

# **Articles of Association of**

**Jet Aire (DC) Limited**

Company number: 03466126

(Private company limited by shares)

as adopted by written special resolution passed on

8<sup>th</sup> September 2021

A handwritten signature in black ink, consisting of a stylized 'A' followed by a long horizontal stroke and a circular flourish at the end.

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Company number: 03466126

**The Companies Act 2006**

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**Private company limited by shares**

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**Articles of Association**

of

**Jet Aire (DC) Limited**

(as adopted by written special resolution passed on 8<sup>th</sup> September 2021)

**Part 1**

**Interpretation, Limitation of Liability and Other Miscellaneous Provisions**

It is agreed as follows:

**1 Defined terms**

In these articles, unless the context requires otherwise:

**"Acting in Concert"** has the meaning set out in the City Code on Takeovers and Mergers (as amended from time to time).

**"Acts"** means the Companies Acts and every other statute, order, regulation, or other subordinate legislation from time to time in force concerning companies and affecting the Company.

**"A Director"** means any director(s) appointed or so designated by the A Shareholder Majority and holding office pursuant to article 13.1 (*The A Directors*).

**"Adoption Date"** means the date of adoption of these articles.

**"Approved Borrowing Limit"** means the Standard Borrowing Limit (at the relevant time), unless an Enhanced Borrowing Limit has been approved in accordance with articles 49.1 and 49.2 (*Borrowing limit, interest rates and obligation to subscribe for additional shares*), in which case the Approved Borrowing Limit shall be such Enhanced Borrowing Limit as is applicable at the relevant time

**"Approved Offer"** means an irrevocable offer in writing made by or on behalf of a bona fide third party arm's length purchaser (such purchaser, for the avoidance of doubt, not being a Group Company) to acquire all of the issued Shares at an arms-length price.

**"Approved Offer Price"** means the aggregate amount offered by a Third Party Purchaser for all the Shares pursuant to an Approved Offer.

**"articles"** means the Company's articles of association as altered or varied from time to time (and **"article"** means a provision of the articles).

**"A Shareholder"** means a holder of A Shares from time to time and **"A Shareholders"** shall be construed accordingly.

**"A Shareholder Majority"** means the holders of not less than 80 per cent. (by number) of the A Shares in issue from time to time.

**"A Shares"** means the A ordinary shares of £0.10 each in the capital of the Company.

**"associated company"** has the meaning set out in Section 256, CA2006.

**"Average Excess Borrowing"** means the amount of Borrowing averaged over each of the 28 Business Days in any 90 day period when such Borrowing is:

- (a) at its greatest; and
- (b) in excess of the Approved Borrowing Limit.

**"Bad Leaver"** means a B Shareholder or C Shareholder who:

- (c) ceases to be employed by any Group Company for any reason, save one which would make him a Good Leaver;
- (d) is bankrupt or has proposed or made any voluntary arrangement or other arrangement or composition with his creditors or any class of his creditors;
- (e) is for any reason prevented because of illegality from being a Director;
- (f) is otherwise deemed to be a Bad Leaver pursuant to the terms of the Shareholders' Agreement.

**"B Bad Leaver Completion Date"** has the meaning set out in article 39.10(a) (*Transfer of Shares by a Leaver*).

**"B Bad Leaver Offer Price Instalment"** has the meaning set out in article 39.10 (*Transfer of Shares by a Leaver*).

**"Board"** means the board of directors of the Company from time to time.

**"Borrowing"** means the aggregated net borrowing of the Company as shown in its reconciled bank statements (including, without limitation, all bank debt, indebtedness under any invoice discounting facilities, any monies borrowed from any Group Company or any shareholder or director of any other Group Company and any other commitment in the nature of borrowing).

**"B Shareholder"** means a holder of B Shares and **"B Shareholders"** shall be construed accordingly.

**"B Shares"** means the B ordinary shares of £0.10 each in the capital of the Company.

**"B Shares Net Asset Formula"** means the following formula:

$$\frac{(A - B - T)}{C}$$

Where:

- (a) **A** is the Net Asset Value;
- (b) **B** is the B Shares Threshold Net Asset Value;

- (c) **C** is the total number of Shares in issue at the relevant time; and
- (d) **T** are the professional costs and expenses reasonably and properly incurred by the Company wholly and exclusively in respect of any sale of the B Shares in accordance with Articles 39 and 41.

**"B Shares Threshold"** has the meaning set out in the Shareholders' Agreement..

**"B Shares Threshold Net Asset Value"** has the meaning set out in the Shareholders' Agreement.

**"B Accrual Date"** means 1 January 2017.

**"Business Day"** means any day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**"C Shareholder"** means a holder of C Shares from time to time and **"C Shareholders"** shall be construed accordingly.

**"C Shares"** means the C ordinary shares of £0.10 each in the capital of the Company.

**"C Shares Net Asset Formula"** means the following formula:

$$\frac{(A - C - T)}{S}$$

Where:

- (a) **A** is the Net Asset Value;
- (b) **C** is the C Shares Threshold Net Asset Value;
- (c) **S** is the total number of Shares in issue at the relevant time; and
- (d) **T** are the professional costs and expenses reasonably and properly incurred by the Company wholly and exclusively in respect of any sale of the C Shares in accordance with articles 39 and 41.

**"C Accrual Date"** means 8 September 2021.

**"C Bad Leaver Completion Date"** has the meaning set out in article 39.11(a) (*Transfer of Shares by a Leaver*).

**"C Bad Leaver Offer Price Instalment"** has the meaning set out in article 39.11 (*Transfer of Shares by a Leaver*).

**"C Shares Threshold"** has the meaning set out in the Shareholders' Agreement.

**"C Shares Threshold Net Asset Value"** has the meaning set out in the Shareholders' Agreement.

**"C Shares Price"** means an amount equal to £300,000 divided by the number of C Shares in issue.

**"C Shares Subscription Price"** means an amount per share equal to the subscription or transfer price paid for each C Share (including, for the avoidance of doubt, any premium paid on subscription or transfer).

**"CA2006"** means the Companies Act 2006.

**"call"** has the meaning set out in article 20.1 (*Call notices*).

**"Called Shareholders"** has the meaning set out in article 40.1 (*Drag along*).

**"call notice"** has the meaning set out in article 20.1 (*Call notices*).

**"call payment date"** has the meaning set out in article 24 (*Failure to comply with call notice: automatic consequences*).

**"Companies Acts"** has the meaning set out in Section 2, CA2006.

**"Company's lien"** has the meaning set out in article 18 (*Company's lien*).

**"conflicted director"** has the meaning set out in article 10.1 (*Authorisation of conflicts of interest*).

**"conflict situation"** has the meaning set out in article 10.1 (*Authorisation of conflicts of interest*).

**"Deemed Leaver Offer"** has the meaning set out in article 39.1 (*Transfer of Shares by a Leaver*).

**"Deficit Shares"** has the meaning set out in article 49.5 (*Borrowing limit, interest rates and obligation to subscribe for additional shares*).

**"distribution recipient"** has the meaning set out in article 47 (*Payment of dividends and other distributions*).

**"document"** includes, unless otherwise specified, any summons, notice, order, register, certificate or other legal process and includes any such document sent or supplied in electronic form.

**"Encumbrance"** means any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention or any other security agreement or arrangement.

**"Enhanced Borrowing Amount"** means the amount (if any) at the relevant time of Borrowing of the Company in excess of the Standard Borrowing Limit or any previously agreed Enhanced Borrowing Limit.

**"Enhanced Borrowing Approval"** means an enhanced borrowing approval in the form set out in part B of Schedule 3 to the Shareholders' Agreement.

**"Enhanced Borrowing Limit"** means such borrowing limit above the Standard Borrowing Limit (or any previously agreed Enhanced Borrowing Limit) as is approved, from time to time, in accordance with articles 49.1 and 49.2 (*Borrowing limit, interest rates and obligation to subscribe for additional shares*).

**"Enhanced Borrowing Request"** means an enhanced borrowing request in the form set out in part A of Schedule 3 to the Shareholders' Agreement.

**"electronic form"** has the meaning set out in Section 1168, CA2006.

**"eligible director"** means a director who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting (but excluding any director whose vote is not to be counted in respect of the resolution in question).

**"Exit Notice"** has the meaning set out in article 40.2 (*Drag along*).

**"Exit Option"** has the meaning set out in article 40.1 (*Drag along*).

**"Extended Option Period"** has the meaning set out in article 42.5 (*Takeover Offer*).

**"fully paid"** in relation to a share, means that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company.

**"Good Leaver"** means either a B Shareholder or C Shareholder who ceases to be employed by any Group Company:

- (a) as a result of him falling victim to a physical or mental incapacity (including permanent ill health) to the extent that he is unable to perform his duties of employment (provided, if required by Holdings, he is so assessed following a medical examination by a doctor nominated by Holdings);
- (b) having retired (being retirement in accordance with the then prevailing employment policies of the relevant Group Company employing the relevant person);
- (c) having died;
- (d) by reason of having been made redundant or because he has been transferred pursuant to The Transfer of Undertakings (Protection of Employees) Regulations 2009;
- (e) as a result of having been wrongfully or unfairly dismissed; or
- (f) having been designated a Good Leaver by Holdings.

**"Good Leaver Completion Date"** has the meaning set out in article 39.9(a) (*Transfer of Shares by a Leaver*).

**"Good Leaver Offer Price Instalment"** has the meaning set out in article 39.9 (*Transfer of Shares by a Leaver*).

**"Group"** means, in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company; and each company in a Group is a member of the Group.

**"Group Companies"** means the companies forming the Company's Group (including the Company) and **"Group Company"** means any one of them.

**"hard copy form"** has the meaning set out in Section 1168, CA2006.

**"holding company"** has the meaning set out in Section 1159, CA2006.

**"Holdings"** means Hillgrove Holdings Limited, registered in England and Wales with company number: 10307054.

**"Holdings Shares"** means shares (of whatever class) in the capital of Holdings.

**"Leaver"** means either a Good Leaver or a Bad Leaver.

**"Leaver Date"** has the meaning set out in article 39.1 (*Transfer of Shares by a Leaver*).

**"Leaver Offer Price"** means in the case of a B Shareholder or C Shareholder, the price a B Shareholder or C Shareholder is obliged to accept for each of his B Shares or C Shares (as applicable) pursuant to article 39 (*Transfer of Shares by a Leaver*), calculated in accordance with article 39.8; and



in each case, for the avoidance of doubt, such Leaver Offer Price shall be calculated less any professional costs and expenses reasonably and properly incurred by the Company in relation to such transfer.

**"Leaver Shares"** has the meaning set out in article 39.1 (*Transfer of Shares by a Leaver*).

**"lien enforcement notice"** has the meaning set out in article 19 (*Enforcement of the Company's lien*).

**"Majority Sellers"** has the meaning set out in article 40.1 (*Drag along*).

**"Majority Sellers' Shares"** has the meaning set out in article 40.1 (*Drag along*).

**"Market Price"** means the market value of the shares concerned on the following assumptions and bases:

- (a) to have regard to the rights and restrictions attached to the shares in respect of income, capital and transfer;
- (b) to assume that the sale is on an arms' length basis between a willing vendor and a willing purchaser;
- (c) to disregard whether or not the shares represent a minority or majority interest;
- (d) to take no account of whether the shares do or do not carry control of the Company; and
- (e) if the Company is then carrying on business as a going concern, to assume that it will continue to do so in the same manner as immediately prior to the date of the Pre-emption Transfer Notice giving rise to the valuation.

**"Model Articles"** means the model articles for private companies limited by shares as set out in Schedule 1 to The Companies (Model Articles) Regulations 2008 (SI 2008/3229).

