

## WRITTEN RESOLUTIONS

On 29 September 2009, the following resolutions were duly passed as written resolutions in accordance with the requirements of sections 288 to 300 Companies Act 2006 by the requisite majority of members of the Company.

1. As an ordinary resolution in accordance with section 282 Companies Act 2006

THAT the authorised share capital of the Company be increased from £3,846,307 divided into 310,000 ordinary shares of £0.01 each, 2,267,497 "A" preference shares of £1.00 each and 1,575,710 deferred shares of £1.00 each, to \$4,869,483, by the creation of 1,018,176 "B" preference cumulative convertible B preference shares of £1.00 each (**B Preference Shares**) and 500,000 "C" ordinary shares of £0.01 each (**C Shares**), having the rights set out in the amended Articles of Association adopted pursuant to Resolution 3 below.

2. As ordinary resolution in accordance with section 282 Companies Act 2006

THAT the Directors be and they are hereby generally and unconditionally authorised in accordance with section 80 Companies Act 1985 to exercise all the powers of the Company to allot:

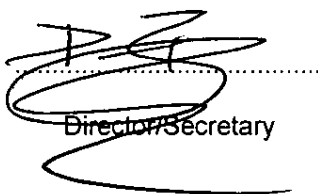
(a) the B Preference Shares up to a nominal aggregate amount of £1,018,176; and

(b) the C Shares up to a nominal aggregate amount of £5,000

provided that these authorities are for a period expiring 5 years from the date of this Resolution but the Company may before such expiry make an offer or agreement which would or might require certain of the B Preference Shares or C Shares to be allotted after such expiry and the directors may allot relevant securities in pursuance of such offer or agreement notwithstanding that the authority conferred by this Resolution 2 has expired.

3. As a special resolution in accordance with section 283 Companies Act 2006

THAT the Articles of Association of the Company attached to these Resolutions and marked "C" for identification be adopted in substitution for the existing Articles of Association.

  
Director/Secretary

FRIDAY



LD7

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09/10/2009

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COMPANIES HOUSE

Company No. 3838585

THE COMPANIES ACTS 1985 AND 1989

PRIVATE COMPANY LIMITED BY SHARES

MEMORANDUM

AND

ARTICLES OF ASSOCIATION

OF

ResponsiveLoad Limited

Incorporated on the 9th day of September 1999

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THE COMPANIES ACT 1985 AND 1989

PRIVATE COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION  
OF  
RESPONSIVELOAD LIMITED

1. The Company's name is "ResponsiveLoad Limited".
2. The Company's registered office is to be situated in England and Wales.
3. The Company's objects are:
  - 3.1.1 To carry on the promotion of a technique for contributing a characteristic to the electricity grid which reduces the need for generation.
  - 3.1.2 To carry on any other trade or business whatsoever which can, in the opinion of the Board of Directors, be advantageously carried on by the Company in connection with or as ancillary to any of the above businesses or the general business of the Company, or further any of its objects.
  - 3.1.3 To purchase, take on lease or in exchange, hire or otherwise acquire and hold for any estate or interest any lands, buildings, easements, rights, privileges, concessions, patents, patent rights, licences, secret processes, machinery, plant, stock in trade, and any real or personal property of any kind for such consideration and on such terms as may be considered expedient.
  - 3.1.4 To erect, construct, lay down enlarge, alter and maintain any roads, railways, tramways, sidings, bridges, reservoirs, shops, stores, factories, buildings, works and plant and machinery necessary or convenient for the Company's business, and to contribute to or subsidise the erection, construction and maintenance of any of the above.
  - 3.1.5 To borrow or raise or secure the payment of money for the purposes of or in connection with the Company's business, and for the purposes of or in connection with the borrowing or raising of money by the Company to become a member of any building society.

- 3.1.6 To mortgage and charge the undertaking and all or any of the real or personal property and assets, present or future, and all or any of the uncalled capital for the time being of the Company, and to issue at par or at a premium or discount, and for such consideration and with and subject to such rights, powers, privileges and conditions as may be thought fit, debentures or debenture stock, either permanent or redeemable or repayable, and collaterally or further to secure any securities of the Company by a trust deed or other assurance.
- 3.1.7 To issue and deposit any securities which the Company has power to issue, by way of mortgage to secure any sum less than the nominal amount of such securities, and also by way of security for the performance of any contracts or obligations of the Company or of its customers or other persons or corporations having dealings with the Company, or in whose businesses or undertakings the Company is interested, whether directly or indirectly.
- 3.1.8 To receive money on deposit or loan upon such terms as the Company may approve, and to guarantee the obligations and contracts of any person or corporation.
- 3.1.9 To make advances to customers and others with or without security, and upon such terms as the Company may approve, and generally to act as bankers for any person or corporation.
- 3.1.10 To grant pensions, allowances, gratuities and bonuses to officers, ex-officers, employees or ex-employees of the Company or its predecessors in business or the dependants or connections of such persons, to establish and maintain or concur in establishing and maintaining trusts, funds or schemes (whether contributory or non-contributory) with a view to providing pensions or other benefits for any such persons as aforesaid, their dependants or connections, and to support or subscribe to any charitable funds or institutions, the support of which may, in the opinion of the Directors, be calculated directly or indirectly to benefit the Company or its employees, and to institute and maintain any club or other establishment or profit-sharing scheme calculated to advance the interests of the Company or its officers or employees.
- 3.1.11 To draw, make, accept, endorse, negotiate, discount and execute promissory notes, bills of exchange and other negotiable instruments.
- 3.1.12 To invest and deal with the moneys of the Company not immediately required for the purposes of its business in or upon such investments

or securities and in such manner as may from time to time be determined.

- 3.1.13 To pay for any property or rights acquired by the Company, either in cash or fully or partly paid-up shares, with or without preferred or deferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or by any securities which the Company has power to issue, or partly in one mode and partly in another, and generally on such terms as the Company may determine.
- 3.1.14 To accept payment for any property or rights sold or otherwise disposed of or dealt with by the Company, either in cash, by instalments or otherwise, or in fully or partly paid-up shares of any company or corporation, with or without deferred or preferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or in debentures or mortgage debentures or debenture stock, mortgages or other securities of any company or corporation, or partly in one mode and partly in another, and generally on such terms as the Company may determine and to hold, dispose of or otherwise deal with any shares, stock or securities so acquired.
- 3.1.15 To enter into any partnership or joint-purse arrangement or arrangement for sharing profits, union of interests or co-operation with any company, firm or person carrying on or proposing to carry on any business within the objects of this Company, and to acquire and hold, sell, deal with or dispose of shares, stock or securities of any such company, and to guarantee the contracts or liabilities of, or the payment of the dividends, interest or capital of any shares, stock or securities of and to subsidise or otherwise assist any such company.
- 3.1.16 To establish or promote or concur in establishing or promoting any other company whose objects shall include the acquisition and taking over of all or any of the assets and liabilities of this Company or the promotion of which shall be in any manner calculated to advance directly or indirectly the objects or interests of this Company, and to acquire and hold or dispose of shares, stock or securities of and guarantee the payment of the dividends, interest or capital of any shares, stock or securities issued by or any other obligations of any such company.
- 3.1.17 To purchase or otherwise acquire and undertake all or any part of the business, property, assets, liabilities and transactions of any person, firm or company carrying on any business which this Company is authorised to carry on.

- 3.1.18 To sell, improve, manage, develop, turn to account, exchange, let on rent, royalty, share of profits, or otherwise, grant licences, easements and other rights in or over, and in any other manner deal with or dispose of the undertaking and all or any of the property and assets for the time being of the Company, for such consideration as the Company may think fit.
- 3.1.19 To amalgamate with any other company whose objects are or include objects similar to those of this Company, whether by sale or purchase (for fully or partly paid-up shares or otherwise) of the undertaking, subject to the liabilities of this or any such other company as aforesaid, with or without winding up, or by sale or purchase (for fully or partly paid-up shares or otherwise) of all or a controlling interest in the shares or stock of this or any such other company as aforesaid, or by partnership, or any arrangement of the nature of partnership, or in any other manner.
- 3.1.20 To distribute among the members in specie any property of the Company, or any proceeds of sale or disposal of any property of the Company, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law.
- 3.1.21 To do all or any of the above things in any part of the world, and either as principals, agents, trustees, contractors or otherwise, and either alone or in conjunction with others, and either by or through agents, trustees, subcontractors or otherwise.
- 3.1.22 To do all such other things as are incidental or conducive to the above objects or any of them.

And it is hereby declared that in the construction of this clause the word 'company' except where used in reference to the Company shall be deemed to include any person or partnership or other body of persons, whether incorporated or not incorporated, and whether domiciled in Great Britain or elsewhere, and that the objects specified in the different paragraphs of this clause shall, except where otherwise expressed therein, be in nowise limited by reference to any other paragraph or the name of the Company, but may be carried out in as full and ample a manner and shall be construed in as wide a sense as if each of the said paragraphs defined the objects of a separate, distinct and independent company.

4. The liability of the members is limited.
5. The Company's share capital is £100 divided into 100 shares of £1 each. The shares in the original or any increased capital may be divided into several

classes, and there may be attached thereto respectively any preferential, deferred or other special rights, privileges, conditions or restrictions as to dividend, capital, voting or otherwise:

We, the Subscribers to this Memorandum of Association, wish to be formed into a Company pursuant to this Memorandum; and we agree to take the number of shares shown opposite our respective names.

| <b>Names, addresses and descriptions of Subscribers</b> | <b>Number of shares taken by each Subscriber</b> |
|---|--|
| W TESTER<br>16 St John Street<br>London<br>EC1M 4AY     | ONE  |
| H THOMAS<br>16 St John Street<br>London<br>EC1M 4AY     | ONE  |
| Total shares taken                                      | TWO  |

DATED this 27th day of August 1999

WITNESS to the above Signatures

D J WOOTTON  
16 St John Street  
London  
EC1M 4AY

The Companies Acts 1985 and 1989

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of ResponsiveLoad Limited<sup>1</sup>

PRELIMINARY

1.

1.1 The regulations contained in Table A ('Table A') in the Schedule to the Companies (Tables A to F) Regulations 1985 (as amended by the Companies (Tables A to F) (Amendment) Regulations 1985, the Companies (Tables A to F) (Amendment) Regulations 2007 and the Companies (Tables A to F) (Amendment) (No.2) Regulations 2007 shall, except as hereinafter provided and so far as not inconsistent with the provisions of these Articles, apply to the Company to the exclusion of all other regulations or articles of association. References herein to 'regulations' are to regulations in Table A.

1.2 In these Articles:

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

"2006 Act" means the Companies Act 2006 including any statutory modification or re-enactment thereof for the time being in force;

"the Act" means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force and any provisions of the Companies Act 2006 for the time being in force;

"Articles" means these Articles of Association as varied from time to time;

"the Board" means the board of directors of the Company from time to time;

"A Preference Shares" means the cumulative convertible "A" preference shares of £1.00 each in the share capital of the Company;

"A Shareholders" means the holders of A Preference Shares from time to time and "A Shareholder" shall be constructed accordingly;

"B Preference Shares" means the cumulative convertible B Preference Shares of £1 each in the capital of the Company;

"B Shareholders" means the holders of B Preference Shares from time to time and "B Shareholder" shall be constructed accordingly;

"Base Value" means £5.69 per Ordinary Share;

<sup>1</sup> As amended by written resolutions dated 15 January 2007, 14 July 2008, 22 September 2008, 5 August 2009 and [•] September 2009



"Carbon Trust" means Carbon Trust Investments Limited (registered number 4649291) and having its registered office at 6th Floor, 5 New Street Square, London EC4A 3BF;

"C Share Proportion" has the meaning set out in Article 7.5;

"C Shares" means the "C" ordinary shares of £0.01 each in the capital of the Company;

"C Shareholders" means the holders of C Shares from time to time and "C Shareholder" shall be constructed accordingly

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

"Control" means the ability to exercise or control voting rights conferred by all or any part of the issued share capital of the Company so that: a) "50% Control" relates to the exercise or control of 50% or more of the total voting rights conferred by all the issued share capital of the Company, b) "90% Control" relates to the exercise or control of 90% or more of the total voting rights conferred by all the issued share capital of the Company;

"Deferred Shares" means the deferred shares of £1.00 each in the share capital of the Company;

"Directors" means the directors from time to time of the Company;

"executed" includes any mode of execution;

"Existing Shareholders" means David Hirst, Alison Hirst, David Richards, David Slater, John Murlis, Mark Pyman, Bob Spears, David Bill, Patrick Andrews and Andrew Howe;

"Family Trust" means as regards any particular individual member or deceased or former individual member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than individual and/or Privileged Relations of that individual; and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is liable to be transferred or paid or applied to or for the benefit of such person or any voting or other rights attaching thereto are exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons;

"Fund Manager" means a person whose principal business is to make, manage or advise upon investments in securities;

"Fully Diluted Ordinary Share Capital" means the aggregate number of C Shares and Ordinary Shares in issue (assuming conversion of the Preference Shares in accordance with these Articles);

"holder" in relation to Shares means the Member whose name is entered in the register of Members of the Company as the holder of the Shares;

"holding company" means a holding company as defined in section 736 of the Act;

"Hurdle Value" means £7.00 per Ordinary Share;

"Initial Public Offering" means the listing or admission to trading of all of the issued and to be issued Ordinary Shares on AIM, NASDAQ, the NYSE, the Official List of the UK Listing Authority or any other recognised investment exchange or overseas investment exchange as defined in the Financial Services and Markets Act 2000;

"Initial Public Offering Date" means the point in time at which the Ordinary Shares are admitted to listing or permission is granted to deal in such Ordinary Shares pursuant to an Initial Public Offering;

"Investment Fund" means a fund, partnership, company, syndicate or other entity whose business is managed by a Fund Manager;

"Investors" means LCA, Naxos and Carbon Trust (and any person or persons to whom such Investors transfer their Shares in accordance with these Articles);

"Investor Directors" means any Directors appointed by either of Naxos or LCA;

"IPO Pre-money Valuation" means the issue price of new Ordinary Shares being issued as part of the capital raising in connection with an Initial Public Offering multiplied by the Fully Diluted Ordinary Share Capital (not including any new Ordinary Shares being issued as part of the capital raising in connection with the Initial Public Offering);

"LCA" means Low Carbon Accelerator Limited;

"Liquidation Event" means any or all of the following:

- (a) a Sale;
- (b) a Trade Sale;
- (c) the liquidation or dissolution of the Company;

"Liquidation Proceeds" means as relevant:

- (a) the amount available for distribution to Members; and/or
- (b) any amount due to Members (or any of them);

in either case as a consequence of the Liquidation Event;

"Member" means any holder for the time being of the Shares;

"Member of the same Fund Group" means if the Shareholder is an Investment Fund or a nominee of any such person as aforesaid:

- (a) any participant or partner in or member of any such fund, partnership, company or other entity or to the holders of any unit trust which is a participant or partner in or member of any such fund, partnership, company or other entity;
- (b) any fund managed by the Fund Manager of that Investment Fund; or

(c) any Holding Company or Subsidiary Undertaking of the Fund Manager of that Investment Fund, or any Subsidiary Undertaking of any Holding Company of the Fund Manager of that Investment Fund;

"Member of the same Group" means as regards any company, a company which is for the time being a Holding Company or a Subsidiary of that company or a Subsidiary of any such Holding Company;

"Naxos" means Naxos Capital Partners SCA of 40 Boulevard Joseph II, L-1840, Luxembourg;

"Office" means the registered office of the Company;

"Original Issue Price" means:

(a) in respect of LCA (and any person or persons to whom LCA transfers its Shares in accordance with these Articles, 360.11 pence;

(b) in respect of David Stevens (and any person or persons to whom David Stevens transfers his Shares in accordance with these Articles, 458.89 pence;

(a) in respect of Heather Stevens (and any person or persons to whom she transfers her Shares in accordance with these Articles, 458.88 pence;

"Ordinary Shares" means ordinary shares of £0.01 each in the share capital of the Company;

"Ordinary Shareholders" means the holders of Ordinary Shares from time to time and "Ordinary Shareholder" shall be constructed accordingly;

"Permitted Transferee" means in relation to a Shareholder who is an individual any of his Privileged Relations or Trustees, in relation to a Shareholder which is an undertaking (as defined in section 1161(1) of the 2006 Act) means any Member of the same Group, in relation to a Shareholder which is an Investment Fund means any Member of the same Fund Group and as described in Article 10.2;

"Preference Shares" means the A Preference Shares and B Preference Shares;

"Preference Shareholder" means a holder of Preference Shares;

"Privileged Relation" means in relation to a Shareholder who is an individual member or deceased or former member means a spouse, child or grandchild (including step or adopted or illegitimate child and their issue);

"Qualifying IPO" means an Initial Public Offering at which the issue price of new Ordinary Shares being issued as part of the capital raising in connection with the Initial Public Offering is equal to or greater than the Hurdle Value;

"Sale" means the sale of all or such part of the entire issued share capital of the Company (to the extent not already owned by the purchaser or persons acting in concert as defined in the City Code on Takeovers and Mergers or connected with the purchaser as defined in Section 839 of the Income and Corporate Taxes Act 1988) or the acceptance of an offer as a result of which the offeror or any person connected with or acting in concert with the offeror acquires 50% Control of the Company or a merger or consolidation of the share capital of the

Company resulting in any Member or third party obtaining 50% Control of the Company;

"Sale Date" means the point in time at which the Sale becomes unconditional in all respects and is completed;

"Shares" means the A Preference Shares, B Preference Shares, C Shares and Ordinary Shares, including any interest in any Share and "Share" shall be construed accordingly;

"Share Incentive Scheme" means any share incentive scheme in favour of the Company's employees as agreed from time to time by at least a two-thirds majority of the holders of the Preference Shares;

"Shareholders" means the holders of Shares from time to time and "Shareholder" shall be constructed accordingly;

"subsidiary" means both a subsidiary of a company as defined in section 736 of the Act and a subsidiary undertaking as defined in section 258 of the Act;

"Table A" means Table A in the Companies (Tables A to F) Regulations 1985 (Statutory Instrument Number 805);

"Trade Sale" means a sale of the whole or substantially the whole of the assets and undertaking of the Company (including but not limited to any subsidiary of the Company) by way of a single transaction or series of transactions;

"Trust" means a trust (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made) whereby a person shall be considered to be beneficially interested in a Share if such Share or the income thereof is liable to be transferred or paid or applied to or for the benefit of a person other than the Trustees or any voting or other rights attaching thereto are exercisable by or as directed by a person other than the Trustees pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons;

"Trustees" in relation to a Shareholder means the trustee or the trustees of a Family Trust or a Trust; and

"United Kingdom" means Great Britain and Northern Ireland;

2. The Company is a private company and accordingly no invitation or offer shall be made to the public (whether for cash or otherwise) to subscribe for any shares in or debentures of the Company, nor shall the company allot or agree to allot (whether for cash or otherwise) any shares in or debentures of the Company with a view to all or any of these shares or debentures being offered for sale to the public.

