) by at least two members having the right to vote at the meeting; or
  - (c) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or
  - (d) by a member or members holding shares conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right;

and a demand by a person as proxy for a member shall be the same as a demand by the member.

62. Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
63. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
64. A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
65. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman shall not be entitled to a casting vote unless the A Shareholders and B Shareholders unanimously agree otherwise.
66. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
67. No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

## SHAREHOLDERS RESOLUTIONS

68. A resolution in writing signed or approved by letter, facsimile, telegram or telex by or on behalf of all the members of the Company who would be entitled to vote on it if it had been proposed at a general meeting or at a meeting of any class of members of the Company shall be as valid and effectual as if it had been passed at a general meeting or at such class meeting (as the case may be) duly convened and held. The resolution may be contained in one document or in several documents in like form each stating the terms of the resolution accurately and signed by or on behalf of one or more of the members.

## VOTES OF MEMBERS

69. Subject to any rights or restrictions attached to any shares, on a show of hands every member who (being an individual) is present in person or by a proxy appointed under section 372 of the Act or (being a corporation) is present by a duly authorised representative or by a proxy appointed under section 372 of the Act, shall have one vote (provided that no person present shall be entitled to more than one vote on a show of hands) and on a poll every member shall have one vote for every share of which he is the holder.
70. 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 seniority shall be determined by the order in which the names of the holders stand in the register of members.
71. A member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, *curator bonis* or other person authorised in that behalf appointed by that court, and any such receiver, *curator bonis* or other person may, on a poll, vote by proxy. Evidence to the satisfaction of the directors of the authority of the person claiming to exercise the right to vote shall be deposited at the office, or at such other place as is specified in accordance with paragraph (a) of article 77 for the deposit of instruments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.
72. No member shall vote at any general meeting or at any separate meeting of the holders of any class of shares in the Company, either in person or by proxy, in respect of any share held by him unless all moneys presently payable by him in respect of that share have been paid.
73. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
74. On a poll votes may be given either personally or by proxy. A member may appoint more than one proxy to attend on the same occasion.
75. An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointor and shall be in the following form (or in a form as near to it as circumstances allow or in any other form which is usual or which the directors may approve):

" \_\_\_\_\_ PLC/Limited  
 I/We, \_\_\_\_\_, of \_\_\_\_\_, being a member/members of the above-named Company, hereby appoint \_\_\_\_\_ of \_\_\_\_\_, or failing him, \_\_\_\_\_ of \_\_\_\_\_, as my/our proxy to vote in my/our names and on my/our behalf at the annual/extraordinary general meeting of the Company to be held on \_\_\_\_\_, \_\_\_\_\_, and at any adjournment thereof.

Signed on \_\_\_\_\_, ."

76. Where it is desired to afford members an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the following form (or in a form as near to it as circumstances allow or in any other form which is usual or which the directors may approve):

" \_\_\_\_\_ PLC/Limited  
 I/We, \_\_\_\_\_, of \_\_\_\_\_, being a member/members of the above-named Company, hereby appoint \_\_\_\_\_ of \_\_\_\_\_, or failing him, \_\_\_\_\_ of \_\_\_\_\_, as my/our proxy to vote in my/our names and on my/our behalf at the annual/extraordinary general meeting of the Company, to be held on \_\_\_\_\_, 20 \_\_\_\_\_, and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1 \*for \*against

Resolution No. 2 \*for \*against

\*Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed on \_\_\_\_\_, ."

77. The instrument appointing a proxy and any authority under which it is executed (or such copy of the instrument or the authority or both as the directors may approve) may:
- (a) be deposited at the office or at such other place within the United Kingdom 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 not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
  - (b) be deposited at the place where the meeting or adjourned meeting is to be held at any time before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
  - (c) in the case of a poll taken more than 48 hours after it is demanded, be deposited as specified in (a) above after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or

- (d) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any director; or
- (e) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be deposited at the place appointed for the taking of the poll at any time within the 24 hours preceding the time appointed for the taking of the poll,

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

78. A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Company at the office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote is given or the poll demanded or (in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

#### **NUMBER OF DIRECTORS**

79. Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum but shall be not less than four.