**"Net Asset Value"** means the net asset value of the Company from time to time as shown in the latest statutory accounts of the Company to have received final sign-off from the Board.

**"nil paid"** in relation to a share, means that none of that share's nominal value or any premium at which it was issued has been paid to the Company.

**"Notice"** means a notice to exercise an Option.

**"occupational pension scheme"** has the meaning set out in Section 235(6), CA2006.

**"Offer"** means a bona fide third party offer to acquire the entire issued share capital of Holdings.

**"Offered Shares"** has the meaning set out in article 37.3 (*Transfers of A Shares*).

**"Option"** means the conditional put option over the B Shares and the C Shares granted to each B Shareholder and C Shareholder, pursuant to article 42 (*Takeover offer*).

**"Option Period"** means 21 days commencing on the date on which Holdings gives notice of the Offer to each B Shareholder and C Shareholder in accordance with article 42 (*Takeover offer*).

**"parent undertaking"** has the meaning set out in Section 1162, CA2006.

**"partly paid"** in relation to a share, means that part of that share's nominal value or any premium at which it was issued has not been paid to the Company.

**"Pre-emption Purchasers"** has the meaning set out in article 37.6 (*Transfers of A Shares*).

**"Pre-emption Transfer Notice"** has the meaning set out in article 37.2 (*Transfers of A Shares*).

**"relevant director"** means any director or former director.

**"relevant loss"** means any costs, charges, losses, expenses and liabilities which have been or may be incurred by a relevant director, secretary or other officer in the actual or purported execution or discharge of his duties or in the actual or purported exercise of his powers in relation to the affairs of the Company, any associated company or any pension fund (including any occupational pension scheme) or employees' share scheme of the Company or associated company.

**"relevant rate"** has the meaning set out in article 24.2 (*Failure to comply with call notice: automatic consequences*).

**"Sale Notice"** has the meaning set out in article 39.4 (*Transfer of Shares by a Leaver*) and shall be substantially in the form set out in Schedule 8 to the Shareholders' Agreement.

**"Sale Price"** has the meaning set out in article 37.4 (*Transfers of A Shares*).

**"Sale Shares"** has the meaning set out in 39.4(b) (*Transfer of Shares by a Leaver*).

**"Shareholders' Agreement"** means the shareholders' agreement relating to the Company between Holdings, the Company, Andrew McLean, Darren Pavan and Roy Bradley dated on or around the Adoption Date.

**"Shares"** means the issued shares in the capital of the Company from time to time.

**"Standard Borrowing Limit"** has the meaning set out in the Shareholders' Agreement.

**"SPA"** means an agreement for the sale and purchase of B Shares held by the B Shareholder or C Shares held by the C Shareholder (as the case may be), which the B Shareholder or C Shareholder (as applicable) is obliged to execute pursuant to article 39.5(b) (*Transfer of Shares by a Leaver*) substantially in the form set out in Schedule 4 to the Shareholders' Agreement.

**"subsidiary"** save as provided otherwise in these articles, has the meaning set out in Section 1159, CA2006 and **"subsidiaries"** shall be construed accordingly.

**"subsidiary undertaking"** has the meaning set out in Section 1162, CA2006.

**"Third Party Purchaser"** has the meaning set out in article 40.1 (*Drag along*).

**"Total Transfer Condition"** has the meaning set out in article 37.3 (*Transfers of A Shares*).

**"Transferee Shareholders"** has the meaning set out in article 39.4 (*Transfer of Shares by a Leaver*).

**"Transfer Notice"** means a notice (substantially in the form as set out in Schedule 7 to the Shareholders' Agreement) containing the offer, subject to contract, by a Transferee Shareholder to purchase some or all of the Leaver Shares which are the subject of a Transfer Request Notice.

**"Transfer Price"** has the meaning set out in article 39.4(c) (*Transfer of Shares by a Leaver*).

**"Transfer Request Notice"** means the notice (substantially in the form set out in Schedule 6 to the Shareholders' Agreement) served by the Company on the A Shareholders pursuant to article 39.2 (*Transfer of Shares by a Leaver*) following a Deemed Leaver Offer.

**"transmittee"** means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law.

**"Wholly-owned Group"** means a body corporate and any holding company of which it is a wholly-owned subsidiary and any other wholly-owned subsidiaries of that holding company (including any wholly-owned subsidiary of the body corporate) with all such terms construed in accordance with the CA2006.

**"working day"** has the meaning set out in Section 1173, CA2006.

**"writing"** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods and **"written"** shall be construed accordingly.

- 1.2 Unless the context otherwise requires (or unless otherwise defined or stated in these articles), words or expressions defined in the Model Articles shall have the same meaning in these articles. Any other words and expressions contained in these articles and/or the Model Articles shall have the same meaning as in the CA2006 as in force from time to time.
- 1.3 The Model Articles shall apply to the Company save insofar as they are excluded or modified by or are inconsistent with these articles, and the Model Articles (except insofar as so excluded, modified or inconsistent) together with these articles shall be the articles of association of the Company (to the exclusion of any other regulations set out in any statute, statutory instrument or other subordinate legislation from time to time in force).
- 1.4 The following articles of the Model Articles shall be excluded in their entirety from applying to the Company:
  - (a) article 14 (*Conflicts of interest*);
  - (b) article 21 (*All shares to be fully paid up*);
  - (c) article 48 (*Means of communication to be used*);
  - (d) article 52 (*Indemnity*); and
  - (e) article 53 (*Insurance*).
- 1.5 In these articles, unless the context otherwise requires:
  - (a) words in the singular include the plural, and vice versa;
  - (b) words importing any gender include all genders; and
  - (c) a reference to a person includes a reference to a company and to an unincorporated body of persons.
- 1.6 In these articles:
  - (a) references to writing include references to typewriting, printing, lithography, photography and any other modes of representing or reproducing words in a legible and non-transitory form;
  - (b) references to **"executed"** includes any mode of execution;

- (c) references to **"other"** and **"otherwise"** shall not be construed ejusdem generis where a wider construction is possible;
- (d) references to a power are to a power of any kind, whether administrative, discretionary or otherwise;
- (e) references to a committee of the Directors are to a committee established in accordance with these articles, whether or not comprised wholly of Directors;
- (f) a reference to a **"debt"** shall be a debt within the meaning of UK Generally Accepted Accounting Principles and shall include, for the avoidance of doubt, any obligation in the nature of a debt including any relevant obligations under hire purchase arrangements, invoice discounting facilities or the like;
- (g) references to **"designation"** in the context of shareholders or Directors are to holders of A Shares or B Shares or C Shares or Directors appointed by the holders of A Shares, as appropriate; and
- (h) references to a document or information being sent or supplied by or to a company (including the Company) shall be construed in accordance with the provisions of Section 1148(3), CA2006 and any reference to "sent" or "supplied" (or other similar term) shall be construed in accordance with the provisions of Section 1148(2), CA2006.

1.7 Headings are inserted for convenience only and do not affect the construction of these articles.

## **Part 2**

### **Directors and Secretary**

#### **Directors' powers and responsibilities**

#### **2. Directors may delegate**

Article 5(1) of the Model Articles is modified by the addition, at the end of that article, of the words:

"(including whether any such delegation shall be made either collaterally with or to the exclusion of the powers otherwise conferred on the directors under the articles)"

#### **Decision-making by Directors**

#### **3. Directors to take decisions collectively**

##### **3.1 If:**

- (a) the Company has only one director for the time being; and
- (b) no provision of the articles requires it to have more than one director,

save as provided otherwise in the articles the general rule does not apply, and the director may (only for so long as he remains the sole director) take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

Article 7(2) of the Model Articles is modified accordingly.

**4. Unanimous decisions**

- 4.1 A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

Article 8(1) of the Model Articles is modified accordingly.

- 4.2 Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it or to which each eligible director has otherwise indicated agreement in writing.

Article 8(2) of the Model Articles is modified accordingly.

- 4.3 Article 8(3) shall be excluded from applying to the Company.

- 4.4 A decision may not be taken in accordance with this article 4 if the eligible directors would not have formed a quorum at a directors' meeting held to discuss the matter in question.

Article 8(4) of the Model Articles is modified accordingly.

**5. Calling a directors' meeting**

Save as otherwise provided in the articles, notice of a directors' meeting must be given to each director, but need not be in writing.

Article 9(3) of the Model Articles is modified accordingly.

**6. Participation in directors' meetings**

- 6.1 Article 10(1)(b) of the Model Articles is modified by the addition, after the word "communicate", of the words:

"orally, including by means of telephone, video conference or other audio or audio-visual link or any other form of telecommunication".

- 6.2 Article 10(2) of the Model Articles is modified by the addition, at the end of that article, of the words:

"provided that all persons participating in the meeting can hear each other."

**7. Quorum for directors' meetings**

- 7.1 Subject to Section 175(6), CA2006 the quorum for the transaction of the business of the directors may be fixed from time to time by a decision of the directors, and unless otherwise so fixed it shall (save as provided in article 7.2 or any other provision of the articles) be two, one of whom must be an A Director.

- 7.2 In relation to any meeting (or part of any meeting) held pursuant to article 10 (*Authorisation of conflicts of interest*), if, at the relevant time, the Company has only one director other than the conflicted director, the quorum for such meeting (or the part thereof dealing with the authorisation pursuant to article 10 (*Authorisation of conflicts of interest*)) shall be one eligible director.

Article 11(2) of the Model Articles is modified accordingly.

**8. Chairing of directors' meetings**

If the chairman is unwilling to chair a directors' meeting or is not participating in a directors' meeting within ten minutes of the time at which it was to start or, if at any time during the

meeting, the chairman ceases to be a participating director, the participating directors must appoint one of themselves to chair it (or chair such part of it in relation to which the chairman ceases to be a participating director, as the case may be).

Article 12(4) of the Model Articles is modified accordingly.

## 9. Casting vote

9.1 Subject to article 9.2, if, at a meeting of the directors, the numbers of votes for and against a proposal are equal, the chairman or other director appointed to chair the meeting pursuant to article 8 (*Chairing of directors' meetings*) shall have a casting vote.

9.2 At a meeting of the directors (or any part thereof), the chairman or other director appointed to chair the meeting pursuant to article 8 (*Chairing of directors' meetings*) shall not have a casting vote in respect of any proposal where the numbers of votes for and against are equal if, in relation to such proposal, such chairman or other director appointed to chair the meeting is not an eligible director.

Article 13 of the Model Articles is modified accordingly.

## 10. Authorisation of conflicts of interest

10.1 Subject to and in accordance with the CA2006:

(a) the directors may authorise any matter or situation arising on or after 1 October 2008 in which a director (the "**conflicted director**") has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (including, without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the Company could take advantage of it) and for this purpose a conflict of interest includes a conflict of interest and duty and a conflict of duties (the "**conflict situation**");

(b) any authorisation given in accordance with this article 10:

(i) may be made on such terms and subject to such conditions and/or limitations as the directors may, in their absolute discretion, determine (including, without limitation, excluding the conflicted director and any other interested director from certain directors' meetings, withholding from him or them certain board or other papers and/or denying him or them access to certain confidential company information) and such terms, conditions and/or limitations may be imposed at the time of or after the authorisation and may be subsequently varied or terminated; and

(ii) shall be effective only if:

(A) any requirement as to the quorum at any meeting of the directors at which the matter is considered is met without counting either the conflicted director or any other interested director; and

(B) the matter or situation was agreed to and any relevant resolution was passed without counting the votes of the conflicted director and without counting the votes of any other interested director (or such matter or situation would have been so agreed and such relevant resolution would have been so passed if their votes had not been counted); and

(c) in considering any request for authorisation in respect of a conflict situation, the directors shall be entitled to exclude the conflicted director from any meeting or other discussion (whether oral or written) concerning the authorisation of such conflict

situation and they shall also be entitled to withhold from such conflicted director any board papers or other papers concerning the authorisation of such conflict situation.