## SHARES

3.
  - 3.1 The Directors may subject to Article 4 hereof allot, grant options over, or otherwise deal with or dispose of any relevant securities (as defined by Section

80(2) of the Act) of the Company to such persons and generally on such terms and conditions as the Directors think proper.

- 3.2 The general authority conferred by Article 3.1 shall be conditional upon due compliance with Article 4 hereof and shall extend to the amount of the authorised share capital of the Company upon the date of adoption of these Articles. The said authority will expire on that date which is the fifth anniversary of the date of adoption of these Articles unless renewed, varied or revoked by the Company in general meeting in accordance with the said Section 80 or Section 80A of the Act.
- 3.3 The authorised share capital of the Company at the time of adoption of these Articles is £4,869,483 divided into 2,267,497 A Preference Shares, 1,018,176 B Preference Shares, 310,000 Ordinary Shares, 500,000 C Shares and 1,575,710 Deferred Shares. The A Preference Shares, the B Preference Shares, the Ordinary Shares, the C Shares and the Deferred Shares shall be separate classes of Shares but, save as hereinafter expressly provided, shall rank *pari passu* in all respects.
- 3.4 The Directors shall be entitled under the general authority conferred by Article 3.1 to make at any time before the expiry of such authority any offer or agreement which will or might require relevant securities of the Company to be allotted after the expiry of such authority.
- 4.
- 4.1 Subject to any direction to the contrary that may be given by Special Resolution of the Company in general meeting and Article 4.3, all shares authorised pursuant to Article 3 hereof to be allotted shall be offered to the members in proportion to the existing shares held by them and for the purposes of calculating such proportion the holders of the Preference Shares shall be deemed to have converted their Preference Shares into Ordinary Shares in accordance with Articles 5.6 and 8. Such offer shall be made by notice in writing specifying the number of shares to which the member is entitled and limiting a time (being not less than 28 days) within which the offer if not accepted will be deemed to have been declined, and after the expiry of such time or upon receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the Board shall immediately allocate the unclaimed shares to satisfy any claims made by the Investors in excess of their entitlements. If the Company does not find subscribers for all the shares the Directors may allot them as they see fit to any person at a price being not less than the price at which they were originally offered.
- 4.2 By virtue of Section 91(1) of the Act, Sections 89(1) and 90(1) to 90(6) inclusive of that Act shall not apply to the Company.

4.3 The pre-emption provisions of Article 4.1 shall not apply to the allotment of shares pursuant to a conversion under Article 5.6 or pursuant to a Share Incentive Scheme.

4.4 The Directors shall not, following the date of adoption of these Articles, without the authority of a Special Resolution of the Members, grant options or other rights over more than 182,000 C Shares pursuant to any Share Incentive Scheme.

#### Preference Shares - Special Rights

5. The rights and restrictions attaching to the Preference Shares are as follows:

5.1 Income

5.1.1 As to income, the profits of the Company available for distribution shall be applied:

5.1.1.1 first, in paying to the holders of B Preference Shares a fixed cumulative preferential cash dividend (the "B Preference Share Dividend") of 5% per annum (net of any associated tax credit) of the total amounts subscribed for the B Preference Shares. The B Preference Share Dividend shall accrue from day to day and be paid out of the profits of the Company available for distribution (without any resolution of the directors or of the Company in general meeting and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) six monthly in arrears on 30 September and 31 March or, at the Company's discretion, on a Liquidation Event. The Preference Share Dividend shall be distributed amongst the holders of the B Preference Shares pro rata according to the amounts paid up thereon. Without prejudice to the rights of the holders of the B Preference Shares hereunder any amount not so paid shall be carried forward and become payable (without any resolution of the directors of the Company in general meeting and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) on the next date on which the B Preference Share Dividend is payable or, at the Company's election, on a Liquidation Event;

5.1.1.2 second, and subject to Article 7.1, in paying the Shareholders, other than the C Shareholders (as if the Shares, other than the C Shares were one class) a dividend as is approved by the holders of at least a two-thirds majority of the Preference Shares in issue from time to time;

## 5.2 Capital

5.2.1 The Preference Shares shall carry a preferential return on a return of capital in accordance with these Articles.

5.2.2 On the occurrence of a Liquidation Event and from the Liquidation Proceeds the holders of the Preference Shares shall be entitled, subject to Article 7.2.2, to a preferential capital return in priority to any payment to the holders of any other class of shares as follows:

5.2.2.1 first in paying to the holders of the B Preference Shares a sum equal to all unpaid arrears and accruals of dividends on the B Preference Shares and interest;

5.2.2.2 second in paying to the holders of B Preference Shares a sum equal to the amount subscribed for such shares;

5.2.2.3 third in paying to the holders of the A Preference Shares a sum equal to all unpaid arrears and accruals of dividends on the A Preference Shares and interest;

5.2.2.4 fourth in paying to the holders of A Preference Shares an amount in respect of each such Share equal to the Original Issue Price;

5.2.2.5 fifth, and subject always to the provisions of Article 6.2 and 7.2, in distributing the balance amongst the holders of the Shares (other than the C Shareholders) as if the same constituted one class pro rata in proportion to the number of Shares held.

5.2.3 For the purposes of this Article 5.2, all Liquidation Proceeds arising on a Liquidation Event which is constituted by a Sale or Trade Sale (including for the avoidance of doubt, any Sale pursuant to Article 11) shall be applied in accordance with these provisions irrespective of to

whom any amount was originally due under the terms of the Sale or Trade Sale.

- 5.3 Upon a Sale, the directors shall not register any transfer of Shares unless:
- 5.3.1 the Liquidation Proceeds represented by cash are paid into the Company's solicitors bank account and the Liquidation Proceeds represented other than in cash shall be held by the Company on trust for the holders of those Shares being sold in connection with the Sale; and
  - 5.3.2 the Liquidation Proceeds are distributed in the order of priority set out in Article 5.2.2, save in respect of any Shares not sold in connection with such Share Sale, provided that if the Liquidation Proceeds are not settled in their entirety upon completion of the Share Sale:
    - 5.3.2.1 the Directors shall not be prohibited from registering the transfer of the shares so long as the provisions of Articles 5.3.1 and 5.3.2 have been applied to the Liquidation Proceeds settled upon completion; and
    - 5.3.2.2 the Shareholders shall be required to take such actions as the Investor Directors may require to ensure that the Liquidation Proceeds in their entirety are distributed in the order of priority set out in Article 5.2.2.
- 5.4 Upon a Trade Sale the surplus assets of the Company remaining after payment of its liabilities shall be distributed (insofar as the Company is lawfully permitted to do so) in the order of priority set out in Article 5.2.2, provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, the Shareholders shall be required to take such actions as may be required by unanimous consent of the Investor Directors (including, but without prejudice to the generality of the foregoing, such actions that may be necessary to put the Company into voluntary liquidation so that Article 5.2.2 applies).
- 5.5 If New Securities are issued by the Company at a price per New Security less than the Starting Price (which, if the New Security is not issued for cash, shall be a price certified by the auditors of the Company or, upon the request of any party, such firm of accountants as the Company and the Investor Directors may agree or, failing agreement as recommended by the President for the time being of the Institute of Chartered Accountants (for the purposes of this Article 5.5 the "Auditors"), acting as experts and not as arbitrators as being in their opinion the current cash value of the new cash consideration for the allotment of the New



Securities) then the Company shall, unless and to the extent that any of the holders of B Preference Shares (in their capacity as such) shall have specifically waived their rights in writing, offer (such offer, unless waived, to remain open for acceptance for at least 15 clear days) to each holder of B Preference Shares (the "Exercising Investor") the right to receive such number of new B Preference Shares by applying the following formula (and rounding the product, N, down to the nearest whole share); subject to adjustment as certified in accordance with Article 5.5.3 (the "Anti-Dilution Shares"):

$$5.5.1 \quad N = \left( \frac{W}{X} \right) - Z; \text{ or}$$

5.5.2 where the holder of B Preference Shares is required to subscribe in cash for any Anti-Dilution Shares in accordance with Article 5.5.3.1 the following calculation shall apply:

$$N = \frac{(W - (XZ))}{(X - V)}$$

Where:

N = the number of Anti-Dilution Shares;

W = the total amount subscribed (whether in cash or by way of conversion of a loan) by each Exercising Investor for his B Preference Shares;

X = the price (if any) at which each New Security is to be issued (which if the New Security is not issued for cash shall be the sum certified by the Auditors acting as experts and not arbiters as being in their opinion the current cash value of the non-cash consideration for the allotment of the New Securities);

Z = the number of B Preference Shares, held by each relevant Exercising Investor prior to the application of this Article;

V = the nominal value of each Anti-Dilution Share

5.5.3 The Anti-Dilution Shares shall:

5.5.3.1 be paid up by the automatic capitalisation of available reserves of the Company, unless and to the extent that the same shall be impossible or unlawful or the Exercising Investors shall agree otherwise, in which event the Exercising Investors shall be entitled to subscribe for the Anti-Dilution

Shares in cash at par value. In the event of any dispute between the Company and any Exercising Investor as to the effect of Article 5.5, the matter shall be referred, (at the cost of the Company) to the Auditors for certification of the number of Anti-Dilution Shares to be issued. The Auditor's certification of such matter shall in the absence of manifest error be final and binding on the Company and the Exercising Investor; and

5.5.3.2

subject to the payment of any cash payable pursuant to Article 5.5.3.1 (if applicable), be issued, credited fully paid up in cash and shall rank equally in all respects with the existing B Preference Shares, within 5 clear days of the expiry of the offer being made by the Company to the Exercising Investor and pursuant to Article 5.5.

5.5.4 For the purpose of this Article 5.5 the following expressions shall have the following meanings:

"New Securities" means any shares (other than shares issued pursuant to a Share Incentive Scheme) or other securities convertible into, or carrying the right to subscribe for such shares, issued by the Company after the date of adoption of these Articles;

"Starting Price" means £5.69;

## 5.6 Conversion

5.6.1 Each of the holders of Preference Shares shall be entitled at any time and in the manner set out below to convert all, or part only, of their holding of Preference Shares into such number of fully-paid redesignated Ordinary Shares calculated in accordance with Article 5.6.3.

5.6.2 The Company shall immediately prior to an Initial Public Offering Date convert all of the Preference Shares into such number of fully-paid redesignated Ordinary Shares calculated in accordance with Article 5.6.3.

5.6.3 The Preference Shares shall, subject to adjustment in accordance with Article 5.6.10, convert into Ordinary Shares at the rate of one Ordinary Share to one Preference Share, save where Article 5.6.10 applies, in which circumstances the Preference Shares shall convert in accordance with Article 5.6.10 (the **Conversion Rate**).

- 5.6.4 Subject to Article 5.6.5, the right to convert pursuant to Article 5.6.1 shall be exercisable by the holders of the Preference Shares at any time, by completing a notice of conversion in respect of all of the Preference Shares (a "conversion notice") and delivering the same to the Company.
- 5.6.5 If the holders of a 70% majority of each class of Preference Shares issue a conversion notice to convert their Preference Shares then, if required by such majority, the holders of all Preference Shares shall be required to convert their Preference Shares in accordance with Article 5.6.1 and shall each be deemed to have served a conversion notice in respect of their Preference Shares.
- 5.6.6 Forthwith upon conversion of Preference Shares the Company shall give written notice to the holder of such Shares of the number of Ordinary Shares of which it is a holder.
- 5.6.7 The new Ordinary Shares to which a holder is entitled upon conversion shall for all purposes:
- (a) be credited as fully paid;
  - (b) rank pari passu in all respects and form one class with the Ordinary Shares then in issue; and
  - (c) entitle the holder to receive dividends and other distributions declared, made or paid on Ordinary Shares by reference to a record date on or after the conversion date.
- 5.6.8 The Board shall agree the manner in which the Preference Shares are to be converted:
- 5.6.8.1 with the holder of the Preference Shares who is exercising its right to convert pursuant to Article 5.6.1; or
  - 5.6.8.2 if the holders of a 70% majority of each class of the Preference Shares have required all Preference Shares to convert pursuant to Article 5.6.5, then with such majority,
- subject always to the provisions of the Articles and the Act.
- 5.6.9 The allotment of new Ordinary Shares shall be made as soon as is practicable following receipt of a conversion notice, but in any event no

later than 3 business days following such receipt. A certificate for new Ordinary Shares shall be made available for collection at the office or despatched (at the holder's risk) to the relevant holder without charge promptly upon receipt of the certificate (or certificates) for such holder's Preference Shares or if lost an indemnity in respect thereof in a form reasonably satisfactory to the Board.

5.6.10 If at any time after the date of adoption of these Articles and while any Preference Shares remain capable of being converted into Ordinary Shares:

5.6.10.1 the Company shall make an issue of Shares by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve) to the holders of Ordinary Shares; or

5.6.10.2 the Company shall make a sub-division or consolidation of Ordinary Shares; or

5.6.10.3 the Company shall make a distribution in specie; or

5.6.10.4 the Company shall make a repayment, return or distribution of capital (including a distribution of capital profits (whether realised or not) or capital reserves); or

5.6.10.5 any event similar to those described in Articles 5.6.10.1 to 5.6.10.5 above shall occur,

then the Conversion Rate shall be adjusted (which may include a decision to make no adjustment) in such manner as the auditors of the Company shall certify to be fair and reasonable in all the circumstances. In the event that a holder of Preference Shares or the Company is not satisfied with any certificate of the auditors issued pursuant to this Article 5.6.10 for any reason in any circumstance in which such certificate is issued and so notifies the Company and the auditors in writing within 14 days of receiving such certificate or learning of its contents (if a copy of such certificate is not sent to him), the matter shall be submitted as soon as practicable to an independent firm of chartered accountants as agreed between the relevant holder or holders of Preference Shares and the Board or in default of agreement as nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales, such firm of chartered accountants to be deemed to be an expert and whose decision as to the matter shall be final and binding on all persons save for manifest error. The fees and expenses of the independent firm of chartered

accountants shall be borne by such person or persons as reasonably determined by such firm.

5.7 Attendance at General Meetings and Voting

5.7.1 Preference Shares confer the right to receive notice of and attend and vote at general meetings.

5.7.2 On a show of hands, each holder of Preference Shares present in person or by proxy or (being a corporation) by a representative has one vote. On a poll each holder of Preference Shares present in person or by proxy or (being a corporation) by a representative, is entitled to exercise the number of votes which he would have been entitled to exercise if all the Preference Shares held by him had been converted into Ordinary Shares immediately before the holding of the general meeting in accordance with Article 5.6.

Deferred Shares - Rights and restrictions

6. Notwithstanding any other provisions of these Articles, the rights and restrictions attaching to the Deferred Shares are as follows:

6.1 Income

The Deferred Shares will confer no right to share in the Company's distributions or profits.

6.2 Capital

On a distribution of assets on a winding-up or other return of capital (otherwise than on conversion or redemption or purchase by the company of any of its shares) the holders of the Deferred Shares shall be entitled to receive the nominal amount paid up on their shares (but no surplus); after there shall have been distributed (in cash or specie) to the holders of the Ordinary Shares the amount of £10,000,000 in respect of each Ordinary Share held by them respectively. For this purpose distributions in currency other than sterling shall be treated as converted into sterling, and the value for any distribution in specie shall be ascertained in sterling, in each case in such manner as the directors or the company in general meeting may approve. The Deferred Shares shall not entitle the holders thereof to any further or other right of participation in the assets of the company.