#### **ALTERNATE DIRECTORS**

80. An Institutional Director (other than an alternate director) may appoint any person and any other director (other than an alternate director) may appoint:

- (a) any other director; or
- (b) any other person approved by a resolution of the directors with Institutional Consent,

who is willing to act, to be an alternate director and may remove from office an alternate director so appointed by him.

81. An alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member to attend and to vote at any meeting at which the director appointing him is not personally present, and at that meeting to exercise and discharge all the functions, powers and duties of his appointor as a director and for the purposes of proceedings at that meeting the provisions of these articles shall apply as if he was a director.
82. Every person acting as alternate director shall have one vote for each director for whom he acts as alternate, in addition to his own vote if he is also a director, but he shall count as only one for the purpose of determining whether a quorum is present.
83. Any person appointed as an alternate director shall vacate his office as an alternate director if the director by whom he has been appointed ceases to be a director or removes him or on the beginning of any event which, if he were a director, causes or would cause him to vacate that office.

84. Any appointment or removal of an alternate director shall be by notice to the Company signed by the director making or revoking the appointment or in any other manner approved by the directors.
85. An alternate director shall alone be responsible for his acts and defaults and shall not be deemed to be the agent of the director appointing him.

#### **POWERS OF DIRECTORS**

86. Subject to the provisions of the Act, the memorandum and these articles and to any directions given by special resolution, the business of the Company shall be managed by the directors who may exercise all the powers of the Company. No alteration of the memorandum or these articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this article shall not be limited by any special power given to the directors by these articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.
87. Without prejudice to any other of their powers, the directors may exercise any of the powers conferred by the Statutes to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the Company or any of its subsidiaries.
88. The directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.

#### **DELEGATION OF DIRECTORS' POWERS**

89. The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any one or more director(s) holding any other executive office such of their powers as they consider desirable to be exercised by him/them. Any such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the articles regulating the proceedings of directors so far as they are capable of applying.

#### **APPOINTMENT AND RETIREMENT OF DIRECTORS**

90. The directors may, with the consent of holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent, appoint any person who is willing to act to be a director, either to fill a casual vacancy or as an additional director.
91. (a) Subject to article 91(c) below, for so long as any member of the Barclays Capital Group and the Shinsei Group is a shareholder of the Company, that member may appoint any one person as an Institutional Director and remove from office any such Institutional Director and (if desired) appoint another in his place.



- (b) Subject to article 91(c) below, for so long as an Original Manager is an employee of the Company and he or his permitted transferees, hold, in aggregate, at least 10 per cent. of the B Shares in issue from time to time, that member or members may appoint him as a director and remove him from office provided that the Board may (without prejudice to their terms of employment) resolve to terminate the employment of either or both Original Managers (the director(s) concerned being unable to vote, or exercise any second or casting vote in the case of an equality of votes, on any such resolution).
  - (c) Unless otherwise determined by Institutional Consent, no person shall be entitled to be appointed to the Board (or to remain on the Board, in which case he shall be deemed to have resigned at the direction of the Board) if:
    - (i) he ceases to be employed by a Group Company or, in the case of a director who is also a B Shareholder, he, or his permitted transferees under article 20(1), ceases to hold at least 10 per cent. of the aggregate number of A Shares and B Shares of the Company then in issue; or
    - (ii) in the case of a director appointed pursuant to article 91(a) above, his appointor or its permitted transferee under article 20(1) ceases to hold at least 10 per cent. of the aggregate number of A Shares and B Shares of the Company then in issue.
92. Every appointment or removal under article 91 shall be made in writing signed by or on behalf of the relevant shareholder(s) (as the case may be) and shall take effect on and from the date on which the note of appointment or removal is lodged at the registered office of the Company or produced at a meeting of the directors.
93. No director shall vacate his office or be ineligible for re-appointment as a director, nor shall any person be negligible for appointment as a director, by reason only of his having attained a particular age.
94. No special notice is required of any resolution appointing or approving the appointment of such a director nor is any notice required to state the age of the person to whom the resolution relates.