10.2 If any conflict situation is authorised or otherwise permitted under the articles, the conflicted director (for as long as he reasonably believes such conflict situation subsists):

- (a) shall not be required to disclose to the Company (including the directors or any committee) any confidential information relating to such conflict situation which he obtains or has obtained otherwise than in his capacity as a director of the Company, if to make such disclosure would give rise to a breach of duty or breach of obligation of confidence owed by him to another person in relation to such matter, office, employment or position;
- (b) shall be entitled to attend or absent himself from all or any meetings of the directors (or any committee) at which anything relating to such conflict situation will or may be discussed; and
- (c) shall be entitled to make such arrangements as he thinks fit to receive or not to receive documents or information (including, without limitation, board papers (or those of any committee of it)) relating to any such conflict situation and/or for such documents or information to be received and read by a professional adviser on his behalf,

and in so doing, such conflicted director shall not be in breach of any general duty he owes to the Company pursuant to Sections 171 to 177 (inclusive), CA2006 and the provisions of this article 10 shall be without prejudice to any equitable principle or rule of law which may excuse the conflicted director from disclosing information or attending meetings or receiving documents or information, in circumstances where such disclosure, attendance or receipt would otherwise be required under the articles.

10.3 For the purposes of this article 10, an interest of a person who is, for any purpose of the CA2006 (excluding any statutory modification thereof not in force when this regulation becomes binding on the Company), connected with a director shall be treated as an interest of the director.

## **11. Directors may have interests and vote and count for quorum**

11.1 Provided permitted by the Acts, and provided he has disclosed to the other directors the nature and extent of his interest pursuant to Section 177 or 182, CA2006 or otherwise pursuant to the articles (as the case may be), a director, notwithstanding his office:

- (a) may be a party to, or otherwise directly or indirectly interested, in any contract, arrangement, transaction or proposal with the Company or in which the Company is otherwise interested and may hold any other office or position of profit under the Company (except that of auditor or of auditor of a subsidiary of the Company) in addition to the office of director and may act by himself or through his firm in a professional capacity for the Company and in any such case on such terms as to remuneration and otherwise as the directors may agree either in addition to or in lieu of any remuneration provided for by any other article;
- (b) may be a member, director or other officer of, or employed by, or hold any other office or position with, or be directly or indirectly interested in any contract, arrangement, transaction or proposal with or a party to or otherwise directly or indirectly interested in, any subsidiary and subsidiary undertaking of the Company or any parent undertaking of the Company and any of such parent undertaking's subsidiaries or subsidiary undertakings or any other body corporate promoted by the Company or in which the Company is otherwise interested;
- (c) shall not, by reason of his office, be liable to account to the Company for any dividend, profit, remuneration, superannuation payment or other benefit which he derives from:

- (i) any matter, office, employment or position which relates to a conflict situation authorised in accordance with article 10 (*Authorisation of conflicts of interest*); or
- (ii) any office, employment, contract, arrangement, transaction or proposal or other interest permitted pursuant to paragraphs (a) and (b) of this article,

and no contract, arrangement, transaction or proposal shall be avoided on the grounds of any director having any such interest or receiving any such dividend, profit, remuneration, superannuation, payment or other benefit authorised in accordance with article 10 (*Authorisation of conflicts of interest*) or permitted pursuant to paragraphs (a) or (b) of this article and the receipt of any such dividend, profit, remuneration, superannuation, payment or other benefit so authorised or permitted shall not constitute a breach of the duty not to accept benefits from third parties as set out in Section 176, CA2006.

- 11.2 For the avoidance of doubt, a director may be or become subject to one or more conflict situations as a result of any matter referred to in paragraph (b) of article 11.1 (*Directors may have interests and vote and count for quorum*) without requiring authorisation under the provisions of article 10 (*Authorisation of conflicts of interest*) provided he has declared, as soon as reasonably practicable, the nature and extent of his interest in the conflict situation. The provisions of Section 177(2), Section 177(3), Section 177(5), Section 177(6), Section 184 and Section 185, CA2006 shall be applied (with any necessary modifications) in respect of any such declaration.
- 11.3 Subject to Section 175(6), CA2006 and save as otherwise provided in the articles, a director may vote at any meeting of the directors or any meeting of any committee of which he is a member on any resolution and a director may participate in the transaction of the business of the directors and count in the quorum at any such meeting of the directors or meeting of any committee of which he is a member notwithstanding that it concerns or relates in any way to a matter in which he has directly or indirectly any kind of interest or duty. This article does not affect any obligation of a director to disclose any such interest, whether pursuant to Section 177, CA2006, Section 182, CA2006 or otherwise.
- 11.4 Subject to article 11.5, if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive (except in a case where the nature or extent of any interest of the director has not been fairly disclosed).
- 11.5 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.
- 11.6 For the purposes of this article 11, an interest of a person who is, for any purpose of the CA2006 (excluding any statutory modification thereof not in force when this regulation becomes binding on the Company), connected with a director shall be treated as an interest of the director.

## 12. **Records of decisions to be kept**

The directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors. Notwithstanding the provisions of article 3 (*Directors to take decisions collectively*), where the Company only has one director, the provisions of this article 12 shall apply to any decision taken by such director, howsoever taken by him.

Article 15 of the Model Articles is modified accordingly.



## **Appointment of Directors**

### **13. The A Directors**

- 13.1 An A Shareholder Majority shall be entitled to appoint up to two persons as directors of the Company (each such person being referred to as an "**A Director**") and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place.
- 13.2 The chairman of the Board shall be appointed by the A Shareholder Majority, who may remove from office any person so appointed and (subject to such removal) appoint another person in his place.

Article 12 of the Model articles is modified accordingly.

### **14. Methods of appointing directors**

In any case where, as a result of death or bankruptcy, the Company has no shareholders and no directors, the transmittee of the last shareholder to have died or to have had a bankruptcy order made against him, as the case may be, shall have the right, by notice in writing to the Company, to appoint any one person to be a director, provided such person is a natural person in accordance with Section 155, CA2006 and provided such person is willing to be so appointed and is otherwise permitted by law to be a director of the Company.

Article 17(2) of the Model Articles is modified accordingly.

### **15. Termination of director's appointment**

A person ceases to be a director as soon as:

- (a) that person ceases to be a director by virtue of any provision of the CA2006 or is prohibited from being a director by law;
- (b) a bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- (e) by reason of that person's mental health, he is admitted to hospital in pursuance of an application for admission for treatment under any mental health legislation for the time being in force in any part of the United Kingdom or a court having jurisdiction (whether in the United Kingdom or elsewhere) makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
- (f) notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms;
- (g) that person has, for more than six consecutive months, been absent without permission of the directors from meetings of directors held during that period and the directors make a decision that that person's office be vacated; or
- (h) in the case of a director owning B Shares or C Shares, where that person ceases to be employed by a Group Company.

Article 18 of the Model Articles is modified accordingly.

**16. Directors' expenses**

16.1 The Company may pay any reasonable expenses which the directors and the Company secretary (if any) properly incur in connection with their attendance at (or returning from):

- (a) meetings of directors or committees of directors;
- (b) general meetings; or
- (c) separate meetings of the holders of any class of shares or of debentures of the Company,

or otherwise in connection with the business of the Company, the exercise of their powers and the discharge of their duties and responsibilities in relation to the Company.

Article 20 of the Model Articles is modified accordingly.

**Part 3**

**Shares and Distributions**

**Shares**

**17. Issue of shares and payment of commissions**

17.1 Shares may be issued by the Company which are nil, partly or fully paid.

17.2 The Company may pay any person a commission in consideration for that person subscribing, or agreeing to subscribe, for shares or procuring, or agreeing to procure, subscriptions for shares. Any such commission may be paid in cash, or fully paid or partly paid shares or other securities, or partly in one way and partly in the other, and in respect of conditional or an absolute subscription.

**18. Company's lien**

18.1 The Company has a lien (the "**Company's lien**") over every share (whether fully paid or not) registered in the name of any person (whether he is the sole registered holder or one of two or more joint holders) for all moneys payable by him or his estate (and whether payable by him alone or jointly with any other person) to the Company (whether presently payable or not).

18.2 The Company's lien over a share:

- (a) takes g over any third party's interest in that share; and
- (b) extends to any dividend (or other assets attributable to it) or other money payable by the Company in respect of that share and (if the lien is enforced and the share is sold by the Company) the proceeds of sale of that share.

18.3 The directors may, at any time, decide that a share which is or would otherwise be subject to a lien pursuant to the articles shall not be subject to it, either wholly or in part.

**19. Enforcement of the Company's lien**

19.1 Subject to the provisions of this article 19, if a notice to enforce a lien (a "**lien enforcement notice**") has been given in respect of a share and the person to whom the notice was given has failed to comply with it, the Company may sell that share in such manner as the directors decide.

19.2 A lien enforcement notice:

- (a) may only be given in respect of a share which is subject to the Company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;
- (b) must specify the share concerned;
- (c) must require payment of the sum payable within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);
- (d) must be addressed either to the holder of the share or to any transmittee of that holder or any other person otherwise entitled to the share; and
- (e) must state the Company's intention to sell the share if the notice is not complied with.

19.3 Where any share is sold pursuant to this article:

- (a) the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
- (b) the transferee of the share(s) shall be registered as the holder of the share(s) to which the transfer relates notwithstanding that he may not be able to produce the share certificate(s) and such transferee is not bound to see to the application of the consideration and the transferee's title to the share is not affected by any irregularity in or invalidity of the process leading or relating to the sale.

19.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied:

- (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice;
- (b) second, to the person entitled to the share(s) immediately before the sale took place but only after the certificate for the share(s) sold has been surrendered to the Company for cancellation or an indemnity in a form acceptable to the directors has been given to the Company for any lost certificate(s) and subject to a lien (equivalent to the Company's lien over the share(s) immediately before the sale took place) for all moneys payable by such person or his estate (whether immediately payable or not) in respect of all share(s) registered in the name of such person (whether he is the sole registered holder or one of two or more joint holders) and in respect of any other moneys payable (whether immediately payable or not) by him or his estate to the Company, after the date of the lien enforcement notice.

19.5 A statutory declaration by a director or the company secretary (if any) that the declarant is a director or the company secretary and that a share has been sold to satisfy the Company's lien on a specified date:

- (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share(s); and
- (b) subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the share(s).

20. **Call notices**

20.1 Subject to the articles and the terms on which shares are allotted, the directors may send a notice (a "**call notice**") to a shareholder (or his estate) requiring such shareholder (or his estate) to pay the Company a specified sum of money (a "**call**") which is payable to the Company in respect of shares which that shareholder (or his estate) holds at the date when the directors decide to send the call notice.