6.3 Attendance at General Meetings and Voting

The holders of Deferred Shares shall not be entitled to receive notice of or to attend (either personally or by proxy) any general meeting of the Company or to vote (either personally or by proxy) on any resolution to be proposed thereat.

#### 6.4 Variation

The rights attached to the Deferred Shares shall not be deemed to be varied or abrogated by the creation or issue of any new rights or shares ranking in priority to or pari passu with or subsequent to such shares.

#### 6.5 Repurchase

Notwithstanding any other provision of these Articles, the Company shall have the power and authority at any time to purchase all or any of the Deferred Shares for an aggregate consideration of £1, and as soon as possible after the Company becomes capable of purchasing its own shares in accordance with the Act and/or the Companies Act 2006, the Company shall purchase any Deferred Shares that are in issue at such time.

#### 6.6 Pre-emption

The Deferred Shares shall not be entitled to any rights of pre-emption, either on the issue or transfer of Shares, and shall not be taken into account when calculating entitlements to Shares under Articles 9 and 10.

#### C Shares - Rights and restrictions

#### 7. Notwithstanding any other provisions of these Articles, the rights and restrictions attaching to the C Shares are as follows:

##### 7.1 Income

Notwithstanding the provisions of Article 5.1.1.2, following such time as the holders of the Ordinary Shares that are in issue at the date of adoption of these Articles have received total dividends per Ordinary Share equal to the Base Value, the C Shareholders shall be entitled to receive dividends in accordance with the provisions of Article 5.1.1.2, as if the references to " , other than the C Shareholders" and " , other than the C Shares", had been removed from such Article.

##### 7.2 Capital

7.2.1 On a distribution of assets on a winding-up or other return of capital (otherwise than on conversion or redemption or purchase by the company of any of its shares), including any Liquidation Event, where the Exit Value Per Share is less than the Hurdle Value, and the Company has not exercised its option to convert the C Shares into Deferred Shares in accordance with Article 7.5, the holders of the C Shares shall only be entitled to receive the nominal amount paid up on their shares (but no surplus), after there shall have been distributed (in cash or specie) to the holders of the Ordinary Shares the amount of

£10,000,000 in respect of each Ordinary Share held by them respectively and the C Shares shall not entitle the holders thereof to any further or other right of participation in the assets of the company. For this purpose, distributions in currency other than sterling shall be treated as converted into sterling, and the value for any distribution in specie shall be ascertained in sterling, in each case in such manner as the directors or the company in general meeting may approve.

- 7.2.2 On a distribution of assets on a winding-up or other return of capital (otherwise than on conversion or redemption or purchase by the company of any of its shares), including any Liquidation Event, where the Exit Value Per Share is equal to or greater than the Hurdle Value, the holders of the C Shares shall be entitled, from the Liquidation Proceeds, to a preferential capital return in priority to any payment to the holders of any other class of shares pursuant to Article 5.2.2.5 but after any distributions to be made to the Preference Shareholders in accordance with Articles 5.2.2.1 to 5.2.2.4 (inclusive), which shall have priority to any payments to the C Shareholders, for each C Share, equal to the Exit Value Per Share minus the Base Value.

For the purposes of this Article 7, the "Exit Value Per Share" shall be determined as follows:

$$\frac{\text{Liquidation Proceeds} + (\text{Base Value} \times \text{number of C Shares in issue})}{\text{Fully Diluted Ordinary Share Capital}}$$

- 7.2.3 For the avoidance of doubt, for the purposes of this Article 7 the Liquidation Proceeds on a Sale or a Trade Sale shall be deemed to include the aggregate value of all consideration payable pursuant to such Sale or Trade Sale, in whatever form and whenever payable, and such determination of the Liquidation Proceeds shall take into account the following:

7.2.3.1 the amount of any deferred (but not contingent) payment due under the Sale or Trade Sale shall be included at its full amount and no discount shall be applied; and

7.2.3.2 if the consideration due under the Sale or Trade Sale is made up in whole or in part by assets other than cash, or in the event that any part of the consideration due under the Sale or Trade Sale is contingent on a future event, the Company and the Investors shall, acting in good faith, seek to calculate the appropriate valuation of such non-cash

or contingent element for the purposes of calculating the Liquidation Proceeds and the timing of payment, provided that if the Company and the Investors are unable to agree on such valuation, the Company shall procure that an independent valuation of such non-cash consideration and/or the contingent element is carried out in order to determine the value of such consideration and/or the likelihood of receipt and the value of such contingent element.

### 7.3 Attendance at General Meetings and Voting

The holders of C Shares shall not be entitled to receive notice of or to attend (either personally or by proxy) any general meeting of the Company or to vote (either personally or by proxy) on any resolution to be proposed thereat.

### 7.4 Variation

The rights attached to the C Shares shall not be deemed to be varied or abrogated by the creation or issue of any new rights or shares ranking in priority to or pari passu with or subsequent to such shares.

### 7.5 Conversion

7.5.1 The Company shall immediately prior to the date of a Qualifying IPO, convert each C Share into fully-paid redesignated Ordinary Shares at the C Share Conversion Rate, where such C Share Conversion Rate is calculated as follows:

$$\text{"C Share Conversion Rate"} = \frac{(\text{the IPO Price} - \text{the Base Value})}{\text{the IPO Price}}$$

For the purposes of this Article 7, the "IPO Price" means:

$$\frac{\text{IPO Pre-money Valuation} + (\text{Base Value} \times \text{number of C Shares in issue})}{\text{Fully Diluted Ordinary Share Capital}}$$

7.5.2 The Company may, at its option, convert each C Share into one Deferred Share:

7.5.2.1 immediately prior to an Initial Public Offering that is not a Qualifying IPO; or



- 7.5.2.2 immediately prior to a Liquidation Event where the Exit Value Per Share is less than the Hurdle Value;  
or
    - 7.5.2.3 in the circumstances set out in Article 7.7.4.
  - 7.5.3 The Board shall agree the manner in which the C Shares are to be converted, including to deal with problems and allocations in respect of fractional entitlements, or otherwise, subject always to the provisions of the Articles and the Act.
- 7.6 Pre-emption and transfer
  - 7.6.1 The C Shares shall not be entitled to any rights of pre-emption, either on the issue or transfer of Shares, and shall not be taken into account when calculating entitlements to Shares under Articles 9 and 10.
  - 7.6.2 The C Shareholders will not be entitled at any time to transfer, charge, mortgage, pledge or otherwise encumber or dispose of any of their C Shares, except with the consent of the Board and the Investors.
- 7.7 Mandatory transfer
  - 7.7.1 If an Employee C Shareholder becomes a Bad Leaver, that Employee C Shareholder shall be regarded as giving a deemed Transfer Notice in respect of all the C Shares held by him.
  - 7.7.2 In such circumstances the Offer Price shall be deemed to be the nominal value of the Sale Shares.
  - 7.7.3 Notwithstanding the provisions of Article 10, the C Shares held by an Employee C Shareholder who is a Bad Leaver shall be offered in the following order of priority:
    - 7.7.3.1 to a person (or persons), if and as agreed by the Board (including the Investor Directors), to take the place of the Employee C Shareholder who is a Bad Leaver, conditionally on that person commencing their employment with the Company;
    - 7.7.3.2 to any of the other existing Employee C Shareholders in such proportions as the Board (including the Investor Directors) determine;
    - 7.7.3.3 to other participants (or potential participants) in, or trustees of, any Employee Share Incentive Plan;

7.7.3.4 to any other person (or persons) who are approved by the Board (including the Investor Directors); and then

7.7.3.5 subject to the Acts, to the Company.

7.7.4 If it is not possible to transfer the C Shares held by a Bad Leaver in accordance with Article 7.7.3, then the Company may convert each C Share held by such Bad Leaver into one Deferred Share.

7.7.5 For the avoidance of doubt, an Employee C Shareholder who is a Good Leaver shall not be required to transfer any of his C Shares. The Board (including the Investor Directors) shall have the discretion to determine that an Employee C Shareholder is a Good Leaver, notwithstanding that they fall within the definition of a Bad Leaver set out below.

7.7.6 For the purposes of this Article 7.7:

"Employee C Shareholder" means a person who is a C Shareholder and a director and/or an employee of the Company and/or any of its subsidiaries;

"Bad Leaver" means an Employee C Shareholder who ceases to be a director or employee of the Company or any of its subsidiaries and does not continue as either a director or employee in relation to any of them where such cessation occurs in circumstances where the Employee C Shareholder is guilty of gross misconduct or resigns; and

"Good Leaver" means an Employee C Shareholder who ceases to be a director or employee of the Company or any of its subsidiaries and does not continue as either a director or employee in relation to any of them and who is not a Bad Leaver.

## 8. Transfer of Shares

8.1 No transfer, disposal, charge or other dealing in any Shares shall occur other than the transfer of the whole legal and equitable title to such Shares free from all liens, charges and encumbrances and with all rights, title and interest in existence at the date of transfer together with all rights which may arise in respect thereof thereafter (and "transfer of shares" shall be construed accordingly).

8.2 No Share or any interest therein shall be transferred to or otherwise become vested in any person or body save in the circumstances permitted by Articles 9 and 10.

9. Pre-emption on Issue

9.1 Apart from Shares to be issued pursuant to conversion under Article 5.6 or pursuant to any Share Incentive Scheme, any Shares ("New Shares") in the capital of the Company which the Company proposes to allot wholly for cash shall first be offered for subscription to the holders of the Shares pro-rata to their holdings of Shares and for the purpose of calculating such proportion only the holders of the Preference Shares shall be deemed to have converted their Preference Shares into Ordinary Shares in accordance with Article 5.6. Such offer shall be made by notice ("New Issue Notice") in writing specifying the number of New Shares to which the holder is entitled and specifying the proposed subscription price per New Share ("Subscription Price").

9.2 The New Issue Notice shall invite the recipients thereof to state in writing within 28 days whether or not they are willing to subscribe for any of their pro rata entitlement to New Shares and, in the case of each Investor and only in the case of each Investor, whether it is willing to subscribe for New Shares in excess of its entitlement and, if so, how many excess New Shares it desires to subscribe for. At the expiration of the period specified in the New Issue Notice the Board shall allocate the New Shares comprised in the New Issue Notice to the holders of the Shares who shall have notified their willingness to subscribe for their entitlement as aforesaid. To the extent that holders of the Shares do not claim their full entitlements to the New Shares, the Board shall immediately allocate the unclaimed New Shares to satisfy any claims made by an Investor in excess of its entitlement.

9.3 If the Company shall not pursuant to the foregoing provisions of Article 9.2 8.2 have found subscribers for all the New Shares, the Company shall be at liberty to issue such remaining unallocated New Shares to any person at a price not being less than the Subscription Price.

9.4 The allotment and issue of New Shares shall be completed as soon as reasonably practicable (but no later than 3 days after the Board has allocated all the New Shares).

10. Pre-emption on Transfer, Mandatory Transfers and Offers to Purchase

10.1 Unless otherwise agreed in writing by all the Members or pursuant to the terms of Articles 10.2 or 10.3, the right to transfer Shares shall be subject to the following restrictions namely:

10.1.1 Before transferring any Shares (the "Sale Shares") the person proposing to transfer the same ("Proposing Transferor") shall give notice in writing ("Transfer Notice") to the Board and the other Members that he proposes to transfer the same, the person to whom he proposes to sell the Sale Shares (the "Proposed Transferee"), the

cash price per Sale Share at which he wishes to sell ("Offer Price") and whether he wishes to transfer some only or all of the Sale Shares. If no Offer Price is stated by the Proposing Transferor, the Offer Price shall be the Prescribed Price as defined in Article 10.8.

10.1.2 The Directors may require the Proposing Transferor to furnish them with such evidence ("Further Information") as they require about the bona fide nature of the Offer Price where such price has been offered by a third party purchaser to whom the Proposing Transferor proposes to sell the Sale Shares and may refuse to offer the Sale Shares for sale or to register their transfer if the Directors reasonably determine that the Offer Price offered by such proposed purchaser and/or the willingness of the proposed purchaser to purchase the Sale Shares are not for any reason bona fide.

10.1.3 Subject to the aforesaid, the Transfer Notice shall constitute the Board as the Proposing Transferor's agent for the sale of the Sale Shares therein mentioned in accordance with the following provisions of this Article 10. Save as hereafter provided, a Transfer Notice once given or deemed to be given shall not be revocable except with the consent of the Directors.

10.1.4 Within 3 days after receipt of the Transfer Notice, and Further Information, if any, the Board shall in writing offer the Sale Shares at the Offer Price or Prescribed Price (as the case may be):

10.1.4.1 If the Sale Shares are B Preference Shares, to the remaining B Preference Shareholders pro rata to their holdings of Preference Shares; or

10.1.4.2 if the Sale Shares are not B Preference Shares, to the remaining Members pro rata to their existing holdings and for the purpose of calculating such proportion only, the holders of Preference Shares shall be deemed to have converted their Preference Shares into Ordinary Shares in accordance with Article 5.3,

and such offer (the "Offer") shall invite the recipients thereof to state in writing within 28 days from the date of the Offer ("Offer Period") whether or not they are willing to purchase any of their pro rata entitlement to Sale Shares at the Offer Price or Prescribed Price (as the case may be) and, in the case of each Investor and only in the case of each Investor, whether it is willing to purchase Sale Shares in excess of its entitlement and, if so, how many excess Sale Shares it desires to

purchase. At the expiration of the Offer Period the Board shall allocate the Sale Shares comprised in the Transfer Notice to the Member or Members as the case may be who shall have notified their willingness to purchase their entitlement as aforesaid. To the extent that Members receiving the Offer do not claim their full entitlements to the Sale Shares, the Board shall:

- (a) if the Sale Shares are B Preference Shares, offer any remaining Sale Shares at the Offer Price or Prescribed Price (as the case may be) to the remaining members (other than the Preference Shareholders) pro rata to their existing holdings and such offer shall invite the recipients thereof to state in writing within 14 days of such offer (the "Second Offer Period") whether or not they are willing to purchase any of their pro rata entitlement; or
- (b) if the Sale Shares are not B Preference Shares, immediately allocate the unclaimed Sale Shares to satisfy any Investor's claim made in excess of its entitlement.

At the expiration of the Second Offer Period, if applicable, the Board shall allocate the Sale Shares comprised in the Transfer Notice to the Member or Members as the case may be who shall have notified their willingness to purchase their entitlement in accordance with paragraph (a) above. To the extent that such Members do not claim their full entitlements to the Sale Shares, the Board shall immediately allocate the unclaimed Sale Shares to satisfy any Investor's claim made in excess of its entitlement.

10.1.5 The Board, within seven days after the expiry of the Offer Period shall give notice in writing to the Proposing Transferor of the numbers of Sale Shares allocated and to which Member(s) (hereinafter called the "Purchaser" or "Purchasers") such Sale Shares have been allocated. Every such notice shall state a name and address of each such Purchaser, the number of Sale Shares agreed to be purchased by him and the Offer Price or Prescribed Price (as the case may be). If the Board shall pursuant to Article 10.1.4 have allocated all the Sale Shares concerned, the Proposing Transferor shall be bound on receipt of the Offer Price or Prescribed Price (as the case may be) to transfer the Sale Shares to the respective Purchasers thereof.

10.1.6 The sale and purchase of Sale Shares shall be completed as soon as reasonably practicable at a place and time (but no later than 14 days after the Board has allocated all the Sale Shares) to be appointed by the Board when, against payment of the Offer Price or Prescribed Price

(as the case may be) and any relevant stamp duties, the Purchaser(s) shall be registered as the holder(s) of the relevant Sale Shares in the register of Members of the Company and Share certificate(s) in the name(s) of such Purchaser(s) and in respect of the relevant Sale Shares shall be delivered:

10.1.7 If in any case a Proposing Transferor, after having become bound to transfer any Sale Shares to a Purchaser, shall make default in so doing, the Board shall on behalf of such Proposing Transferor authorise some person to execute any necessary transfers in favour of the Purchaser or Purchasers and shall receive the purchase money and shall thereupon cause the name of the Purchaser or Purchasers to be entered into the register of Members as the holder of the relevant Sale Shares and hold the purchase money in trust for the Proposing Transferor but shall not be bound to earn or pay interest thereon. The receipt of the Company of the purchase money shall be a good discharge to the Purchaser or Purchasers who shall not be bound to see to the application thereof and after the name of the Purchaser has been entered in the register of Members of the Company in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person.

10.1.8 If the Company shall not pursuant to Article 10.1.4 have found Purchaser(s) willing to purchase all the Sale Shares, the Proposing Transferor shall be at liberty to transfer all such Sale Shares to the Proposed Transferee at a price not being less than the Offer Price or Prescribed Price (as the case may be) at any time within two months after receipt of the notice referred to in Article 10.1.5 provided that the Board shall require to be satisfied, in its reasonable opinion, that such Sale Shares are being transferred in pursuance of a bona fide sale for a consideration not less than such price without any deduction, rebate or allowance whatsoever to the purchaser and if not so satisfied it shall refuse to register the instrument or transfer concerned. If the Proposing Transferor shall not have transferred all the Sale Shares to the Proposed Transferee within such period as is set out in this Article 10.1.8 or if the Proposed Transferee notifies the Proposing Transferor or the Company that he no longer wishes to purchase the Sale Shares, then the Proposing Transferor shall be bound to transfer such number of Sale Shares to such Purchasers as have notified their willingness to purchase Sale Shares pursuant to Article 10.1.4 and Articles 10.1.6 and 10.1.7 shall apply, with any necessary adaptations to any transfer to be made.

