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*Pharmacy2U Limited AGM minutes 28\_11\_05*

**Pharmacy2U Ltd.**

*delivering health*

MINUTES of the ANNUAL GENERAL MEETING of Pharmacy2U Limited ["the Company"] held at 1 Hawthorn Park, Coal Road, Leeds on Monday 28 November 2005 at 11a.m.

Hawthorn Park  
Coal Road  
Leeds  
LS14 1PQ

**Present**

Dr Keith McCullagh (in the chair)  
Daniel Lee  
Julian Harrison  
Robert Leeming [representing EPIC et al]  
Sean Riddell [representing EMIS]  
Barrie Haigh [representing OnMedica]

Office: 0113 265 0222  
Fax: 0113 201 8100  
Order Line: 0870 787 6220

**In Attendance**

David Downham  
Naila Dad

**The chairman declared that a quorum was present.**

The Company's accounts and reports of the directors and auditors for the year ended 31 March 2005 were presented.

**Ordinary resolutions**

It was resolved:

**THAT** PricewaterhouseCoopers LLP be re-appointed auditors of the Company until the next general meeting at which accounts are laid before the Company and that their remuneration be fixed by the directors.

**THAT** the appointment to the Board of Directors of Sean Riddell is confirmed.

**Special resolutions**

It was resolved:

**THAT** 948,580 issued Ordinary Shares of 10 pence each in the capital of the Company held by Egton Medical Information Systems Limited on the date of this Resolution be redesignated as 948,580 Preferred Ordinary Shares of 10 pence each having the rights set out in the new Articles of Association of the Company.

**THAT** the regulations attached to this resolution be adopted as the Articles of Association of the Company to the exclusion of all other regulations, subject to written consent being received from Calyon.

By order of the board

Secretary



No. 03802593

**THE COMPANIES ACT 1985 (AS AMENDED)  
A PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION  
OF  
PHARMACY 2U LIMITED  
(adopted by Special Resolution dated 28 November 2005)**

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**Incorporated in England and Wales  
on 8 July 1999**

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**Pinsent Masons**

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## ARTICLES OF ASSOCIATION

of

## PHARMACY 2U LIMITED

(Adopted by Special Resolution dated 28 November 2005)

### PART 1

#### INTERPRETATION

#### 1. INTERPRETATION

##### 1.1 Exclusion of Table A

No regulations set out in any statute, or in any statutory instrument or other subordinate legislation made under any statute, concerning companies shall apply as the regulations or articles of the company.

##### 1.2 Definitions

In these Articles unless the context otherwise requires:

1.2.1 references to a **"person"** shall be construed as to include any individual, firm, joint venture, association or partnership (whether or not having separate legal personality):

**"Affiliate"** means, in relation to any person, any other person which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, that first person. As used in this definition, "control" (including, with correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise) and a person which is the general partner of a limited partnership shall be deemed to control that limited partnership

**"these Articles"** means these articles of association as altered from time to time and the expression **"this Article"** shall be construed accordingly

**"Associate"** (a) means, in relation to an individual:

- (i) that individual's spouse and children (together **"the individual's family"**);
- (ii) the trustees (acting as such) of any trust of which the individual or any of the individual's family is a beneficiary or discretionary object (other than a trust which is either (a) an occupational pension scheme (as defined in Section 207 of the Financial Services Act 1986) or (b) an employees' share scheme (as defined in section 743 of the Companies Act 1985),

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which does not, in either case, have the effect of conferring benefits on persons all or most of whom are themselves Associates);

(iii) any company in whose equity shares the individual and/or members of the individual's family (taken together) are directly or indirectly interested (or have a conditional or contingent entitlement to become interested) so that they are (or would on the fulfilment of the condition or the occurrence of the contingency be) able:

- to exercise or control the exercise of 50% or more of the votes able to be cast at general meetings on all, or substantially all, matters; or
- to appoint or remove directors holding a majority of voting rights at board meetings on all, or substantially all, matters; and

(b) means, in relation to a company:

(i) any other company which is its subsidiary undertaking or parent undertaking or fellow subsidiary undertaking of the parent undertaking (as those expressions are defined in section 258 of the Companies Act 1985);

(ii) any company whose directors are accustomed to act in accordance with its directions or instructions; and

(iii) any company in the capital of which it, and any other company under (i) or (ii) above taken together, is (or would on the fulfilment of a condition or the occurrence of a contingency be) interested in the manner described in paragraph (a)(iii) above

**"the auditors"** means the auditors from time to time of the company or, in the case of joint auditors, any one of them

**"the board or Board"** means the board of directors from time to time of the company or the directors present at a meeting of the directors at which a quorum is present

**"Business Day"** means a day (other than a Saturday or a Sunday) on which banks are open for business (other than solely for trading and settlement in euro) in London

**"Calyon"** means Calyon of Broadwalk House, 5 Appold Street, London, EC2A 2DD

**"Calyon Director"** means a non-executive director appointed by Calyon pursuant to Article 6.5.1

**"Calyon Group"** means Calyon and its subsidiaries from time to time

**"Calyon"** has the meaning given to it in Article 4.1.1

## **Representative"**

<b>"clear days"</b>	in relation to the period of a notice means that period excluding the day when the notice is served or deemed to be served and the day for which it is given or on which it is to take effect
<b>"the Companies Acts"</b>	means every statute (including any orders, regulations or other subordinate legislation made under it) from time to time in force concerning companies in so far as it applies to the company
<b>"Compulsory Transfer Notice"</b>	has the meaning given to it in Article 17.3
<b>"Compulsory Transfer Price"</b>	has the meaning given to it in Article 17.4
<b>"Compulsory Transfer Shares"</b>	has the meaning given to it in Article 17.3
<b>"Conversion Notice"</b>	has the meaning given to it in Article 2.6.1
<b>"Conversion Time"</b>	has the meaning given to it in Article 2.6.1
<b>"Converting Shares"</b>	has the meaning given to it in Article 2.6.1
<b>"EMIS"</b>	means Egton Medical Information Systems Limited (registered number 2117205) whose registered office is c/o Baker Tilly, 2 Whitehall Quay, Leeds LS1 4HG
<b>"EMIS Director"</b>	means a non-executive director appointed by EMIS pursuant to Article 6.14.1
<b>"EMIS Group"</b>	means EMIS and its subsidiaries from time to time
<b>"EMIS Representative"</b>	has the meaning given to it in Article 4B.1.1
<b>"EPIC"</b>	means The Equity Partnership Investment Company Plc (Isle of Man incorporation number 103447C) of PO Box 174 St James's Chambers, Athol Street, Douglas, Isle of Man IM99 1PP
<b>"EPIC Director"</b>	means a non-executive director appointed by EPIC pursuant to Article 6.13.1
<b>"EPIC Group"</b>	means EPIC and its subsidiaries from time to time
<b>"EPIC Representative"</b>	has the meaning given to it in Article 4A.1.1
<b>"Executive Director"</b>	has the meaning given to it in Article 6.12
<b>"Exempt Leaver"</b>	<p>means any Leaver who ceases to be a director or an employee of the Group by reason of his death or upon retirement at the Group's normal retirement age (or, if the Group does not have a normal retirement age, at the age of 60 years) or earlier retirement through ill-health or permanent incapacity or dismissal through ill-health in accordance with the terms of his contract of employment or as a result of his resignation:</p> <p>(i) following a request for his resignation by or on behalf of OnMedica, Calyon, EPIC or EMIS or a majority of the</p>

Directors other than the Leaver; or

- (ii) as a result of a fundamental conflict or disagreement or a series of material conflicts or disagreements with OnMedica, Calyon, EPIC or EMIS or a majority of the Directors other than the Leaver about the management or strategy of the Group; or
- (iii) as a result of constructive dismissal

**"Expert"**

means a Queens Counsel appointed by the Leaver and the company in agreement, or in absence of agreement within 5 Business Days after the relevant dismissal, an appointment of equal standing by the President of the Law Society of England and Wales

**"Fair Value"**

means, in relation to any share in a company as at any date, a price per share determined by reference to the market value of the total issued share capital of that company on that date and the number of and rights attached to the shares of each class in that company then in issue (without applying any discount or premium because of the size of a shareholding and without placing a higher value on the Preferred Ordinary Shares than the Ordinary Shares) and the "market value" of the total issued share capital of a company shall be determined on the basis of a sale between a willing seller and a willing buyer of the whole of the issued share capital of that company and that the company is being sold as a going concern

**"Five Per Cent Investment"**

means in relation to OnMedica, Calyon, EPIC, EMIS those members of the OnMedica Group, the Calyon Group, the EPIC Group or the EMIS Group or in relation to KM, KM and those Related Shareholders holding shares in aggregate carrying five per cent. of votes capable of being cast at a general meeting of the company

**"Founder"**

means Daniel Lee

**"Founder Director"**

means the director appointed by Daniel Lee pursuant to Article 6.6.1

**"Good Leaver"**

means any Leaver who is not an Exempt Leaver or a Very Bad Leaver

**"Group"**

means the company and its subsidiaries from time to time

**"Group company"**

means a member of the Group

**"the holder"**

in relation to any shares means the member whose name is entered in the register as the holder of those shares

**"holding company"**

has the meaning given in section 736 of the Companies Act 1985

**"Indirect Disposal"**

means, in relation to a Shareholder, that a person acquires direct or indirect control of that Shareholder, unless:

- (i) the person who acquires such control is a person to whom that Shareholder would have been entitled to transfer Shares pursuant to the Permitted Transfer Provisions; or
- (ii) the Fair Value of all the shares in the Shareholder is more than twice the Fair Value of the Shares held by that Shareholder (or, in the case of an acquisition of indirect control by means of an acquisition of direct control over a holding company of that Shareholder, the Fair Value of all the

shares in that holding company is more than twice the Fair Value of the Shares held by that holding company and its subsidiaries) (such Fair Values to be as at the date on which such control was acquired and, in the absence of agreement between OnMedica and the Shareholder which has potentially suffered the Indirect Disposal, as certified in a reasoned certificate by the Valuer acting as expert and not as arbitrator whose decision shall be final and binding and whose fees shall be borne by the company or as otherwise determined by the Valuer),

and "**control**" means, in relation to a company, the ability of a person to ensure that the activities and business of that company are conducted in accordance with the wishes of that person and a person shall be deemed to have control of a company if that person possesses or is entitled to acquire the majority of the issued share capital or the voting rights in that company or the right to receive the majority of the income of that company on any distribution by it of all of its income or the majority of its assets on a winding up

<b>"Initial Representative"</b>	<b>Calyon</b>	means Calyon
<b>"Initial Representative"</b>	<b>OnMedica</b>	means OnMedica Group plc
<b>"IPO"</b>		means the admission to dealings on any recognised investment exchange (as defined in Section 207 of the Financial Services Act 1986) of any part of the share capital of the company
<b>"KM"</b>		means Keith McCullagh of Cuddington Mill, Bridgeway, Cuddington, Bucks HP18 0BP
<b>"KM Director"</b>		means a non-executive director appointed by KM pursuant to Article 6.15.1
<b>"KM Representative"</b>		has the meaning given to it in Article 4C.1.1
<b>"Leaver"</b>		has the meaning given to it in Article 17.2.1
<b>"member"</b>		means a member of the company
<b>"Minimum Condition"</b>	<b>Transfer</b>	has the meaning given in the Transfer Pre-emption Provisions
<b>"New Share Pre-emption Provisions"</b>		means the provisions of Article 17.11
<b>"Offer"</b>		has the meaning given in the Transfer Pre-emption Provisions
<b>"Offeror"</b>		has the meaning given in the Transfer Pre-emption Provisions
<b>"Offered Shares"</b>		has the meaning given in the Transfer Pre-emption Provisions
<b>"Offer Period"</b>		has the meaning given in the Transfer Pre-emption Provisions
<b>"Offer Price"</b>		has the meaning given in the Transfer Pre-emption Provisions
<b>"Offer Terms"</b>		has the meaning given in the Transfer Pre-emption Provisions

<b>"the office"</b>	means the registered office from time to time of the company
<b>"OnMedica"</b>	OnMedica Group plc
<b>"OnMedica Director"</b>	means the non-executive director appointed by OnMedica pursuant to Article 6.4.1
<b>"OnMedica Group"</b>	means OnMedica Group PLC and its subsidiaries from time to time excluding companies designated by OnMedica from time to time by written notice to the company as "Partner Companies"
<b>"OnMedica Representative"</b>	has the meaning given to it in Article 3.1.1
<b>"Ordinary Shares"</b>	means the ordinary shares of £0.10 each in the capital of the company
<b>"Option Pool"</b>	means 220,000 unissued Ordinary Shares representing approximately 5 per cent. of the fully diluted equity share capital of the company
<b>"Original Holder"</b>	means in relation to any Affiliate Transferee : the Shareholder who made the transfer of the relevant Shares to the Affiliate Transferee pursuant to Article 17.13 or, in the case of a series of such transfers between Affiliate Transferees, the Shareholder who made the initial transfer of the relevant Shares to a Affiliate Transferee, and the relevant Shares means the Shares held by the Affiliate Transferee or any Shares from which those Shares are derived or by virtue of which those Shares were acquired
<b>"paid up"</b>	means paid up or credited as paid up
<b>"Permitted Provisions"</b>	<b>Transfer</b> means the provisions Articles 17.12 – 17.17
<b>"person entitled by transmission"</b>	means a person whose entitlement to a share in consequence of the death or bankruptcy of a member or of any other event giving rise to its transmission by operation of law has been noted in the register
<b>"Preferred Shares"</b>	<b>Ordinary</b> means the preferred ordinary shares of £0.10 each in the capital of the company
<b>"the register"</b>	means the register of members of the company
<b>"Reasonable Endeavours"</b>	means a requirement to do all that can reasonably and lawfully be done without incurring material cost, the materiality to be measured by reference to the circumstances of the payer (and judicial interpretation imposing a lesser or greater standard shall not apply)
<b>"Related Shareholder"</b>	means, in relation to an individual, each member, not being a director or employee of the Group, to whom Shares formerly held by that individual have been transferred pursuant to Article 17.2 or who is an Associate of that individual
<b>"seal"</b>	means any common or official seal that the company may be permitted to have under the Companies Acts
<b>"the secretary"</b>	means the secretary, or (if there are joint secretaries) any one of the joint secretaries, of the company and includes an assistant or deputy secretary and any person appointed by the board to perform any of the duties of the secretary

<b>"Shareholders"</b>	means the registered owners of the Ordinary Shares and/or the Preferred Ordinary Shares
<b>"Shares"</b>	means all of the issued and unissued shares of the company of whatever class from time to time
<b>"Share Schemes"</b>	<b>Option</b> means any employee share scheme adopted by the company and approved by OnMedica and Calyon as a share option scheme for the purposes of these Articles
<b>"Successor"</b>	means, in relation to any person, an entity in whatever form that succeeds to all or substantially all of its assets and business
<b>"Third Party"</b>	means, in relation to a selling shareholder, any person other than a person to whom that selling shareholder would be permitted to transfer Shares under the Permitted Transfer Provisions
<b>"Third Party Transfer Provisions"</b>	means the provisions of Article 17.24
<b>"Transfer Completion Provisions"</b>	means the provisions of Articles 17.2.6
<b>"Transfer Notice"</b>	has the meaning give in the Transfer Pre-emption Provisions
<b>"Transfer Pre-emption Provisions"</b>	means the provisions set out in Articles 17.18 – 17.25
<b>"Trigger Event"</b>	has the meaning given to it by Article 17.2
<b>"United Kingdom"</b>	means Great Britain and Northern Ireland
<b>"Valuer"</b>	means, in relation to any valuation, a leading Chartered Accountant agreed upon by OnMedica, Calyon and the Board for the purposes of that valuation or, in default of agreement within five Business Days of one of them seeking the appointment of a Valuer, selected for the purpose of that valuation by the president or Chartered Institute of Accountants
<b>"Very Bad Leaver"</b>	means any Leaver, other than an Exempt Leaver, who ceases to be a director or employee of the Group as a result of his:- <ul style="list-style-type: none"> <li>(i) having committed any act of fraud or dishonesty in relation to the Group's business (including, without limitation, theft or attempted theft of property, acceptance of bribes or failure to declare personal gifts); and</li> <li>(ii) being summarily dismissed with due cause in accordance with his service agreement as determined by an Expert whose determination shall be made within 30 days of such dismissal and whose decision shall be final and binding on the parties</li> </ul>
1.2.2	references to a document being executed include references to its being executed under hand or under seal or by any other method;
1.2.3	references to writing include references to any method of representing or reproducing words in a legible and non-transitory form;

1.2.4 words or expressions to which a particular meaning is given by the Companies Acts in force when these Articles or any part of these Articles are adopted bear (if not inconsistent with the subject matter or context) the same meaning in these Articles or that part (as the case may be) save that the word "**company**" shall include any body corporate; and

1.2.5 references to a meeting shall not be taken as requiring more than one person to be present if any quorum requirement can be satisfied by one person.