- 20.2 A call notice:
- (a) may not require a shareholder (or his estate) to pay a call which exceeds the total sum unpaid on the shares in question (whether as to nominal value or any amount payable to the Company by way of premium);
  - (b) must state when and how any call to which it relates is to be paid; and
  - (c) may permit or require the call to be paid by instalments.
- 20.3 A shareholder (or his estate) must comply with the requirements of a call notice but shall not be obliged to pay any call before 14 clear days (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) have passed since the notice was sent.
- 20.4 Before the Company has received any call due under a call notice the directors may revoke it wholly or in part or specify a later date and/or time for payment than is specified in the notice, by a further notice in writing to the shareholder (or his estate) in respect of whose shares the call is made.
- 21. Liability to pay calls**
- 21.1 Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid. Joint holders of a share are jointly and severally liable to pay all calls in respect of that share.
- 21.2 Subject to the terms on which shares are allotted, the directors may, when issuing shares, provide that call notices sent to the holders of those shares may require them to pay calls which are not the same or to pay calls at different times.
- 22. Payment in advance of calls**
- 22.1 The directors may, if they think fit, receive from any shareholder willing to advance it all or any part of the moneys uncalled and unpaid on the shares held by him. Such payment in advance of calls shall extinguish only to that extent the liability on the shares on which it is made.
- 22.2 The directors may at any time repay the amount so advanced on giving to such shareholder not less than 14 clear days' notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) of its intention in that regard, unless before the expiration of such notice the amount so advanced shall have been called up on the shares in respect of which it was advanced.
- 22.3 No sum paid in advance of calls shall entitle the holder of a share in respect of them to any portion of a dividend subsequently declared in respect of any period prior to the date upon which such sum would, but for such payment, become payable.
- 23. When call notice need not be issued**
- 23.1 A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the Company in respect of that share (whether in respect of nominal value or premium):
- (a) on allotment;
  - (b) on the occurrence of a particular event; or
  - (c) on a date fixed by or in accordance with the terms of issue.
- 23.2 If, however, the due date for payment of such a sum has passed and it has not been paid, the holder of the share(s) concerned (or his estate) is treated in all respects as having failed to

comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

**24. Failure to comply with call notice: automatic consequences**

24.1 If a person is liable to pay a call and fails to do so by the call payment date (as such is defined below), the directors may issue a notice of intended forfeiture to that person; and unless and until the call is paid that person must pay the Company interest on the call from the call payment date at the relevant rate (as such is defined below).

24.2 Subject to article 24.3, for the purposes of this article:

(a) the **"call payment date"** is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "call payment date" is that later date;

(b) the **"relevant rate"** is:

(i) the rate fixed by the terms on which the share in respect of which the call is due was allotted; or, if none,

(ii) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors,

provided that if no rate is fixed in either of the manners specified in paragraph (b)(i) or (b)(ii) above, it shall be 5 per cent. per annum.

24.3 The relevant rate must not exceed by more than 5 percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998(a).

24.4 The directors may waive any obligation to pay interest on a call wholly or in part.

**25. Notice of intended forfeiture**

25.1 A notice of intended forfeiture:

(a) may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;

(b) must be sent to the holder of that share (or to all the joint holders of that share) or to a transmittee of that holder;

(c) must require payment of the call and any accrued interest together with all costs and expenses that may have been incurred by the Company by reason of such non-payment by a date which is not less than 14 clear days after the date of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);

(d) must state how the payment is to be made; and

(e) must state that if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited.

**26. Directors' power to forfeit shares**

If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, the directors may decide that any share in respect of which it was given is forfeited, and the forfeiture is to include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.

**27. Effect of forfeiture**

- 27.1 Subject to the articles, the forfeiture of a share extinguishes all interests in that share, and all claims and demands against the Company in respect of it and all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the Company.
- 27.2 Any share which is forfeited in accordance with the articles:
- (a) is deemed to have been forfeited when the directors decide that it is forfeited;
  - (b) is deemed to be the property of the Company; and
  - (c) may be sold, re-allotted or otherwise disposed of as the directors think fit.
- 27.3 If a person's shares have been forfeited:
- (a) the Company must send that person notice that forfeiture has occurred and record it in the register of members;
  - (b) that person ceases to be a shareholder in respect of those shares;
  - (c) that person must surrender the certificate for the shares forfeited to the Company for cancellation;
  - (d) that person remains liable to the Company for all sums payable by that person under the articles at the date of forfeiture in respect of those shares, including any interest, costs and expenses (whether accrued before or after the date of forfeiture); and
  - (e) the directors may waive payment of such sums 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.
- 27.4 At any time before the Company disposes of a forfeited share, the directors may decide to cancel the forfeiture on payment of all calls and interest, costs and expenses due in respect of it and on such other terms as they think fit.

**28. Procedure following forfeiture**

- 28.1 If a forfeited share is to be disposed of by being transferred, the Company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer.
- 28.2 A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been forfeited on a specified date is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share and, subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the share.
- 28.3 A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share.
- 28.4 If the Company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the Company the proceeds of such sale, net of any commission, and excluding any amount which:
- (a) was, or would have become, payable; and

- (b) had not, when that share was forfeited, been paid by that person in respect of that share,

but no interest is payable to such a person in respect of such proceeds and the Company is not required to account for any money earned on them.

## **29. Surrender of shares**

### **29.1 A shareholder may surrender any share:**

- (a) in respect of which the directors may issue a notice of intended forfeiture;
- (b) which the directors may forfeit; or
- (c) which has been forfeited.

### **29.2 The directors may accept the surrender of any such share. The effect of surrender on a share is the same as the effect of forfeiture on that share. A share which has been surrendered may be dealt with in the same way as a share which has been forfeited.**

## **30. Share capital**

Except as otherwise provided in these articles, the A Shares, B Shares and C Shares shall rank pari passu in all respects but shall constitute separate classes of shares.

## **31. Rights attaching to Shares**

Subject to any special rights which may be attached to any class of shares issued after the date of adoption of these articles the rights attaching to the Shares are as follows:

### **31.1 Dividends**

The Directors may at any time and from time to time and in their absolute discretion, subject always to the provisions of the Act, declare a dividend or dividends in different amounts upon the A Shares and/or the B Shares and/or the C Shares.

### **31.2 Capital**

On a return of assets on liquidation or capital reduction or otherwise (except upon the redemption of shares of any class or the purchase by the Company of its own shares), the assets of the Company available for distribution amongst its shareholders after payment of its liabilities shall be applied in the following manner in the following order of priority:

- (a) first, in paying to the A Shareholders an amount equal to £3,300,000 pro rata to their existing holdings of A Shares (by number);
- (b) second in paying the balance of any surplus assets to the A Shareholders who have subscribed for A Shares after the Adoption Date pro rata (to their existing holdings of A Shares (by number)) until each such A Shareholder has received an amount equal to the subscription price paid for such A Shares (including, for the avoidance of doubt, any premium paid on subscription);
- (c) third in paying to the A Shareholders the balance of any surplus assets pro rata (to their existing holdings of A Shares (by number)) until such A Shareholders have received a sum equal to all unpaid arrears and accruals of dividends on his A Shares calculated down to the date of the return of capital;
- (d) fourth, in paying the balance of any surplus assets to the B Shareholder pro rata (to their existing holdings of B Shares (by number)) until each such B Shareholder has

received an amount equal to the subscription or transfer price paid for his B Shares (including, for the avoidance of doubt, any premium paid on subscription or transfer);

- (e) fifth, in paying to the B Shareholders the balance of any surplus assets pro rata (to their existing holdings of B Shares (by number)) until such B Shareholders have received a sum equal to all unpaid arrears and accruals of dividends on his B Shares calculated down to the date of the return of capital;
- (f) sixth, in paying the balance of any surplus assets as follows:
  - (i) in the event that the balance of any surplus assets is less than the C Shares Threshold, among the holders of the A Shares and the B Shares *pari passu* as if they constituted one class of share pro rata to their existing holdings of Shares (by number); and
  - (ii) in the event that the balance of any surplus assets is equal to or exceeds the C Share Threshold, among the holders of the A Shares, the B Shares and the C Shares *pari passu* as if they constituted one class of share pro rata to their existing number of Shares (by number).

### 31.3 **Voting**

- (a) The holders of the A Shares shall have the right to receive notice of and attend and vote at any general meeting of the Company.
- (b) The holders of the B Shares and C Shares shall have the right to receive notice of and attend and vote at any general meeting of the Company, save that the holders of the such shares shall not be entitled to vote on the appointment or removal of an A Director.
- (c) Subject to any special rights, privileges or restrictions attached to any Shares, at a general meeting of the Company on a show of hands every shareholder who (being an individual) is present in person or by proxy (not being himself a shareholder) or (being a corporation) is present by a representative duly authorised under Section 323, CA2006 (not being himself a shareholder) shall have one vote, and on a poll every shareholder present in person, by representative or by proxy shall have one vote for every Share of which he is the holder.

### 32. **Issue of Shares**

- 32.1 Unless otherwise agreed in writing by the holders of not less than 75 per cent. of the issued Shares for the time being, any Shares to be issued whether for cash or otherwise shall be offered to the shareholders of that class in proportion, as nearly as may be, to their holdings of Shares.
- 32.2 Any such offer as referred to in article 32.1 shall be made by notice specifying the number of Shares and the price per Share at which the same are offered and limiting the period (being not less than 14 days unless the shareholder to whom the offer is to be made otherwise agrees) within which the offer, if not accepted, shall be deemed to be declined.
- 32.3 Following the expiration of the time limit in article 32.2:
  - (a) if a B Shareholder does not take up his proportion of B Shares then such shortfall may be taken up by the A Shareholder;
  - (b) if a C Shareholder does not take up his proportion of C Shares then such shortfall may be taken up by the A Shareholder; and



- (c) the directors shall allot the Shares so offered to or amongst the shareholders who have notified their willingness to take all or any of such Shares and the directors shall make such arrangements as they shall think fit concerning entitlements to fractions.
  - 32.4 Save with the consent of the A Shareholder Majority, no Shares may be allotted or issued to any person who is not immediately prior to such allotment or issue a shareholder.
  - 32.5 Pursuant to Section 567, Companies Act 2006, sub-section (1) of Section 561, CA2006, and sub-sections (1) to (5) inclusive of Section 562, CA2006 shall be excluded from applying to the Company.
  - 32.6 Any Share issued to a shareholder pursuant to this Article shall on issue be designated as either an A Share, a B Share or a C Share.
  - 33. **Variation of class rights**
    - 33.1 The provisions of these articles relating to general meetings shall apply, with necessary modifications, to any meeting of the holders of Shares of a class held otherwise than in connection with the variation or abrogation of the rights attached to Shares of that class.
    - 33.2 Save as provided for elsewhere in these articles, all or any of the special rights for the time being attached to any Share or class of Shares in the capital of the Company may, either with the prior consent in writing of the holders of not less than three-fourths of the issued Shares of the class or with the sanction of an extraordinary resolution passed at a separate meeting of the holders of Shares of the class duly convened and held as hereinafter provided (but not otherwise) be varied or abrogated. To such meetings the provisions of these articles with respect to notice and proceedings at general meetings shall apply mutatis mutandis, but so that the quorum shall be a person or persons present in person, by proxy or by corporate representative, holding or representing not less than one-third of the issued Shares of the relevant class of Shares.
  - 34. **Authority to allot shares**
    - 34.1 Save to the extent authorised by these articles or otherwise authorised by an ordinary resolution of the members, the directors shall not exercise any power of the Company to allot shares or grant rights to subscribe for or to convert any security into shares in the Company.
  - 35. **Authority to purchase own shares with cash**

The Company is authorised to purchase its own shares pursuant to Section 692(1)(b), CA2006.
  - 36. **Share certificates**
    - 36.1 The Company must issue each shareholder with one or more certificates in respect of the shares which that shareholder holds and, save as provided otherwise in the articles, such certificates must be issued free of charge.

Article 24(1) of the Model Articles is modified accordingly.

  - 36.2 Article 24(2)(c) of the Model Articles is modified by:
    - (a) the deletion of the words: "that the shares are fully paid"; and
    - (b) the insertion instead of the words: "the amount paid up on the shares".
37. **Transfers of A Shares**
  - 37.1 A corporate A Shareholder may at any time transfer A Shares to another member of its Wholly-owned Group.