10.2 Article 10.1 shall not apply, and such transfers will be permitted transfers, to a transfer of Shares:

- 10.2.1 by any Member to his or her or its Permitted Transferees;
- 10.2.2 by David Hirst up to a maximum of five per cent. of the total number of issued Ordinary Shares (and for the purpose of calculating such percentage only the holders of the Preference Shares shall be deemed to have converted their Preference Shares into Ordinary Shares in accordance with Article 5.3) to any person to whom David Hirst (in his sole discretion) determines has contributed to the Company;
- 10.2.3 to a charitable organisation whose charitable objects are compatible with the objects of the Company provided that no single charitable organisation, together with any other charitable organisation connected to it, shall be entitled to hold in excess of ten per cent. of the issued Ordinary Shares immediately following any transfer to it and for the purpose of calculating such percentage only the holders of the A Preference Shares shall be deemed to have converted their A Preference Shares into Ordinary Shares in accordance with Article 5.3;
- 10.2.4 to the trustees of a settlement or trust created inter vivos by a Member under which the trustees are to hold the Shares on trusts, the terms of which must throughout the period of its ownership of such Shares ensure that the absolute beneficial entitlement in such shares can only pass to any person who is or may become a beneficiary under the terms of such settlement or trust who is also a Permitted Transferee and that no power or control over the voting powers conferred by such Shares is for the time being exercisable by or subject to the consent of any person other than the trustees as trustees;
- 10.2.5 upon the death or liquidation of a Member (or intestacy or pursuant to the terms of his will) to a person who is a Permitted Transferee or to trustees of a settlement or trust under which the trustees are to hold the Shares on trusts the terms of which must throughout the period of its ownership of such shares ensure that the absolute beneficial entitlement in such Shares can only pass to a person who is or may become a beneficiary under the terms of such settlement or trust and who is also a Permitted Transferee and that no power or control over the voting powers conferred by such Shares is for the time being exercisable by or subject to the consent of any person other than the trustees as trustees. Pending the transfer of such Shares in accordance with this Article, only the legal personal representatives of the deceased Member shall be recognised by the Company as having title to the interest of the deceased Member in the said Shares;
- 10.2.6 by any Existing Shareholder to any other Existing Shareholder;

- 10.2.7 being a transfer of any B Preference Shares, to an Investment Fund;
  - 10.2.8 by an Investor to any affiliated or parallel fund or partnership (or nominee thereof) managed or advised by such Investor, or by that Investor's fund manager
  - 10.2.9 by Carbon Trust and its Permitted Transferees to a Government Department or to any entity which succeeds to all or part of the business or activities of Carbon Trust; or
  - 10.2.10 for the purpose only of effecting the appointment of a new trustee.
- 10.3 If any Shares have, pursuant to the provisions of Article 10.2, come to be held by trustees of a settlement or trust and in the reasonable opinion of the Directors the absolute beneficial entitlement to or control of any such shares so held has passed or is about to pass to persons other than the trustees of such settlement or trust or Permitted Transferees, the Directors may by notice in writing to the registered or last known address of the holder of the Shares concerned request that such holder transfer back such Shares to the original transferor and until such time may direct that until further notice from the Directors:
- 10.3.1 any transfer of the relevant Shares shall be void;
  - 10.3.2 no voting rights shall be exercisable in respect of the relevant Shares;
  - 10.3.3 no further Shares shall be issued as of right to the Member concerned or in pursuance of any offer made to the holder of them;
  - 10.3.4 except in a liquidation, no payment shall be made of any sums due from the Company on the relevant Shares whether in respect of capital or otherwise.
- 10.4 Save as agreed otherwise by the Company and the holders of at least a two-thirds majority of the Preference Shares, a Transfer Notice shall be deemed to have been given in respect of any Shares in the capital of the Company forthwith upon the occurrence of the following events:
- 10.4.1 the death of a Member whose Shares have not been transferred as permitted by Article 10.2.3 within six months of his death; or
  - 10.4.2 the bankruptcy or insolvency of a Member; or
  - 10.4.3 a Permitted Transferee ceasing to be a Permitted.
- 10.5 A Transfer Notice shall be deemed to have been given in respect of any Shares held by a Member pursuant to a transfer or series of transfers made under



Article 10.2 where the Member making the first transfer pursuant to Article 10.2 (the "Original Transferor") would be deemed to have served a Transfer Notice in respect of any Shares he or she originally held in accordance with Article 10.6 if he or she still held such Shares.

- 10.6 In each of the above cases, on service of a Transfer Notice, the provisions of Article 10.1 shall apply save that the Shares shall be transferred at the Prescribed Price.
- 10.7 The expression the "Prescribed Price" shall mean in respect of each Sale Share the price per Sale Share certified by the auditors as considered by them to represent the fair value thereof as between a willing buyer and willing seller calculated as a direct proportion of the value of the Shares as a whole with no discount or premium to reflect the size of the holding but with regard to the voting rights attaching thereto. Any such certification shall set out in full the reason for and basis upon which the auditors determined the price per Sale Share.
- 10.8 The auditors shall also be entitled to employ and rely upon the advice of or any information obtained from any valuer, broker, banker, accountant or other expert.
- 10.9 If the auditors are asked to certify the Prescribed Price as aforesaid, the Company shall, as soon as it receives the auditors' certificate, provided that the Board are satisfied that such auditors' certificate accurately represents the fair value of each Sale Share, notify the Proposing Transferor and furnish him with a copy of the certificate.
- 10.10 The auditors in certifying the Prescribed Price shall at the cost and expense of the Company act as experts and not as arbitrators and their determination shall be final and binding on all persons concerned save for manifest error and for circumstances in which the Board determine to refer the certification of "the Prescribed Price" to an independent chartered accountant in accordance with Article 10.12.
- 10.11 If the Board or the Proposing Transferor is not satisfied that the auditors' certificate referred to in Article 10.10 accurately represents the fair value of the Sale Shares, the valuation shall be submitted as soon as practicable to an independent financial adviser or the corporate finance advisory division of an independent firm of chartered accountants as agreed between the Proposing Transferor and the Board or in default of agreement as nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales, such person to be deemed to be an expert and whose decision as to the value of the Prescribed Price shall be final and binding on all persons save for

manifest error. The fees and expenses of the relevant firm shall be borne by such person or persons as determined by such firm.

- 10.12 The Board shall not be entitled to decline to register a transfer of any Shares made pursuant to the provisions of Article 10 unless they have substantial reasons for believing that a transfer purportedly made in accordance with the provisions of Article 10 was not in fact in any material respect in accordance therewith in which event it shall decline to register such transfer. For the purpose of ensuring that a transfer of Shares is in accordance with the provisions of Article 10 and duly authorised hereunder the Board shall require any Member, the personal representatives of any administrative receiver or the liquidator of any corporate Member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the Board shall think fit regarding any matter which they may deem relevant to such purpose. If such information or evidence has not been furnished to the satisfaction of the Board within a reasonable time after such request the Board may refuse to register the transfer in question.

11. Drag Along and Tag Along

11.1 Drag Along

11.1.1 If:

- (a) a bona fide offer to purchase the Shares on arm's length terms is extended to all Members (aside from any Member making the offer, if any ("Offering Member")) (a "Full Offer") and such Full Offer is accepted by the holders of at least a 60% majority of the Preference Shares, excluding those Shares held by the Offering Member, if any; and
- (b) the Members who have accepted the Full Offer, may within 28 days of the close of the Full Offer serve on those Members who have not accepted the Full Offer ("Rejecting Members"), a written notice signed by each Accepting Member requiring the Rejecting Members to sell all Shares registered in their names to the offeror or acquire all the Shares of the Accepting Members at the price offered by the offeror ("Mandatory Transfer Notice").

- 11.1.2 If a Mandatory Transfer Notice is served on any Rejecting Member, that Rejecting Member shall, within 28 days of the date of the Mandatory Transfer Notice either accept and complete the Full Offer or offer to buy and complete the acquisition of all the Shares of the Accepting Members on terms identical to those of the Full Offer.

- 11.1.3 Articles 10.1.6 and 10.1.7 shall apply, with any necessary adaptations, to any transfer to be made under this Article 11.

11.2 Tag Along

- 11.2.1 The provisions of Article 11.2.2 will apply if a Shareholder (a "Proposed Seller") proposes to transfer any Shares (a "Proposed Transfer") which would, if put into effect, result in any person (a "Proposed Transferee") acquiring 50% Control of the Company.
- 11.2.2 A Proposed Seller must, before making a Proposed Transfer procure the making by the Proposed Transferee of an offer to the other Shareholders to acquire all of their Shares for a consideration per share the value of which is at least equal to the consideration per share offered to the Proposed Seller.
- 11.2.3 The offer referred to in Article 11.2.2 must be expressed to be capable of acceptance for a period of not less than 5 clear days and if it is accepted by any Shareholder (an "Accepting Shareholder") within that period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Shares held by Accepting Shareholders.

12. [Article intentionally left blank]

LIEN

13. The Company shall have a first and paramount lien on every share (whether or not it is a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share and the Company shall also have a first and paramount lien on all shares (whether fully paid or not) standing registered in the name of any member whether solely or one of two or more joint holders for all moneys presently payable by him or his estate to the Company; but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien (if any) on a share shall extend to all dividends payable thereon.

TRANSFER OF SHARES

14. Subject to Article 10, the Directors may, in their absolute discretion, decline to register any transfer of any share, whether or not it is a fully paid share. The first sentence of Regulation 24 of Table A shall not apply to the Company.

MEETINGS

15. Notice of General Meetings

- 15.1 A notice convening a general meeting shall be required to specify the general nature of the business to be transacted only in the case of special business and regulation 38 of Table A shall be modified accordingly. Paragraph (b) in regulation 38 of Table A shall be deleted and the words "in accordance with section 307 of the Companies Act 2006" shall be inserted after the words "if it is so agreed" in that regulation.
- 15.2 All business shall be deemed special that is transacted at an extraordinary general meeting and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the profit and loss account, balance sheet, and the reports of the directors and Auditors, the appointment of, and the fixing of the remuneration of the Auditors and the giving or renewal of any authority in accordance with section 80 of the 1985 Act.
- 15.3 In accordance with Section 325 of the Companies Act 2006 in every notice calling a General Meeting of the Company there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of him and that a proxy need not be a member of the Company. Regulation 38 of Table A shall be modified accordingly and the second sentence of Regulation 59 of Table A shall not apply to the Company.
16. Proceedings at General Meetings
- 16.1 No business shall be transacted at any general meeting unless a quorum of Shareholders is present throughout the meeting. A quorum shall consist of two Shareholders present in person or by proxy or (in the case of a Shareholder being a corporation) by representative of whom one shall be Naxos, and one shall be LCA; save that:
- 16.1.1 if and for so long as all the Shares are of one class (subject to Article 16.1.2) two Shareholders present in person or by proxy holding Shares of that class shall be a quorum; and
- 16.1.2 if and for so long as the Company has only one person as a Shareholder, one Shareholder present in person or by proxy shall be a quorum.
- 16.2 If a quorum is not present within half an hour from the time appointed for a general meeting the general meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other place as the directors may determine, and if at the adjourned general meeting a quorum is not present within half an hour from the time appointed therefore such adjourned general meeting shall be dissolved. Regulation 41 of Table A shall not apply to the Company.

16.3 A poll may be demanded at any general meeting by the Chairman or by any Shareholder present in person or by proxy and entitled to vote. Regulation 46 of Table A shall be altered accordingly.

17. Vote of Shareholders

17.1 Regulation 54 of Table A shall not apply to the Company. Subject to any rights or restrictions for the time being attached to any class or classes of Shares, on a show of hands every Shareholder entitled to vote who (being an individual) is present in person or by proxy (not being himself a Shareholder entitled to vote) or (being a corporate body) is present by a representative or proxy (not being himself a Shareholder entitled to vote) shall have one vote and, on a poll, each Shareholder shall have one vote for each share of which he is the holder.

17.2 A Shareholder shall not be entitled to appoint more than one proxy to attend and vote on the same occasion and accordingly the final sentence of regulation 59 of Table A shall not apply to the Company. Any such proxy shall be entitled to cast the votes to which he is entitled in different ways.

DIRECTORS

18. Number of Directors

Regulation 64 of Table A shall not apply to the Company. The number of directors of the Company shall not be less than two nor more than six.

19. Alternate Directors

19.1 An alternate director shall be entitled to receive notice of all meetings of the directors and of all meetings of committees of the directors of which his appointer is a Shareholder (subject to his giving to the Company an address within the United Kingdom at which notices may be served on him), to attend and vote at any such meeting at which the director appointing him is not personally present and generally to perform all the functions of his appointer at such meeting as a director in his absence. An alternate director shall not be entitled to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointer as such appointer may by notice in writing to the Company from time to time direct. Regulation 66 of Table A shall not apply to the Company.

19.2 A director, or any such other person as is mentioned in regulation 65 of Table A, may act as an alternate director to represent more than one director, and an alternate director shall be entitled at any meeting of the directors or of any committee of the directors to one vote for every director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one for

the purpose of determining whether a quorum is present and the final sentence of regulation 88 of Table A shall not apply to the Company.

- 19.3 Save as otherwise provided in the regulations of the Company, an alternate director shall be deemed for the purposes specified in Article 19.1 to be a director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the director appointing him. Regulation 69 of Table A shall not apply to the Company.

20. Appointment and Retirement of Directors

- 20.1 Each of Naxos and LCA shall, whilst they hold Shares, have the right to appoint, remove and replace a Director of the Company and each such Director shall be called an "Investor Director".

- 20.2 Each appointment, removal and replacement in accordance with Article 20.1 above shall be by notice in writing under hand of the relevant party and shall take effect upon lodgement at the office or on delivery to a meeting of the directors.

- 20.3 The directors shall not be required to retire by rotation and regulations 76 to 79 (inclusive) of Table A shall not apply to the Company.

21. Disqualification and Removal of Directors

- 21.1 Notwithstanding the provisions of Article 20 the office of a director shall be vacated if:

21.1.1 he ceases to be a director by virtue of any provision of the Act or these Articles or he becomes prohibited by law from being a director, or

21.1.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally; or

21.1.3 he is, or may be, suffering from mental disorder and either:

21.1.3.1 he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983, or in Scotland an application for admission under the Mental Health (Scotland) Act 1960, or

21.1.3.2 an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver,

curator bonis or other person to exercise powers with respect to his property or affairs; or

21.1.4 he resigns his office by notice to the Company; or

21.1.5 he shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated.

and regulation 81 of Table A shall not apply to the Company.

## 22. Gratuities and Pensions

22.1 Regulation 87 of Table A shall not apply to the Company and the directors may exercise any powers of the Company conferred by its Memorandum of Association to give and provide pensions, annuities, gratuities or any other benefits whatsoever to or for past or present directors or employees (or their dependants) of the Company or any subsidiary or associated undertaking (as defined in section 27(3) of the Companies Act 1989) of the Company and the directors shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.

## 23. Proceedings of the Directors

### 23.1 Specific interests of a director

Subject to the provisions of the 2006 Act and provided (if these Articles so require) that he has declared to the directors in accordance with the provisions of these Articles, the nature and extent of his interest, a director may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest of the following kind:

23.1.1 where a director (or a person connected with him) is party to or in any way directly or indirectly interested in, or has any duty in respect of, any existing or proposed contract, arrangement or transaction with the Company or any other undertaking in which the Company is in any way interested;

23.1.2 where a director (or a person connected with him) is a director, employee or other officer of, or a party to any contract, arrangement or transaction with, or in any way interested in, any body corporate promoted by the Company or in which the Company is in any way interested;

23.1.3 where a director (or a person connected with him) is a shareholder in the Company or a shareholder in, employee, director, member or other

officer of, or consultant to, a holding company of, or a subsidiary of a holding company of, the Company;

23.1.4 where a director (or a person connected with him) holds and is remunerated in respect of any office or place of profit (other than the office of auditor) in respect of the Company or body corporate in which the Company is in any way interested;

23.1.5 where a director is given a guarantee, or is to be given a guarantee, in respect of an obligation incurred by or on behalf of the Company or any body corporate in which the Company is in any way interested;

23.1.6 where a director (or a person connected with him or of which he is a member or employee) acts (or any body corporate promoted by the Company or in which the Company is in any way interested of which he is a director, employee or other officer may act) in a professional capacity for the Company or any body corporate promoted by the Company or in which the Company is in any way interested (other than as auditor) whether or not he or it is remunerated for this;

23.1.7 an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest; or

23.1.8 any other interest authorised by ordinary resolution.

## 23.2 Interests of an Investor Director

In addition to the provisions of Article 23.1, subject to the provisions of the 2006 Act and provided (if these Articles so require) that he has declared to the directors in accordance with the provisions of these Articles, the nature and extent of his interest, where a director is an Investor Director he may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest arising from any duty he may owe to, or interest he may have as an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or direct or indirect investor (including without limitation by virtue of a carried interest, remuneration or incentive arrangements or the holding of securities) in:

23.2.1 a Fund Manager;

23.2.2 any of the funds advised or managed by a Fund Manager from time to time; or

23.2.3 another body corporate or firm in which a Fund Manager or any fund advised by such Fund Manager has directly or indirectly invested, including without limitation any portfolio companies.