1.3 Headings are included only for convenience and shall not affect meaning.

**PART 2**  
**SHARE RIGHTS**

**2. SHARE RIGHTS**

**2.1 Authorised Share Capital**

The authorised share capital of the company is £5,000,000 divided into 44,939,733 Ordinary Shares of £0.10 each and 5,060,267 Preferred Ordinary Shares of £0.10 each.

**2.2 General**

Subject to the provisions of the Companies Acts and to any rights attached to existing shares, any share may be issued with or have attached to it such rights and restrictions as the company may by ordinary resolution decide or, if no such resolution has been passed or so far as the resolution does not make specific provision, as the board may decide.

**2.3 The Shares**

The special rights and restrictions attached to the Ordinary Shares and the Preferred Ordinary Shares are set out in Articles 2.4 to 2.7.

**2.4 Income**

The Preferred Ordinary Shares and the Ordinary Shares shall rank *pari passu* with respect to distribution of profits.

**2.5 Capital**

On a winding up, the assets of the company available to shareholders shall be applied:

2.5.1 amongst the holders of the Preferred Ordinary Shares and the Ordinary Shares *pari passu* PROVIDED THAT such distribution results in the holders of the Preferred Ordinary Shares receiving a sum not less than the aggregate subscription price (or in the case of EMIS, the purchase price, being the price per share at which it purchased its shares) of the Preferred Ordinary Shares (inclusive of any premium); or

2.5.2 if the proviso in paragraph 2.5.1 above is not satisfied, shall be applied in the following order of priority:

- (a) first in paying to each holder of Preferred Ordinary Shares an amount equal to the aggregate subscription price (or in the case of EMIS, the purchase price, being the price per share at which it purchased its shares) of the Preferred Ordinary Shares held by him (inclusive of any premium);
- (b) secondly, in paying to each holder of the Ordinary Shares an amount equal to the aggregate subscription price (or in the case of EMIS, the purchase price, being the price per share at which it purchased its shares) of the Ordinary Shares held by him (inclusive of any premium); and
- (c) thirdly, in dividing the balance *pari passu* among the holders of the Preferred Ordinary Shares and Ordinary Shares.

**2.6 Conversion of Preferred Ordinary Shares**

2.6.1 Pursuant to the authority of the special resolution pursuant to which these Articles were adopted:

- (a) each holder of Preferred Ordinary Shares may at any time and from time to time, by delivering to the office a written notice (a "**Conversion Notice**"), convert into Ordinary Shares the number of Preferred Ordinary Shares stated in the Conversion Notice, in which case the "**Converting Shares**" means the number of Preferred Ordinary Shares required to be converted pursuant to that Conversion Notice and the "**Conversion Time**" means the time at which the Conversion Notice is served or deemed served on the company; and
- (b) all the Preferred Ordinary Shares then in issue shall convert automatically into Ordinary Shares if a IPO occurs, in which case the "**Converting Shares**" means all the Preferred Ordinary Shares in issue at the Conversion Time and the "**Conversion Time**" means the time immediately before completion of that IPO (or, if there is more than one completion, immediately before the first completion),

and any such conversion shall be made in accordance with the following provisions of this Article 2.6.

2.6.2 At the Conversion Time each Converting Share shall be redesignated as one Ordinary Share.

2.6.3 Following the Conversion Time:

- (a) the company shall give written notice to each former holder of Converting Shares of the number of Ordinary Shares arising from the conversion and, upon receipt of such notice, the former holder shall surrender to the company at the office the share certificate(s) for his holding of Converting Shares and, upon receipt of the surrendered certificate(s), the company shall deliver to the former holder a new certificate for his Ordinary Shares arising from the conversion and, if applicable, a new certificate for any unconverted Preferred Ordinary Shares represented by the surrendered certificate(s);
- (b) the name of each former holder of Converting Shares shall be entered in the register as the holder of the number of Ordinary Shares arising from the conversion, credited as fully paid up, in place of the Converting Shares; and
- (c) the Ordinary Shares arising from conversion shall rank *pari passu* in all respects with the Ordinary Shares which were already in issue.

## 2.7 Voting

The holders of the Preferred Ordinary Shares and the Ordinary Shares shall be entitled to receive notice of and to attend and vote at general meetings of the company.

## **PART 3**

### **ONMEDICA**

#### **3. RIGHTS OF THE ONMEDICA GROUP**

##### **3.1 OnMedica Representative**

3.1.1 While any member of the OnMedica Group holds shares and subject to Article 3.1.2, the members of the OnMedica Group shall be entitled from time to time to appoint a member of the OnMedica Group to act as their representative (the "**OnMedica Representative**") and to remove the OnMedica Representative from office in accordance with the following provisions:

- (a) the OnMedica Representative shall be both a member of the OnMedica Group and a member of the company and, if the OnMedica Representative ceases to be either a member of the OnMedica Group or a member of the company, it shall automatically cease to be the OnMedica Representative (but without prejudice to the ability of the members of the OnMedica Group to appoint a replacement);
- (b) the OnMedica Representative may be appointed or removed by notice in writing delivered to the office and signed by the holders of a majority of the shares held by members of the OnMedica Group;
- (c) the Initial OnMedica Representative shall be deemed to have been appointed as OnMedica Representative at the date of adoption of this Article; and
- (d) during any period in which no OnMedica Representative has for the time being been appointed, whichever member of the OnMedica Group holds the most shares shall be deemed to be the OnMedica Representative.

3.1.2 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Article 3.1.1 shall cease to have effect.

##### **3.2 Rights of the OnMedica Representative**

The OnMedica Representative has the following special rights under these Articles:

- 3.2.1 to appoint and remove an OnMedica Director pursuant to Article 6.4;
- 3.2.2 to exercise certain rights and powers of the OnMedica Director in the circumstances provided for in Article 6.4.4 and to receive notice of board meetings in the circumstances provided for in Article 7.2;
- 3.2.3 to make up part of the quorum of general meetings pursuant to Article 13.1.

##### **3.3 Rights of the OnMedica Directors**

The OnMedica Director has the following special rights under these Articles:

- 3.3.1 to approve the appointment of any director (other than the Founder Director whilst such a director is Daniel Lee) by the board pursuant to Article 6.6.1 and 6.7;
- 3.3.2 not to be removed by special resolution under Article 6.8 or written notice under Article 6.9;
- 3.3.3 to appoint certain persons as alternates without prior board approval under Articles 6.11.1 and 6.11.2;

- 3.3.4 to consent to the appointment of a director to hold any employment or executive office pursuant to Article 6.12;
- 3.3.5 to receive at least seven days prior written notice of board meetings pursuant to Article 7.2;
- 3.3.6 to make up part of the quorum for board meetings pursuant to Article 7.3;
- 3.3.7 to consent to the delegation of powers to committees pursuant to Article 7.8;
- 3.3.8 to make up part of the minimum number of directors able to sign written resolutions pursuant to Article 7.10;
- 3.3.9 to vote on matters in which he may have an interest notwithstanding Article 9.1.6;
- 3.3.10 to convene extraordinary general meetings pursuant to Article 11.3; and
- 3.3.11 to consent to the declaration and payment of dividends pursuant to Articles 23.1 and 23.2.

## PART 4

### CALYON

#### 4. RIGHTS OF THE CALYON GROUP

##### 4.1 Calyon Representative

4.1.1 While any member of the Calyon Group holds shares and subject to Article 4.1.2, the members of the Calyon Group shall be entitled from time to time to appoint a member of the Calyon Group to act as their representative (the "**Calyon Representative**") and to remove the Calyon Representative from office in accordance with the following provisions:

- (a) the Calyon Representative shall be both a member of the Calyon Group and a member of the company and, if the Calyon Representative ceases to be either a member of the Calyon Group or a member of the company, it shall automatically cease to be the Calyon Representative (but without prejudice to the ability of the members of the Calyon Group to appoint a replacement);
- (b) the Calyon Representative may be appointed or removed by notice in writing delivered to the office and signed by the holders of a majority of the shares held by members of the Calyon Group;
- (c) the Initial Calyon Representative shall be deemed to have been appointed as Calyon Representative at the date of adoption of this Article; and
- (d) during any period in which no Calyon Representative has for the time being been appointed, whichever member of the Calyon Group holds the most shares shall be deemed to be the Calyon Representative.

4.1.2 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Article 4.1.1 shall cease to have effect.

##### 4.2 Rights of the Calyon Representative

The Calyon Representative has the following special rights under these Articles:

- 4.2.1 to appoint and remove Calyon Directors pursuant to Article 6.5;
- 4.2.2 to exercise certain rights and powers of the Calyon Directors in the circumstances provided for in Article 6.5.5 and to receive notice of board meetings in the circumstances provided for in Article 7.2;
- 4.2.3 to make up part of the quorum of general meetings pursuant to Article 13.1.

##### 4.3 Rights of the Calyon Directors

*The Calyon Director has the following special rights under these Articles:*

- 4.3.1 to approve the appointment of any director (other than the Founder Director whilst such a Director is Daniel Lee) by the board pursuant to Article 6.7;
- 4.3.2 not to be removed by special resolution under Article 6.8 or written notice under Article 6.9;
- 4.3.3 to appoint certain persons as alternates without prior board approval under Articles 6.11.1 and 6.11.2;

- 4.3.4 to consent to the appointment of a director to hold any employment or executive office pursuant to an Article 6.12;
- 4.3.5 to receive at least seven days prior written notice of board meetings pursuant to Article 7.2;
- 4.3.6 to make up part of the quorum for board meetings pursuant to Article 7.3;
- 4.3.7 to consent to the delegation of powers to committees pursuant to Article 7.8;
- 4.3.8 to make up part of the minimum number of directors able to sign written resolutions pursuant to Article 7.10;
- 4.3.9 to vote on matters in which he may have an interest notwithstanding Article 9.1.6;
- 4.3.10 to convene extraordinary general meetings pursuant to Article 11.3; and
- 4.3.11 to consent to the declaration and payment of dividends pursuant to Articles 23.1 and 23.2.

## **PART 4A**

### **EPIC**

#### **4A RIGHTS OF THE EPIC GROUP**

##### **4A.1 EPIC Representative**

4A1.1 While any member of the EPIC Group holds shares and subject to Article 4A1.2, the members of the EPIC Group shall be entitled from time to time to appoint a member of the EPIC Group to act as their representative (the "**EPIC Representative**") and to remove the EPIC Representative from office in accordance with the following provisions:

- (a) the EPIC Representative shall be both a member of the EPIC Group and a member of the company and, if the EPIC Representative ceases to be either a member of the EPIC Group or a member of the company, it shall automatically cease to be the EPIC Representative (but without prejudice to the ability of the members of the EPIC Group to appoint a replacement);
- (b) the EPIC Representative may be appointed or removed by notice in writing delivered to the office and signed by the holders of a majority of the shares held by members of the EPIC Group;
- (c) during any period in which no EPIC Representative has for the time being been appointed, whichever member of the EPIC Group holds the most shares shall be deemed to be the EPIC Representative.

4A1.2 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Article 4A1.1 shall cease to have effect.

##### **4A.2 Rights of the EPIC Representative**

The EPIC Representative has the following special rights under these Articles:

- 4A2.1 to appoint and remove EPIC Directors pursuant to Article 6.13;
- 4A2.2 to exercise certain rights and powers of the EPIC Directors in the circumstances provided for in Article 6.13.4 and to receive notice of board meetings in the circumstances provided for in Article 7.2;
- 4A2.3 to make up part of the quorum of general meetings pursuant to Article 13.1.

##### **4A.3 Rights of the EPIC Directors**

The EPIC Director has the following special rights under these Articles:

- 4A3.1 to approve the appointment of any director (other than the Founder Director whilst such a Director is Daniel Lee) by the board pursuant to Article 6.7;
- 4A3.2 not to be removed by special resolution under Article 6.8 or written notice under Article 6.9;
- 4A3.3 to appoint certain persons as alternates without prior board approval under Articles 6.11.1 and 6.11.2;
- 4A3.4 to consent to the appointment of a director to hold any employment or executive office pursuant to an Article 6.12;

- 4A3.5 to receive at least seven days prior written notice of board meetings pursuant to Article 7.2;
- 4A3.6 to make up part of the quorum for board meetings pursuant to Article 7.3;
- 4A3.7 to consent to the delegation of powers to committees pursuant to Article 7.8;
- 4A3.8 to make up part of the minimum number of directors able to sign written resolutions pursuant to Article 7.10;
- 4A3.9 to vote on matters in which he may have an interest notwithstanding Article 9.1.6;
- 4A3.10 to convene extraordinary general meetings pursuant to Article 11.3; and
- 4A3.11 to consent to the declaration and payment of dividends pursuant to Articles 23.1 and 23.2.

## **PART 4B**

### **EMIS**

#### **4B RIGHTS OF THE EMIS GROUP**

##### **4B.1 EMIS Representative**

4B1.1 While any member of the EMIS Group holds shares and subject to Article 4B1.2, the members of the EMIS Group shall be entitled from time to time to appoint a member of the EMIS Group to act as their representative (the "**EMIS Representative**") and to remove the EMIS Representative from office in accordance with the following provisions:

- (a) the EMIS Representative shall be both a member of the EMIS Group and a member of the company and, if the EMIS Representative ceases to be either a member of the EMIS Group or a member of the company, it shall automatically cease to be the EMIS Representative (but without prejudice to the ability of the members of the EMIS Group to appoint a replacement);
- (b) the EMIS Representative may be appointed or removed by notice in writing delivered to the office and signed by the holders of a majority of the shares held by members of the EMIS Group;
- (c) during any period in which no EMIS Representative has for the time being been appointed, whichever member of the EMIS Group holds the most shares shall be deemed to be the EMIS Representative.

4B1.2 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Article 4B1.1 shall cease to have effect.

##### **4B.2 Rights of the EMIS Representative**

The EMIS Representative has the following special rights under these Articles:

- 4B2.1 to appoint and remove EMIS Directors pursuant to Article 6.14;
- 4B2.2 to exercise certain rights and powers of the EMIS Directors in the circumstances provided for in Article 6.14.4 and to receive notice of board meetings in the circumstances provided for in Article 7.2;
- 4B2.3 to make up part of the quorum of general meetings pursuant to Article 13.1.

##### **4B.3 Rights of the EMIS Directors**

The EMIS Director has the following special rights under these Articles:

- 4B3.1 to approve the appointment of any director (other than the Founder Director whilst such a Director is Daniel Lee) by the board pursuant to Article 6.7;
- 4B3.2 not to be removed by special resolution under Article 6.8 or written notice under Article 6.9;
- 4B3.3 to appoint certain persons as alternates without prior board approval under Articles 6.11.1 and 6.11.2;
- 4B3.4 to consent to the appointment of a director to hold any employment or executive office pursuant to an Article 6.12;

- 4B3.5 to receive at least seven days prior written notice of board meetings pursuant to Article 7.2;
- 4B3.6 to make up part of the quorum for board meetings pursuant to Article 7.3;
- 4B3.7 to consent to the delegation of powers to committees pursuant to Article 7.8;
- 4B3.8 to make up part of the minimum number of directors able to sign written resolutions pursuant to Article 7.10;
- 4B3.9 to vote on matters in which he may have an interest notwithstanding Article 9.1.6;
- 4B3.10 to convene extraordinary general meetings pursuant to Article 11.3; and
- 4B3.11 to consent to the declaration and payment of dividends pursuant to Articles 23.1 and 23.2.

## **PART 5**

### **FOUNDER DIRECTOR**

#### **5. RIGHTS OF THE FOUNDER DIRECTOR**

5.1 The Founder Director has the following special rights under these Articles:

- 5.1.1 to approve the appointment of any director by the board pursuant to Article 6.7;
- 5.1.2 not to be removed by special resolution under Article 6.8 or written notice under Article 6.9;
- 5.1.3 to appoint certain persons as alternates without prior board approval under Articles 6.11.1 and 6.11.2;
- 5.1.4 to receive at least seven days prior written notice of board meetings pursuant to Article 7.2;
- 5.1.5 to consent to the delegation of powers to committees pursuant to Article 7.8.