### **REMOVAL AND DISQUALIFICATION OF DIRECTORS**

95. The office of a director shall be vacated if:
- (a) he ceases to be a director by virtue of any provision of the Act or he becomes prohibited by law from being a director; or
  - (b) he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
  - (c) he is, or may be, suffering from mental disorder and either:
    - (i) he is admitted to hospital in pursuance of an application for admission for treatment under applicable law (including Wales) the Mental Health Act 1983 or the Mental Health (Scotland) Act 1960; or

- (ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his property or affairs; or
- (d) he resigns his office by notice to the Company; or
- (e) he shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated.

### **REMUNERATION OF DIRECTORS**

96. The directors (other than any director who for the time being holds an executive office or employment with the Company) shall receive no remuneration.

### **DIRECTORS' EXPENSES**

97. The directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings or separate meetings of the holders of any class of shares or of debentures of the Company or otherwise in connection with the discharge of their duties.

### **DIRECTORS' APPOINTMENTS AND INTERESTS**

98. Subject to the provisions of the Act, the directors may appoint one or more of their number to the office of managing director or to any other executive office under the Company and may enter into an agreement or arrangement with any director for his employment by the Company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment, agreement or arrangement may be made upon such terms as the directors determine and they may remunerate any such director for his services as they think fit. Any appointment of a director to an executive office shall terminate if he ceases to be a director but without prejudice to any claim to damages for breach of the contract of service between the director and the Company.
99. Subject to the provisions of the Act and, except in the case of an Institutional Director, to Institutional Consent and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director notwithstanding his office:
- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;
  - (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and
  - (c) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

100. For the purposes of article 99:

- (a) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified; and
- (b) an interest of which a director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.

### **DIRECTORS' GRATUITIES AND PENSIONS**

101. The directors may provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any director who has held but no longer holds any office or employment with the Company or with any body corporate which is or has been a subsidiary of the Company or a predecessor in business of the Company or of any such subsidiary, and for any member of his family (including a spouse and a former spouse) or any person who is or was dependent on him, and may (as well before as after he ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

### **PROCEEDINGS OF DIRECTORS**

102. Subject to the provisions of these articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the directors. Notices of meetings of the directors shall be given to all directors and to any alternate directors appointed by them. At least 10 Business Days' notice shall be given unless in any particular case a majority of the directors (including all of the Institutional Directors) agrees otherwise. Subject to the provisions of the Shareholders Agreement, questions arising at a meeting shall be decided by a majority of votes and in the case of an equality of votes, the executive directors acting jointly shall have a second or casting vote.

103.(1) The quorum for the transaction of the business of the directors or any committee thereof shall be all directors or members of such committee present throughout the meeting.

- (2) If a quorum is not present at the time for which the meeting was called or ceases to be present thereafter, the meeting (the "**first meeting**") shall be adjourned to a day being no more than ten days from the date of the first meeting (the "**second meeting**") at the same time and place. If a quorum is not at the time for which the second meeting was called or ceases to be present thereafter, the meeting shall be adjourned again (the "**third meeting**") and the Company shall give notice to each director who did not attend the second meeting requiring him either to attend the third meeting of the directors or to state in writing his views on the matters to be discussed at that meeting. If any director having received such notice fails to attend such third meeting those directors (being at least two and shall include an Institutional Director) who are present at such third meeting shall constitute a quorum.

104. The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number, but, if the number of directors is less than the number fixed as the quorum,

the continuing directors or director may act only for the purpose of filling vacancies or of calling a general meeting.