23.3 Interests of which a director is not aware

For the purposes of this Article 23, an interest of which a director is not aware and of which it is unreasonable to expect him to be aware shall not be treated as an interest of his.

23.4 Accountability of any benefit and validity of a contract

In any situation permitted by this Article 23 (save as otherwise agreed by him) a director shall not by reason of his office be accountable to the Company for any benefit which he derives from that situation and no such contract, arrangement or transaction shall be avoided on the grounds of any such interest or benefit.

23.5 Terms and conditions of Board authorisation

Subject to Article 23.6, any authority given in accordance with section 175(5)(a) of the 2006 Act in respect of a director ("Interested Director") who has proposed that the directors authorise his interest ("Relevant Interest") pursuant to that section may, for the avoidance of doubt:

23.5.1 be given on such terms and subject to such conditions or limitations as may be imposed by the authorising directors as they see fit from time to time, including, without limitation:

23.5.1.1 restricting the Interested Director from voting on any resolution put to a meeting of the directors or of a committee of the directors in relation to the Relevant Interest;

23.5.1.2 restricting the Interested Director from being counted in the quorum at a meeting of the directors or of a committee of the directors where such Relevant Interest is to be discussed; or

23.5.1.3 restricting the application of the provisions in Articles 23.7 and 23.8, so far as is permitted by law, in respect of such Interested Director;

23.5.2 be withdrawn, or varied at any time by the directors entitled to authorise the Relevant Situation as they see fit from time to time; and

23.5.3 subject to Article 23.6, an Interested Director must act in accordance with any such terms, conditions or limitations imposed by the authorising directors pursuant to section 175(5)(a) of the 2006 Act and this Article 23.

23.6 Terms and conditions of Board authorisation for an Investor Director

Notwithstanding the other provisions of this Article 23, it shall not (save with the consent in writing of an Investor Director) be made a condition of any authorisation of a matter in relation to that Investor Director in accordance with section 175(5)(a) of the 2006 Act; that he shall be restricted from voting or counting in the quorum at any meeting of, or of any committee of the directors or that he shall be required to disclose, use or apply confidential information as contemplated in Article 23.8.

23.7 Director's duty of confidentiality to a person other than the Company

23.7.1 Subject to Article 23.8 (and without prejudice to any equitable principle or rule of law which may excuse or release the director from disclosing information, in circumstances where disclosure may otherwise be required under this Article 23), if a director, otherwise than by virtue of his position as director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required:

23.7.1.1 to disclose such information to the Company or to any director, or to any officer or employee of the Company; or

23.7.1.2 otherwise to use or apply such confidential information for the purpose of or in connection with the performance of his duties as a director.

23.8 Where such duty of confidentiality arises out of a situation in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company, Article 23.7 shall apply only if the conflict arises out of a matter which falls within Article 23.1 or Article 23.2 or has been authorised under section 175(5)(a) of the 2006 Act.

23.9 Additional steps to be taken by a director to manage a conflict of interest

Where a director has an interest which can reasonably be regarded as likely to give rise to a conflict of interest, the director may take such additional steps as may be necessary or desirable for the purpose of managing such conflict of interest, including compliance with any procedures laid down from time to time by the directors for the purpose of managing conflicts of interest generally and/or any specific procedures approved by the directors for the purpose of or in connection with the situation or matter in question, including without limitation:

23.9.1 absenting himself from any discussions, whether in meetings of the directors or otherwise, at which the relevant situation or matter falls to be considered; and

23.9.2 excluding himself from documents or information made available to the directors generally in relation to such situation or matter and/or arranging for such documents or information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him to have access to such documents or information.

23.10 Requirement of a director to declare an interest

Subject to section 182 of the 2006 Act, a director shall declare the nature and extent of any interest permitted by Article 23.1 or Article 23.2 at a meeting of the directors, or by general notice in accordance with section 184 (notice in writing) or section 185 (general notice) of the 2006 Act or in such other manner as the directors may determine, except that no declaration of interest shall be required by a director in relation to an interest:

23.10.1 falling under Article 23.1.7;

23.10.2 if, or to the extent that, the other directors are already aware of such interest (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware); or

23.10.3 if, or to the extent that, it concerns the terms of his service contract (as defined by section 227 of the 2006 Act) that have been or are to be considered by a meeting of the directors, or by a committee of directors appointed for the purpose under these Articles.

23.11 Shareholder approval

23.11.1 Subject to section 239 of the 2006 Act, the Company may by ordinary resolution ratify any contract, transaction or arrangement, or other proposal, not properly authorised by reason of a contravention of any provisions of this Article 23.

23.12 For the purposes of this Article 23:

23.12.1 a conflict of interest includes a conflict of interest and duty and a conflict of duties;

23.12.2 the provisions of section 252 of the 2006 Act shall determine whether a person is connected with a director;

23.12.3 a general notice to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified.

- 23.13 The quorum for the transaction of business of the directors shall throughout the meeting be two comprising at least the Naxos Director or its alternate and the LCA Director or its alternate, provided that if at any time there shall be no such director in office, the quorum at that time shall not require the presence of that director.
- 23.14 The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Unless all directors indicate their willingness to accept shorter notice of a meeting of the directors, at least 7 clear days' prior notice of the time and place of each meeting of the directors shall be given. Questions arising at any meeting shall be determined by a majority of votes and in the case of an equality of votes the chairman of the meeting shall not have a second or casting vote.
- 23.15 A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors. Notice of every meeting of the directors shall be given to every director in accordance with the provisions referred to in Article 23.14 and 23.17 but the non-receipt of notice by any director shall not of itself invalidate the proceedings at any meeting of the directors.
- 23.16 Any director including an alternate director may participate in a meeting of the directors or a committee of the directors of which he is a Shareholder by means of a conference telephone or similar means of communications equipment whereby all persons participating in the meeting can hear each other and participation in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the 2006 Act, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- 23.17 Regulation 88 of Table A shall be amended by substituting for the sentence:  
"It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom."  
the following sentence:  
"Notice of every meeting of the directors shall be given to each director and his alternate director, including directors and alternate directors who may for the time being be absent from the United Kingdom and have given the Company an address within the United Kingdom for service."
- 23.18 The words "of filling vacancies, or" shall be omitted from regulation 90 of Table A.

- 23.19 The penultimate sentence of regulation 88 of Table A shall not apply to the Company.
- 23.20 Regulations 94 to 97 (inclusive) of Table A shall not apply to the Company.
24. No person shall be elected a Director at any general meeting unless:
- (i) he is recommended by the Directors; or
  - (ii) not less than fourteen nor more than thirty five clear days before the date of the meeting, a notice in writing signed by a member qualified to vote at the meeting has been given to the Company of the intention to propose that person for election, together with a notice in writing signed by that person of his willingness to be elected.
25. A Director shall not be required to hold any share qualification but shall nevertheless be entitled to receive notice of and to attend at all general meetings of the Company and at all separate general meetings of the holders of any class of shares in the capital of the Company.
26. Any director (including an alternate director) may participate in a meeting of the directors or a committee of the directors of which he is a member by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the Act, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.

#### THE SEAL

27. If the Company has a seal it shall only be used with the authority of the directors or of a committee of the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined every instrument to which the seal is affixed shall be signed by one director and by the secretary or another director. The obligation under regulation 6 in Table A relating to the sealing of share certificates shall apply only if the Company has a seal. Regulation 101 of Table A shall not apply to the Company.

#### CAPITALISATION OF PROFITS

28. The words "special resolution" shall be substituted for the words "ordinary resolution" in regulation 110 of Table A.

### NOTICES

29. Where a notice is sent by first class post, proof of the notice having been posted in a properly addressed prepaid envelope shall be conclusive evidence that the notice was given and shall be deemed to have been given at the expiration of 24 hours after the envelope containing the same is posted.
30. If at any time by reason of the suspension or curtailment of postal services within the United Kingdom the Company is unable effectively to convene a general meeting by notices sent through the post, a general meeting may be convened by a notice advertised in at least one national daily newspaper and such notice shall be deemed to have been duly served on all Shareholders entitled thereto at noon on the day when the advertisement appears. In any such case the Company shall send confirmatory copies of the notice by post if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom again becomes practicable.

### WINDING UP

31. In regulation 117 of Table A, the words "with the like sanction" shall be inserted immediately before the words "determine how the division".

### INDEMNITY

32. Subject to the provisions of the 2006 Act every director (including an alternate director) or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the lawful execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 144 of the 1985 Act or section 1157 of the 2006 Act in which relief is granted to him by the court, and no director (including an alternate director) or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the lawful execution of the duties of his office or in relation thereto. Regulation 118 of Table A shall not apply to the Company.
33. The directors shall have power to purchase and maintain at the expense of the Company for the benefit of any director (including an alternate director) or officer of the Company insurance against any liability as is referred to in section 232(2) of the 2006 Act and, subject to the provisions of the Act, against any other liability which may attach to him or loss or expenditure which he may incur in relation to anything done or alleged to have been done or omitted to be done as a director, (including as an alternative director) officer.

34. The directors may authorise the directors of companies within the same group of companies as the Company to purchase and maintain insurance at the expense of the Company for the benefit of any director (including an alternate director), other officer or auditor of such company, in respect of such liability, loss or expenditure as is referred to in Article 33.

#### VARIATION OF CLASS RIGHTS

35. If at any time the share capital of the Company is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of the issue of the Shares for that class) may, whether or not the Company is being wound-up, be varied with the consent in writing of the holders of three-fourths in number of the issued Shares of that class and with the consent of three-fourths in number of the issued B Preference Shares. To every such separate general meeting the provisions of the regulations of the Company relating to general meetings shall apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third in number of the issued Shares of the class and that any holder of Shares of the class present in person or by proxy may demand a poll. If any such separate general meeting shall be adjourned owing to the absence of a quorum and if at the adjourned meeting a quorum shall not be present within half-an-hour from the time appointed for such adjourned meeting the holder or holders of Shares of the class concerned who are present shall constitute a quorum and shall have power to decide upon all matters which could properly have been disposed of at the meeting from which the adjournment took place.

Company No. 3838585

THE COMPANIES ACTS 1985 AND 1989

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PRIVATE COMPANY LIMITED BY SHARES

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MEMORANDUM

AND

ARTICLES OF ASSOCIATION

OF

ResponsiveLoad Limited

Incorporated on the 9th day of September 1999



THE COMPANIES ACT 1985 AND 1989

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PRIVATE COMPANY LIMITED BY SHARES

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MEMORANDUM OF ASSOCIATION

OF

RESPONSIVELOAD LIMITED

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1. The Company's name is "ResponsiveLoad Limited".
2. The Company's registered office is to be situated in England and Wales.
3. The Company's objects are:
  - 3.1.1 To carry on the promotion of a technique for contributing a characteristic to the electricity grid which reduces the need for generation.
  - 3.1.2 To carry on any other trade or business whatsoever which can, in the opinion of the Board of Directors, be advantageously carried on by the Company in connection with or as ancillary to any of the above businesses or the general business of the Company, or further any of its objects.
  - 3.1.3 To purchase, take on lease or in exchange, hire or otherwise acquire and hold for any estate or interest any lands, buildings, easements, rights, privileges, concessions, patents, patent rights, licences, secret processes, machinery, plant, stock in trade, and any real or personal property of any kind for such consideration and on such terms as may be considered expedient.
  - 3.1.4 To erect, construct, lay down enlarge, alter and maintain any roads, railways, tramways, sidings, bridges, reservoirs, shops, stores, factories, buildings, works and plant and machinery necessary or convenient for the Company's business, and to contribute to or subsidise the erection, construction and maintenance of any of the above.
  - 3.1.5 To borrow or raise or secure the payment of money for the purposes of or in connection with the Company's business, and for the purposes of or in connection with the borrowing or raising of money by the Company to become a member of any building society.

- 3.1.6 To mortgage and charge the undertaking and all or any of the real or personal property and assets, present or future, and all or any of the uncalled capital for the time being of the Company, and to issue at par or at a premium or discount, and for such consideration and with and subject to such rights, powers privileges and conditions as may be thought fit, debentures' or debenture stock, either permanent or redeemable or repayable, and collaterally or further to secure any securities of, the Company by a trust deed or other assurance.
- 3.1.7 To issue and deposit any securities which the Company has power to issue by way of mortgage to secure any sum less than the nominal amount of such securities, and also by way of security for the performance of any contracts or obligations of the Company or of its customers or other persons or corporations having dealings with the Company, or in whose businesses or undertakings the Company is interested, whether directly or indirectly.
- 3.1.8 To receive money on deposit or loan upon such terms as the Company may approve, and to guarantee the obligations and contracts of any person or corporation.
- 3.1.9 To make advances to customers and others with or without security, and upon such terms as the Company may approve, and generally to act as bankers for any person or corporation.
- 3.1.10 To grant pensions, allowances, gratuities and bonuses to officers, ex-officers, employees or ex-employees of the Company or its predecessors in business or the dependants or connections of such persons, to establish and maintain or concur in establishing and maintaining trusts, funds or schemes (whether contributory or non-contributory) with a view to providing pensions or other benefits for any such persons as aforesaid, their dependants or connections, and to support or subscribe to any charitable funds or institutions, the support of which may, in the opinion of the Directors, be calculated directly or indirectly to benefit the Company or its employees, and to institute and maintain any club or other establishment or profit-sharing scheme calculated to advance the interests of the Company or its officers or employees.
- 3.1.11 To draw, make, accept, endorse, negotiate, discount and execute promissory notes, bills of exchange and other negotiable instruments.
- 3.1.12 To invest and deal with the moneys of the Company not immediately required for the purposes of its business in or upon such investments

or securities and in such manner as may from time to time be determined.

- 3.1.13 To pay for any property or rights acquired by the Company, either in cash or fully or partly paid-up shares, with or without preferred or deferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or by any securities which the Company has power to issue, or partly in one mode and partly in another, and generally on such terms as the Company may determine.
- 3.1.14 To accept payment for any property or rights sold or otherwise disposed of or dealt with by the Company, either in cash, by instalments or otherwise, or in fully or partly paid-up shares of any company or corporation, with or without deferred or preferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or in debentures or mortgage debentures or debenture stock, mortgages or other securities of any company or corporation, or partly in one mode and partly in another, and generally on such terms as the Company may determine and to hold, dispose of or otherwise deal with any shares, stock or securities so acquired.
- 3.1.15 To enter into any partnership or joint-purse arrangement or arrangement for sharing profits, union of interests or co-operation with any company, firm or person carrying on or proposing to carry on any business within the objects of this Company, and to acquire and hold, sell, deal with or dispose of shares, stock or securities of any such company, and to guarantee the contracts or liabilities of, or the payment of the dividends, interest or capital of any shares, stock or securities of and to subsidise or otherwise assist any such company.
- 3.1.16 To establish or promote or concur in establishing or promoting any other company whose objects shall include the acquisition and taking over of all or any of the assets and liabilities of this Company or the promotion of which shall be in any manner calculated to advance directly or indirectly the objects or interests of this Company, and to acquire and hold or dispose of shares, stock or securities of and guarantee the payment of the dividends, interest or capital of any shares, stock or securities issued by or any other obligations of any such company.
- 3.1.17 To purchase or otherwise acquire and undertake all or any part of the business, property, assets, liabilities and transactions of any person, firm or company carrying on any business which this Company is authorised to carry on.

- 3.1.18 To sell, improve, manage, develop, turn to account, exchange, let on rent, royalty, share of profits, or otherwise, grant licences, easements and other rights in or over, and in any other manner deal with or dispose of the undertaking and all or any of the property and assets for the time being of the Company for such consideration as the Company may think fit.
- 3.1.19 To amalgamate with any other company whose objects are or include objects similar to those of this Company, whether by sale or purchase (for fully or partly paid-up shares or otherwise) of the undertaking, subject to the liabilities of this or any such other company as aforesaid, with or without winding up, or by sale or purchase (for fully or partly paid-up shares or otherwise) of all or a controlling interest in the shares or stock of this or any such other company as aforesaid, or by partnership, or any arrangement of the nature of partnership, or in any other manner.
- 3.1.20 To distribute among the members in specie any property of the Company, or any proceeds of sale or disposal of any property of the Company, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law.
- 3.1.21 To do all or any of the above things in any part of the world, and either as principals, agents, trustees, contractors or otherwise, and either alone or in conjunction with others, and either by or through agents, trustees, subcontractors or otherwise.
- 3.1.22 To do all such other things as are incidental or conducive to the above objects or any of them.

And it is hereby declared that in the construction of this clause the word 'company' except where used in reference to the Company shall be deemed to include any person or partnership or other body of persons, whether incorporated or not incorporated, and whether domiciled in Great Britain or elsewhere, and that the objects specified in the different paragraphs of this clause shall, except where otherwise expressed therein, be in nowise limited by reference to any other paragraph or the name of the Company, but may be carried out in as full and ample a manner and shall be construed in as wide a sense as if each of the said paragraphs defined the objects of a separate, distinct and independent company.