**PART 5A**  
**KM DIRECTOR**

**5A      RIGHTS OF THE KM DIRECTOR**

5A.1      The KM Director has the following special rights under these Articles:

- 5A.1.1    to approve the appointment of any director by the board pursuant to Article 6.7;
- 5A.1.2    not to be removed by special resolution under Article 6.8 or written notice under Article 6.9;
- 5A.1.3    to appoint certain persons as alternates without prior board approval under Articles 6.11.1 and 6.11.2;
- 5A.1.4    to receive at least seven days prior written notice of board meetings pursuant to Article 7.2;
- 5A.1.5    to consent to the delegation of powers to committees pursuant to Article 7.8.

## **PART 6**

### **THE BOARD**

#### **6. APPOINTMENT, RETIREMENT AND REMOVAL OF DIRECTORS**

##### **6.1 Number of Directors**

Unless otherwise determined by ordinary resolution of the company, the directors (disregarding alternate directors) shall be not less than 3 nor more than 10 in number.

##### **6.2 Age of Directors**

No person shall be disqualified from being appointed or elected as a director, and no director shall be required to vacate that office, by reason only of the fact that he has attained the age of 70 years or any other age. It shall not be necessary by reason of a person's age to give special notice under the Companies Acts of any resolution in connection with his election.

##### **6.3 Directors' Shareholding Qualification**

No shareholding qualification for directors shall be required.

##### **6.4 OnMedica Directors**

6.4.1 For as long as any member of the OnMedica Group holds shares entitling it (together with other members of the OnMedica Group who hold shares) to exercise at least 5 per cent. of the vote at a general meeting of the company, and subject to Article 6.4.5, the OnMedica Representative may by notice in writing signed by it or on its behalf and delivered to the office or tendered at a meeting of the directors or at a general meeting of the company at any time and from time to time appoint any person to be an OnMedica Director or remove any OnMedica Director from office PROVIDED THAT the number of OnMedica Directors in office at any time shall not exceed one.

6.4.2 On any resolution proposed at a general meeting to remove the OnMedica Director from office, the number of votes attached to the shares held by the OnMedica Representative shall exceed by one the number of votes attached to all the other issued shares.

6.4.3 If at any time no members of the OnMedica Group hold shares entitling the OnMedica Group to exercise at least 5 per cent. of the vote at a general meeting of the company, the OnMedica Director then in office shall cease to hold office as an OnMedica Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.

6.4.4 During any period in which there is no OnMedica Director in office but the OnMedica Group holds shares entitling it to exercise at least 5 per cent. of the vote at a general meeting of the company any notice which under these Articles is required to be given to an OnMedica Director shall be given instead to the OnMedica Representative and the OnMedica Representative shall be entitled to attend at meetings of the board and any committee of the board and to provide any consent or approval referred to in Article 3.3 (and such attendance or the provision of such consent or approval by the OnMedica Representative shall be deemed to satisfy the relevant requirement in these Articles for an OnMedica Director's attendance, consent or approval).

6.4.5 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Articles 6.4.1 to 6.4.4 shall cease to have effect and the OnMedica Director then in office shall cease to hold office as the OnMedica Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.

## **6.5 Calyon Directors**

- 6.5.1 For as long as any member of the Calyon Group holds shares, and subject to Article 6.5.5, the Calyon Representative may by notice in writing signed by it or on its behalf and delivered to the office or tendered at a meeting of the directors or at a general meeting of the company at any time and from time to time appoint any person to be the Calyon Director or remove the Calyon Director from office PROVIDED THAT the number of Calyon Directors in office at any time shall not exceed one.
- 6.5.2 On any resolution proposed at a general meeting to remove the Calyon Director from office, the number of votes attached to the shares held by the Calyon Representative shall exceed by one the number of votes attached to all the other issued shares.
- 6.5.3 If at any time members of the Calyon Group cease to hold shares in the company, the Calyon Director then in office shall cease to hold office as the Calyon Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.
- 6.5.4 During any period in which there is no Calyon Director in office any notice which under these Articles is required to be given to the Calyon Director shall be given instead to the Calyon Representative and the Calyon Representative shall be entitled to attend at meetings of the board and any committee of the board and to provide any consent or approval referred to in Article 4.3 (and such attendance or the provision of such consent or approval by the Calyon Representative shall be deemed to satisfy the relevant requirement in these Articles for an Calyon Director's attendance, consent or approval).
- 6.5.5 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Articles 6.5.1 to 6.5.4 shall cease to have effect and the Calyon Director then in office shall cease to hold office as the Calyon Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.

## **6.6 Founder Director**

- 6.6.1 For as long as the Founder holds shares and subject to Article 6.6.5, the Founder may by notice in writing signed by him or on his behalf and delivered to the office or tendered at a meeting of the directors or at a general meeting of the company at any time and from time to time appoint any person to be the Founder Director or remove the Founder Director from office, such appointment to be made with the consent of OnMedica and Calyon PROVIDED THAT the number of Founder Directors in office at any time shall not exceed one.
- 6.6.2 On any resolution proposed at a general meeting to remove the Founder Director from office, the number of votes attached to the shares held by the Founder shall exceed by one the number of votes attached to all the other issued shares.
- 6.6.3 If at any time the Founder ceases to hold shares in the company, the Founder Director then in office shall cease to hold office as the Founder Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.
- 6.6.4 During any period in which there is no Founder Director in office any notice which under these Articles is required to be given to the Founder Director shall be given instead to the Founder and the Founder shall be entitled to attend at meetings of the board and any committee of the board and to provide any consent or approval referred to in Article 5.1 (and such attendance or the provision of such consent or approval by the Founder shall be deemed to satisfy the relevant requirement in these Articles for an Founder Director's attendance, consent or approval).
- 6.6.5 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Articles 6.6.1 to 6.6.4 shall cease to have effect and any

Founder Director then in office other than Daniel Lee shall cease to hold office as the Founder Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.

**6.7 Power of Board to Appoint Directors**

With the prior written consent of the OnMedica Director, the EPIC Director, the Calyon Director, the EMIS Director, the KM Director and the Founder Director (in each case not to be unreasonably withheld or delayed), the board may appoint any person who is willing to act to be a director (except as the OnMedica Director or as the EPIC Director or as the Calyon Director or as the EMIS Director or as the Founder Director or as the KM Director), either to fill a vacancy or as an addition to the existing board, but so that the total number of directors shall not at any time exceed any maximum number fixed by or in accordance with these Articles.

**6.8 Power of Removal by Special Resolution**

In substitution (where lawful) to any power of removal conferred by the Companies Acts, the company may by special resolution remove any director (except as the OnMedica Director or as the EPIC Director or as the Calyon Director or as the EMIS Director or as the Founder Director or as the KM Director) before the expiration of his period of office.

**6.9 Power of Removal by Written Notice**

Any director (except as the OnMedica Director or as the EPIC Director or as the Calyon Director or as the EMIS Director, or as the KM Director or as the Founder Director) may be removed before the expiration of his period of office by written notice delivered to the office signed by the holders of shares carrying 75% of the rights to vote at general meetings of the company on all or substantially all matters.

**6.10 Vacation of Office by Directors**

Without prejudice to the other provisions in these Articles, the office of a director shall be vacated if:

- 6.10.1 he resigns his office by notice in writing delivered to the office or tendered at a meeting of the board; or
- 6.10.2 he is or has been suffering from mental ill health or becomes a patient for the purpose of any statute relating to mental health and the board resolves that his office is vacated; or
- 6.10.3 he becomes bankrupt or compounds with his creditors generally; or
- 6.10.4 he is prohibited by law from being a director; or
- 6.10.5 subject to Article 6.8, he ceases to be a director by virtue of the Companies Acts or is removed from office pursuant to these Articles.

If the office of a director is vacated for any reason, he shall cease to be a member of any committee or sub-committee of the board.

**6.11 Alternate Directors**

- 6.11.1 Each director may appoint any person to be his alternate and may at his discretion remove an alternate director so appointed. If the alternate director is not already a director, the appointment, unless previously approved by the board, shall have effect only upon and subject to its being so approved, but if the alternate director is appointed by the OnMedica Director or, as the case may be, the EPIC Director, the Calyon Director, the EMIS Director, the KM Director or the Founder Director, such board approval shall not be required in the circumstances set out in Article 6.11.2. Any appointment or removal of an alternate director shall be effected by notice in writing executed by the appointor and delivered to the office or tendered at a meeting of the board, or in any other manner

approved by the board. An alternate director shall be entitled to receive notice of all meetings of the board or of committees of the board of which his appointor is a member. He shall also be entitled to attend and vote as a director at any such meeting at which the director appointing him is not personally present and at such meeting to exercise and discharge all the functions, powers, rights and duties of his appointor as a director and for the purposes of the proceedings at such meeting the provisions of these Articles shall apply as if he were a director.

- 6.11.2 The appointment of an alternate by the OnMedica Director or by the Calyon Director or the EPIC Director or the EMIS Director or the KM Director or the Founder Director shall not require board approval under Article 6.11.1 if the alternate director is a director or an employee of a member of the OnMedica Group, in respect of the OnMedica Director or of the Calyon Group, in respect of the Calyon Director, or of the EPIC Group, in respect of the EPIC Director, or of the EMIS Group, in respect of the EMIS Director or the Company in respect of the Founder Director or the KM Director. Where approval of the board is required, it shall not be withheld or delayed unreasonably. In the case of Calyon, EPIC and EMIS, if such a person is not an employee of a member of the Calyon Group or the EPIC Group or the EMIS Group respectively, such appointment shall be in consultation with the Board.
- 6.11.3 Every person acting as an alternate director shall (except as regards power to appoint an alternate and remuneration) be subject in all respects to the provisions of these Articles relating to directors and shall during his appointment be an officer of the company. An alternate director shall alone be responsible to the company for his acts and defaults and shall not be deemed to be the agent of or for the director appointing him. An alternate director may be paid expenses and shall be entitled to be indemnified by the company to the same extent as if he were a director. An alternate director shall not be entitled to receive from the company any fee in his capacity as an alternate director but the company shall, if so requested in writing by the appointor, pay to the alternate director any part of the fees or remuneration otherwise due to the appointor.
- 6.11.4 A director or any other person may act as an alternate director to represent more than one director. Every person acting as an alternate director shall have one vote for each director for whom he acts as alternate, in addition to his own vote if he is also a director but he shall count as only one for the purposes of determining whether a quorum is present. Execution by an alternate director of any resolution in writing of the board or a committee of the board shall, unless the notice of his appointment provides to the contrary, be as effective as execution by his appointor.
- 6.11.5 An alternate director shall automatically cease to be an alternate director if his appointor ceases for any reason to be a director.

## 6.12 **Executive Directors**

With the prior written consent of the OnMedica Director and the Calyon Director and the EPIC Director and the EMIS Director and the KM Director (not to be unreasonably withheld or delayed), the board or any committee authorised by the board may from time to time appoint one or more directors to hold any employment or executive office with the company, save that the chairman or deputy chairman of the board shall be appointed in accordance with Article 7.5, for such period (subject to the provisions of the Companies Acts) and upon such other terms as the board or any committee authorised by the board may in its discretion decide and may revoke or terminate any appointment so made (an **"Executive Director"**). Any revocation or termination of the appointment shall be without prejudice to any claim for damages that the director may have against the company or the company may have against the director for any breach of any contract of service between him and the company which may be involved in the revocation or termination. A director so appointed shall receive such remuneration (whether by way of salary, commission, participation in profits or otherwise) as the board or any committee authorised by the board may decide, and either in addition to or in lieu of his remuneration as a director.

## **6.13 EPIC Directors**

- 6.13.1 For as long as any member of the EPIC Group holds shares in the company and/or is the holder of any warrants over shares in the company and/or is the holder of any loan notes issued by the company and, subject to Article 6.13.5, the EPIC Representative may by notice in writing signed by it or on its behalf and delivered to the office or tendered at a meeting of the directors or at a general meeting of the company at any time and from time to time appoint any person to be the EPIC Director or remove the EPIC Director from office PROVIDED THAT the number of EPIC Directors in office at any time shall not exceed one.
- 6.13.2 On any resolution proposed at a general meeting to remove the EPIC Director from office, the number of votes attached to any shares held by the EPIC Representative shall exceed by one the number of votes attached to all the other issued shares.
- 6.13.3 If at any time members of the EPIC Group cease to hold shares in the company or is no longer the holder of any warrants over the shares of the company or loan notes issued by the company, the EPIC Director then in office shall cease to hold office as the EPIC Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.
- 6.13.4 During any period in which there is no EPIC Director in office any notice which under these Articles is required to be given to the EPIC Director shall be given instead to the EPIC Representative and the EPIC Representative shall be entitled to attend at meetings of the board and any committee of the board and to provide any consent or approval referred to in Article 4A.3 (and such attendance or the provision of such consent or approval by the EPIC Representative shall be deemed to satisfy the relevant requirement in these Articles for an EPIC Director's attendance, consent or approval).
- 6.13.5 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Articles 6.13.1 to 6.13.4 shall cease to have effect and the EPIC Director then in office shall cease to hold office as the EPIC Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.

## **6.14 EMIS Directors**

- 6.14.1 For as long as any member of the EMIS Group holds shares in the company and/or is the holder of any warrants over shares in the company and/or is the holder of any loan notes issued by the company and, subject to Article 6.14.5, the EMIS Representative may by notice in writing signed by it or on its behalf and delivered to the office or tendered at a meeting of the directors or at a general meeting of the company at any time and from time to time appoint any person to be the EMIS Director or remove the EMIS Director from office PROVIDED THAT the number of EMIS Directors in office at any time shall not exceed one.
- 6.14.2 On any resolution proposed at a general meeting to remove the EMIS Director from office, the number of votes attached to any shares held by the EMIS Representative shall exceed by one the number of votes attached to all the other issued shares.
- 6.14.3 If at any time members of the EMIS Group cease to hold shares in the company or is no longer the holder of any warrants over the shares of the company or loan notes issued by the company, the EMIS Director then in office shall cease to hold office as the EMIS Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.
- 6.14.4 During any period in which there is no EMIS Director in office any notice which under these Articles is required to be given to the EMIS Director shall be given instead to the EMIS Representative and the EMIS Representative shall be entitled to attend at meetings of the board and any committee of the board and to provide any consent or approval

referred to in Article 4B.3 (and such attendance or the provision of such consent or approval by the EMIS Representative shall be deemed to satisfy the relevant requirement in these Articles for an EMIS Director's attendance, consent or approval).

- 6.14.5 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Articles 6.14.1 to 6.14.4 shall cease to have effect and the EMIS Director then in office shall cease to hold office as the EMIS Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.

## **6.15 KM Director**

- 6.15.1 For as long as KM holds shares entitling him to exercise at least 5 per cent. of the vote at a general meeting of the Company, and subject to Article 6.15.5, KM may by notice in writing signed by him or on his behalf and delivered to the office or tendered at a meeting of the directors or at a general meeting of the company at any time and from time to time appoint any person to be a KM Director or remove a KM Director from office, PROVIDED THAT the number of KM Directors in office at any time shall not exceed one.
- 6.15.2 On any resolution proposed at a general meeting to remove a KM Director from office, the number of votes attached to the shares held by KM shall exceed by one the number of votes attached to all the other issued shares.
- 6.15.3 If at any time KM ceases to hold shares in the company entitling KM to exercise at least 5 per cent. of the vote at a general meeting of the Company, a KM Director then in office shall cease to hold office as a KM Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.
- 6.15.4 During any period in which there is no KM Director in office but KM holds shares entitling him to exercise at least 5 per cent. of the vote at a general meeting of the Company any notice which under these Articles is required to be given to a KM Director shall be given instead to KM and KM shall be entitled to attend at meetings of the board and any committee of the board and to provide any consent or approval referred to in Article 5A.1 (and such attendance or the provision of such consent or approval by KM shall be deemed to satisfy the relevant requirement in these Articles for a KM Director's attendance, consent or approval).
- 6.15.5 From the time of the completion of an IPO (or, if there is more than one completion, from the time of the first completion), Articles 6.15.1 to 6.15.4 shall cease to have effect and any KM Director then in office shall cease to hold office as a KM Director and shall be deemed to have served notice on the company resigning as a director with effect from that time.

## **7. PROCEEDINGS OF THE BOARD**

### **7.1 Board Meetings**

The board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. A director at any time may, and the secretary on the requisition of a director at any time shall, summon a board meeting.