- 37.2 Save where the consent of the A Shareholder Majority is obtained in respect of any such transfer (for the avoidance of doubt, such A Shareholder Majority may include the proposing transferor) or where such a transfer is permitted elsewhere in these articles, any holder of A Shares who desires to transfer (or enter into an agreement to transfer) any interest in his A Shares must first offer them to the other A Shareholders in accordance with this article 37. The offer may be in respect of all or part of the A Shares held by the proposing transferor and shall be made by the proposing transferor by notice in writing to the company (a "**Pre-emption Transfer Notice**").
- 37.3 The Pre-emption Transfer Notice shall specify the number and class of shares offered (the "**Offered Shares**") and the name and address of the proposing transferee(s). The Pre-emption Transfer Notice may contain a provision that, unless all the Offered Shares are sold under this article, none shall be sold ("**Total Transfer Condition**") and that provision shall have effect. The Pre-emption Transfer Notice shall constitute the directors as the agent of the proposing transferor for the sale of the Offered Shares at the Sale Price. Upon receipt, the Company shall send the A Shareholders (except the proposing transferor) a copy of the Pre-emption Transfer Notice (or if appropriate, notify such shareholders that a Pre-emption Transfer Notice is deemed to have been given). Save for as set out in Article 37.4, a Pre-emption Transfer Notice may not be varied or revoked.
- 37.4 The Sale Price means the Market Price as at the date the Pre-emption Transfer Notice is given (for the avoidance of doubt, such Sale Price shall be calculated less any professional costs and expenses reasonably and properly incurred by the Company in relation to such transfer) as agreed between the transferor and the Board save that if agreement is not reached within 20 Business Days of the day on which the Pre-emption Transfer Notice is given, the Board shall, acting reasonably, determine the Market Price in its absolute discretion and such price shall be final and binding as the Sale Price. The proposing transferor may revoke the Pre-emption Transfer Notice by written notice to the Company within 5 Business Days of notification by the Board of its final determination of the Market Price.
- 37.5 As soon as practicable after the determination of the Sale Price (and provided the Pre-emption Transfer Notice has not been withdrawn in accordance with article 37.4 above), the directors shall give notice to all the A Shareholders (other than the proposing transferor) of the number and description of the Offered Shares, the Sale Price and whether or not the Offered Shares are subject to a Total Transfer Condition. The notice shall invite each of the A Shareholders to state in writing to the Company within 20 Business Days of such notice being given whether he is willing to purchase any of the Offered Shares, and if so the maximum number. The directors shall at the same time give a copy of the notice to the proposing transferor.
- 37.6 On the expiration of the 20 Business Day period the directors shall allocate the Offered Shares to or amongst the A Shareholders who have accepted the invitation ("**Pre-emption Purchasers**") and such allocation shall be made so far as practicable as follows:
- (a) on a pari passu basis pro rata to their existing shareholdings but so that the number allocated shall not exceed the maximum which such holders have expressed a willingness to purchase; and
  - (b) if the Pre-emption Transfer Notice contains a valid Total Transfer Condition, no allocation will be made unless all the Offered Shares are allocated.
- 37.7 On the allocation being made, the directors shall give details of the allocation in writing to the proposing transferor and each Pre-emption Purchaser and, on the 5th Business Day after such details are given, the Pre-emption Purchasers to whom the allocation has been made shall be bound to pay the Sale 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 Sale Price, to transfer the Offered Shares to the respective Pre-emption Purchasers to whom the allocation has been made.
- 37.8 If the proposing transferor after becoming bound to transfer any or all of the Offered Shares fails to do so, the Company may receive the Sale Price and the directors may appoint a

person (acting as agent for the transferor(s)) to execute instruments of transfer of the Offered Shares in favour of the Pre-emption Purchasers to whom the allocation has been made and shall (subject only to stamping of the transfers, if required) cause the names of those Pre-emption Purchasers to be entered in the register of members of the Company as the holders of the Offered Shares and shall hold the Sale Price on trust for the proposing transferor. The receipt of the Company shall be a good discharge to those Pre-emption 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.

37.9 If, following the expiry of the 20 Business Day period referred to in article 41.5, any of the Offered Shares have not been allocated under that article, the proposing transferor may at any time within a period of 3 months after the expiry of the 20 working day period transfer the Offered Shares not allocated to the Company (provided it is willing and has sufficient distributable reserves to buy back such shares).

37.10 For the avoidance of doubt, the proposing transferor shall not be entitled to transfer any Offered Shares not transferred to either the other A Shareholders or the Company pursuant to this article, but may serve a new Pre-emption Transfer Notice in respect of such shares after the expiry of six months from the date of the Pre-emption Transfer Notice last served by him.

### 38. Transfers of B Shares and C Shares

Save where the consent of the A Shareholder Majority is obtained in respect of any such transfer, transfers of B Shares and C Shares may only be made in accordance with articles 39 to 42 (inclusive).

### 39. Transfer of B Shares or C Shares by a Leaver

39.1 A Leaver shall be deemed to have offered (a **"Deemed Leaver Offer"**) all of his B Shares or C Shares (as the case may be) (the **"Leaver Shares"**) to the A Shareholders on the date on which he became a Leaver (the **"Leaver Date"**).

39.2 The Board shall, within 30 days of becoming aware of a Deemed Leaver Offer, serve a Transfer Request Notice on all of the A Shareholders stipulating the number of Leaver Shares subject to the Deemed Leaver Offer and the relevant Leaver Offer Price.

39.3 Each A Shareholder shall have 30 days from the date of the Transfer Request Notice to elect to issue a Transfer Notice to the Company stating the maximum number of Leaver Shares he wishes to purchase at the Leaver Offer Price.

39.4 If within the period of 30 days referred to in article 39.3 above, some or all of the A Shareholders have issued Transfer Notices expressing their willingness to purchase some or all of the Leaver Shares (such A Shareholders being **"Transferee Shareholders"**), the Board shall allocate such Leaver Shares among the Transferee Shareholders so far as may be possible pro rata to their existing shareholdings, subject to the limitation that no Transferee Shareholder shall be under any obligation to purchase more than the maximum number of Leaver Shares stated in his Transfer Notice. The Board shall, as soon as such allocation has been made, serve a notice (a **"Sale Notice"**) on the Leaver stipulating:

- (a) the names of the Transferee Shareholders;
- (b) the number of Leaver Shares to be transferred to each Transferee Shareholder (in each case, **"Sale Shares"**); and
- (c) the aggregate amount which each Transferee Shareholder shall be obliged to pay the Leaver for the Sale Shares allocated to him (being, in each case, the Leaver Offer Price multiplied by the number of Sale Shares so allocated and for the avoidance of doubt, such aggregate amount shall be calculated less the professional costs and expenses reasonably and properly incurred by the Company in relation to such transfer (the **"Transfer Price"**)).

- 39.5 Receipt of a Sale Notice by a Leaver shall oblige him to:
- (a) transfer the Sale Shares to the Transferee Shareholders in each case at the Leaver Offer Price per Sale Share; and
  - (b) execute one or more SPAs relating to the Sale Shares being sold.
- 39.6 If within the period of 30 days referred to in article 39.3 above no A Shareholder has issued a Transfer Notice expressing his willingness to purchase any Leaver Shares, then the Leaver Shares shall be deemed to be offered again to the A Shareholders on each 6 month anniversary of the Leaver Date and the provisions of this article 39 shall apply mutatis mutandis to such an offer. For the avoidance of doubt, the Leaver Offer Price applying to all subsequent offers shall remain unchanged.
- 39.7 Completion of a transfer of Leaver Shares pursuant to this article 39 shall be at the place and time specified by the Company when:
- (a) the proposing transferor shall deliver any and all share certificates (or a suitable indemnity in lieu thereof), a completed stock transfer form (or, where Leaver Shares are being transferred to more than one party, stock transfer forms) in respect of the Sale Shares and any other documents required by the Company including one or more SPAs pursuant to article 39.5 provided that, in the event that an SPA is not entered into by any transferor of B Shares or C Shares (as the case may be) hereunder, the terms of the pro-forma SPA in Schedule 4 to the Shareholders' Agreement shall be deemed incorporated into the terms of the relevant Transfer Request Notice, Transfer Notice, Sale Notice, stock transfer form and any other documentation effecting such transfer, and shall be contractually binding upon the relevant Leaver for the benefit of the relevant Transferee Shareholder; and
  - (b) subject to articles 39.9, 39.10 and 39.12, the relevant Transferee Shareholder shall satisfy the Transfer Price in respect of the Sale Shares which he is purchasing by way of a payment in cash.
- 39.8 The Leaver Offer Price, which the Leaver shall be obliged to accept for each B Share or C Share (as applicable) in connection with a Deemed Leaver Offer shall be:
- (a) where the Leaver is a Good Leaver:
    - (i) in the case of a B Shareholder:
      - (A) if the Leaver Date falls fewer than five years after the B Accrual Date, the price calculated by the Board in accordance with the B Shares Net Asset Formula multiplied by 0.7; or
      - (B) if the Leaver Date falls five or more years after the B Accrual Date, the price calculated by the Board in accordance with the B Shares Net Asset Formula; or
    - (ii) in the case of a C Shareholder:
      - (A) if the Leaver Date falls fewer than four years after the C Accrual Date, the price calculated by the Board in accordance with the C Shares Net Asset Formula multiplied by 0.7; or
      - (B) if the Leaver Date falls four or more years after the C Accrual Date, the price calculated by the Board in accordance with the C Shares Net Asset Formula; or
  - (b) where the Leaver is a Bad Leaver:

- (i) in the case of a B Shareholder:
  - (A) if the Leaver Date falls fewer than two years after the B Accrual Date, an aggregate of £10.00;
  - (B) if the Leaver Date falls two or more years but fewer than five years after the B Accrual Date, the price that the Leaver paid for the Leaver Shares; or
  - (C) if the Leaver Date falls five or more years after the B Accrual Date, the price calculated by the Board in accordance with the B Shares Net Asset Formula multiplied by 0.5.
- (ii) in the case of a C Shareholder:
  - (A) if the Leaver Date falls fewer than three years after the C Accrual Date, the C Shares Subscription Price; or
  - (B) if the Leaver Date falls three or more years after the C Accrual Date, the price calculated by the Board in accordance with the C Shares Net Asset Formula multiplied by 0.5.

39.9 In the event that the Leaver is a Good Leaver, payment by a Transferee Shareholder of the Transfer Price in respect the Sale Shares allocated to him pursuant to article 39.4 shall be split into four equal (or as close to equal as possible) cash instalments (each a **"Good Leaver Offer Price Instalment"**). One Good Leaver Offer Price Instalment shall become due and payable by the relevant Transferee Shareholder on each of:

- (a) the date of completion of the transfer of the relevant Sale Shares (the **"Good Leaver Completion Date"**);
- (b) the first anniversary of the Good Leaver Completion Date;
- (c) the second anniversary of the Good Leaver Completion Date; and
- (d) the third anniversary of the Good Leaver Completion Date.

39.10 In the event that a B Shareholder is a Bad Leaver and the Leaver Date falls five or more years after the B Accrual Date, payment by a Transferee Shareholder of the Transfer Price in respect of the Sale Shares allocated to him pursuant to article 39.4 shall be split into five equal (or as close to equal as possible) cash instalments (each a **"B Bad Leaver Offer Price Instalment"**). One B Bad Leaver Offer Price Instalment shall become due and payable by the relevant Transferee Shareholder on each of:

- (a) the date of completion of the transfer of the relevant Sale Shares (the **"B Bad Leaver Completion Date"**);
- (b) the first anniversary of the B Bad Leaver Completion Date;
- (c) the second anniversary of the B Bad Leaver Completion Date;
- (d) the third anniversary of the B Bad Leaver Completion Date; and
- (e) the fourth anniversary of the B Bad Leaver Completion Date.