105. The directors by a majority of two thirds of those voting may appoint one of their number to be the chairman of the board of directors and may at any time remove him from that office. Unless he is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he is present. But if there is no director holding that office, or if the director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chairman of the meeting.
106. All acts done by a meeting of directors, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.
- 107.(1) A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held. The resolution may be contained in one document or in several documents each stating the terms of the resolution accurately and signed by one or more directors; but a resolution signed by an alternate director need not also be signed by his appointor and, if it is signed by a director who has appointed an alternate director, it need not be signed by the alternate director in that capacity.
- (2) In this article references to a document being "**signed**" include it being "approved by letter, facsimile or telex".
- 108.(1) A meeting of the directors may consist of a conference between directors some or all of whom are in different places provided that each director who participates is able:
- (a) to hear each of the other participating directors addressing the meeting; and
- (b) if he so wishes, to address all of the other participating directors simultaneously, whether directly, by conference telephone or by any other form of communications equipment (whether in use when these articles are adopted or not) or by a combination of those methods.
- (2) A quorum is deemed to be present if those conditions are satisfied in respect of at least the number of directors required to form a quorum, subject to the provisions of article 109.
- (3) A meeting held in this way is deemed to take place at the place where the largest group of participating directors is assembled or, if no such group is readily identifiable, at the place from where the chairman of the meeting participates.
109. Subject to anything to the contrary in these articles and provided that he has disclosed to the directors the nature and extent of any material interest of his, a director may vote as a director on any resolution concerning any matter in which he has, directly or indirectly, an

interest or duty and, if he votes, his vote shall be counted and he shall be counted in the quorum when that resolution or matter is under consideration.

110. Where proposals are under consideration concerning the appointment of two or more directors to offices or employments with the Company or any body corporate in which the Company is interested the proposals may be divided and considered in relation to each director separately and (provided he is not for another reason precluded from voting) each of the directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.
111. If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairman of the meeting and his ruling in relation to any director other than himself shall be final and conclusive.

#### **SECRETARY**

112. Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

#### **MINUTES**

113. The directors shall cause minutes to be made in books kept for the purpose:
- (a) of all appointments of officers made by the directors; and
  - (b) of all proceedings at meetings of the Company, of the holders of any class of shares in the Company, and of the directors, and of committees of directors, including the names of the directors present at each such meeting.

#### **SEAL**

114. The Company may exercise the powers conferred by the Statutes with regard to having official seals and those powers shall be vested in the directors.
115. The directors shall provide for the safe custody of every seal which the Company may have.
116. A seal shall be used only by the authority of the directors or a duly authorised committee but that authority may consist of an instruction or approval given by letter, facsimile, telegram, telex or telephone by a majority of the directors or of the members of a duly authorised committee.
117. The directors may determine who shall sign any instrument to which a seal is applied, either generally or in relation to a particular instrument or type of instrument, and may also determine, either generally or in any particular case, that such signatures shall be dispensed with or affixed by some mechanical means.
118. Unless otherwise decided by the directors:
- (a) certificates for shares, debentures or other securities of the Company to which a seal is applied need not be signed; and

- (b) every other instrument to which a seal is applied shall be signed by at least one director and the secretary or by at least two directors.

### **DIVIDENDS**

119. Subject to the provisions of the Act and the other provisions of these articles and the Shareholders Agreement, the Company may by consent of the holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the directors.
120. Subject to the provisions of the Act, the directors, with the consent of the holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent, may pay interim dividends if it appears to them that they are justified by the profits of the Company available for distribution. If the share capital is divided into different classes, the directors may pay interim dividends on shares which confer deferred or non-preferred rights with regard to dividend as well as on shares which confer preferential rights with regard to dividend, but no interim dividend shall be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear. The directors may also pay at intervals settled by them any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment. Provided the directors act in good faith they shall not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on any shares having deferred or non-preferred rights.
121. Except as otherwise provided by the rights attached to shares, all dividends shall be declared and paid according to the amounts paid up on the shares on which the dividend is paid. All dividends shall be apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid; but, if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.
122. A general meeting declaring a dividend may, upon the recommendation of the directors, direct that it shall be satisfied wholly or partly by the distribution of assets and, where any difficulty arises in regard to the distribution, the directors may settle the same and in particular may issue fractional certificates and fix the value for distribution of any assets and may determine that cash shall be paid to any member upon the footing of the value so fixed in order to adjust the rights of members and may vest any assets in trustees.
123. Any dividend or other moneys payable in respect of a share may be paid by cheque sent by post to the registered address of the person entitled or, if two or more persons are the holders of the share or are jointly entitled to it by reason of the death or bankruptcy of the holder, to the registered address of that one of those persons who is first named in the register of members or to such person and to such address as the person or persons entitled may in writing direct. Every cheque shall be made payable to the order of the person or persons entitled or to such other person as the person or persons entitled may in writing direct and payment of the cheque shall be a good discharge to the Company. Any joint holder or other person jointly entitled to a share as aforesaid may give receipts for any dividend or other moneys payable in respect of the share.