### **7.2 Notice of Board Meetings**

At least seven days prior written notice of board meetings shall be given to the OnMedica Director, the Calyon Director, the EPIC Director, the EMIS Director, the KM Director and the Founder Director or (if no OnMedica Director or, as the case may be, Calyon Director, or EPIC Director, or EMIS Director, or KM Director or the Founder Director has for the time being been appointed) to the OnMedica Representative or, as the case may be, the Calyon Representative, or the EPIC Representative, or the EMIS Representative, or KM or the Founder unless the requirement for such notice has been waived in writing by them or (if no OnMedica Director or as the case may be the

Calyon Director or EPIC Director or EMIS Director or KM Director or the Founder Director has for the time being been appointed) by the OnMedica Representative or as the case may be the Calyon Representative or the EPIC Representative or the EMIS Representative or KM or the Founder. The above requirement for seven days prior written notice shall be reduced to such reasonable notice as may be appropriate when in the best interests of the company a board meeting must be called on short notice. Notice of a board meeting shall be deemed to be properly given to a director if it is given to him personally or sent to him at his last known address or any other address given by him to the company for this purpose. A director absent or intending to be absent from the United Kingdom may request the board that notices of board meetings shall during his absence be sent in writing to him at an address given by him to the company for this purpose, but such notices need not be given any earlier than notices given to directors not so absent and if no request is made to the board it shall not be necessary to give notice of a board meeting to any director who is for the time being absent from the United Kingdom. A director may waive notice of any meeting either prospectively or retrospectively.

### **7.3 Quorum**

The quorum necessary for the transaction of business of the Board may be fixed by the Board and, unless so fixed at any other number, shall be six, PROVIDED THAT such quorum, whether or not fixed by the Board, must include the OnMedica Director, the Calyon Director, the EPIC Director, the EMIS Director, the KM Director and one Executive Director (unless either the OnMedica Director, or the Calyon Director, or the EPIC Director, or the EMIS Director or the KM Director or the Executive Directors have waived in writing the requirement for them to attend that meeting). If a quorum is not present at the meeting the meeting shall stand adjourned for a period of not less than seven days to such time and place as those directors present shall agree and notified to the directors in accordance with Article 7.2. The above requirement of seven days priority notice shall be reduced to such reasonable notice as may be appropriate when in the best interests of the company a board meeting must be called on short notice. If no OnMedica Director or no Calyon Director, or no EPIC Director, or no EMIS Director, or no KM Director, or no Executive Director, as the case may be, attends such adjourned meeting, the meeting may nevertheless proceed. Subject to the provisions of these Articles, any director who ceases to be a director at a board meeting may continue to be present and act as a director and be counted in the quorum until the termination of the board meeting if no other director objects and if otherwise a quorum of directors would not be present.

### **7.4 Directors below Minimum through Vacancies**

The continuing directors or a sole continuing director may act notwithstanding any vacancy in their number but, if and so long as the number of directors is reduced below the minimum number fixed by or in accordance with these Articles or is below the number fixed by or in accordance with these Articles as the quorum or there is only one continuing director, the continuing directors or director may act for the purpose of filling vacancies or of summoning general meetings of the company but not for any other purpose.

### **7.5 Appointment of Chairman**

The Board may from time to time appoint one of their number as chairman of the board of directors of the company and any other director as deputy chairman and may at any time remove them from that office. The chairman or failing him a deputy chairman shall act as chairman at every meeting of the board. But if no chairman or deputy chairman is appointed, or if at any meeting neither the chairman nor any deputy chairman is present within five minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be chairman of the meeting.

### **7.6 Competence of Meetings**

A meeting of the board at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the board.

## **7.7 Voting**

Questions arising at any meeting shall be determined by a majority of votes. In the case of an equality of votes the chairman of the meeting shall not have a second or casting vote.

## **7.8 Delegation to Committees**

7.8.1 With the prior written consent of an OnMedica Director, the Calyon Director, the EPIC Director, the EMIS Director, the KM Director and the Founder Director, the board may delegate any of its powers, authorities and discretions (with power to sub-delegate) to any committee consisting of one or more directors. References in these Articles to committees include sub-committees permitted under this Article.

7.8.2 Any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, conform to any regulations which may be imposed on it by the board. The meetings and proceedings of any committee consisting of two or more members shall be governed by the provisions contained in these Articles for regulating the meetings and proceedings of the board so far as the same are applicable and are not superseded by any regulations imposed by the board.

7.8.3 The power to delegate contained in this Article shall be effective in relation to the powers, authorities and discretions of the board generally and shall not be limited by the fact that in certain articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the board or by a committee authorised by the board.

## **7.9 Participation in Meetings by Telephone**

All or any of the members of the board or any committee of the board may participate in a meeting of the board or that committee by means of a conference telephone or any communication equipment which allows all persons participating in the meeting to speak to and hear each other. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly.

## **7.10 Resolution in Writing**

A resolution in writing executed by all of the directors for the time being entitled to receive notice of a meeting of the board (if that number is sufficient to constitute a quorum) or all the members of a committee (including the OnMedica Director and the Calyon Director and the EPIC Director and the EMIS Director and the KM Director) for the time being so entitled shall be as valid and effectual as a resolution passed at a meeting of the board or, as the case may be, of the committee properly called and constituted. The resolution may be contained in one document or in several documents in like form each executed by one or more of the directors or members of the committee concerned. The document or documents may be in any form including facsimile transmission.

## **7.11 Validity of Acts of Board or Committee**

All acts done by the board or by any committee or by any person acting as a director or member of a committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the board or committee or person so acting or that they or any of them were disqualified from holding office or had vacated office or were not entitled to vote, be as valid as if each such member or person had been properly appointed and was qualified and had continued to be a director or member of the committee and had been entitled to vote.

## **8. FEES, REMUNERATION, EXPENSES AND PENSIONS**

### **8.1 Fees**

Each of OnMedica, EPIC, EMIS, KM and Calyon shall be paid a fee of £15,000 per annum for the services of each director appointed by them to the board as the OnMedica Director or, as the case

may be, the Calyon Director or, as the case may be, the EPIC Director or, as the case may be, the EMIS Director or, as the case may be, the KM Director or such other amount as may be agreed from time to time by the board and Calyon in respect of the Calyon Director, or by the board and EPIC in respect of the EPIC Director, or by the board and OnMedica in respect of an OnMedica Director, or by the board and EMIS in respect of the EMIS Director, or by the board and KM in respect of the KM Director.

## **8.2 Expenses**

Each director may be paid his reasonable travelling, hotel and incidental expenses of attending and returning from meetings of the board or committees of the board or general meetings of the company or any other meeting which as a director he is entitled to attend and shall be paid all other costs and expenses properly and reasonably incurred by him in the conduct of the company's business or in the discharge of his duties as a director.

## **8.3 Pensions and Gratuities for Directors**

The board or any committee authorised by the board may exercise all the powers of the company to provide benefits, either by the payment of gratuities or pensions or by insurance or in any other manner whether similar to the foregoing or not, for any director or former director or the relations, or dependants of, or persons connected to, any director or former director. No director or former director shall be accountable to the company or the members for any benefit provided pursuant to this Article and the receipt of any such benefit shall not disqualify any person from being or becoming a director of the company.

## **9. DIRECTORS' INTERESTS**

### **9.1 Permitted Interests and Voting**

- 9.1.1 Subject to the provisions of the Companies Acts and of paragraph 9.1.10 of this Article, no director or proposed or intending director shall be disqualified by his office from contracting with the company, either with regard to his tenure of any office or place of profit or as vendor, purchaser or in any other manner whatever, nor shall any contract in which any director is in any way interested be liable to be avoided, nor shall any director who is so interested be liable to account to the company or the members for any remuneration, profit or other benefit realised by the contract by reason of the director holding that office or of the fiduciary relationship thereby established.
- 9.1.2 A director may hold any other office or place of profit with the company (except that of auditor) in conjunction with his office of director for such period (subject to the provisions of the Companies Acts) and upon such other terms as the board may decide, and may be paid such extra remuneration for so doing (whether by way of salary, commission, participation in profits or otherwise) as the board or any committee authorised by the board may decide, and either in addition to or in lieu of any remuneration provided for by or pursuant to any other article.
- 9.1.3 A director may be or become a director or other officer of, or otherwise interested in, any company promoted by the company or in which the company may be interested or as regards which it has any power of appointment, and shall not be liable to account to the company or the members for any remuneration, profit or other benefit received by him as a director or officer of or from his interest in the other company. The board may also cause any voting power conferred by the shares in any other company held or owned by the company or any power of appointment to be exercised in such manner in all respects as it thinks fit, including the exercise of the voting power or power of appointment in favour of the appointment of the directors or any of them as directors or officers of the other company, or in favour of the payment of remuneration to the directors or officers of the other company.

- 9.1.4 A director may act by himself or his firm in a professional capacity for the company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director.
- 9.1.5 A director shall not vote on or be counted in the quorum in relation to any resolution of the board concerning his own appointment, or the settlement or variation of the terms or the termination of his own appointment, as the holder of any office or place of profit with the company or any other company in which the company is interested but, where proposals are under consideration concerning the appointment, or the settlement or variation of the terms or the termination of the appointment, of two or more directors to offices or places of profit with the company or any other company in which the company is interested, a separate resolution may be put in relation to each director and in that case each of the directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution unless it concerns his own appointment or the settlement or variation of the terms or the termination of his own appointment or the appointment of another director to an office or place of profit with a company in which the company is interested and the director seeking to vote or be counted in the quorum owns one per cent. or more of it.
- 9.1.6 Save as otherwise provided by these articles, a director (other than the OnMedica Director and the Calyon Director and the EPIC Director and the EMIS Director) shall not vote on, or be counted in the quorum in relation to, any resolution of the board in respect of any contract in which he has an interest which (taken together with any interest of any person connected with him) is to his knowledge a material interest and, if he shall do so, his vote shall not be counted, but this prohibition shall not apply to any resolution where that material interest arises only from one or more of the following matters:
- (a) the giving to him of any guarantee, indemnity or security in respect of money lent or obligations undertaken by him or by any other person at the request of or for the benefit of the company or any of its subsidiary undertakings;
  - (b) the giving to a third party of any guarantee, indemnity or security in respect of a debt or obligation of the company or any of its subsidiary undertakings for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security;
  - (c) where the company or any of its subsidiary undertakings is offering securities in which offer the director is or may be entitled to participate as a holder of securities or in the underwriting or sub-underwriting of which the director is to participate;
  - (d) any contract in which he is interested by virtue of his interest in shares or debentures or other securities of the company or by reason of any other interest in or through the company;
  - (e) any contract concerning any other company (not being a company in which the director owns one per cent. or more) in which he is interested directly or indirectly whether as an officer, shareholder, creditor or otherwise howsoever;
  - (f) any contract concerning the adoption, modification or operation of a pension fund, superannuation or similar scheme or retirement, death or disability benefits scheme or employees' share scheme which relates both to directors and employees of the company or of any of its subsidiary undertakings and does not provide in respect of any director as such any privilege or advantage not accorded to the employees to which the fund or scheme relates;
  - (g) any contract for the benefit of employees of the company or of any of its subsidiary undertakings under which he benefits in a similar manner to the employees and which does not accord to any director as such any privilege or advantage not accorded to the employees to whom the contract relates; and

- (h) any contract for the purchase or maintenance of insurance against any liability for, or for the benefit of, any director or directors or for, or for the benefit of, persons who include directors.

- 9.1.7 A company shall be deemed to be one in which a director owns one per cent. or more if and so long as (but only if and so long as) he, taken together with any person connected with him, is to his knowledge (either directly or indirectly) the holder of or beneficially interested in one per cent. or more of any class of the equity share capital of that company or of the voting rights available to members of that company. For the purpose of this paragraph of this Article there shall be disregarded any shares held by the director or any such person as bare or custodian trustee and in which he has no beneficial interest, any shares comprised in a trust in which his, or any such person's, interest is in reversion or remainder if and so long as some other person is entitled to receive the income of the trust and any shares comprised in an authorised unit trust scheme in which he, or any such person, is interested only as a unit holder.
- 9.1.8 Where a company in which a director (or any Associate or Affiliate of that director) owns one per cent. or more is materially interested in a contract, he also shall be deemed materially interested in that contract.
- 9.1.9 If any question shall arise at any meeting of the board as to the materiality of the interest of a director (other than the chairman of the meeting) or as to the entitlement of any director (other than the chairman of the meeting) to vote or be counted in the quorum and the question is not resolved by his voluntarily agreeing to abstain from voting or not to be counted in the quorum, the question shall be referred to the chairman of the meeting and his ruling in relation to the director concerned shall be conclusive except in a case where the nature or extent of his interest (so far as it is known to him) has not been fairly disclosed to the board. If any question shall arise in respect of the chairman of the meeting, the question shall be decided by a resolution of the board (for which purpose the chairman shall be counted in the quorum but shall not vote on the matter) and the resolution shall be conclusive except in a case where the nature or extent of the interest of the chairman (so far as it is known to him) has not been fairly disclosed to the board.
- 9.1.10 A director who to his knowledge is in any way, whether directly or indirectly, interested in a contract with the company shall declare the nature of his interest at the meeting of the board at which the question of entering into the contract is first taken into consideration, if he knows his interest then exists, or in any other case at the first meeting of the board after he knows that he is or has become so interested. For the purposes of this Article, a general notice to the board by a director to the effect that (a) he is a member of a specified company or firm and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm or (b) he is to be regarded as interested in any contract which may after the date of the notice be made with a specified person who is connected with him, shall be deemed to be a sufficient declaration of interest under this Article in relation to any such contract; provided that no such notice shall be effective unless either it is given at a meeting of the board or the director takes reasonable steps to secure that it is brought up and read at the next board meeting after it is given.
- 9.1.11 The OnMedica Director or, as the case may be, the Calyon Director, or as the case may be, the EPIC Director, or as the case may be, the EMIS Director, shall be entitled to vote in respect of any contract or proposed contract in which he or any Associate or Affiliate of his is interested and if he shall do so his vote shall be counted and he shall be taken into account in ascertaining whether a quorum is present provided that he has notified the company of such interest 10 days prior to the relevant meeting of the board.
- 9.1.12 References in this Article to a contract include references to any proposed contract and to any transaction or arrangement whether or not constituting a contract.

- 9.1.13 Subject to the provisions of the Companies Acts, the company may by ordinary resolution suspend or relax the provisions of this Article to any extent or ratify any contract not properly authorised by reason of a contravention of this Article.

## **10. POWERS AND DUTIES OF THE BOARD**

### **10.1 General Powers of company Vested in Board**

Subject to the provisions of the Companies Acts, the memorandum of association of the company and these articles and to any directions given by the company in general meeting by special resolution, the business of the company shall be managed by the board which may exercise all the powers of the company whether relating to the management of the business of the company or not. No alteration of the memorandum of association or these articles and no special resolution shall invalidate any prior act of the board which would have been valid if that alteration had not been made or that resolution had not been passed. The powers given by this Article shall not be limited by any special power given to the board by any other article.

### **10.2 Agents**

The board may, by power of attorney or otherwise, appoint any person or body of persons whether nominated directly or indirectly by the board to be the agent of the company upon such terms (including terms as to remuneration) as it may decide and may delegate to any person so appointed any of its powers, authorities and discretions (with power to sub-delegate). The board may remove any person appointed under this Article and may revoke or vary the delegation but no person dealing in good faith and without notice of the revocation or variation shall be affected by it. The power to delegate contained in this Article shall be effective in relation to the powers, authorities and discretions of the board generally and shall not be limited by the fact that in certain articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the board or by a committee authorised by the board.

### **10.3 Delegation to Individual Directors**

The board may entrust to and confer upon any director any of its powers, authorities and discretions (with power to sub-delegate) upon such terms and conditions and with such restrictions as it thinks fit, and either collaterally with, or to the exclusion of, its own powers, authorities and discretions and may from time to time revoke or vary all or any of them but no person dealing in good faith and without notice of the revocation or variation shall be affected by it. The power to delegate contained in this Article shall be effective in relation to the powers, authorities and discretions of the board generally and shall not be limited by the fact that in certain articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the board or by a committee authorised by the board.

### **10.4 Official Seals**

The company may exercise all the powers conferred by the Companies Acts with regard to having official seals and those powers shall be vested in the board.

### **10.5 Registers**

Subject to the provisions of the Companies Acts, the company may keep an overseas or local or other register in any place and the board may make and vary such regulations as it may think fit respecting the keeping of the register.