- 4. The liability of the members is limited.
- 5. The Company's share capital is £100 divided into 100 shares of £1 each. The shares in the original or any increased capital may be divided into several

classes, and there may be attached thereto respectively any preferential, deferred or other special rights, privileges, conditions or restrictions as to dividend, capital, voting or otherwise.

We, the Subscribers to this Memorandum of Association, wish to be formed into a Company pursuant to this Memorandum; and we agree to take the number of shares shown opposite our respective names.

| <b>Names, addresses and descriptions of Subscribers</b> | <b>Number of shares taken by each Subscriber</b> |
|---|--|
| W TESTER<br>16 St John Street<br>London<br>EC1M 4AY     | ONE  |
| H THOMAS<br>16 St John Street<br>London<br>EC1M 4AY     | ONE  |
| Total shares taken                                      | TWO  |

DATED this 27th day of August 1999

WITNESS to the above Signatures

D J WOOTTON  
16 St John Street  
London  
EC1M 4AY

The Companies Acts 1985 and 1989

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of ResponsiveLoad Limited<sup>1</sup>

PRELIMINARY

1.

1.1 The regulations contained in Table A ('Table A') in the Schedule to the Companies (Tables A to F) Regulations 1985 (as amended by the Companies (Tables A to F) (Amendment) Regulations 1985, the Companies (Tables A to F) (Amendment) Regulations 2007 and the Companies (Tables A to F) (Amendment) (No.2) Regulations 2007 shall, except as hereinafter provided and so far as not inconsistent with the provisions of these Articles, apply to the Company to the exclusion of all other regulations or articles of association. References herein to 'regulations' are to regulations in Table A.

1.2 In these Articles:

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

"2006 Act" means the Companies Act 2006 including any statutory modification or re-enactment thereof for the time being in force;

"the Act" means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force and any provisions of the Companies Act 2006 for the time being in force;

"Articles" means these Articles of Association as varied from time to time;

"the Board" means the board of directors of the Company from time to time;

"A Preference Shares" means the cumulative convertible "A" preference shares of £1.00 each in the share capital of the Company;

"A Shareholders" means the holders of A Preference Shares from time to time and "A Shareholder" shall be constructed accordingly;

"B Preference Shares" means the cumulative convertible B Preference Shares of £1 each in the capital of the Company;

"B Shareholders" means the holders of B Preference Shares from time to time and "B Shareholder" shall be constructed accordingly;

"Base Value" means £5.69 per Ordinary Share;

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<sup>1</sup> As amended by written resolutions dated 15 January 2007, 14 July 2008, 22 September 2008, 5 August 2009 and 29 September 2009

"Carbon Trust" means Carbon Trust Investments Limited (registered number 4649291) and having its registered office at 6th Floor, 5 New Street Square, London EC4A 3BF;

"C Share Proportion" has the meaning set out in Article 7.5;

"C Shares" means the "C" ordinary shares of £0.01 each in the capital of the Company;

"C Shareholders" means the holders of C Shares from time to time and "C Shareholder" shall be constructed accordingly

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

"Control" means the ability to exercise or control voting rights conferred by all or any part of the issued share capital of the Company so that: a) "50% Control" relates to the exercise or control of 50% or more of the total voting rights conferred by all the issued share capital of the Company, b) "90% Control" relates to the exercise or control of 90% or more of the total voting rights conferred by all the issued share capital of the Company;

"Deferred Shares" means the deferred shares of £1.00 each in the share capital of the Company;

"Directors" means the directors from time to time of the Company;

"executed" includes any mode of execution;

"Existing Shareholders" means David Hirst, Alison Hirst, David Richards, David Slater, John Murlis, Mark Pyman, Bob Spears, David Bill, Patrick Andrews and Andrew Howe;

"Family Trust" means as regards any particular individual member or deceased or former individual member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than individual and/or Privileged Relations of that individual; and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is liable to be transferred or paid or applied to or for the benefit of such person or any voting or other rights attaching thereto are exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons;

"Fund Manager" means a person whose principal business is to make, manage or advise upon investments in securities;

"Fully Diluted Ordinary Share Capital" means the aggregate number of C Shares and Ordinary Shares in issue (assuming conversion of the Preference Shares in accordance with these Articles);

"holder" in relation to Shares means the Member whose name is entered in the register of Members of the Company as the holder of the Shares;

"holding company" means a holding company as defined in section 736 of the Act;

"Hurdle Value" means £7.00 per Ordinary Share;

"Initial Public Offering" means the listing or admission to trading of all of the issued and to be issued Ordinary Shares on AIM, NASDAQ, the NYSE, the Official List of the UK Listing Authority or any other recognised investment exchange or overseas investment exchange as defined in the Financial Services and Markets Act 2000;

"Initial Public Offering Date" means the point in time at which the Ordinary Shares are admitted to listing or permission is granted to deal in such Ordinary Shares pursuant to an Initial Public Offering;

"Investment Fund" means a fund, partnership, company, syndicate or other entity whose business is managed by a Fund Manager;

"Investors" means LCA, Naxos and Carbon Trust (and any person or persons to whom such Investors transfer their Shares in accordance with these Articles);

"Investor Directors" means any Directors appointed by either of Naxos or LCA;

"IPO Pre-money Valuation" means the issue price of new Ordinary Shares being issued as part of the capital raising in connection with an Initial Public Offering multiplied by the Fully Diluted Ordinary Share Capital (not including any new Ordinary Shares being issued as part of the capital raising in connection with the Initial Public Offering);

"LCA" means Low Carbon Accelerator Limited;

"Liquidation Event" means any or all of the following:

- (a) a Sale;
- (b) a Trade Sale;
- (c) the liquidation or dissolution of the Company;

"Liquidation Proceeds" means as relevant:

- (a) the amount available for distribution to Members; and/or
- (b) any amount due to Members (or any of them);

in either case as a consequence of the Liquidation Event;

"Member" means any holder for the time being of the Shares;

"Member of the same Fund Group" means if the Shareholder is an Investment Fund or a nominee of any such person as aforesaid:

- (a) any participant or partner in or member of any such fund, partnership, company or other entity or to the holders of any unit trust which is a participant or partner in or member of any such fund, partnership, company or other entity;
- (b) any fund managed by the Fund Manager of that Investment Fund; or



(c) any Holding Company or Subsidiary Undertaking of the Fund Manager of that Investment Fund, or any Subsidiary Undertaking of any Holding Company of the Fund Manager of that Investment Fund;

"Member of the same Group" means as regards any company, a company which is for the time being a Holding Company or a Subsidiary of that company or a Subsidiary of any such Holding Company;

"Naxos" means Naxos Capital Partners SCA of 40 Boulevard Joseph II, L-1840, Luxembourg;

"Office" means the registered office of the Company;

"Original Issue Price" means:

(a) in respect of LCA (and any person or persons to whom LCA transfers its Shares in accordance with these Articles, 360.11 pence;

(b) in respect of David Stevens (and any person or persons to whom David Stevens transfers his Shares in accordance with these Articles, 458.89 pence;

(a) in respect of Heather Stevens (and any person or persons to whom she transfers her Shares in accordance with these Articles, 458.88 pence;

"Ordinary Shares" means ordinary shares of £0.01 each in the share capital of the Company;

"Ordinary Shareholders" means the holders of Ordinary Shares from time to time and "Ordinary Shareholder" shall be constructed accordingly;

"Permitted Transferee" means in relation to a Shareholder who is an individual any of his Privileged Relations or Trustees, in relation to a Shareholder which is an undertaking (as defined in section 1161(1) of the 2006 Act) means any Member of the same Group, in relation to a Shareholder which is an Investment Fund means any Member of the same Fund Group and as described in Article 10.2;

"Preference Shares" means the A Preference Shares and B Preference Shares;

"Preference Shareholder" means a holder of Preference Shares;

"Privileged Relation" means in relation to a Shareholder who is an individual member or deceased or former member means a spouse, child or grandchild (including step or adopted or illegitimate child and their issue);

"Qualifying IPO" means an Initial Public Offering at which the issue price of new Ordinary Shares being issued as part of the capital raising in connection with the Initial Public Offering is equal to or greater than the Hurdle Value;

"Sale" means the sale of all or such part of the entire issued share capital of the Company (to the extent not already owned by the purchaser or persons acting in concert as defined in the City Code on Takeovers and Mergers or connected with the purchaser as defined in Section 839 of the Income and Corporate Taxes Act 1988) or the acceptance of an offer as a result of which the offeror or any person connected with or acting in concert with the offeror acquires 50% Control of the Company or a merger or consolidation of the share capital of the

Company resulting in any Member or third party obtaining 50% Control of the Company;

"Sale Date" means the point in time at which the Sale becomes unconditional in all respects and is completed;

"Shares" means the A Preference Shares, B Preference Shares, C Shares and Ordinary Shares, including any interest in any Share and "Share" shall be construed accordingly;

"Share Incentive Scheme" means any share incentive scheme in favour of the Company's employees as agreed from time to time by at least a two-thirds majority of the holders of the Preference Shares;

"Shareholders" means the holders of Shares from time to time and "Shareholder" shall be constructed accordingly;

"subsidiary" means both a subsidiary of a company as defined in section 736 of the Act and a subsidiary undertaking as defined in section 258 of the Act;

"Table A" means Table A in the Companies (Tables A to F) Regulations 1985 (Statutory Instrument Number 805);

"Trade Sale" means a sale of the whole or substantially the whole of the assets and undertaking of the Company (including but not limited to any subsidiary of the Company) by way of a single transaction or series of transactions;

"Trust" means a trust (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made) whereby a person shall be considered to be beneficially interested in a Share if such Share or the income thereof is liable to be transferred or paid or applied to or for the benefit of a person other than the Trustees or any voting or other rights attaching thereto are exercisable by or as directed by a person other than the Trustees pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons;

"Trustees" in relation to a Shareholder means the trustee or the trustees of a Family Trust or a Trust; and

"United Kingdom" means Great Britain and Northern Ireland.

2. The Company is a private company and accordingly no invitation or offer shall be made to the public (whether for cash or otherwise) to subscribe for any shares in or debentures of the Company, nor shall the company allot or agree to allot (whether for cash or otherwise) any shares in or debentures of the Company with a view to all or any of these shares or debentures being offered for sale to the public.

## SHARES

3.
  - 3.1 The Directors may subject to Article 4 hereof allot, grant options over, or otherwise deal with or dispose of any relevant securities (as defined by Section

80(2) of the Act) of the Company to such persons and generally on such terms and conditions as the Directors think proper.

3.2 The general authority conferred by Article 3.1 shall be conditional upon due compliance with Article 4 hereof and shall extend to the amount of the authorised share capital of the Company upon the date of adoption of these Articles. The said authority will expire on that date which is the fifth anniversary of the date of adoption of these Articles unless renewed, varied or revoked by the Company in general meeting in accordance with the said Section 80 or Section 80A of the Act.

3.3 The authorised share capital of the Company at the time of adoption of these Articles is £4,869,483 divided into 2,267,497 A Preference Shares, 1,018,176 B Preference Shares, 310,000 Ordinary Shares, 500,000 C Shares and 1,575,710 Deferred Shares. The A Preference Shares, the B Preference Shares, the Ordinary Shares, the C Shares and the Deferred Shares shall be separate classes of Shares but, save as hereinafter expressly provided, shall rank *pari passu* in all respects.

3.4 The Directors shall be entitled under the general authority conferred by Article 3.1 to make at any time before the expiry of such authority any offer or agreement which will or might require relevant securities of the Company to be allotted after the expiry of such authority.

4.

4.1 Subject to any direction to the contrary that may be given by Special Resolution of the Company in general meeting and Article 4.3, all shares authorised pursuant to Article 3 hereof to be allotted shall be offered to the members in proportion to the existing shares held by them and for the purposes of calculating such proportion the holders of the Preference Shares shall be deemed to have converted their Preference Shares into Ordinary Shares in accordance with Articles 5.6 and 8. Such offer shall be made by notice in writing specifying the number of shares to which the member is entitled and limiting a time (being not less than 28 days) within which the offer if not accepted will be deemed to have been declined, and after the expiry of such time or upon receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the Board shall immediately allocate the unclaimed shares to satisfy any claims made by the Investors in excess of their entitlements. If the Company does not find subscribers for all the shares the Directors may allot them as they see fit to any person at a price being not less than the price at which they were originally offered.

4.2 By virtue of Section 91(1) of the Act, Sections 89(1) and 90(1) to 90(6) inclusive of that Act shall not apply to the Company.

- 4.3 The pre-emption provisions of Article 4.1 shall not apply to the allotment of shares pursuant to a conversion under Article 5.6 or pursuant to a Share Incentive Scheme.
- 4.4 The Directors shall not, following the date of adoption of these Articles, without the authority of a Special Resolution of the Members grant options or other rights over more than 182,000 C Shares pursuant to any Share Incentive Scheme.

#### Preference Shares - Special Rights

5. The rights and restrictions attaching to the Preference Shares are as follows:

5.1 Income

- 5.1.1 As to income, the profits of the Company available for distribution shall be applied:

- 5.1.1.1 first, in paying to the holders of B Preference Shares a fixed cumulative preferential cash dividend (the "B Preference Share Dividend") of 5% per annum (net of any associated tax credit) of the total amounts subscribed for the B Preference Shares. The B Preference Share Dividend shall accrue from day to day and be paid out of the profits of the Company available for distribution (without any resolution of the directors or of the Company in general meeting and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) six monthly in arrears on 30 September and 31 March or, at the Company's discretion, on a Liquidation Event. The Preference Share Dividend shall be distributed amongst the holders of the B Preference Shares pro rata according to the amounts paid up thereon. Without prejudice to the rights of the holders of the B Preference Shares hereunder any amount not so paid shall be carried forward and become payable (without any resolution of the directors of the Company in general meeting and notwithstanding anything contained in Regulations 102 to 108 (inclusive) of Table A) on the next date on which the B Preference Share Dividend is payable or, at the Company's election, on a Liquidation Event;

- 5.1.1.2 second, and subject to Article 7.1, in paying the Shareholders, other than the C Shareholders (as if the Shares, other than the C Shares were one class) a dividend as is approved by the holders of at least a two-thirds majority of the Preference Shares in issue from time to time.

## 5.2 Capital

- 5.2.1 The Preference Shares shall carry a preferential return on a return of capital in accordance with these Articles.
- 5.2.2 On the occurrence of a Liquidation Event and from the Liquidation Proceeds the holders of the Preference Shares shall be entitled, subject to Article 7.2.2, to a preferential capital return in priority to any payment to the holders of any other class of shares as follows:
  - 5.2.2.1 first in paying to the holders of the B Preference Shares a sum equal to all unpaid arrears and accruals of dividends on the B Preference Shares and interest;
  - 5.2.2.2 second in paying to the holders of B Preference Shares a sum equal to the amount subscribed for such shares;
  - 5.2.2.3 third in paying to the holders of the A Preference Shares a sum equal to all unpaid arrears and accruals of dividends on the A Preference Shares and interest;
  - 5.2.2.4 fourth in paying to the holders of A Preference Shares an amount in respect of each such Share equal to the Original Issue Price;
  - 5.2.2.5 fifth, and subject always to the provisions of Article 6.2 and 7.2, in distributing the balance amongst the holders of the Shares (other than the C Shareholders) as if the same constituted one class pro rata in proportion to the number of Shares held.
- 5.2.3 For the purposes of this Article 5.2, all Liquidation Proceeds arising on a Liquidation Event which is constituted by a Sale or Trade Sale (including for the avoidance of doubt, any Sale pursuant to Article 11) shall be applied in accordance with these provisions irrespective of to

whom any amount was originally due under the terms of the Sale or Trade Sale.

5.3 Upon a Sale, the directors shall not register any transfer of Shares unless:

5.3.1 the Liquidation Proceeds represented by cash are paid into the Company's solicitors bank account and the Liquidation Proceeds represented other than in cash shall be held by the Company on trust for the holders of those Shares being sold in connection with the Sale; and

5.3.2 the Liquidation Proceeds are distributed in the order of priority set out in Article 5.2.2, save in respect of any Shares not sold in connection with such Share Sale, provided that if the Liquidation Proceeds are not settled in their entirety upon completion of the Share Sale:

5.3.2.1 the Directors shall not be prohibited from registering the transfer of the shares so long as the provisions of Articles 5.3.1 and 5.3.2 have been applied to the Liquidation Proceeds settled upon completion; and

5.3.2.2 the Shareholders shall be required to take such actions as the Investor Directors may require to ensure that the Liquidation Proceeds in their entirety are distributed in the order of priority set out in Article 5.2.2.

5.4 Upon a Trade Sale the surplus assets of the Company remaining after payment of its liabilities shall be distributed (insofar as the Company is lawfully permitted to do so) in the order of priority set out in Article 5.2.2, provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, the Shareholders shall be required to take such actions as may be required by unanimous consent of the Investor Directors (including, but without prejudice to the generality of the foregoing, such actions that may be necessary to put the Company into voluntary liquidation so that Article 5.2.2 applies).