39.11 In the event that a C Shareholder is a Bad Leaver, payment by a Transferee Shareholder of the Transfer Price in respect of the Sale Shares allocated to him pursuant to article 39.4 shall be split into three equal (or as close to equal as possible) cash instalments (each a **"C Bad Leaver Offer Price Instalment"**). One C Bad Leaver Offer Price Instalment shall become due and payable by the relevant Transferee Shareholder on each of:

- (a) the date of completion of the transfer of the relevant Sale Shares (the "**C Bad Leaver Completion Date**");
  - (b) the first anniversary of the C Bad Leaver Completion Date; and
  - (c) the second anniversary of the C Bad Leaver Completion Date.
- 39.12 Notwithstanding the provisions of this article 39, the A Shareholders shall have the right, in their absolute discretion, to waive the requirement for a Deemed Leaver Offer if, in their opinion, exceptional circumstances warrant the granting of such waiver.
- 39.13 Any B Shares or C Shares which become the subject of a Deemed Leaver Offer pursuant to this article 39 as a result of a B Shareholder or a C Shareholder (as the case may be) becoming a Bad Leaver shall, effective from the Leaver Date, cease to confer the right:
- (a) to be entitled to receive notice of or to attend or vote at any general meeting or on any written resolution of the Company or at any meeting or on any written resolution of the holders of any class of shares in the capital of the Company and such B Shares or C Shares (as applicable) shall not be counted in determining the total number of votes which may be cast at any such meeting or required for the purposes of a written resolution of any members or class of members or any consent under these articles or otherwise; and
  - (b) to participate in any dividend or other distribution of the profits of the Company,
- provided that such rights shall be restored immediately upon a transfer of such B Shares or C Shares (as the case may be) and pursuant to these articles.
40. **Drag along**
- 40.1 If an A Shareholder Majority (the "**Majority Sellers**"), wish to transfer all their interest in A Shares (the "**Majority Sellers' Shares**") to a bona fide purchaser or purchasers Acting in Concert (the "**Third Party Purchaser**") who has made an Approved Offer, the Majority Sellers shall have the option (the "**Exit Option**") to require:
- (a) all the other holders of A Shares; and
  - (b) any holders of any options or other rights to acquire or convert an interest into A Shares (which is fully and unconditionally exercisable) to exercise them,
- (together the "**Called Shareholders**") to sell and transfer all their A Shares, including those allotted pursuant to such exercise or conversion (the "Called Shares") to the Third Party Purchaser or as the Third Party Purchaser shall direct in accordance with the provisions of articles 40.2 to 40.8 below.
- 40.2 The Majority Sellers may exercise the Exit Option by giving a written notice to that effect (an "**Exit Notice**") at any time before the transfer of the Majority Sellers' Shares to the Third Party Purchaser. An Exit Notice shall specify that the Called Shareholders are required to transfer all their Called Shares pursuant to this article, the person to whom they are to be transferred, the consideration for which the Called Shares are to be transferred (calculated in accordance with this article) and the proposed date of transfer which shall be at least 5 Business Days after the date on which the Exit Notice is served.
- 40.3 Exit Notices shall be irrevocable but shall lapse if for any reason there is not a sale of the Majority Sellers' Shares by the Majority Sellers to the Third Party Purchaser within 30 Business Days after the date of service of the Exit Notice. The Majority Sellers shall be entitled to serve further Exit Notices following the lapse of any particular Exit Notice.

- 40.4 The Called Shares shall be acquired on the same terms and conditions (including time of payment and form of consideration) for which the Majority Sellers shall have agreed to sell provided that the Called Shareholders:
- (a) will receive cash or marketable securities as consideration for the transfer of their Called Shares; and
  - (b) will not be required to provide the Third Party Purchaser with any representations, warranties or indemnities (save as to title and capacity) or give any restrictive covenants or undertakings.
- 40.5 Completion of the sale of the Called Shares shall take place on the same date as the date proposed for completion of the sale of the Majority Sellers' Shares unless the relevant Called Shareholder and the Majority Sellers agree otherwise
- 40.6 Any restrictions in these articles relating to the transfer of Shares shall not arise on any transfer of Shares to a Third Party Purchaser (or as they may direct) pursuant to a sale in respect of which an Exit Notice has been duly served in accordance with article 40.2.
- 40.7 If any Called Shareholder fails to complete the sale of his Called Shares in accordance with this article 40, he shall be deemed to have irrevocably appointed any person nominated for the purpose by the Majority Sellers to be his agent and attorney to execute all necessary transfer(s), power(s) of attorney relating to the rights attached to his Called Shares and indemnities for missing share certificate(s) on his behalf and, against receipt by the Company of the purchase monies or any other consideration payable for the Called Shares (held on trust for the relevant Called Shareholder), to deliver such transfer(s), power(s) and indemnities to the Third Party Purchaser (or as he may direct). The Directors shall (subject only to stamping of the transfers, if required) immediately register the Third Party Purchaser (or as he may direct) as the holder of the relevant Called Shares. After the Third Party Purchaser (or his nominee) has been registered as the holder of the relevant Called Shares, the validity of such proceedings shall not be questioned by any person. It shall be no impediment to registration of shares under this article 40.7 that no share certificate has been produced.
- 40.8 Upon any person, following the issue of an Exit Notice which has not lapsed, exercising a pre-existing option to acquire A Shares, whether or not such person is registered as a member of the Company, an Exit Notice shall be deemed to have been served upon such person on the same terms as the previous Exit Notice who shall thereupon be bound to sell and transfer all such A Shares acquired by him to the Third Party Purchaser or as the Third Party Purchaser may direct and the provisions of this article 40 shall apply mutatis mutandis to such person save that completion of the sale of such A Shares shall take place immediately upon the Exit Notice being deemed served on such person where completion of the transfer of the Called Shares has already taken place.
41. **Transfer of B Shares or C Shares on acceptance of an Approved Offer**
- 41.1 If an Approved Offer is made by or on behalf of a Third Party Purchaser and the Majority Sellers wish to transfer the Majority Sellers' Shares to such Third Party Purchaser, then the Board shall notify all B Shareholders and all C Shareholders of:
- (a) the identity of the Third Party Purchaser;
  - (b) the Approved Offer Price; and
  - (c) the offer price for each B Share or each C Share.
- 41.2 The offer price for each B Share shall be an amount equal to:

$$\frac{D - B \text{ Shares Threshold} - T}{S}$$

where:

- (a) **D** is the Approved Offer Price;
- (b) **S** is the aggregate number of issued Shares which are the subject of the Approved Offer; and
- (c) **T** are the professional costs and expenses reasonably and properly incurred by the Company wholly and exclusively in respect of any sale of the B Shares in accordance with Articles 39 to 41.

41.3 The offer price for each C Share shall be the greater of:

- (a) an amount equal to the C Shares Price; or
- (b) an amount equal to:

$$\frac{D - C \text{ Shares Threshold} - T}{S}$$

where:

- (c) **D** is the Approved Offer Price;
- (d) **S** is the aggregate number of issued Shares which are the subject of the Approved Offer; and
- (e) **T** are the professional costs and expenses reasonably and properly incurred by the Company wholly and exclusively in respect of any sale of the C Shares in accordance with Articles 39 to 41.

41.4 Upon such notification and conditional only on acceptance of the Approved Offer by the Majority Sellers, each B Shareholder and C Shareholder shall:

- (a) be deemed to have accepted the Approved Offer in accordance with its terms and shall sell to the Third Party Purchaser the B Shares or C Shares held by him with full title guarantee and free of any Encumbrance; and
- (b) be obliged to deliver to the Third Party Purchaser or the Third Party Purchaser's nominee an executed transfer of the B Shares or C Shares held by him and the certificate(s) in respect of them (or a suitable indemnity in lieu thereof).

41.5 If any B Shareholder or C Shareholder fails to complete the sale of his B Shares or C Shares (as applicable) in accordance with this article 41, he shall be deemed to have irrevocably appointed any person nominated for the purpose by the Company to be his agent and attorney to execute all necessary transfer(s), power(s) of attorney relating to the rights attached to his B Shares or C Shares (as applicable) and indemnities for missing share certificate(s) on his behalf and, against receipt by the Company of the purchase monies or any other consideration payable for the B Shares or C Shares (as applicable) (held on trust for the relevant B Shareholder or C Shareholder (as the case may be)), to deliver such transfer(s), power(s) and indemnities to the Third Party Purchaser (or as he may direct). The Directors shall (subject only to stamping of the transfers, if required) immediately register the Third Party Purchaser (or as he may direct) as the holder of the relevant B Shares or C Shares (as applicable). After the Third Party Purchaser (or his nominee) has been registered as the holder of the relevant B Shares or C Shares (as applicable), the validity of such proceedings shall not be questioned by any person. It shall be no impediment to registration of such B Shares or C Shares under this article 41.5 that no share certificate has been produced.



42. **Takeover offer**

- 42.1 In the event of an Offer, Holdings grants to each B Shareholder and to each C Shareholder the right, conditional upon any approval or consent required by law, regulation or the City Code on Takeovers and Mergers, (including, if applicable, the approval of the shareholders of Holdings) and upon the Offer becoming unconditional, to require Holdings (for so long as it holds in excess of 50 per cent. of the A Shares) to purchase all of the B Shares or all of the C Shares held by the B Shareholder and the C Shareholder (as applicable) for a price calculated in accordance with the B Shares Net Asset Formula (in respect of the B Shares) or the C Shares Net Asset Formula (in respect of the C Shares).
- 42.2 Holdings shall give notice of the Offer to each B Shareholder and each C Shareholder as soon as reasonably practicable so that each of the B Shareholders and each of the C Shareholders can exercise the Option and will procure (so far as it is reasonably able) that the offeror makes it a term of the Offer that the offeror will guarantee the obligations of Holdings pursuant to this article 42.2.
- 42.3 Each B Shareholder and each C Shareholder may exercise his Option during the Option Period in respect of all (but not part) of the B Shares or the C Shares (as applicable) held by each shareholder at the commencement of the Option Period.
- 42.4 The Option shall be exercised by a B Shareholder or a C Shareholder serving a Notice on Holdings which shall be irrevocable and oblige the B Shareholder to transfer all of his B Shares or the C Shareholder to transfer all of his C Shares (as the case may be).
- 42.5 In the event that a B Shareholder or a C Shareholder fails to exercise the Option and serve a Notice within the Option Period, Holdings shall have the right to require him to do so within 7 days of the expiry of such Option Period (the "**Extended Option Period**") by serving a notice on him to that effect. If the B Shareholder or the C Shareholder fails to serve a Notice within the Extended Option Period, he shall be deemed to have done so on last day of the Extended Option Period.
- 42.6 If a Notice is so served (or deemed served pursuant to article 42.5) Holdings shall purchase the B Shares of the relevant B Shareholder and / or the C Shares of the relevant C Shareholder (as the case may be), at Holdings' election, either:
- (a) for cash;
  - (b) by the issue, fully paid, to the relevant B Shareholder of sufficient Holdings Shares (of such class as Holdings may determine) valued at the price of the Offer for it to satisfy the purchase price for the relevant B Shares;
  - (c) by the issue, fully paid, to the relevant C Shareholder of sufficient Holdings Shares (of such class as Holdings may determine) valued at the price of the Offer for it to satisfy the purchase price for the relevant C Shares; or
  - (d) a mixture of cash and Holdings Shares as per paragraph (b) or (c) (as applicable) above.
- 42.7 The Holdings Shares issued to either a B Shareholder or a C Shareholder in accordance with this article 42 shall rank pari passu in all respects with all other Holdings Shares of such class then in issue save in respect of any dividend then declared but unpaid.
- 42.8 Completion of the acquisition of a B Shareholder's B Shares or a C Shareholder's C Shares pursuant to this article 42.8 shall take place at the registered office of Holdings for the time being 7 days after the expiry of the Option Period or the Extended Option Period (as applicable) (or at such other time and place as Holdings may direct) when:
- (a) each B Shareholder who exercises the Option shall sell his B Shares to Holdings (or such other person as Holdings directs) and each C Shareholder who exercises the