### **10.6 Provision for Employees**

The board may exercise any power conferred by the Companies Acts to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries in connection with the cessation of their employment or the transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

**PART 7**  
**GENERAL MEETINGS**

**11. GENERAL MEETINGS**

**11.1 Extraordinary General Meetings**

Any general meeting of the company other than an annual general meeting shall be called an extraordinary general meeting.

**11.2 Annual General Meetings**

The board shall convene and the company shall hold general meetings as annual general meetings in accordance with the requirements of the Companies Acts.

**11.3 Convening of Extraordinary General Meetings**

The Board or the OnMedica Director or the Calyon Director or the EPIC Director or the EMIS Director may convene an extraordinary general meeting whenever it or he thinks fit.

**11.4 Separate General Meetings**

The provisions of these articles relating to general meetings shall apply, with any necessary modifications, to any separate general meeting of the holders of shares of a class convened otherwise than in connection with the variation or abrogation of the rights attached to the shares of that class (in which case Article 16.2 shall apply). For this purpose, a general meeting at which no holder of a share other than an ordinary share may, in his capacity as a member, attend or vote shall also constitute a separate general meeting of the holders of the ordinary shares.

**11.5 Form of Resolution**

11.5.1 Where for any purpose an ordinary resolution of the company is required, a special or extraordinary resolution shall also be effective and where for any purpose an extraordinary resolution is required a special resolution shall also be effective.

11.5.2 Subject to the Companies Acts, a resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting properly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more of the members. These copies may be facsimile copies.

**12. NOTICE OF GENERAL MEETINGS**

**12.1 Length of Notice**

An annual general meeting and an extraordinary general meeting convened for the passing of a special resolution or (save as provided by the Companies Acts) a resolution of which special notice has been given to the company shall be convened by not less than 21 clear days' notice in writing. All other extraordinary general meetings shall be convened by not less than 14 clear days' notice in writing. The notice shall specify the place, day and time of the meeting, and the general nature of the business to be transacted. Notice of every general meeting shall be given to all members other than any who, under the provisions of these articles or the terms of issue of the shares they hold, are not entitled to receive such notices from the company, and also to the auditors or, if more than one, each of them.

## **12.2 Omission or Non-Receipt of Notice**

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

## **13. PROCEEDINGS AT GENERAL MEETINGS**

### **13.1 Quorum**

No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business, but the absence of a quorum shall not preclude the choice or appointment of a chairman which shall not be treated as part of the business of the meeting. Save as otherwise provided by these articles, three members present in person (one of whom shall be any Executive Director who is a member at the relevant time) or by proxy and entitled to vote shall be a quorum for all purposes PROVIDED THAT, if there are any Preferred Ordinary Shares in issue, there shall be no quorum at any general meeting unless there are present in person or by proxy the holders of not less than 50 per cent. of the issued Preferred Ordinary Shares including (if any member of the OnMedica Group is a holder of Preferred Ordinary Shares) the OnMedica Representative and (if the Calyon Group is a holder of Preferred Ordinary Shares) the Calyon Representative and (if the EPIC Group is a holder of Preferred Ordinary Shares) the EPIC Representative and (if the EMIS Group is a holder of Preferred Ordinary Shares) the EMIS Representative.

### **13.2 Procedure if Quorum Not Present**

If within fifteen minutes (or such longer time not exceeding one hour as the chairman of the meeting may decide to wait) after the time appointed for the commencement of the meeting a quorum is not present, the meeting, if convened by or upon the requisition of members, shall be dissolved. In any other case it shall stand adjourned to such other day (being not less than three nor more than 28 days later) and at such other time or place as may have been specified for the purpose in the notice convening the meeting. Where no such arrangements have been so specified, the meeting shall stand adjourned to such other day (being not less than ten nor more than 28 days later) and at such other time or place as the chairman of the meeting may decide and, in this case, the company shall give not less than seven clear days' notice in writing of the adjourned meeting. At any adjourned meeting one member present in person or by proxy (whatever the number of shares held by him) shall be a quorum and any notice of an adjourned meeting shall state that one member present in person or by proxy (whatever the number of shares held by him) shall be a quorum.

### **13.3 Chairman of General Meeting**

The chairman (if any) of the board or, in his absence, the deputy chairman (if any) shall preside as chairman at every general meeting. If more than one deputy chairman is present they shall agree amongst themselves who is to take the chair or, if they cannot agree, the deputy chairman who has been in office as a director longest shall take the chair. If there is no chairman or deputy chairman, or if at any meeting neither the chairman nor any deputy chairman is present within five minutes after the time appointed for the commencement of the meeting, or if neither the chairman nor any deputy chairman is willing to act as chairman, the directors present shall choose one of their number to act, or if one director only is present he shall preside as chairman if willing to act. If no director is present, or if each of the directors present declines to take the chair, the persons present and entitled to vote shall appoint one of their number to be chairman.

### **13.4 Entitlement to Attend and Speak**

Each director shall be entitled to attend and speak at any general meeting of the company.

### **13.5 Adjournments**

The chairman may at any time with the consent of any meeting at which a quorum is present (and shall if so directed by such a meeting) adjourn the meeting either sine die or to another time or place. When a meeting is adjourned sine die the time and place for the adjourned meeting shall be fixed by the board. No business shall be transacted at any adjourned meeting except business which might properly have been transacted at the meeting had the adjournment not taken place.

### **13.6 Notice of Adjournment**

When a meeting is adjourned for one month or more, or sine die, notice of the adjourned meeting shall be given as in the case of an original meeting. Except where these articles otherwise require, it shall not be necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting.

## **14. VOTING**

### **14.1 Votes of Members**

Subject to any special terms as to voting upon which any shares may be issued or may for the time being be held and to any other provisions of these articles, on a show of hands every member who is present in person at a general meeting of the company shall have one vote. Proxies cannot vote on a show of hands. On a poll every member who is present in person or by proxy shall have one vote for every share of which he is the holder.

### **14.2 Method of Voting**

At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless (before or on the declaration of the result of the show of hands or on the withdrawal of any other demand for a poll) a poll is properly demanded. Subject to the Companies Acts, a poll may be demanded by:

14.2.1 the chairman of the meeting; or

14.2.2 any member present in person or by proxy and entitled to vote.

Unless a poll is so demanded and the demand is not withdrawn, a declaration by the chairman that a resolution on a show of hands has been carried or carried unanimously or by a particular majority or not carried by a particular majority or lost shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded for or against the resolution.

### **14.3 Procedure if Poll Demanded**

If a poll is properly demanded it shall be taken in such manner as the chairman shall direct. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. A poll shall be taken forthwith after it has been properly demanded.

### **14.4 Votes on a Poll**

On a poll votes may be given either personally or by proxy. A member may appoint more than one proxy to attend on the same occasion.

### **14.5 No Casting Vote of Chairman**

In the case of an equality of votes at a general meeting, whether on a show of hands or on a poll, the chairman shall not be entitled to an additional or casting vote.

#### **14.6 Votes of Joint Holders**

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

#### **14.7 Voting on Behalf of Incapable Member**

A member in respect of whom an order has been made by any competent court or official on the ground that he is or may be suffering from mental disorder or is otherwise incapable of managing his affairs may vote at any general meeting of the company or at any separate general meeting of the holders of any class of shares in the company and may exercise any other right conferred by membership in relation to general meetings by or through any person authorised in such circumstances to do so on his behalf (and that person may vote on a poll by proxy), provided that evidence to the satisfaction of the board of the authority of the person claiming to exercise the right to vote or such other right has been delivered at the office (or at such other place as may be specified in accordance with these articles for the delivery of instruments appointing a proxy) not later than the last time at which an instrument of proxy should have been delivered in order to be valid for use at that meeting or on the holding of that poll.

#### **14.8 No Right to Vote where Sums Overdue on Shares**

No member shall be entitled in respect of any share held by him to vote (either personally or by proxy) at any general meeting of the company or at any separate general meeting of the holders of any class of shares in the company or to exercise any other right conferred by membership in relation to general meetings unless all calls or other sums presently payable by him in respect of that share have been paid.

#### **14.9 Objections or Errors in Voting**

If:

14.9.1 any objection shall be raised to the qualification of any voter, or

14.9.2 any votes have been counted which ought not to have been counted or which might have been rejected, or

14.9.3 any votes are not counted which ought to have been counted,

the objection or error shall not vitiate the decision of the meeting or adjourned meeting on any resolution unless it is raised or pointed out at the meeting or, as the case may be, the adjourned meeting at which the vote objected to is given or tendered or at which the error occurs.

#### **15. PROXIES**

##### **15.1 Execution of Proxies**

The instrument appointing a proxy shall be in writing under the hand of the appointor or his duly authorised attorney or, if the appointor is a corporation, either under its seal or under the hand of an officer, attorney or other person authorised to sign it.

##### **15.2 Delivery of Proxies**

The instrument appointing a proxy and (if required by the board) any authority under which it is executed or a copy of the authority, certified notarially or in accordance with the Powers of Attorney Act 1971 or in some other manner approved by the board, must be delivered to the office (or to such other place in the United Kingdom as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case, in any accompanying document) not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the

person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of the meeting or adjourned meeting, not less than 24 hours before the time appointed for the taking of the poll and an instrument of proxy which is not so delivered shall be invalid. When two or more valid but differing instruments of proxy are delivered in respect of the same share for use at the same meeting, the one which is last delivered (regardless of its date or of the date of its execution) shall be treated as replacing and revoking the others as regards that share: if the company is unable to determine which was last delivered, none of them shall be treated as valid in respect of that share. Delivery of an instrument appointing a proxy shall not preclude a member from attending and voting in person at the meeting or poll concerned.

### **15.3 Maximum Validity of Proxy**

No instrument appointing a proxy shall be valid after 12 months have elapsed from the date named in it as the date of its execution save that, unless the contrary is stated in it, an instrument of proxy shall be valid for use at an adjourned meeting or a poll after a meeting or an adjourned meeting even after 12 months, if it was valid for the original meeting.

### **15.4 Form of Proxy**

Instruments of proxy shall be in any usual form or in such other form as the board may approve and the board may, if it thinks fit, but subject to the provisions of the Companies Acts, send with the notice of any meeting forms of instrument of proxy for use at the meeting. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll and to vote on any amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy shall, unless the contrary is stated in it, be valid as well for any adjournment of the meeting as for the meeting to which it relates.

### **15.5 Cancellation of Proxy's Authority**

A vote given or poll demanded by a proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll, unless notice in writing of the determination was received by the company at the office (or such other place in the United Kingdom as was specified for the delivery of instruments of proxy in the notice convening the meeting or other accompanying document) not later than the last time at which an instrument of proxy should have been delivered in order to be valid for use at the meeting or on the holding of the poll at which the vote was given or the poll demanded.

## **PART 8**

### **SHARES AND SHARE CAPITAL**

#### **16. SHARE CAPITAL**

##### **16.1 Purchase of Own Shares**

Subject to the provisions of the Companies Acts and to any rights attached to existing shares, the company may purchase or may enter into a contract under which it will or may purchase all or any of its shares of any class, including any redeemable shares.

##### **16.2 Variation of Rights**

Subject to the provisions of the Companies Acts, all or any of the rights for the time being attached to any class of shares for the time being issued may from time to time (whether or not the company is being wound up) be varied either with the consent in writing of the holders of not less than three-fourths in nominal value of the issued shares of that class or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of those shares. All the provisions of these articles as to general meetings of the company shall, with any necessary modifications, apply to any such separate general meeting, but so that the necessary quorum shall be two persons holding or representing by proxy not less than one-third in nominal value of the issued shares of the class, (but so that at any adjourned meeting one holder present in person or by proxy (whatever the number of shares held by him) shall be a quorum), that every holder of shares of the class present in person or by proxy shall be entitled on a poll to one vote for every share of the class held by him (subject to any rights or restrictions attached to any class of shares) and that any holder of shares of the class present in person or by proxy may demand a poll. The foregoing provisions of this Article shall apply to the variation of the special rights attached to some only of the shares of any class as if each group of shares of the class differently treated formed a separate class and their special rights were to be varied.

##### **16.3 Pari Passu Issues**

The rights conferred upon the holders of any shares shall not, unless otherwise expressly provided in the rights attaching to those shares, be deemed to be varied by the creation or issue of further shares ranking pari passu with them.

##### **16.4 Unissued Shares**

16.4.1 Subject to the provisions of the Companies Acts and these articles and to any resolution passed by the company under the Companies Acts and without prejudice to any rights attached to existing shares, the unissued shares of the company (whether forming part of the original or any increased capital) shall be at the disposal of the board which may offer, allot, grant options over or otherwise deal with or dispose of them to such persons, at such times and for such consideration and upon such terms as the board may decide.

16.4.2 Subject to any direction to the contrary which may be given by the company in general meeting, the board is unconditionally authorised to exercise all powers of the company to allot relevant securities. The maximum nominal amount of relevant securities that may be allotted under this authority shall be the nominal amount of the unissued share capital at the date of adoption of this Article or such other amount as may from time to time be authorised by the company in general meeting. The authority conferred on the directors by this Article shall remain in force for a period of five years from the date of adoption of this Article but may be revoked varied or renewed from time to time by the company in general meeting in accordance with the Act.

16.4.3 Section 89(1) of the Companies Act 1985 shall not apply to the allotment by the company of any equity security.

**16.5 Payment of Commission**

The company may in connection with the issue of any shares exercise all powers of paying commission and brokerage conferred or permitted by the Companies Acts.

**16.6 Trusts Not Recognised**

Except as ordered by a court of competent jurisdiction or as required by law, no person shall be recognised by the company as holding any share upon any trust and the company shall not be bound by or required in any way to recognise (even when having notice of it) any interest in any share or (except only as by these articles or by law otherwise provided) any other right in respect of any share other than an absolute right to the whole of the share in the holder.

**16.7 Right to Share Certificates**

Subject to the provisions of these articles, every person (except a person to whom the company is not by law required to issue a certificate) whose name is entered in the register as a holder of any shares shall be entitled, without payment, to receive within the time limits prescribed by the Companies Acts one certificate for all those shares of any one class. In the case of a share held jointly by several persons, the company shall not be bound to issue more than one certificate and delivery of a certificate to one of several joint holders shall be sufficient delivery to all. A member who transfers some but not all of the shares comprised in a certificate shall be entitled to a certificate for the balance without charge.

**16.8 Replacement of Share Certificates**

If a share certificate is defaced, worn out, lost or destroyed, it may be replaced (subject as provided in this Article) without charge but on such terms (if any) as to evidence and indemnity as the board may decide and, where it is defaced or worn out, after delivery of the old certificate to the company. Any two or more certificates representing shares of any one class held by any member shall at his request be cancelled and a single new certificate for such shares issued in lieu. Any certificate representing shares of any one class held by any member may at his request be cancelled and two or more certificates for such shares may be issued instead. The board may require the payment of any exceptional out-of-pocket expenses of the company incurred in connection with the issue of any certificates under this Article. Any one of two or more joint holders may request replacement certificates under this Article.

**16.9 Execution of Share Certificates**

Every share certificate shall be executed under a seal or in such other manner as the board, having regard to the terms of issue may authorise, and shall specify the number and class of the shares to which it relates and the amount or respective amounts paid up on the shares. The board may by resolution decide, either generally or in any particular case or cases, that any signatures on any share certificates need not be autographic but may be applied to the certificates by some mechanical, electronic or other means or may be printed on them or that the certificates need not be signed by any person.

**17. TRANSFER OF SHARES**

**17.1 Transfer**

Subject to such of the restrictions of these articles as may be applicable any member may transfer all or any of his shares by an instrument of transfer in any usual form or in any other form which the board may approve.

**17.2 Leavers, Indirect Disposals; Insolvency**

The following are "Trigger Events" in relation to a member:

17.2.1 a person (a "**Leaver**") who is a Director or employee of any Group company ceases to be a director or employee of the Group for whatever reason and that person is either (i) a member or (ii) a person who once was a member and who has Related Shareholders (unless, in the case of a Leaver who is not a Very Bad Leaver, OnMedica (if OnMedica has a Five Per Cent Investment), Calyon (if Calyon has a Five Per Cent Investment), EPIC (if EPIC has a Five Per Cent Investment), EMIS (if EMIS has a Five Per Cent Investment), and KM (if KM has a Five Per Cent Investment) or the Board (if none of OnMedica, Calyon, EPIC, KM or EMIS has a Five Per Cent Investment) determine that no Trigger Event shall arise in respect thereof); or

17.2.2 there is an Indirect Disposal in relation to any Shareholder.