5.5 If New Securities are issued by the Company at a price per New Security less than the Starting Price (which, if the New Security is not issued for cash, shall be a price certified by the auditors of the Company or, upon the request of any party, such firm of accountants as the Company and the Investor Directors may agree or, failing agreement as recommended by the President for the time being of the Institute of Chartered Accountants (for the purposes of this Article 5.5 the "Auditors"), acting as experts and not as arbitrators as being in their opinion the current cash value of the new cash consideration for the allotment of the New

Securities) then the Company shall, unless and to the extent that any of the holders of B Preference Shares (in their capacity as such) shall have specifically waived their rights in writing, offer (such offer, unless waived, to remain open for acceptance for at least 15 clear days) to each holder of B Preference Shares (the "Exercising Investor") the right to receive such number of new B Preference Shares by applying the following formula (and rounding the product, N, down to the nearest whole share), subject to adjustment as certified in accordance with Article 5.5.3 (the "Anti-Dilution Shares"):

$$5.5.1 \quad N = \left( \frac{W}{X} \right) - Z ; \text{ or}$$

5.5.2 where the holder of B Preference Shares is required to subscribe in cash for any Anti-Dilution Shares in accordance with Article 5.5.3.1 the following calculation shall apply:

$$N = \frac{(W - (XZ))}{(X - V)}$$

Where:

N = the number of Anti-Dilution Shares;

W = the total amount subscribed (whether in cash or by way of conversion of a loan) by each Exercising Investor for his B Preference Shares;

X = the price (if any) at which each New Security is to be issued (which if the New Security is not issued for cash shall be the sum certified by the Auditors acting as experts and not arbiters as being in their opinion the current cash value of the non-cash consideration for the allotment of the New Securities);

Z = the number of B Preference Shares, held by each relevant Exercising Investor prior to the application of this Article;

V = the nominal value of each Anti-Dilution Share

5.5.3 The Anti-Dilution Shares shall:

5.5.3.1 be paid up by the automatic capitalisation of available reserves of the Company, unless and to the extent that the same shall be impossible or unlawful or the Exercising Investors shall agree otherwise, in which event the Exercising Investors shall be entitled to subscribe for the Anti-Dilution

Shares in cash at par value. In the event of any dispute between the Company and any Exercising Investor as to the effect of Article 5.5, the matter shall be referred (at the cost of the Company) to the Auditors for certification of the number of Anti-Dilution Shares to be issued. The Auditor's certification of such matter shall in the absence of manifest error be final and binding on the Company and the Exercising Investor; and

5.5.3.2 subject to the payment of any cash payable pursuant to Article 5.5.3.1 (if applicable), be issued, credited fully paid up in cash and shall rank equally in all respects with the existing B Preference Shares, within 5 clear days of the expiry of the offer being made by the Company to the Exercising Investor and pursuant to Article 5.5.

5.5.4 For the purpose of this Article 5.5 the following expressions shall have the following meanings:

"New Securities" means any shares (other than shares issued pursuant to a Share Incentive Scheme) or other securities convertible into, or carrying the right to subscribe for such shares, issued by the Company after the date of adoption of these Articles;

"Starting Price" means £5.69;

## 5.6 Conversion

5.6.1 Each of the holders of Preference Shares shall be entitled at any time and in the manner set out below to convert all, or part only, of their holding of Preference Shares into such number of fully-paid redesignated Ordinary Shares calculated in accordance with Article 5.6.3.

5.6.2 The Company shall immediately prior to an Initial Public Offering Date convert all of the Preference Shares into such number of fully-paid redesignated Ordinary Shares calculated in accordance with Article 5.6.3.

5.6.3 The Preference Shares shall, subject to adjustment in accordance with Article 5.6.10, convert into Ordinary Shares at the rate of one Ordinary Share to one Preference Share, save where Article 5.6.10 applies, in which circumstances the Preference Shares shall convert in accordance with Article 5.6.10 (the **Conversion Rate**).



- 5.6.4 Subject to Article 5.6.5, the right to convert pursuant to Article 5.6.1 shall be exercisable by the holders of the Preference Shares at any time, by completing a notice of conversion in respect of all of the Preference Shares (a "conversion notice") and delivering the same to the Company.
- 5.6.5 If the holders of a 70% majority of each class of Preference Shares issue a conversion notice to convert their Preference Shares then, if required by such majority, the holders of all Preference Shares shall be required to convert their Preference Shares in accordance with Article 5.6.1 and shall each be deemed to have served a conversion notice in respect of their Preference Shares.
- 5.6.6 Forthwith upon conversion of Preference Shares the Company shall give written notice to the holder of such Shares of the number of Ordinary Shares of which it is a holder.
- 5.6.7 The new Ordinary Shares to which a holder is entitled upon conversion shall for all purposes:
- (a) be credited as fully paid;
  - (b) rank pari passu in all respects and form one class with the Ordinary Shares then in issue; and
  - (c) entitle the holder to receive dividends and other distributions declared, made or paid on Ordinary Shares by reference to a record date on or after the conversion date.
- 5.6.8 The Board shall agree the manner in which the Preference Shares are to be converted:
- 5.6.8.1 with the holder of the Preference Shares who is exercising its right to convert pursuant to Article 5.6.1; or
  - 5.6.8.2 if the holders of a 70% majority of each class of the Preference Shares have required all Preference Shares to convert pursuant to Article 5.6.5, then with such majority,
- subject always to the provisions of the Articles and the Act.
- 5.6.9 The allotment of new Ordinary Shares shall be made as soon as is practicable following receipt of a conversion notice, but in any event no

later than 3 business days following such receipt. A certificate for new Ordinary Shares shall be made available for collection at the office or despatched (at the holder's risk) to the relevant holder without charge promptly upon receipt of the certificate (or certificates) for such holder's Preference Shares or if lost an indemnity in respect thereof in a form reasonably satisfactory to the Board.

5.6.10 If at any time after the date of adoption of these Articles and while any Preference Shares remain capable of being converted into Ordinary Shares:

5.6.10.1 the Company shall make an issue of Shares by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve) to the holders of Ordinary Shares; or

5.6.10.2 the Company shall make a sub-division or consolidation of Ordinary Shares; or

5.6.10.3 the Company shall make a distribution in specie; or

5.6.10.4 the Company shall make a repayment, return or distribution of capital (including a distribution of capital profits (whether realised or not) or capital reserves); or

5.6.10.5 any event similar to those described in Articles 5.6.10.1 to 5.6.10.5 above shall occur,

then the Conversion Rate shall be adjusted (which may include a decision to make no adjustment) in such manner as the auditors of the Company shall certify to be fair and reasonable in all the circumstances. In the event that a holder of Preference Shares or the Company is not satisfied with any certificate of the auditors issued pursuant to this Article 5.6.10 for any reason in any circumstance in which such certificate is issued and so notifies the Company and the auditors in writing within 14 days of receiving such certificate or learning of its contents (if a copy of such certificate is not sent to him), the matter shall be submitted as soon as practicable to an independent firm of chartered accountants as agreed between the relevant holder or holders of Preference Shares and the Board or in default of agreement as nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales, such firm of chartered accountants to be deemed to be an expert and whose decision as to the matter shall be final and binding on all persons save for manifest error. The fees and expenses of the independent firm of chartered

accountants shall be borne by such person or persons as reasonably determined by such firm.

## 5.7 Attendance at General Meetings and Voting

5.7.1 Preference Shares confer the right to receive notice of and attend and vote at general meetings.

5.7.2 On a show of hands, each holder of Preference Shares present in person or by proxy or (being a corporation) by a representative has one vote. On a poll each holder of Preference Shares present in person or by proxy or (being a corporation) by a representative, is entitled to exercise the number of votes which he would have been entitled to exercise if all the Preference Shares held by him had been converted into Ordinary Shares immediately before the holding of the general meeting in accordance with Article 5.6.

### Deferred Shares - Rights and restrictions

6. Notwithstanding any other provisions of these Articles, the rights and restrictions attaching to the Deferred Shares are as follows:

#### 6.1 Income

The Deferred Shares will confer no right to share in the Company's distributions or profits.

#### 6.2 Capital

On a distribution of assets on a winding-up or other return of capital (otherwise than on conversion or redemption or purchase by the company of any of its shares) the holders of the Deferred Shares shall be entitled to receive the nominal amount paid up on their shares (but no surplus), after there shall have been distributed (in cash or specie) to the holders of the Ordinary Shares the amount of £10,000,000 in respect of each Ordinary Share held by them respectively. For this purpose distributions in currency other than sterling shall be treated as converted into sterling, and the value for any distribution in specie shall be ascertained in sterling, in each case in such manner as the directors or the company in general meeting may approve. The Deferred Shares shall not entitle the holders thereof to any further or other right of participation in the assets of the company.

#### 6.3 Attendance at General Meetings and Voting

The holders of Deferred Shares shall not be entitled to receive notice of or to attend (either personally or by proxy) any general meeting of the Company or to vote (either personally or by proxy) on any resolution to be proposed thereat.

#### 6.4 Variation

The rights attached to the Deferred Shares shall not be deemed to be varied or abrogated by the creation or issue of any new rights or shares ranking in priority to or *pari passu* with or subsequent to such shares.

#### 6.5 Repurchase

Notwithstanding any other provision of these Articles, the Company shall have the power and authority at any time to purchase all or any of the Deferred Shares for an aggregate consideration of £1, and as soon as possible after the Company becomes capable of purchasing its own shares in accordance with the Act and/or the Companies Act 2006, the Company shall purchase any Deferred Shares that are in issue at such time.

#### 6.6 Pre-emption

The Deferred Shares shall not be entitled to any rights of pre-emption, either on the issue or transfer of Shares, and shall not be taken into account when calculating entitlements to Shares under Articles 9 and 10.

### C Shares - Rights and restrictions

#### 7. Notwithstanding any other provisions of these Articles, the rights and restrictions attaching to the C Shares are as follows:

##### 7.1 Income

Notwithstanding the provisions of Article 5.1.1.2, following such time as the holders of the Ordinary Shares that are in issue at the date of adoption of these Articles have received total dividends per Ordinary Share equal to the Base Value, the C Shareholders shall be entitled to receive dividends in accordance with the provisions of Article 5.1.1.2, as if the references to “, other than the C Shareholders” and “, other than the C Shares”, had been removed from such Article.

##### 7.2 Capital

7.2.1 On a distribution of assets on a winding-up or other return of capital (otherwise than on conversion or redemption or purchase by the company of any of its shares), including any Liquidation Event, where the Exit Value Per Share is less than the Hurdle Value, and the Company has not exercised its option to convert the C Shares into Deferred Shares in accordance with Article 7.5, the holders of the C Shares shall only be entitled to receive the nominal amount paid up on their shares (but no surplus), after there shall have been distributed (in cash or specie) to the holders of the Ordinary Shares the amount of

£10,000,000 in respect of each Ordinary Share held by them respectively and the C Shares shall not entitle the holders thereof to any further or other right of participation in the assets of the company. For this purpose, distributions in currency other than sterling shall be treated as converted into sterling, and the value for any distribution in specie shall be ascertained in sterling, in each case in such manner as the directors or the company in general meeting may approve.

- 7.2.2 On a distribution of assets on a winding-up or other return of capital (otherwise than on conversion or redemption or purchase by the company of any of its shares), including any Liquidation Event, where the Exit Value Per Share is equal to or greater than the Hurdle Value, the holders of the C Shares shall be entitled, from the Liquidation Proceeds, to a preferential capital return in priority to any payment to the holders of any other class of shares pursuant to Article 5.2.2.5 but after any distributions to be made to the Preference Shareholders in accordance with Articles 5.2.2.1 to 5.2.2.4 (inclusive), which shall have priority to any payments to the C Shareholders, for each C Share, equal to the Exit Value Per Share minus the Base Value.

For the purposes of this Article 7, the "Exit Value Per Share" shall be determined as follows:

Liquidation Proceeds + (Base Value x number of C Shares in issue)

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Fully Diluted Ordinary Share Capital

- 7.2.3 For the avoidance of doubt, for the purposes of this Article 7 the Liquidation Proceeds on a Sale or a Trade Sale shall be deemed to include the aggregate value of all consideration payable pursuant to such Sale or Trade Sale, in whatever form and whenever payable, and such determination of the Liquidation Proceeds shall take into account the following:

7.2.3.1 the amount of any deferred (but not contingent) payment due under the Sale or Trade Sale shall be included at its full amount and no discount shall be applied; and

7.2.3.2 if the consideration due under the Sale or Trade Sale is made up in whole or in part by assets other than cash, or in the event that any part of the consideration due under the Sale or Trade Sale is contingent on a future event, the Company and the Investors shall, acting in good faith, seek to calculate the appropriate valuation of such non-cash

or contingent element for the purposes of calculating the Liquidation Proceeds and the timing of payment, provided that if the Company and the Investors are unable to agree on such valuation, the Company shall procure that an independent valuation of such non-cash consideration and/or the contingent element is carried out in order to determine the value of such consideration and/or the likelihood of receipt and the value of such contingent element.

### 7.3 Attendance at General Meetings and Voting

The holders of C Shares shall not be entitled to receive notice of or to attend (either personally or by proxy) any general meeting of the Company or to vote (either personally or by proxy) on any resolution to be proposed thereat.

### 7.4 Variation

The rights attached to the C Shares shall not be deemed to be varied or abrogated by the creation or issue of any new rights or shares ranking in priority to or *pari passu* with or subsequent to such shares.

### 7.5 Conversion

7.5.1 The Company shall immediately prior to the date of a Qualifying IPO, convert each C Share into fully-paid redesignated Ordinary Shares at the C Share Conversion Rate, where such C Share Conversion Rate is calculated as follows:

$$\text{"C Share Conversion Rate"} = \frac{(\text{the IPO Price} - \text{the Base Value})}{\text{the IPO Price}}$$

For the purposes of this Article 7, the "IPO Price" means:

$$\frac{\text{IPO Pre-money Valuation} + (\text{Base Value} \times \text{number of C Shares in issue})}{\text{Fully Diluted Ordinary Share Capital}}$$

7.5.2 The Company may, at its option, convert each C Share into one Deferred Share:

7.5.2.1 immediately prior to an Initial Public Offering that is not a Qualifying IPO; or

7.5.2.2 immediately prior to a Liquidation Event where the Exit Value Per Share is less than the Hurdle Value; or

7.5.2.3 in the circumstances set out in Article 7.7.4.

7.5.3 The Board shall agree the manner in which the C Shares are to be converted, including to deal with problems and allocations in respect of fractional entitlements, or otherwise, subject always to the provisions of the Articles and the Act.

## 7.6 Pre-emption and transfer

7.6.1 The C Shares shall not be entitled to any rights of pre-emption, either on the issue or transfer of Shares, and shall not be taken into account when calculating entitlements to Shares under Articles 9 and 10.

7.6.2 The C Shareholders will not be entitled at any time to transfer, charge, mortgage, pledge or otherwise encumber or dispose of any of their C Shares, except with the consent of the Board and the Investors.

## 7.7 Mandatory transfer

7.7.1 If an Employee C Shareholder becomes a Bad Leaver, that Employee C Shareholder shall be regarded as giving a deemed Transfer Notice in respect of all the C Shares held by him.

7.7.2 In such circumstances the Offer Price shall be deemed to be the nominal value of the Sale Shares.

7.7.3 Notwithstanding the provisions of Article 10, the C Shares held by an Employee C Shareholder who is a Bad Leaver shall be offered in the following order of priority:

7.7.3.1 to a person (or persons), if and as agreed by the Board (including the Investor Directors), to take the place of the Employee C Shareholder who is a Bad Leaver, conditionally on that person commencing their employment with the Company;

7.7.3.2 to any of the other existing Employee C Shareholders in such proportions as the Board (including the Investor Directors) determine;

7.7.3.3 to other participants (or potential participants) in, or trustees of, any Employee Share Incentive Plan;

7.7.3.4 to any other person (or persons) who are approved by the Board (including the Investor Directors); and then

7.7.3.5 subject to the Acts, to the Company.

7.7.4 If it is not possible to transfer the C Shares held by a Bad Leaver in accordance with Article 7.7.3, then the Company may convert each C Share held by such Bad Leaver into one Deferred Share.

7.7.5 For the avoidance of doubt, an Employee C Shareholder who is a Good Leaver shall not be required to transfer any of his C Shares. The Board (including the Investor Directors) shall have the discretion to determine that an Employee C Shareholder is a Good Leaver, notwithstanding that they fall within the definition of a Bad Leaver set out below.

7.7.6 For the purposes of this Article 7.7:

"Employee C Shareholder" means a person who is a C Shareholder and a director and/or an employee of the Company and/or any of its subsidiaries;

"Bad Leaver" means an Employee C Shareholder who ceases to be a director or employee of the Company or any of its subsidiaries and does not continue as either a director or employee in relation to any of them where such cessation occurs in circumstances where the Employee C Shareholder is guilty of gross misconduct or resigns; and

"Good Leaver" means an Employee C Shareholder who ceases to be a director or employee of the Company or any of its subsidiaries and does not continue as either a director or employee in relation to any of them and who is not a Bad Leaver.

## 8. Transfer of Shares

8.1 No transfer, disposal, charge or other dealing in any Shares shall occur other than the transfer of the whole legal and equitable title to such Shares free from all liens, charges and encumbrances and with all rights, title and interest in existence at the date of transfer together with all rights which may arise in respect thereof thereafter (and "transfer of shares" shall be construed accordingly).

8.2 No Share or any interest therein shall be transferred to or otherwise become vested in any person or body save in the circumstances permitted by Articles 9 and 10.