124. No dividend or other moneys payable in respect of a share shall bear interest against the Company unless otherwise provided by the rights attached to the share.
125. Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the directors so resolve, be forfeited and cease to remain owing by the Company.

### **ACCOUNTS**

126. Subject to the provisions of the Shareholders Agreement, no member shall (as such) have any right of inspecting any accounting records or other book or document of the Company except as conferred by statute or authorised by the directors or by ordinary resolution of the Company.

### **CAPITALISATION OF PROFITS**

127. The directors may with the consent of the holders of more than 50 per cent. of the B Shares from time to time in issue and Institutional Consent:
  - (a) subject as hereinafter provided, resolve to capitalise any undivided profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of the Company's share premium account or capital redemption reserve;
  - (b) appropriate the sum resolved to be capitalised to the members who would have been entitled to it if it were distributed by way of dividend and in the same proportions and apply such sum on their behalf either in or towards paying up the amounts, if any, for the time being unpaid on any shares held by them respectively, or in paying up in full unissued shares or debentures of the Company of a nominal amount equal to that sum, and allot the shares or debentures credited as fully paid to those members, or as they may direct, in those proportions, or partly in one way and partly in the other: but the share premium account, the capital redemption reserve and any profits which are not available for distribution may, for the purposes of this article, only be applied in paying up unissued shares to be allotted to members credited as fully paid;
  - (c) make such provision by the issue of fractional certificates or by payment in cash or otherwise as they determine in the case of shares or debentures becoming distributable under this article in fractions; and
  - (d) authorise any person to enter on behalf of all the members concerned into an agreement with the Company providing for the allotment to them respectively, credited as fully paid, of any shares or debentures to which they are entitled upon such capitalisation, any agreement made under such authority being binding on all such members.

### **NOTICES**

128. Any notice to be given to or by any person pursuant to these articles shall be in writing except that a notice calling a meeting of the directors need not be in writing.

129. The Company may give any notice to a member either personally or by sending it by prepaid airmail or first class post or telex or facsimile transmission at his registered address or by leaving it at that address. In the case of joint holders of a share, all notices shall be given to the joint holder whose name stands first in the register of members in respect of the joint holding and notice so given shall be sufficient notice to all the joint holders.
130. A member present, either in person or by proxy, at any meeting of the Company or of the holders of any class of shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
131. Every person who becomes entitled to a share shall be bound by any notice in respect of that share which, before his name is entered in the register of members, has been duly given to a person from whom he derives his title.
132. Proof that:
- (a) an envelope containing a notice was properly addressed, prepaid and posted (by airmail or first class post, where available); or
  - (b) a telex or facsimile transmission setting out the terms of the notice was properly despatched,
- shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 24 hours after the envelope containing it was so posted or, in the case of telex or facsimile transmission, when despatched.
133. A notice may be given by the Company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending or delivering it, in any manner authorised by these articles for the giving of notice to a member, addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt or by any like description at the address, if any supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

### **WINDING UP**

134. If the Company is wound up, the liquidator may, with the sanction of an extraordinary resolution of the Company and any other sanction required by the Act, divide among the members in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and determine how the division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the members as he with the like sanction determines, but no member shall be compelled to accept any assets upon which there is a liability.

### **INDEMNITY**

135. Subject to the provisions of and to the extent permitted by the Statutes, every director, other officer or auditor of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in the actual or purported execution or discharge of his



duties or the exercise or purported exercise of his powers or otherwise in relation to or in connection with his duties, powers or office, but:

- (a) this indemnity shall not apply to any liability to the extent that it is recovered from any other person; and
- (b) the indemnity is subject to such officer or auditor taking all reasonable steps to effect such recovery, so that the indemnity shall not apply to the extent that an alternative right of recovery is capable of being enforced.

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