### 17.3 **Compulsory Offer**

17.3.1 If a Trigger Event occurs and is continuing in relation to any member the company shall give notice (a "**Compulsory Transfer Notice**") to the holder(s) of all the Shares (the "**Specified Shares**") held by:

- (a) that member;
- (b) each of that member's Affiliates; and
- (c) if the member is a Leaver, each of his Related Shareholders,

requiring the transfer of 100% of the Specified Shares, and each holder of the Specified Shares shall be deemed to have appointed the company as his agent for the transfer of such Specified Shares held by him (rounded up or down to the nearest whole number) (the "**Compulsory Transfer Shares**"), free of all encumbrances and with all rights attached to them, in accordance with this Article 17.3.

17.3.2 The members shall use Reasonable Endeavours to determine or procure the determination of the Compulsory Transfer Price of the Compulsory Transfer Shares as soon as reasonably practicable after the giving of a Compulsory Transfer Notice.

17.3.3 Within 21 Business Days after the date on which the Compulsory Transfer Price of the Compulsory Transfer Shares is determined, the company shall send a notice in writing to all existing holders of Shares (other than the holders of the Compulsory Transfer Shares or any other holder of Shares who has given a Transfer Notice in respect of any of his Shares):

- (a) containing an offer ("**Compulsory Offer**") of the Compulsory Transfer Shares at the Compulsory Transfer Price and inviting each recipient to notify the company in writing within a period of 15 Business Days ("**Compulsory Offer Period**") whether it is willing to take any, and if so what maximum number, of the Compulsory Transfer Shares;
- (b) stating that, if the recipients who accept the Compulsory Offer express, in aggregate, a willingness to take more than the total number of Compulsory Transfer Shares, the Compulsory Transfer Shares shall be allocated to such recipients in proportion as nearly as may be to the number of Shares then held by them, subject to the maximum number specified by each such recipient; and
- (c) setting out the name of any person nominated by the Directors who has expressed an interest in acquiring all or any of the Compulsory Transfer Shares and to whom any Compulsory Transfer Shares not allocated among the recipients of the Compulsory Offer may be allocated.

17.3.4 The company shall, within five Business Days after the date on which the Compulsory Offer Period ends, notify in writing:

- (a) the holders of the Compulsory Transfer Shares of the name and address of each person ("**Compulsory Purchaser**") to whom Compulsory Transfer Shares have been allocated and the number of Shares to be transferred to each of them;
- (b) each of the Compulsory Purchasers of the number of Compulsory Transfer Shares to be transferred to it; and
- (c) the holders of the Compulsory Transfer Shares and each of the Compulsory Purchasers of the time(s) (not being less than 48 hours nor more than five Business Days after the date of such notification) and place(s) for completion of the transfer of Shares to the Compulsory Purchasers.

17.3.5 The holders of the Compulsory Transfer Shares and each of the Compulsory Purchasers shall be obliged to complete the transfer of the Compulsory Transfer Shares in accordance with the Transfer Completion Provisions at such time(s) and place(s) as shall be specified in the notification under Article 17.3.

17.3.6 Notwithstanding the provisions of Article 17.3.1 above, the Board, with the consent of OnMedica and Calyon, may first offer some or all of the Compulsory Transfer Shares to an Employee Benefit Trust set up by the company.

#### 17.4 **Compulsory Transfer Price**

17.4.1 The "**Compulsory Transfer Price**" shall be a price per Compulsory Transfer Share:

- (a) in the case of an Exempt Leaver or a Good Leaver and his Related Shareholders, the greater of (a) £1.80 and (b) their Fair Value agreed with OnMedica (if OnMedica has a Five Per Cent Investment), Calyon (if Calyon has a Five Per Cent Investment), EPIC (if EPIC has a Five Per Cent Investment), KM (if KM has a Five Per Cent Investment) and EMIS (if EMIS has a Five Per Cent Investment) or the Board (if none of Calyon, OnMedica, EPIC, KM or EMIS has a Five Per Cent Investment) or determined pursuant to Article 17.4.2;
- (b) in the case of a Very Bad Leaver par value; and
- (c) in the case of any member other than a Leaver and his Related Shareholders, equal to their Fair Value.

17.4.2 Save as otherwise provided in Article 17.4, the Compulsory Transfer Price shall be as agreed between the relevant member of the Board or (in the absence of agreement) as certified in a reasoned certificate by the Valuer acting as expert and not as arbitrator whose decision shall be final and binding and whose fees shall be borne by the company or as otherwise determined by the Valuer.

#### 17.5 **Default by the company**

If the company fails to give any notice, perform any of its obligations or exercise any of its rights or discretions under this Article 17 and such failure continues unremedied for more than 20 Business Days after any Party has given notice thereof to the chairman of the company, any Director shall be entitled, in the name and/or on behalf of the company, to give any such notice, perform any such obligation or exercise any such right or discretion.

#### 17.6 **Execution of Transfer**

The instrument of transfer of a share shall be executed by or on behalf of the transferor and (in the case of a partly paid share) the transferee, and the transferor shall be deemed to remain the holder of the share concerned until the name of the transferee is entered in the register in respect of it. All instruments of transfer, when registered, may be retained by the company.

#### **17.7 Rights to Decline Registration of Partly Paid Shares**

The board may, in its absolute discretion and without giving any reason for so doing, decline to register any transfer of any share which is not a fully paid share or has not been transferred in accordance with these Articles.

#### **17.8 Other Rights to Decline Registration**

The board may decline to register any transfer of a share:

- 17.8.1 to a person of whom it does not approve (including without limitation any company the operations of which are in any way competitive with any activity carried on or proposed to be carried on by the company);
- 17.8.2 on which the company has a lien;
- 17.8.3 to a person who is under 18 years of age or who does not have the legal capacity to dispose freely of any shares without let, hindrance or court order;
- 17.8.4 if the instrument of transfer is not left at the office or such other place as the board may from time to time determine accompanied (save in the case of a transfer by a person to whom the company is not required by law to issue a certificate and to whom a certificate has not been issued) by the certificate for the share to which it relates and such other evidence as the board may reasonably require to show the right of the person executing the instrument of transfer to make the transfer;
- 17.8.5 if the instrument of transfer is not in respect of only one class of share; and
- 17.8.6 in the case of a transfer to joint holders, if the number of joint holders to whom the share is to be transferred exceeds four.

#### **17.9 Notice of Refusal**

If the board declines to register a transfer of a share it shall, within two months after the date on which the instrument of transfer was lodged, send to the transferee notice of the refusal.

#### **17.10 No Fee for Registration**

No fee shall be charged by the company for registering any transfer, document or instruction relating to or affecting the title to any share or for making any other entry in the register.

#### **17.11 Rights of first refusal**

- 17.11.1 Subject to this Article and Article 28.4, any unissued Shares, the issue and allotment of which has been approved in accordance with these Articles and which when aggregated with any shares issued in the previous 12 months comprises in aggregate a nominal value of 10% or more of the issued share capital of the company at the date falling 12 months before the proposed date of issue, shall be offered, before they are issued or allotted, simultaneously and on the same terms to all existing Shareholders (other than any Shareholder who has given a Transfer Notice in respect of any of his Shares).
- 17.11.2 Each such offer shall be made by a notice specifying the number, price and terms of each payment of the Shares on offer. The notice shall invite each recipient to state in writing to the company within a period of five Business Days whether he is willing to take any, and if so what maximum number, of the Shares on offer. The notice shall state that, if recipients who accept the offer express, in aggregate, a willingness to take more than the total number of Shares on offer, the Shares on offer shall be allocated to such recipients in proportion as nearly as may be to the number of Shares then held by them subject to the maximum number specified by each such recipient.

17.11.3 At the expiration of the time stipulated by an offer pursuant to Article 17.11.1, the company shall allot and issue the relevant number of Shares in accordance with their terms of issue to each Shareholder who has notified to the company his willingness to take up all or part of his entitlement.

17.11.4 Any offered Shares not accepted by Shareholders in accordance with Article 17.11.1 shall be at the disposal of the Directors provided that no such Share shall be allotted:

- (a) after the expiry of the period of one month from the date on which it was offered to existing Shareholders; and
- (b) on terms which are more favourable to the allottee than the terms on which they were offered to existing Shareholders.

**17.11.5 Issue of Shares from the Option Pool**

Rights of first refusal under Article 17.11 shall not apply to Shares which are issued to an option holder on the exercise of options granted to him pursuant to the terms of a Share Option Scheme, provided that, save with the prior written consent of OnMedica and Calyon, the aggregate number of Shares so issued does not exceed the number of Shares in the Option Pool.

**17.12 Permitted Transfers**

17.12.1 Any transfer from the Shareholders to a member of the OnMedica Group shall be permitted, subject to the approval of Calyon, EPIC, EMIS and the Founder Director.

17.12.2 Any transfer from the Shareholders to a member of the Calyon Group shall be permitted, subject to approval of OnMedica, EPIC, EMIS and the Founder Director.

17.12.3 Any transfer from the Shareholders to a member of the EPIC Group shall be permitted subject to the approval of Calyon, OnMedica, EMIS and the Founder Director.

17.12.4 Any transfer from the Shareholders to a member of the EMIS Group shall be permitted subject to the approval of Calyon, OnMedica, EPIC and the Founder Director.

**17.13 Transfers to Affiliates**

17.13.1 A Shareholder may transfer any Share to any Affiliate provided that the transferee (and "Affiliate Transferee") if not already a Shareholder shall first have entered into an agreed form of deed of adherence to the Shareholders Agreement.

17.13.2 An Affiliate Transferee shall transfer, in a manner and to a transferee permitted by these Articles, all the Shares held by it before it ceases to be an Affiliate of the Original Holder.

**17.14 Transfers by individuals**

Any Shareholder (the "Transferor") who is an individual may transfer all or any of his Shares to his or her spouse or adult children or adult step children or adult grandchildren or to the trustee or trustees of a family trust set up wholly (or partly in the case of a discretionary trust) for the benefit of one or more of the Transferor and his or her spouse, children or step children or grandchildren and of which the said Shareholder is the settlor or a life tenant or to a bare nominee provided that the transferee shall first have entered into an agreed form of deed of adherence to the Shareholders Agreement.

**17.15 Transfers with Shareholder consent**

Subject to the provision of Articles 17.1 - 17.10, any Shareholder may at any time transfer Shares or any beneficial interest in any Shares to any other person for whatever consideration with the

prior written consent of the holders of 75% of all the issued Shares held by the Shareholders other than the Shareholder proposing to make that transfer.

**17.16 Transfers on behalf of a deceased estate**

Subject to provision of this Articles 17.1 - 17.10, Shares held by an individual who dies may be transferred to his personal representative(s) or to the person(s) entitled to receive them on his death, provided in each case that the transferee (if not already a Shareholder) shall first have entered into an agreed form of deed of adherence to the Shareholders Agreement.

**17.17 Information and evidence**

The transferor and transferee of any Share transferred under Articles 17.11 – 17.17 and the Original Holder (if any) of the transferred Share shall each provide to the company, at his own expense, any information and evidence reasonably requested in writing by the company for the purpose of determining whether the transfer to the proposed transferee complies with the terms of the articles.

**17.18 Pre-emption Rights on a Transfer: Transfer Notice**

Prior to making any transfer of any Share (other than in accordance with Articles 17, 28.2, 28.4 or 29) the person whose Shares are to be transferred ("Offeror") shall give a notice in writing ("Transfer Notice") to the company informing it of the proposed transfer and setting out:

- 17.18.1 the Shares to which it relates ("Offered Shares");
- 17.18.2 if any person has expressed an interest in acquiring the Offered Shares, the identity of that person;
- 17.18.3 the price per Share (which shall be a fixed amount in cash and/or in securities listed or admitted to dealings on a recognised investment exchange) ("Offer Price") and other terms ("Offer Terms") on which the Offeror proposes to transfer the Offered Shares; and
- 17.18.4 a condition, if the Offeror wishes to impose it, that unless all or a specified minimum number of the Offered Shares are taken up by other Shareholders when offered to them in accordance with Articles 17.18 – 17.25, then none of the Offered Shares shall be transferred to other Shareholders under Articles 17.18 - 17.25 ("Minimum Transfer Condition").
- 17.18.5 In the case of disagreement as to the amount of the Offer Price, a reasoned certificate by the Valuer shall be conclusive. The Valuer shall act as expert and not as arbitrator, its decision shall be final and binding and its fees shall be borne by the company or as otherwise determined by the Valuer.

**17.19 Company as Agent**

The Transfer Notice shall constitute the company as the agent of the Offeror for the transfer of each of the Offered Shares, free of all encumbrances and with all rights attached to them, in accordance with this Article 17.

**17.20 Revocation of Transfer Notice**

The Transfer Notice shall only be revocable either by the Offeror by notice in writing to the company if the Offeror disagrees with the Offer price as determined pursuant to Article 17.18 (within ten Business Days of such determination) or in accordance with this Article or with the consent in writing of all the other Shareholders and if it is revoked:

- 17.20.1 the Offeror may not give a further Transfer Notice within six months (or such earlier date as the Board may permit) after the date on which the Transfer Notice is revoked;

17.20.2 the company shall inform all other Shareholders of Shares that the Transfer Notice has been revoked; and

17.20.3 the remaining provisions of this Article shall cease to apply in relation to the revoked Transfer Notice.

**17.21 Offer to Shareholders**

Within 10 Business Days after the date on which the Transfer Notice is received by the company or, if later, within 10 Business Days of determination of the Offer Price pursuant to this Article, the company shall send a notice in writing to all Shareholders (other than the Offeror or any other Shareholder who has given a Transfer Notice in respect of any of its Shares);

17.21.1 containing an offer ("Offer") of the Offered Shares at the Offer Price and on the Offer Terms and inviting each recipient to notify the company in writing within a period of 20 Business Days ("Offer Period") whether it is willing to take any, and if so what maximum number, of the Offered Shares at the Offer Price and on the Offer Terms;

17.21.2 setting out the identity of any person referred to in the Transfer Notice as having expressed an interest in acquiring the Offered Shares;

17.21.3 stating that, if recipients who accept the Offer express, in aggregate, a willingness to take more than the total number of Offered Shares, the Offered Shares shall be allocated to such recipients in proportion as nearly as may be to the number of Shares then held by them subject to the maximum number specified by each such recipient; and

17.21.4 if a Minimum Transfer Condition is included in the Transfer Notice, stating that the Offer cannot be validly accepted in respect of any of the Offered Shares unless and until purported acceptances have been received by the company relating to the minimum number of Offered Shares specified in the Minimum Transfer Condition.

**17.22 Sale to Shareholders**

If no Minimum Transfer Condition is included in the Transfer Notice, or if a Minimum Transfer Condition is included and the company receives acceptances for the specified minimum number of Offers Shares within the Offer Period:

17.22.1 the company shall, within five Business Days after the date on which the Offer Period ends, notify in writing:

(a) the Offeror of the number of Offered Shares (if any) for which no acceptances have been received;

(b) the Offeror of the name and address of each person who had accepted Offered Shares ("Accepted Holders") and the number of Shares to be transferred to each of them;

(c) each of the Accepting Holders of the number of Shares to be transferred to it; and

(d) the Offeror and each of the Accepting Holders of the time(s) (not being less than 48 hours nor more than five Business Days after the date of such notification) and place(s) for completion of the transfer of Shares to Accepting Holders;

17.22.2 the Offeror and the Accepting Holders shall be obliged to complete the transfer of the relevant Shares in accordance with Article 17.26 at such time(s) and place(s) as shall be specified in the notification under Article 17.22.1; and

- 17.22.3 if the company has not received acceptances in respect of all the Offered Shares, Article 17.24 shall apply to the Offered Shares for which acceptances have not been received.

**17.23 Minimum Transfer Condition not met**

If a Minimum Transfer Condition is included in the Transfer Notice and the company does not receive acceptances for the specified minimum number of the Offered Shares within the Offer Period:

- 17.23.1 it shall, within five Business Days after the expiry of the Offer Period, so inform the Offeror and all persons who purported to accept the Offer; and

- 17.23.2 Article 17.24 shall apply to the Offered Shares, save that;

- (a) no Offered Share shall be transferred to an existing Shareholder pursuant to Article 17.24 unless each Shareholder who purported to accept the Offer is given the opportunity to have transferred to him the Shares he applied for in response to the Offer on the Offer Terms; and
- (b) the maximum number of Shares that may be transferred under Article 17.24 shall be the difference between the total number of Offered Shares and the minimum of Offered Shares specified in the Minimum Transfer Condition.