Option shall sell his C Shares to Holdings (or such other person as Holdings directs) with full title guarantee free from any Encumbrance and with all rights attached or attaching to them at or after the date of the Notice;

- (b) each B Shareholder and C Shareholder who exercises the Option (including, for the avoidance of doubt, where he is deemed to have served a Notice pursuant to article 42.5) shall deliver a duly completed and executed stock transfer form in favour of Holdings (or such other person as Holdings directs) in respect of his B Shares or C Shares (as applicable) together with the relevant share certificate(s) (or a suitable indemnity in lieu thereof);
  - (c) Holdings shall allot the relevant number of Holdings Shares fully paid to the relevant B Shareholder or C Shareholder (as applicable) and/or shall pay the appropriate cash consideration; and
  - (d) the parties shall procure that a Board meeting is held at which the transfers of the B Shares to Holdings (or such other person as Holdings directs) or the transfers of the C Shares to Holdings (or such other person as Holdings directs) are approved (subject to them being appropriately stamped) and registered in the Company's books.
- 42.9 Any dispute as to the amount to be paid for either any B Shares held by a B Shareholder or any C Shares held by a C Shareholder, if appropriate, as to the number of Holdings Shares to be issued in payment for those B Shares or C Shares (as applicable) shall be referred to Holdings' auditors for the time being (or, if they are unable to act, a firm of international accountants appointed by the President of the Institute of Chartered Accountants in England and Wales) who shall act as experts and not arbitrators and whose decision shall be final and binding upon the parties.
43. **Further provisions as to the transfer of Shares**
- 43.1 Article 26(1) of the Model Articles is modified by the addition, at the end of that article, of the words:
- "and unless the share is fully paid, by and on behalf of the transferee".
- 43.2 The directors may, in their absolute discretion, refuse to register the transfer of a share, and if they do so, they shall, within 2 months after the date on which the transfer was lodged with the Company, send to the transferee notice of refusal together with reasons for the refusal. Any instrument of transfer which the directors refuse to register must (unless they suspect that the proposed transfer may be fraudulent) be returned to the transferee.
- Article 26(5) of the Model Articles is modified accordingly.
- 43.3 Save where otherwise approved in writing by the A Shareholder Majority, the B Shares and the C Shares shall only be transferred to the A Shareholders.
- 43.4 Whenever, as a result of a consolidation or division of shares, any shareholders are entitled to fractions of shares, the directors may:
- (a) sell the shares representing the fractions to any person (including (provided permitted by law) the Company) for the best price reasonably obtainable;
  - (b) authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
  - (c) distribute the net proceeds of sale in due proportion among those shareholders.
- 43.5 Whenever any shareholder's entitlement to a portion of sale amounts to less than a minimum figure determined by the directors, that shareholder's portion may be distributed to an

organisation which is a charity for the purposes of the law of England and Wales, Scotland or Northern Ireland.

- 43.6 The person to whom the shares are transferred is not obliged to ensure that any purchase money is received by the person entitled to the relevant fractions and nor shall such transferee's title to the shares be affected by any irregularity in or invalidity of the process leading to their sale.

**44. Transmission of shares**

- 44.1 A transmittee who produces such evidence of entitlement to shares as the directors may properly require:

- (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person; and
- (b) subject to the articles (including, without limitation, the provisions of article 44.2) and pending any transfer of the shares to another person, has the same rights as the holder had (and the rights in relation to the holder shall cease) and may give good discharge for dividends and other distributions in respect of the share.

Article 27(2) of the Model Articles is modified accordingly.

- 44.2 Save as provided in article 13.1 (*Methods of appointing directors*), transmittees do not have the right to attend or vote at a general meeting of the Company, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

Article 27(3) of the Model Articles is modified accordingly.

- 44.3 The directors may at any time give notice requiring a transmittee to elect either to be registered himself in respect of the share or to transfer the share to a person nominated by him and if such notice is not complied with within 60 days of such notice, the directors may, thereafter, withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.

**45. Transmittees bound by prior notices**

If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name or the name of any person nominated by the transmittee pursuant to article 44.1 (*Transmission of shares*) has been entered in the register of members.

Article 29 of the Model Articles is modified accordingly.

**Dividends and Other Distributions**

**46. Calculation of dividends**

- 46.1 Except as otherwise provided by the articles and by the rights attached to shares, all dividends must be:

- (a) declared and paid according to the amounts paid up on the shares on which the dividend is paid; and
- (b) apportioned and paid pro rata according to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.

46.2 If any share is issued on terms providing that it shall rank for dividend as from a particular date or be entitled to dividends declared after a particular date it shall rank for or be entitled to dividends accordingly.

46.3 For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of a call or otherwise paid up in advance of its overdue payment date.

Article 30(4) of the Model Articles shall be excluded from applying to the Company.

#### 47. **Payment of dividends and other distributions**

47.1 Each of articles 31(1)(a) to (d) of the Model Articles is modified by the deletion of the words "either" and "or as the directors may otherwise decide"

47.2 If:

(a) a share is subject to the Company's lien; and

(b) the directors are entitled to issue a lien enforcement notice in respect of it,

they may, instead of issuing a lien enforcement notice, deduct from any dividend or other sum payable in respect of the share any sum of money which is payable to the Company in respect of that share to the extent that they are entitled to require payment under a lien enforcement notice. Money so deducted must be used to pay any of the sums payable in respect of that share.

47.3 The Company must notify the distribution recipient in writing of:

(a) the fact and amount of any such deduction;

(b) any non-payment of a dividend or other sum payable in respect of a share resulting from any such deduction; and

(c) how the money deducted has been applied.

47.4 In these articles, "**the distribution recipient**" means, in respect of a share in respect of which a dividend or other sum is payable:

(a) the holder of the share; or

(b) if the share has two or more joint holders, whichever of them is named first in the register of members; or

(c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

### **Capitalisation of Profits**

#### 48. **Authority to capitalise and appropriation of capitalised sums**

48.1 A capitalised sum which was appropriated from profits available for distribution may be applied:

(a) in or towards paying up any amounts unpaid on existing shares held by the person(s) entitled; or

(b) in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.

Article 36(4) of the Model Articles is modified accordingly.

- 48.2 Subject to the articles, the directors may apply capitalised sums in accordance with article 48.1(a) and 48.1(b) partly in one way and partly in another.

Article 36(5)(a) of the Model Articles is modified accordingly.

### **Increased Borrowing Limit**

#### **49. Borrowing limit, interest rates and obligation to subscribe for additional Shares**

- 49.1 In the event that the Board determines, from time to time, that additional borrowings are required for the operation of the business of the Company in excess of the Standard Borrowing Limit or any previously agreed Enhanced Borrowing Limit (as agreed in accordance with the procedure set out in this article 49.1 and article 49.2) then it shall serve an Enhanced Borrowing Request on Holdings.
- 49.2 Upon receipt of an Enhanced Borrowing Request, Holdings may, in its absolute discretion, approve such Enhanced Borrowing Request by issuing to the Company an Enhanced Borrowing Approval signed by a duly authorised signatory of the Company. The Enhanced Borrowing Limit set out in such Enhanced Borrowing Approval shall be deemed effective (and shall supersede any previously agreed Enhanced Borrowing Limit) immediately upon the date of receipt by the Company of such Enhanced Borrowing Approval.
- 49.3 Both the B Shareholders and the C Shareholders shall use their reasonable endeavours to procure that the Company does not in aggregate borrow more than the Approved Borrowing Limit.
- 49.4 Subject to articles 49.5 to 49.7, if the Company exceeds the Approved Borrowing Limit for any 28 Business Days in any period of 90 days then, within 28 days of the expiry of such 90 day period, the A Shareholders shall subscribe for such number of additional A Shares, the B Shareholders shall subscribe for such number of additional B Shares, and the C Shareholders shall subscribe for such number of additional C Shares pro rata to their existing shareholdings, for cash at a subscription price of £1.00 per Share, as shall cause the amount of the issued paid up share capital (including the relevant share premium) of the Company to exceed the Average Excess Borrowing by 10 per cent.
- 49.5 Subject to article 49.7, if either any B Shareholder is unable to subscribe for the total number of B Shares as is required by article 49.4 or any C Shareholder is unable to subscribe for the total number of C Shares as is required by article 49.4 then, subject to article 49.6, the A Shareholders may subscribe for such number of additional A Shares as shall make up the deficit (such additional A Shares being the **"Deficit Shares"**).
- 49.6 The subscription of additional A Shares by the A Shareholders pursuant to 49.4 and 49.5 shall be pro rata (or as near as is possible) to their existing holdings of A Shares provided that, to the extent any of the A Shareholders (save for Holdings) is unable or unwilling to subscribe for such additional A Shares, Holdings shall subscribe for such number of additional A Shares as is required to make up any shortfall.
- 49.7 The A Shareholders shall only be permitted to subscribe for Deficit Shares to the extent that such a subscription does not result in:
- (a) the aggregate number of B Shares held by the B Shareholders at the relevant time accounting for less than 5 per cent. (by number) of the Shares then in issue; and
  - (b) the aggregate number of C Shares held by the C Shareholders at the relevant time accounting for less than 2.5 per cent. (by number) of the Shares then in issue.
- 49.8 The interest rate applicable to:

- (a) the amount of borrowings up to and including the Standard Borrowing Limit shall be calculated as set out in part C of Schedule 3 to the Shareholders' Agreement; and,
- (b) the Enhanced Borrowing Amount shall be calculated as set out in Part D of Schedule 3 to the Shareholders' Agreement.

## **Part 4**

### **Decision-making by Shareholders**

#### **Organisation of General Meetings**

#### **50. Notice of general meetings**

50.1 A general meeting of the Company (other than an adjourned meeting) shall be called by notice of at least 14 clear days (that is, excluding the date on which the notice is given and the date on which that 14 day period expires) but a general meeting may be called by shorter notice if it is so agreed by a majority in number of the shareholders having a right to attend and vote being a majority together holding not less than ninety per cent. in nominal value of the shares giving that right.

50.2 Every notice convening a general meeting shall specify:

- (a) the place, the date and the time of the meeting;
- (b) the general nature of the business to be dealt with at the meeting;
- (c) if the meeting is convened to consider a special resolution, the text of the resolution and intention to propose the resolution as a special resolution; and
- (d) with reasonable prominence, that a member is entitled to appoint another person (who does not have to be a member) as his proxy to exercise all or any rights of his to attend, speak and vote at the meeting and that a member may appoint more than one proxy in relation to the meeting (provided that each proxy is appointed to exercise the rights attached to a different share or shares held by him) and shall also specify any more extensive rights (if any) conferred by these articles to appoint more than one proxy.

50.3 The notice shall be given to the members (other than any who under the provisions of these articles or of any restrictions imposed on any shares are not entitled to receive notice from the Company), to the directors and to the auditors and if more than one for the time being, to each of them.