**17.24 Transfer to any person**

The Offeror may transfer, to any person named in the Transfer Notice as having expressed an interest in acquiring the Offered Shares, and Offered Share to which this Article applies provided that:

- 17.24.1 the transferee shall have been previously approved by the Directors (such approval not to be unreasonably withheld or delayed unless the proposed transferee is a person reasonably considered by the Directors to be a competitor or connected with a competitor of the business of the Group);

- 17.24.2 the entire legal and beneficial interest in the Share is transferred;

- 17.24.3 the price is not less than the price set out in the Offer Terms and is not subject to any rebate, allowance or deduction whatever;

- 17.24.4 the other terms of sale to the transferee are not more favourable than the Offer Terms;

- 17.24.5 there are no collateral agreements which make the arrangement more favourable to the transferee;

- 17.24.6 the transfer takes place within 60 days after the date on which the Offer Period ends;

- 17.24.7 the Offeror and the transferee shall each provide to the company, at his own expense, any information and evidence requested in writing by the company for the purpose of determining whether the transfer to the transferee complies with the terms of this Article; and

- 17.24.8 the transferee shall, prior to the transfer, enter into a deed of adherence in the agreed form to the Shareholders Agreement.

**17.25 Determination of suitability of transferee**

- 17.25.1 A Shareholder who has served or proposes to serve a Transfer Notice under Articles 17.18 – 17.25 setting out the identity of any person as having expressed an interest in acquiring the Offered Shares may serve a notice on the company requesting that the Directors decide whether they approve of such person for the purposes of Article 17.24.1.

17.25.2 The Director shall, within 15 Business Days after the company receives a request pursuant to this Article, advise the relevant Shareholder whether or not the proposed transferee has been approved for the purposes of Article 17.24.1. Any such approval shall be binding on the Directors in relation to any Transfer Notice served before or within 20 Business Days after that approval unless after the date of such approval the proposed transferee is affected by any change or the Directors receive any additional information relating to the proposed transferee which in either case the Directors consider to be material to the suitability of the proposed transferee as a Shareholder.

17.25.3 The Shareholder shall provide the Directors with all information as they may reasonably require in relation to their determination under this Article.

#### **17.26 Completion of Share Transfers**

##### **17.26.1 Encumbrances and rights.**

Where this Article 17.26 applies to the transfer of any Share, the Share shall be transferred free of encumbrances and with all rights attaching thereto.

##### **17.26.2 Obligations at completion**

Upon completion of any transfer of Shares under the provisions of these Articles:

- (a) the seller shall deliver to the purchaser a duly executed transfer in favour of the purchaser together with the certificate representing the relevant Shares;
- (b) the purchaser shall pay the aggregate transfer price in respect of the relevant Shares to the seller for value on the date of completion or in such manner as may be agreed by the seller and the purchaser before completion;
- (c) (except in the case of an Appropriate Offer which has been accepted or deemed accepted by all Shareholders or in the circumstances referred to in Article 29.2 the purchaser shall (if it is not already a Party) enter into an agreed deed of adherence to the Shareholders Agreement; and
- (d) the seller shall do all such acts and/or execute all such other documents in a form satisfactory to the purchaser as the purchaser may reasonably require to give effect to the transfer of Shares to it.

#### **17.27 Security power of attorney**

17.27.1 Each of the Shareholders hereby irrevocably and unconditionally (and by way of security for the performance of its obligations under these Articles) appoints any Director as its attorney to execute and do in its name or otherwise and on its behalf all documents, acts and things which the attorney shall in its absolute discretion consider necessary or desirable in order to implement the obligations of that Shareholder under this Article 17.

17.27.2 Each Shareholder undertakes to ratify whatever any Director as its attorney shall lawfully do or cause to be done in accordance with this power of attorney and to indemnify and keep such attorney indemnified from all claims, costs, expenses, damages and losses which the attorney may suffer as a result of the lawful exercise by him of the powers conferred on him under this power of attorney.

#### **17.28 Failure to transfer**

If a transfer of Shares is executed on behalf of a Shareholder under Article 17.27:

17.28.1 the company may receive the purchase money in trust for that Shareholder and the receipt of the company for the purchase money shall be a good discharge, who shall not be bound to see to the application of the purchase money;

17.28.2 the company shall, subject to the instrument of transfer being duly stamped, cause the purchaser to be registered as holder of the relevant Shares; and

17.28.3 once registration has taken place in purported exercise of the power contained in this Article 17.28, the validity of the proceedings shall not be questioned by any person.

## **18. TRANSMISSION OF SHARES**

### **18.1 Transmission on Death**

If a member dies, the survivor or survivors, where he was a joint holder, and his personal representatives, where he was a sole holder or the only survivor of joint holders, shall be the only persons recognised by the company as having any title to his shares; but nothing contained in these articles shall release the estate of a deceased holder from any liability in respect of any share held by him solely or jointly with other persons.

### **18.2 Entry of Transmission in Register**

Where the entitlement of a person to a share in consequence of the death or bankruptcy of a member or of any other event giving rise to its transmission by operation of law is proved to the satisfaction of the board, the board shall within two months after proof cause the entitlement of that person to be noted in the register.

### **18.3 Election of Person Entitled by Transmission**

Any person entitled by transmission to a share may, subject as provided elsewhere in these articles, elect either to become the holder of the share or to have some person nominated by him registered as the holder. If he elects to be registered himself he shall give notice to the company to that effect. If he elects to have another person registered, he shall transfer title to the share to that person. The board may at any time require the person to elect either to be registered himself or to transfer the share and if the requirements are not complied with within 60 days of being issued the board may withhold payment of all dividends and other moneys payable in respect of the share until the requirements have been complied with. All the provisions of these articles relating to the transfer of, and registration of transfers of, shares shall apply to the notice or transfer as if the death or bankruptcy of the member or other event giving rise to the transmission had not occurred and the notice or transfer was given or executed by the member.

### **18.4 Rights of Person Entitled by Transmission**

Where a person becomes entitled by transmission to a share, the rights of the holder in relation to that share shall cease, but the person entitled by transmission to the share may give a good discharge for any dividends or other moneys payable in respect of it and shall have the same rights in relation to the share as he would have had if he were the holder of it save that, until he becomes the holder, he shall not be entitled in respect of the share (except with the authority of the board) to attend or vote at any general meeting of the company or at any separate general meeting of the holders of any class of shares in the company or to exercise any other right conferred by membership in relation to general meetings.

## **19. ALTERATION OF SHARE CAPITAL**

### **19.1 Increase, Consolidation, Sub-Division and Cancellation**

The company may from time to time by ordinary resolution:

19.1.1 increase its share capital by such sum to be divided into shares of such amount as the resolution shall prescribe;

19.1.2 consolidate, or consolidate and then sub-divide, all or any of its share capital into shares of larger amount than its existing shares;

19.1.3 subject to the Companies Acts, sub-divide its shares or any of them into shares of smaller amount and the resolution may determine that, as between the shares resulting from the sub-division, any of them may have any preference or advantage or be subject to any restriction as compared with the others; and

19.1.4 cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.

## **19.2 Fractions**

Whenever as a result of a consolidation or consolidation and sub-division of shares any members would become entitled to fractions of a share, the board may deal with the fractions as it thinks fit. In particular the board may sell the shares representing the fractions for the best price reasonably obtainable to any person (including, subject to the provisions of the Companies Acts, the company) and distribute the net proceeds of sale in due proportion among those members and the board may authorise some person to transfer or deliver the shares to, or in accordance with the directions of, the purchaser. For the purposes of effecting the sale, the board may arrange for the shares representing the fractions to be entered in the register. The person to whom any shares are transferred or delivered shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity in, or invalidity of, the proceedings relating to the sale.

## **19.3 Reduction of Capital**

Subject to the provisions of the Companies Acts, the company may by special resolution reduce its share capital, any capital redemption reserve, any share premium account or any other undistributable reserve in any way.

## **PART 9**

### **LIEN, CALLS AND FORFEITURE**

#### **20. LIEN**

##### **20.1 Company's Lien on Shares Not Fully Paid**

The company shall have a first and paramount lien on every share (not being a fully paid share) for all amounts payable to the company (whether presently or not) in respect of that share. The company's lien on a share shall extend to every amount payable in respect of it. The board may at any time either generally or in any particular case waive any lien that has arisen or declare any share to be wholly or in part exempt from the provisions of this Article.

##### **20.2 Enforcing Lien by Sale**

The company may sell, in such manner as the board may decide, any share on which the company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within 14 clear days after a notice in writing has been served on the holder of the share or the person who is entitled by transmission to the share and who has supplied the company with an address within the United Kingdom for the service of notices, demanding payment and stating that if the notice is not complied with the share may be sold. For giving effect to the sale the board may authorise some person to execute an instrument of transfer of the share sold to or in accordance with the directions of the purchaser. The transferee shall not be bound to see to the application of the purchase money, nor shall his title to the share be affected by any irregularity or invalidity in relation to the sale.

##### **20.3 Application of Proceeds of Sale**

The net proceeds, after payment of the costs, of the sale by the company of any share on which it has a lien shall be applied in or towards payment or discharge of the debt or liability in respect of which the lien exists so far as it is presently payable, and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the share prior to the sale and upon surrender, if required by the company, for cancellation of the certificate for the share sold) be paid to the person who was entitled to the share at the time of the sale.

#### **21. CALLS ON SHARES**

##### **21.1 Calls**

Subject to the terms of issue, the board may from time to time make calls upon the members in respect of any moneys unpaid on their shares (whether on account of the nominal amount of the shares or by way of premium) and not payable on a date fixed by or in accordance with the terms of issue, and each member shall (subject to the company serving upon him at least 14 clear days' notice specifying when and where payment is to be made) pay to the company as required by the notice the amount called on his shares. A call may be made payable by instalments. A call may be revoked or postponed, in whole or in part, as the board may decide. A person upon whom a call is made shall remain liable for all calls made upon him notwithstanding the subsequent transfer of the shares in respect of which the call was made.

##### **21.2 Payment on Calls**

A call shall be deemed to have been made at the time when the resolution of the board authorising the call was passed.

##### **21.3 Liability of Joint Holders**

The joint holders of a share shall be jointly and severally liable to pay all calls in respect of the share.

#### **21.4 Interest Due on Non-Payment**

If a call remains unpaid after it has become due and payable, the person from whom it is due and payable shall pay interest on the amount unpaid from the day it is due and payable to the time of actual payment at such rate, not exceeding 15 per cent. per annum, as the board may decide, and all expenses that have been incurred by the company by reason of such non-payment, but the board shall be at liberty in any case or cases to waive payment of the interest or expenses wholly or in part.

#### **21.5 Sums Due on Allotment Treated as Calls**

Any amount which becomes payable in respect of a share on allotment or on any other date fixed by or in accordance with the terms of issue, whether in respect of the nominal amount of the share or by way of premium or as an instalment of a call, shall be deemed to be a call and, if it is not paid, all the provisions of these articles shall apply as if the sum had become due and payable by virtue of a call.

#### **21.6 Power to Differentiate**

Subject to the terms of issue, the board may on the issue of shares differentiate between the allottees or holders as to the amount of calls to be paid and the times of payment.

#### **21.7 Payment of Calls in Advance**

The board may, if it thinks fit, receive from any member who is willing to advance them all or any part of the moneys uncalled and unpaid upon any shares held by him and on all or any of the moneys so advanced the company may (until those moneys would, but for the advance, become presently payable) pay interest at such rate, not exceeding (unless the company by ordinary resolution shall otherwise direct) 15 per cent. per annum, as the board may decide.

### **22. FORFEITURE OF SHARES**

#### **22.1 Notice if Call or Instalment Not Paid**

If any call or instalment of a call remains unpaid on any share after the day appointed for payment, the board may at any time serve a notice on the holder requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued and any expenses incurred by the company by reason of such non-payment.

#### **22.2 Form of Notice**

The notice shall name a further day (not being less than 14 clear days from the date of the notice) on or before which, and the place where, the payment required by the notice is to be made and shall state that in the event of non-payment on or before the day and at the place appointed, the shares in respect of which the call has been made or instalment is payable will be liable to be forfeited. The board may accept the surrender of any share liable to be forfeited and, in that event, references in these articles to forfeiture shall include surrender.

#### **22.3 Forfeiture for Non-Compliance with Notice**

If the notice is not complied with, any share in respect of which it was given may, at any time before payment of all calls or instalments and interest and expenses due in respect of it has been made, be forfeited by a resolution of the board to that effect and the forfeiture shall include all dividends declared and other moneys payable in respect of the forfeited shares and not paid before the forfeiture.

#### **22.4 Notice after Forfeiture**

When any share has been forfeited, notice of the forfeiture shall be served upon the person who was before forfeiture the holder of the share but no forfeiture shall be invalidated by any omission or neglect to give notice.

#### **22.5 Sale of Forfeited Shares**

Until cancelled in accordance with the requirements of the Companies Acts, a forfeited share shall be deemed to be the property of the company and may be sold or otherwise disposed of either to the person who was, before forfeiture, the holder or to any other person upon such terms and in such manner as the board shall decide. The board may for the purposes of the disposal authorise some person to execute an instrument of transfer to the designated transferee. The company may receive the consideration (if any) given for the share on its disposal. At any time before a sale or disposition the forfeiture may be cancelled by the board on such terms as the board may decide.

#### **22.6 Arrears to be Paid Notwithstanding Forfeitures**

A person whose shares have been forfeited shall cease to be a member in respect of them and shall surrender to the company for cancellation the certificate for the forfeited shares but shall remain liable to pay to the company all moneys which at the date of the forfeiture were payable by him to the company in respect of those shares with interest thereon at the rate of 15 per cent. per annum (or such lower rate as the board may decide) from the date of forfeiture until payment, and the company may enforce payment without being under any obligation to make any allowance for the value of the shares forfeited or for any consideration received on their disposal.

#### **22.7 Statutory Declaration as to Forfeiture**

A statutory declaration that the declarant is a director of the company or the secretary and that a share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share. The declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the share and the person to whom the share is sold or otherwise disposed of shall not be bound to see to the application of the purchase money (if any) nor shall his title to the share be affected by any irregularity or invalidity in the proceedings relating to the forfeiture, sale or disposal.

## **PART 10**

### **DISTRIBUTIONS, CAPITALISATIONS AND RETURNS OF VALUE**

#### **23. DIVIDENDS AND OTHER PAYMENTS**

##### **23.1 Declaration of Dividends by company**

Subject to the provisions of the Companies Acts and with the prior written consent of the OnMedica Director, the Calyon Director, the EPIC Director and the EMIS Director the company may by ordinary resolution from time to time declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the board.

##### **23.2 Payment of Interim and Fixed Dividends by Board**

Subject to the provisions of the Companies Acts and with the prior written consent of the OnMedica Director, the Calyon Director, the EPIC Director and the EMIS Director the board may pay such interim dividends as appear to the board to be justified by the financial position of the company and may also pay any dividend payable at a fixed rate at intervals settled by the board whenever the financial position of the company, in the opinion of the board, justifies its payment. If the board acts in good faith, it shall not incur any liability to the holders of any shares for any loss they may suffer in consequence of the payment of an interim or fixed dividend on any other class of shares ranking *pari passu* with or after those shares.

##### **23.3 Calculation and Currency of Dividends**

Except in so far as the rights attaching to, or the terms of issue of, any share otherwise provide:

23.3.1 all dividends shall be declared and paid according to the amounts paid up on the share in respect of which the dividend is paid, but no amount paid up on a share in advance of calls shall be treated for the purposes of this Article as paid up on the share;

23.3.2 all dividends shall be apportioned and paid *pro rata* according to the amounts paid up on the share during any portion or portions of the period in respect of which the dividend is paid; and

23.3.3 dividends may be declared or paid in any currency.

The board may decide the basis of conversion for any currency conversions that may be required and how any costs involved are to be met.

##### **23.4 Amounts Due on Shares may be Deducted from Dividends**

The board may deduct from any dividend or other moneys payable to a member by the company on or in respect of any shares all sums of money (if any) presently payable by him to the company on account of calls or otherwise in respect of shares of the company. Sums so deducted can be used to pay amounts owing to the company in respect of the shares.

##### **23.5 No Interest on Dividends**

Subject to the rights attaching to, or the terms of issue of, any shares, no dividend or other moneys payable by the company on or in respect of any share shall bear interest against the company.

##### **23.6 Payment Procedure**

Any dividend or other sum payable in cash by the company in respect of a share may be paid by cheque, warrant or similar financial instrument sent by post addressed to the holder at his registered address or, in the case of joint holders, addressed to the holder whose name stands first in the register in respect of the shares at his address as appearing in the register or addressed to

such person and at such address as the holder or joint holders may in writing direct. Every cheque, warrant or similar financial instrument shall, unless the holder or joint holders otherwise direct, be made payable to the holder or, in the case of joint holders, to the holder whose name stands first on the register in respect of the shares, and shall be sent at his or their risk and payment of the cheque, warrant or similar financial instrument by the financial institution on which it is drawn shall constitute a good discharge to the company. In addition, any such dividend or other sum may be paid by any bank or other funds transfer system or such other means and to or through such person as the holder or joint holders may in writing direct, and the company shall have no responsibility for any sums lost or delayed in the course of payment by any such system or other means or where it has acted on any such directions. Any one of two or more joint holders may give effectual receipts for any dividends or other moneys payable or property distributable on or in respect of the shares held by them. Where a person is entitled by transmission to a share, any dividend or other sum payable by the company in respect of the share may be paid as if he were a holder of the share and his address noted in the register were his registered address and where two or more persons are so entitled, any one of them may give effectual receipts for any dividends or other moneys payable or property distributable on or in respect of the shares.

### **23.7      Uncashed Dividends**

The company may cease to send any cheque, warrant or similar financial instrument through the post or to employ any other means of payment for any dividend payable on any shares in the company which is normally paid in that manner on those shares if in respect of at least two consecutive dividends payable on those shares the cheques, warrants or similar financial instruments have been returned undelivered or remain uncashed during or at the end of the period for which the same are valid or that means of payment has failed. In addition, the company may cease to send any cheque, warrant or similar financial instrument through the post or may cease to employ any other means of payment if, in respect of one dividend payable on those shares, the cheque, warrant or similar financial instrument has been returned undelivered or remains uncashed during or at the end of the period for which the same is valid or that means of payment has failed and reasonable enquiries have failed to establish any new address or account of the holder. Subject to the provisions of these articles, the company must recommence sending cheques, warrants or similar financial instruments or employing such other means in respect of dividends payable on those shares if the holder or person entitled by transmission requests such recommencement in writing.

### **23.8      Forfeiture of Unclaimed Dividends**

All dividends or other sums payable on or in respect of any shares which remain unclaimed may be invested or otherwise made use of by the board for the benefit of the company until claimed. Any dividend or other sum unclaimed after a period of 12 years from the date when it was declared or became due for payment shall be forfeited and shall revert to the company and the payment by the board of any unclaimed dividend or other sum payable on or in respect of a share into a separate account shall not constitute the company a trustee in respect of it.

### **23.9      Dividends Not in Cash**

Any general meeting declaring a dividend may, upon the recommendation of the board, by ordinary resolution direct that it shall be satisfied wholly or partly by the distribution of assets, and in particular of paid up shares or debentures of any other company, and where any difficulty arises in regard to the distribution the board may settle it as it thinks expedient, and in particular may authorise any person to sell and transfer any fractions or may ignore fractions altogether, and may fix the value for distribution purposes of any assets or any part thereof to be distributed and may determine that cash shall be paid to any members upon the footing of the value so fixed in order to secure equality of distribution and may vest any assets to be distributed in trustees as may seem expedient to the board.

## **24. CAPITALISATION OF RESERVES**

### **24.1 Power to Capitalise Reserves and Funds**

The company may, upon the recommendation of the board, at any time and from time to time pass an ordinary resolution to the effect that it is desirable to capitalise all or any part of any amount for the time being standing to the credit of any reserve or fund (including the profit and loss account) whether or not the same is available for distribution and accordingly that the amount to be capitalised be set free for distribution among the members or any class of members who would be entitled to it if it were distributed by way of dividend and in the same proportions, on the footing that it is applied either in or towards paying up the amounts for the time being unpaid on any shares in the company held by those members respectively or in paying up in full unissued shares, debentures or other obligations of the company to be allotted and distributed credited as fully paid up among those members, or partly in one way and partly in the other, but so that, for the purposes of this Article, a share premium account and a capital redemption reserve, and any reserve or fund representing unrealised profits, may be applied only in paying up in full unissued shares of the company. The board may authorise any person to enter into an agreement with the company on behalf of the persons entitled to participate in the distribution and the agreement shall be binding on those persons.

### **24.2 Settlement of Difficulties in Distribution**

Where any difficulty arises in regard to any distribution of any capitalised reserve or fund the board may settle the matter as it thinks expedient and in particular may authorise any person to sell and transfer any fractions or may resolve that the distribution should be as nearly as may be practicable in the correct proportion but not exactly so or may ignore fractions altogether, and may determine that cash payments shall be made to any members in order to adjust the rights of all parties, as may seem expedient to the board.

## **25. DISTRIBUTION OF ASSETS OTHERWISE THAN IN CASH**

If the company commences liquidation, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Companies Acts:

- 25.1 divide among the members in kind the whole or any part of the assets of the company (whether they shall consist of property of the same kind or not) and, for that purpose, set such values as he deems fair upon any property to be divided and determine how the division shall be carried out as between the members or different classes of members, or
- 25.2 vest the whole or any part of the assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit but no member shall be compelled to accept any shares or other assets upon which there is any liability.

## **PART 11**

### **GENERAL PROVISIONS**

#### **26. SERVICE OF NOTICES AND DOCUMENTS**

##### **26.1 Service of Notices**

Any notice or document (including a share certificate) may be served on or delivered to any member by the company either personally or by sending it through the post addressed to the member at his registered address or by leaving it at that address addressed to the member or by any other means authorised in writing by the member concerned. In the case of joint holders of a share, service or delivery of any notice or document on or to one of the joint holders shall for all purposes be deemed a sufficient service on or delivery to all the joint holders.

##### **26.2 Members Resident Abroad**

Any member whose registered address is not within the United Kingdom shall nevertheless be entitled to have notices or documents served upon him at his registered address. Such notice shall be sent by way of international express mail or recognised international courier and deemed to be served or delivered two clear business days after posting.

##### **26.3 Service of Notice on Person Entitled by Transmission**

A person who is entitled by transmission to a share shall be entitled to have served upon or delivered to him at such address any notice or document to which he would have been entitled if he were the holder of that share, and such service or delivery shall for all purposes be deemed a *sufficient service or delivery of such notice or document on all persons interested (whether jointly with or as claimants through or under him) in the share.* Otherwise, any notice or other document served on or delivered to any member pursuant to these articles shall, notwithstanding that the member is then dead or bankrupt or that any other event giving rise to the transmission of the share by operation of law has occurred and whether or not the company has notice of the death, bankruptcy or other event, be deemed to have been properly served or delivered in respect of any share registered in the name of that member as sole or joint holder.

##### **26.4 When Notice Deemed Served**

Subject to Article 26.3, any notice or document, if sent by the company by post, shall be deemed to have been served or delivered on the day following that on which it was put in the post and, in proving service or delivery, it shall be sufficient to prove that the notice or document was properly addressed, prepaid and put in the post. Any notice or document not sent by post but left by the company at a registered address or at an address notified to the company in accordance with these articles by a person who is entitled by transmission to a share shall be deemed to have been served or delivered on the day it was so left. Any notice or document sent by e-mail to an e-mail address notified to the company in accordance with these articles shall be deemed to have been served or delivered on the day it was so sent. Any notice or document served or delivered by the company by any other means authorised in writing by the member concerned shall be deemed to have been served when the company has carried out the action it has been authorised to take for that purpose.

#### **27. MISCELLANEOUS**

##### **27.1 Secretary**

Subject to the provisions of the Companies Acts, the secretary shall be appointed by the board for such term and upon such conditions as the board may think fit; and any secretary so appointed may be removed by the board. The secretary shall receive such remuneration as the board or any committee authorised by the board shall decide.

## **27.2 Seals**

The board shall provide for the custody of every seal of the company. A seal shall only be used by the authority of the board or of a committee of the board authorised by the board in that behalf. Subject as otherwise provided in these articles, and to any resolution of the board or committee of the board dispensing with the requirement for counter-signature on any occasion, any instrument to which the common seal is applied shall be signed by at least one director and the secretary, or by at least two directors or by such other person or persons as the board may approve. Any instrument to which an official seal is applied need not, unless the board for the time being otherwise decides or the law otherwise requires, be signed by any person.

## **27.3 Record Dates**

Notwithstanding any other provision of these articles, the company or the board may fix any date as the record date for any dividend, distribution, allotment or issue and such record date may be on or at any time before or after any date on which the dividend, distribution, allotment or issue is declared, paid or made. The power to fix any such record date shall include the power to fix a time on the chosen date.

## **27.4 Accounting Records**

The board shall cause to be kept accounting records sufficient to show and explain the company's transactions, and such as to disclose with reasonable accuracy at any time the financial position of the company at that time, and which accord with the Companies Acts.

## **27.5 Destruction of Documents**

If the company destroys or deletes:

- 27.5.1 any share certificate which has been cancelled at any time after a period of one year has elapsed from the date of cancellation, or
- 27.5.2 any instruction concerning the payment of dividends or other moneys in respect of any share or any notification of change of name or address at any time after a period of two years has elapsed from the date the instruction or notification was recorded by the company, or
- 27.5.3 any instrument of transfer of shares which has been registered at any time after a period of six years has elapsed from the date of registration, or
- 27.5.4 any other document on the basis of which any entry is made in the register at any time after a period of six years has elapsed from the date the entry was first made in the register in respect of it

and the company destroys or deletes the document or instruction in good faith and without express notice that its preservation was relevant to a claim, it shall be presumed irrebuttably in favour of the company that every share certificate so destroyed was a valid certificate and was properly cancelled, that every instrument of transfer so destroyed or deleted was a valid and effective instrument of transfer or instruction and was properly registered and that every other document so destroyed was a valid and effective document and that any particulars of it which are recorded in the books or records of the company were correctly recorded. Nothing contained in this Article shall be construed as imposing upon the company any liability which, but for this Article, would not exist or by reason only of the destruction of any document of the kind mentioned above before the relevant period mentioned in this Article has elapsed or of the fact that any other condition precedent to its destruction mentioned above has not been fulfilled. References in this Article to the destruction of any document include references to its disposal in any manner.

## **27.6 Indemnity**

Subject to the provisions of the Companies Acts, the company may indemnify any director or other officer against any liability and may purchase and maintain for any director or other officer of the company or any of its subsidiary undertakings insurance against any liability. Subject to those provisions, but without prejudice to any indemnity to which the person concerned may otherwise be entitled, every director or other officer of the company shall be indemnified out of the assets of the company against any liability incurred by him as a director or other officer of the company, in defending any proceedings (whether civil or criminal) in which judgment is given in his favour or he is acquitted or in connection with any application under the Companies Acts in which relief is granted to him by the court. For the purposes of this Article no person appointed or employed by the company as an auditor is an officer of the company.

## **28. LIQUIDITY EVENTS:**

### **28.1 No sale negotiations without the consent of OnMedica, Calyon, EPIC and EMIS**

28.1.1 Subject to Article 28.1.2, each of the Shareholders agrees that they shall not conduct any negotiations with regard to the sale of the whole or any part of the issued share capital of the company without prior written consent of OnMedica, Calyon, EPIC, KM and EMIS.

28.1.2 Nothing in Article 28.1.1 shall prevent a Shareholder from conducting negotiations with regard to a proposed sale which relates only to the Shares he holds PROVIDED THAT the aggregate number of Shares proposed to be sold is not more than five per cent. of the aggregate number of issued Shares AND PROVIDED FURTHER THAT such sale is not part of a transaction or series of transactions which, taken together, would result in the sale of more than that number of Shares.

### **28.2 Rights on an IPO**

Each of the Shareholders agrees that (subject to the agreement of the relevant sponsor) on any new issue or sale (by Shareholders other than OnMedica, Calyon, EPIC or EMIS or an Affiliate of Calyon, OnMedica, EPIC or EMIS) of Shares as part of an IPO, the Shareholders shall use reasonable endeavours (working in conjunction with the sponsor to the IPO) to ensure that OnMedica, Calyon, EPIC and EMIS shall be offered the opportunity to acquire up to such number of Shares as will result in the aggregate percentage interest of members of the OnMedica Group, the Calyon Group, the EPIC Group and the EMIS Group in the company's issued share capital after the IPO is completed (assuming that any over-allotment option is exercised in full) being not less than it was immediately before the date of the preliminary offering circular (or equivalent offering document) relating to the IPO.

### **28.3 No OnMedica, Calyon, EPIC or EMIS warranties on an IPO**

The Shareholders acknowledge that no member of the Calyon Group, the OnMedica Group, the EPIC Group or the EMIS Group will give any warranties or indemnities in relation to any IPO (save for a warranty as to the title to the Shares held by it (or its nominee)).

### **28.4 IPO**

If a proposed IPO is approved by OnMedica (if OnMedica has a Five Per Cent Investment), Calyon (if Calyon has a Five Per Cent Investment), EPIC (if EPIC has a Five Per Cent Investment) and EMIS (if EMIS has a Five Per Cent Investment), KM (if he has a Five Per Cent Investment) or the Board (if none of OnMedica, Calyon, KM, EPIC or EMIS has a Five Per Cent Investment):

28.4.1 the New Share Pre-emption Provisions shall not apply to the issue of Shares in connection with the IPO (including pursuant to Article 28.2), provided that those Shares are issued at the offer price (the "IPO Price") applicable to that IPO (before deduction of commissions and expenses);

- 28.4.2 a Shareholder selling some or all of its Shares in the IPO (including pursuant to Article 28.2) at the IPO Price (before deduction of commissions and expenses) shall not be required to serve a Transfer Notice under the Transfer Pre-emption Provisions;

## **29. DRAG ALONG**

### **29.1 Meaning of Appropriate Offer**

"Appropriate Offer" means an offer for all of the Shares approved by OnMedica (if it has a Five Per Cent Investment), Calyon (if it has a Five Per Cent Investment), EPIC (if it has a Five Per Cent Investment), KM (if KM has a Five Per Cent Investment) and EMIS (if it has a Five Per Cent Investment) or the Board (if none of OnMedica, Calyon, EPIC, KM or EMIS has a Five Per Cent Investment),

- 29.1.1 at an offer price (in cash and/or in securities listed or admitted to dealings on a recognised investment exchange) for each class of Shares which is not less than the sum of:

- (a) the highest price per Share paid by the offeror (being for the purposes of this Article 29 a bona fide purchaser for value at arms length) (excluding stamp duty, stamp duty reserve tax and commission) and/or persons acting in concert with the offeror for any Shares of that class within the period of three years prior to and on the proposed date of completion of the Appropriate Offer;
- (b) (without double counting) an amount per Share equal to the relevant proportion of any other consideration (in case or otherwise received or receivable by the holders of the Shares of that class referred to in Article 29.1.1 (i) which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for those Shares; and
- (c) all dividends in arrears or accrued (and, if applicable, interest) on the Shares of that class to which the offer relates,

and in the event of disagreements the calculation of amounts referred to above shall be referred to the Valuer (acting as expert and not as arbitrator) whose decision shall be final and binding;

- 29.1.2 at an offer price and on other terms which are the same in all other material respects for the holders of the Preferred Ordinary Shares and the holders of the Ordinary Shares; and

- 29.1.3 otherwise on terms satisfactory to OnMedica (if it has a Five Per Cent Investment), Calyon (if it has a Five Per Cent Investment), EPIC (if it has a Five Per Cent Investment), KM (if he has a Five Per Cent Investment) and EMIS (if it has a Five Per Cent Investment) or the Board (if none of OnMedica, Calyon, EPIC, KM or EMIS has a Five Per Cent Investment).

### **29.2 Drag Along**

If an Appropriate Offer is accepted by holders of 65% or more of all the issued Shares of any class held by Shareholders and is made on terms satisfactory to OnMedica, Calyon, EPIC, KM and EMIS each of the other Shareholders shall be deemed to have accepted such offer in respect of all the Shares of that class (and, for the purposes of this Article 29.2, the Preferred Ordinary Shares and the Ordinary Shares shall be deemed to constitute a single class).

### **29.3 Transfer Completion Provisions**

The transfer of Shares pursuant to an Appropriate Offer shall be completed in accordance with the Transfer Completion Provisions within five Business Days of the date on which the Appropriate Offer becomes wholly unconditional.