50.4 Subject to the provisions of these articles, notice of a general meeting of the Company may be given:

- (a) in hard copy form;
- (b) in electronic form; or
- (c) by means of a website,

or partly by one such means and partly by another and the provisions of article 61 (*Company communications*) shall apply accordingly.

50.5 The accidental failure to give notice of general meeting or, in cases where it is intended that it be sent out with the notice, an instrument of proxy, or to give notice of a resolution intended to be moved at a general meeting to, or the non-receipt of any of them by, any person or persons entitled to receive the same shall not invalidate the proceedings at that meeting and shall be

disregarded for the purpose of determining whether the notice of the meeting, instrument of proxy or resolution were duly given.

**51. Quorum for general meetings**

The quorum for a general meeting shall be an A Shareholder or its proxy or duly authorised representative.

**52. Chairing general meetings**

Article 39(2) of the Model Articles is modified by the addition, after the words "director or shareholder", of the words:

"(which may include any proxy appointed by a shareholder)".

**53. Adjournment**

- 53.1 If a quorum is not present at any adjourned meeting within half an hour from the time appointed for that meeting (or if, during the meeting, a quorum ceases to be present), the meeting shall be dissolved.

**Voting at General Meetings**

**54. Voting: general**

No shareholder shall, unless the directors otherwise decide, be entitled to vote (either in person or by proxy) at a general meeting, at any adjournment of it or on any poll called at or in relation to it in respect of any share held by him or to exercise any right as a shareholder unless all calls or other sums presently payable by him in respect of that share in the Company have been paid to the Company.

**55. Errors and disputes**

- 55.1 Article 43(2) of the Model Articles is modified by the addition, at the end of that article, of the words:

"and conclusive".

**56. Demanding a poll and procedure on poll**

- 56.1 A poll may be demanded by:

- (a) the chairman of the meeting;
- (b) the directors;
- (c) two or more persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution; or
- (d) by a person or persons holding shares in the Company conferring a right to vote on the resolution, being shares on which an aggregate sum has been paid up to not less than one tenth of the total sum paid up on all the shares conferring that right.

Article 44(2) of the Model Articles is modified accordingly.

- 56.2 A demand for a poll may be withdrawn if:

- (a) the poll has not yet been taken; and

(b) the chairman of the meeting consents to the withdrawal,

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.

Article 44(3) of the Model Articles is modified accordingly.

**57. Delivery of proxy notices**

57.1 The appointment of a proxy and the power of attorney or other authority (if any) under which it is signed (or a copy of such authority certified notarially or in some other way approved by the directors) shall be sent or supplied in hard copy form, or (subject to any conditions and limitations which the directors may specify) in electronic form:

- (a) to the registered office of the Company; or
- (b) to such other address (including electronic address) as is specified in the notice convening the meeting or in any instrument of proxy or any invitation to appoint a proxy sent or supplied by the Company in relation to the meeting; or
- (c) as the directors shall otherwise direct,

to be received before the time for the holding of the meeting or adjourned meeting to which it relates or, in the case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the poll.

57.2 Any instrument of proxy not so sent or supplied or received shall be invalid unless the directors at any time prior to the meeting or the chairman of the meeting at the meeting, in their or his absolute discretion, accept as valid an instrument of proxy where there has not been compliance with the provisions of this article and such proxy shall thereupon be valid notwithstanding such default.

57.3 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.

57.4 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

57.5 Article 46 of the Model Articles is modified accordingly.

**58. Revocation of proxy notices**

58.1 The validity of:

- (a) a vote given or poll demanded in accordance with the terms of an appointment of a proxy; or
- (b) anything done by a proxy acting as duly appointed chairman of a meeting; or
- (c) any decision determining whether a proxy counts in a quorum at a meeting,

shall not be affected notwithstanding the death or mental disorder of the appointor or the revocation of the appointment of the proxy (or of the authority under which the appointment of the proxy was executed) or the transfer of the share in respect of which the appointment of the proxy is given, unless notice in writing of such death, mental disorder, revocation or transfer shall have been:



- (a) sent or supplied to the Company or any other person as the Company may require in the notice of the meeting, any instrument of proxy sent out by the Company in relation to the meeting or in any invitation to appoint a proxy issued by the Company in relation to the meeting, in any manner permitted for the sending or supplying of appointments of proxy pursuant to the articles; and
- (b) received at the registered office of the Company (or such other address (including electronic address) as has been designated for the sending or supplying of appointments of proxy), before the time for the holding of the meeting or adjourned meeting to which it relates or, in the case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the poll.

**59. Votes of proxies**

- 59.1 The Company shall be under no obligation to ensure or otherwise verify that any vote(s) cast by a proxy are done so in accordance with any such instructions given by the member by whom such proxy is appointed. In the event that a vote cast by such proxy is not done so in accordance with the instructions of the member by whom such proxy is appointed, such vote shall not be deemed to be invalid.
- 59.2 On a vote on a resolution on a show of hands, where a proxy is appointed by more than one member (provided that, where some only of those members by whom the proxy is appointed instruct the proxy to vote in a particular way, those members all instruct such proxy to vote in the same way on a resolution (either "for" or "against")) such proxy shall be entitled to cast a second vote the other way in relation to any discretionary vote(s) given to him by other members by whom such proxy is appointed.

**Part 5**

**Administrative Arrangements**

**60. Exercise of members' rights**

No shareholder in the Company shall be entitled to nominate another person or persons to enjoy or exercise all or any specified rights of the shareholder in relation to the Company pursuant to Section 145, CA2006. Accordingly, the Company shall not be obliged to give effect to any purported nomination notice received by it.

**61. Company communications**

- 61.1 Subject to the provisions of the Acts (and save as otherwise provided in the articles), any document or information required or authorised to be sent or supplied by the Company to any member or any other person (including a director) pursuant to these articles, the Companies Acts or any other rules or regulations to which the Company may be subject, may be sent or supplied in hard copy form, in electronic form, by means of a website or in any other way in which documents or information may be sent or supplied by the Company pursuant to the Companies Acts.
- 61.2 Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked in writing to be sent or supplied with such notices or documents for the time being.
- 61.3 The provisions of the CA2006 which apply to sending or supplying a document or information required or authorised to be sent or supplied by the Companies Acts by making it available on a website shall, mutatis mutandis, apply to the sending or supplying of any document or information required or authorised to be sent by these articles or any other rules or regulations to which the Company may be subject, by making it available on a website.

- 61.4 The Company may send or supply any document or information to a member or any other person (including a director) pursuant to these articles, the Companies Acts or any other rules or regulations to which the Company may be subject, either personally, or by post in a prepaid envelope addressed to the member (or such other person) at his registered address or at his address for service, or by leaving it at that address or any other address for the time being notified to the Company by the member (or such other person) for the purpose, or by sending or supplying it using electronic means to an electronic address for the time being notified to the Company by the member (or such other person) for the purpose, or by any other means authorised in writing by the member (or such other person) concerned.
- 61.5 A shareholder whose registered address is not within the United Kingdom and who gives the Company an address within the United Kingdom to which documents or information may be sent or supplied to him or gives an electronic address to which documents or information may be sent or supplied using electronic means, shall be entitled to have documents or information sent or supplied to him at that address, but otherwise no such shareholder shall be entitled to receive any document or information from the Company.
- 61.6 In the case of joint holders of a share, if the Company sends or supplies any document or information to one of the joint holders, it shall be deemed to have properly sent or supplied such document or information to all the joint holders.
- 61.7 If, on at least two consecutive occasions, the Company has attempted to send any document or information by electronic means to an address specified (or deemed specified) for the purpose and a delivery failure (or other similar) notification has been received by the Company, the Company thereafter shall send documents or information in hard copy form or electronic form (but not by electronic means) to such member at his registered address or address for service within the United Kingdom (whether by hand, by post or by leaving it or them at such address), in which case the provisions of article 61.8 shall apply.
- 61.8 If on three consecutive occasions documents or information have been sent or supplied to any shareholder at his registered address or address for the service of such documents or information in the United Kingdom but have been returned undelivered, such shareholder shall not thereafter be entitled to receive any documents or information from the Company until he shall have communicated with the Company and supplied in writing a new registered address or address within the United Kingdom for the service of documents or information or an electronic address to which documents or information may be sent or supplied using electronic means.
- 61.9 Any shareholder present, in person or by proxy at any meeting of the Company or of the holders of any class of shares of the Company, shall be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was called.
- 61.10 Save as provided otherwise in these articles, any document or information addressed to a shareholder (or other person to whom such document or information is required or authorised to be sent pursuant to these articles, the Companies Acts or otherwise) at his registered address or address for service (in the case of a shareholder, in the United Kingdom) or electronic address, as the case may be, shall:
- (a) if hand delivered or left at a registered address or other address for service (in the case of a shareholder in the United Kingdom), be deemed to have been served or delivered on the day on which it was so delivered or left;
  - (b) if sent or supplied by post (whether in hard copy form or in electronic form), be deemed to have been received at the expiration of 24 hours after the envelope was posted;
  - (c) if sent or supplied by electronic means (other than by means of website), be deemed to have been received (if sent or supplied between the hours of 9 a.m. and 5 p.m. on a working day) at the time it was sent, or (if sent or supplied at any other time) at 9 a.m. on the next following working day; and

- (d) if sent or supplied by means of a website, be deemed to have been received when the material was first made available on the website or, if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website.

- 61.11 In calculating a period of hours for the purpose of article 61.10, account shall be taken of any part of a day that is not a working day.
- 61.12 A director may agree with the Company that documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than those set out in article 61.10.
- 61.13 Subject to article 61.9, in proving such service or delivery it shall be sufficient to prove that the envelope containing the document or information was properly addressed and put into the post in a prepaid envelope or, in the case of a document or information sent or supplied by electronic means, that it was sent or supplied in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators entitled "Electronic Communications with Shareholders 2007" (as such guidance is amended or updated from time to time).
- 61.14 The Company shall not be held responsible for any failure in transmission beyond its reasonable control and the provisions of article 61.9 to article 61.13 (inclusive) shall apply regardless of any document or information being returned undelivered and regardless of any delivery failure notification or "out of office" or other similar response and any such "out of office" or other similar response shall not be considered to be a delivery failure.

## **62. Company seals**

Article 49 of the Model Articles is modified by the addition, after the word "directors", of the words:

"or a committee of the directors".

## **Directors' Indemnity, Funds and Insurance**

## **63. Indemnity and Funds**

- 63.1 Subject to article 63.2 (but otherwise to the fullest extent permitted by law) and without prejudice to any indemnity to which he may otherwise be entitled:
  - (a) a relevant director, secretary or other officer (other than any person engaged as auditor) of the Company or an associated company may, at the discretion of the directors, be indemnified out of the Company's assets against all or any part of any costs, charges, losses, expenses and liabilities incurred by that director, secretary or other officer:
    - (i) in the actual or purported exercise of his powers in relation to the affairs of the Company or associated company; and
    - (ii) in connection with the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme; and
  - (b) a relevant director, secretary or other officer (other than any person engaged as auditor) of the Company or any holding company may, at the discretion of the directors, be provided with funds to meet any expenditure incurred or to be incurred by him as provided in Section 205 and/or Section 206, CA2006 (or enable him to avoid incurring any such expenditure).
- 63.2 This article does not authorise any indemnity or provision of funds which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

**64. Insurance**

- 64.1 Subject to the provisions of the CA2006, the directors may in their absolute discretion decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant director secretary or other officer (other than any person engaged as auditor) of the Company or associated company in respect of all or any part of any relevant loss.