9. Pre-emption on Issue

9.1 Apart from Shares to be issued pursuant to conversion under Article 5.6 or pursuant to any Share Incentive Scheme, any Shares ("New Shares") in the capital of the Company which the Company proposes to allot wholly for cash shall first be offered for subscription to the holders of the Shares pro-rata to their holdings of Shares and for the purpose of calculating such proportion only the holders of the Preference Shares shall be deemed to have converted their Preference Shares into Ordinary Shares in accordance with Article 5.6. Such offer shall be made by notice ("New Issue Notice") in writing specifying the number of New Shares to which the holder is entitled and specifying the proposed subscription price per New Share ("Subscription Price").

9.2 The New Issue Notice shall invite the recipients thereof to state in writing within 28 days whether or not they are willing to subscribe for any of their pro rata entitlement to New Shares and, in the case of each Investor and only in the case of each Investor, whether it is willing to subscribe for New Shares in excess of its entitlement and, if so, how many excess New Shares it desires to subscribe for. At the expiration of the period specified in the New Issue Notice the Board shall allocate the New Shares comprised in the New Issue Notice to the holders of the Shares who shall have notified their willingness to subscribe for their entitlement as aforesaid. To the extent that holders of the Shares do not claim their full entitlements to the New Shares, the Board shall immediately allocate the unclaimed New Shares to satisfy any claims made by an Investor in excess of its entitlement.

9.3 If the Company shall not pursuant to the foregoing provisions of Article 9.2 8.2 have found subscribers for all the New Shares, the Company shall be at liberty to issue such remaining unallocated New Shares to any person at a price not being less than the Subscription Price.

9.4 The allotment and issue of New Shares shall be completed as soon as reasonably practicable (but no later than 3 days after the Board has allocated all the New Shares).

10. Pre-emption on Transfer, Mandatory Transfers and Offers to Purchase

10.1 Unless otherwise agreed in writing by all the Members or pursuant to the terms of Articles 10.2 or 10.3, the right to transfer Shares shall be subject to the following restrictions namely:

10.1.1 Before transferring any Shares (the "Sale Shares") the person proposing to transfer the same ("Proposing Transferor") shall give notice in writing ("Transfer Notice") to the Board and the other Members that he proposes to transfer the same, the person to whom he proposes to sell the Sale Shares (the "Proposed Transferee"), the

cash price per Sale Share at which he wishes to sell ("Offer Price") and whether he wishes to transfer some only or all of the Sale Shares. If no Offer Price is stated by the Proposing Transferor, the Offer Price shall be the Prescribed Price as defined in Article 10.8.

- 10.1.2 The Directors may require the Proposing Transferor to furnish them with such evidence ("Further Information") as they require about the bona fide nature of the Offer Price where such price has been offered by a third party purchaser to whom the Proposing Transferor proposes to sell the Sale Shares and may refuse to offer the Sale Shares for sale or to register their transfer if the Directors reasonably determine that the Offer Price offered by such proposed purchaser and/or the willingness of the proposed purchaser to purchase the Sale Shares are not for any reason bona fide.
- 10.1.3 Subject to the aforesaid, the Transfer Notice shall constitute the Board as the Proposing Transferor's agent for the sale of the Sale Shares therein mentioned in accordance with the following provisions of this Article 10. Save as hereafter provided, a Transfer Notice once given or deemed to be given shall not be revocable except with the consent of the Directors.
- 10.1.4 Within 3 days after receipt of the Transfer Notice, and Further Information, if any, the Board shall in writing offer the Sale Shares at the Offer Price or Prescribed Price (as the case may be):
  - 10.1.4.1 if the Sale Shares are B Preference Shares, to the remaining B Preference Shareholders pro rata to their holdings of Preference Shares; or
  - 10.1.4.2 if the Sale Shares are not B Preference Shares, to the remaining Members pro rata to their existing holdings and for the purpose of calculating such proportion only, the holders of Preference Shares shall be deemed to have converted their Preference Shares into Ordinary Shares in accordance with Article 5.3,

and such offer (the "Offer") shall invite the recipients thereof to state in writing within 28 days from the date of the Offer ("Offer Period") whether or not they are willing to purchase any of their pro rata entitlement to Sale Shares at the Offer Price or Prescribed Price (as the case may be) and, in the case of each Investor and only in the case of each Investor, whether it is willing to purchase Sale Shares in excess of its entitlement and, if so, how many excess Sale Shares it desires to

purchase. At the expiration of the Offer Period the Board shall allocate the Sale Shares comprised in the Transfer Notice to the Member or Members as the case may be who shall have notified their willingness to purchase their entitlement as aforesaid. To the extent that Members receiving the Offer do not claim their full entitlements to the Sale Shares, the Board shall:

- (a) if the Sale Shares are B Preference Shares, offer any remaining Sale Shares at the Offer Price or Prescribed Price (as the case may be) to the remaining members (other than the Preference Shareholders) pro rata to their existing holdings and such offer shall invite the recipients thereof to state in writing within 14 days of such offer (the "Second Offer Period") whether or not they are willing to purchase any of their pro rata entitlement; or
- (b) if the Sale Shares are not B Preference Shares, immediately allocate the unclaimed Sale Shares to satisfy any Investor's claim made in excess of its entitlement.

At the expiration of the Second Offer Period, if applicable, the Board shall allocate the Sale Shares comprised in the Transfer Notice to the Member or Members as the case may be who shall have notified their willingness to purchase their entitlement in accordance with paragraph (a) above. To the extent that such Members do not claim their full entitlements to the Sale Shares, the Board shall immediately allocate the unclaimed Sale Shares to satisfy any Investor's claim made in excess of its entitlement.

- 10.1.5 The Board, within seven days after the expiry of the Offer Period shall give notice in writing to the Proposing Transferor of the numbers of Sale Shares allocated and to which Member(s) (hereinafter called the "Purchaser" or "Purchasers") such Sale Shares have been allocated. Every such notice shall state a name and address of each such Purchaser, the number of Sale Shares agreed to be purchased by him and the Offer Price or Prescribed Price (as the case may be). If the Board shall pursuant to Article 10.1.4 have allocated all the Sale Shares concerned, the Proposing Transferor shall be bound on receipt of the Offer Price or Prescribed Price (as the case may be) to transfer the Sale Shares to the respective Purchasers thereof.
- 10.1.6 The sale and purchase of Sale Shares shall be completed as soon as reasonably practicable at a place and time (but no later than 14 days after the Board has allocated all the Sale Shares) to be appointed by the Board when, against payment of the Offer Price or Prescribed Price

(as the case may be) and any relevant stamp duties, the Purchaser(s) shall be registered as the holder(s) of the relevant Sale Shares in the register of Members of the Company and Share certificate(s) in the name(s) of such Purchaser(s) and in respect of the relevant Sale Shares shall be delivered.

10.1.7 If in any case a Proposing Transferor, after having become bound to transfer any Sale Shares to a Purchaser, shall make default in so doing, the Board shall on behalf of such Proposing Transferor authorise some person to execute any necessary transfers in favour of the Purchaser or Purchasers and shall receive the purchase money and shall thereupon cause the name of the Purchaser or Purchasers to be entered into the register of Members as the holder of the relevant Sale Shares and hold the purchase money in trust for the Proposing Transferor but shall not be bound to earn or pay interest thereon. The receipt of the Company of the purchase money shall be a good discharge to the Purchaser or Purchasers who shall not be bound to see to the application thereof and after the name of the Purchaser has been entered in the register of Members of the Company in purported exercise of the aforesaid powers the validity of the proceedings shall not be questioned by any person.

10.1.8 If the Company shall not pursuant to Article 10.1.4 have found Purchaser(s) willing to purchase all the Sale Shares, the Proposing Transferor shall be at liberty to transfer all such Sale Shares to the Proposed Transferee at a price not being less than the Offer Price or Prescribed Price (as the case may be) at any time within two months after receipt of the notice referred to in Article 10.1.5 provided that the Board shall require to be satisfied, in its reasonable opinion, that such Sale Shares are being transferred in pursuance of a bona fide sale for a consideration not less than such price without any deduction, rebate or allowance whatsoever to the purchaser and if not so satisfied it shall refuse to register the instrument or transfer concerned. If the Proposing Transferor shall not have transferred all the Sale Shares to the Proposed Transferee within such period as is set out in this Article 10.1.8 or if the Proposing Transferee notifies the Proposing Transferor or the Company that he no longer wishes to purchase the Sale Shares, then the Proposing Transferor shall be bound to transfer such number of Sale Shares to such Purchasers as have notified their willingness to purchase Sale Shares pursuant to Article 10.1.4 and Articles 10.1.6 and 10.1.7 shall apply, with any necessary adaptations to any transfer to be made.

10.2 Article 10.1 shall not apply, and such transfers will be permitted transfers, to a transfer of Shares:

- 10.2.1 by any Member to his or her or its Permitted Transferees;
- 10.2.2 by David Hirst up to a maximum of five per cent. of the total number of issued Ordinary Shares (and for the purpose of calculating such percentage only the holders of the Preference Shares shall be deemed to have converted their Preference Shares into Ordinary Shares in accordance with Article 5.3) to any person to whom David Hirst (in his sole discretion) determines has contributed to the Company;
- 10.2.3 to a charitable organisation whose charitable objects are compatible with the objects of the Company provided that no single charitable organisation, together with any other charitable organisation connected to it, shall be entitled to hold in excess of ten per cent. of the issued Ordinary Shares immediately following any transfer to it and for the purpose of calculating such percentage only the holders of the A Preference Shares shall be deemed to have converted their A Preference Shares into Ordinary Shares in accordance with Article 5.3;
- 10.2.4 to the trustees of a settlement or trust created inter vivos by a Member under which the trustees are to hold the Shares on trusts, the terms of which must throughout the period of its ownership of such Shares ensure that the absolute beneficial entitlement in such shares can only pass to any person who is or may become a beneficiary under the terms of such settlement or trust who is also a Permitted Transferee and that no power or control over the voting powers conferred by such Shares is for the time being exercisable by or subject to the consent of any person other than the trustees as trustees;
- 10.2.5 upon the death or liquidation of a Member (or intestacy or pursuant to the terms of his will) to a person who is a Permitted Transferee or to trustees of a settlement or trust under which the trustees are to hold the Shares on trusts the terms of which must throughout the period of its ownership of such shares ensure that the absolute beneficial entitlement in such Shares can only pass to a person who is or may become a beneficiary under the terms of such settlement or trust and who is also a Permitted Transferee and that no power or control over the voting powers conferred by such Shares is for the time being exercisable by or subject to the consent of any person other than the trustees as trustees. Pending the transfer of such Shares in accordance with this Article, only the legal personal representatives of the deceased Member shall be recognised by the Company as having title to the interest of the deceased Member in the said Shares;
- 10.2.6 by any Existing Shareholder to any other Existing Shareholder;

- 10.2.7 being a transfer of any B Preference Shares, to an Investment Fund;
  - 10.2.8 by an Investor to any affiliated or parallel fund or partnership (or nominee thereof) managed or advised by such Investor, or by that Investor's fund manager
  - 10.2.9 by Carbon Trust and its Permitted Transferees to a Government Department or to any entity which succeeds to all or part of the business or activities of Carbon Trust; or
  - 10.2.10 for the purpose only of effecting the appointment of a new trustee.
- 10.3 If any Shares have, pursuant to the provisions of Article 10.2, come to be held by trustees of a settlement or trust and in the reasonable opinion of the Directors the absolute beneficial entitlement to or control of any such shares so held has passed or is about to pass to persons other than the trustees of such settlement or trust or Permitted Transferees, the Directors may by notice in writing to the registered or last known address of the holder of the Shares concerned request that such holder transfer back such Shares to the original transferor and until such time may direct that until further notice from the Directors:
- 10.3.1 any transfer of the relevant Shares shall be void;
  - 10.3.2 no voting rights shall be exercisable in respect of the relevant Shares;
  - 10.3.3 no further Shares shall be issued as of right to the Member concerned or in pursuance of any offer made to the holder of them;
  - 10.3.4 except in a liquidation, no payment shall be made of any sums due from the Company on the relevant Shares whether in respect of capital or otherwise.
- 10.4 Save as agreed otherwise by the Company and the holders of at least a two-thirds majority of the Preference Shares, a Transfer Notice shall be deemed to have been given in respect of any Shares in the capital of the Company forthwith upon the occurrence of the following events:
- 10.4.1 the death of a Member whose Shares have not been transferred as permitted by Article 10.2.3 within six months of his death; or
  - 10.4.2 the bankruptcy or insolvency of a Member; or
  - 10.4.3 a Permitted Transferee ceasing to be a Permitted.
- 10.5 A Transfer Notice shall be deemed to have been given in respect of any Shares held by a Member pursuant to a transfer or series of transfers made under

Article 10.2 where the Member making the first transfer pursuant to Article 10.2 (the "Original Transferor") would be deemed to have served a Transfer Notice in respect of any Shares he or she originally held in accordance with Article 10.6 if he or she still held such Shares.

- 10.6 In each of the above cases, on service of a Transfer Notice, the provisions of Article 10.1 shall apply save that the Shares shall be transferred at the Prescribed Price.
- 10.7 The expression the "Prescribed Price" shall mean in respect of each Sale Share the price per Sale Share certified by the auditors as considered by them to represent the fair value thereof as between a willing buyer and willing seller calculated as a direct proportion of the value of the Shares as a whole with no discount or premium to reflect the size of the holding but with regard to the voting rights attaching thereto. Any such certification shall set out in full the reason for and basis upon which the auditors determined the price per Sale Share.
- 10.8 The auditors shall also be entitled to employ and rely upon the advice of or any information obtained from any valuer, broker, banker, accountant or other expert.
- 10.9 If the auditors are asked to certify the Prescribed Price as aforesaid, the Company shall, as soon as it receives the auditors' certificate, provided that the Board are satisfied that such auditors' certificate accurately represents the fair value of each Sale Share, notify the Proposing Transferor and furnish him with a copy of the certificate.
- 10.10 The auditors in certifying the Prescribed Price shall at the cost and expense of the Company act as experts and not as arbitrators and their determination shall be final and binding on all persons concerned save for manifest error and for circumstances in which the Board determine to refer the certification of "the Prescribed Price" to an independent chartered accountant in accordance with Article 10.12.
- 10.11 If the Board or the Proposing Transferor is not satisfied that the auditors' certificate referred to in Article 10.10 accurately represents the fair value of the Sale Shares, the valuation shall be submitted as soon as practicable to an independent financial adviser or the corporate finance advisory division of an independent firm of chartered accountants as agreed between the Proposing Transferor and the Board or in default of agreement as nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales, such person to be deemed to be an expert and whose decision as to the value of the Prescribed Price shall be final and binding on all persons save for

manifest error. The fees and expenses of the relevant firm shall be borne by such person or persons as determined by such firm.

10.12 The Board shall not be entitled to decline to register a transfer of any Shares made pursuant to the provisions of Article 10 unless they have substantial reasons for believing that a transfer purportedly made in accordance with the provisions of Article 10 was not in fact in any material respect in accordance therewith in which event it shall decline to register such transfer. For the purpose of ensuring that a transfer of Shares is in accordance with the provisions of Article 10 and duly authorised hereunder the Board shall require any Member, the personal representatives of any administrative receiver or the liquidator of any corporate Member or any person named as transferee in any transfer lodged for registration to furnish to the Company such information and evidence as the Board shall think fit regarding any matter which they may deem relevant to such purpose. If such information or evidence has not been furnished to the satisfaction of the Board within a reasonable time after such request the Board may refuse to register the transfer in question.

11. Drag Along and Tag Along

11.1 Drag Along

11.1.1 If:

- (a) a bona fide offer to purchase the Shares on arm's length terms is extended to all Members (aside from any Member making the offer, if any ("Offering Member")) (a "Full Offer") and such Full Offer is accepted by the holders of at least a 60% majority of the Preference Shares, excluding those Shares held by the Offering Member, if any; and
- (b) the Members who have accepted the Full Offer, may within 28 days of the close of the Full Offer serve on those Members who have not accepted the Full Offer ("Rejecting Members") a written notice signed by each Accepting Member requiring the Rejecting Members to sell all Shares registered in their names to the offeror or acquire all the Shares of the Accepting Members at the price offered by the offeror ("Mandatory Transfer Notice").

11.1.2 If a Mandatory Transfer Notice is served on any Rejecting Member, that Rejecting Member shall, within 28 days of the date of the Mandatory Transfer Notice either accept and complete the Full Offer or offer to buy and complete the acquisition of all the Shares of the Accepting Members on terms identical to those of the Full Offer.



11.1.3 Articles 10.1.6 and 10.1.7 shall apply, with any necessary adaptations, to any transfer to be made under this Article 11.

11.2 Tag Along

11.2.1 The provisions of Article 11.2.2 will apply if a Shareholder (a "Proposed Seller") proposes to transfer any Shares (a "Proposed Transfer") which would, if put into effect, result in any person (a "Proposed Transferee") acquiring 50% Control of the Company.

11.2.2 A Proposed Seller must, before making a Proposed Transfer procure the making by the Proposed Transferee of an offer to the other Shareholders to acquire all of their Shares for a consideration per share the value of which is at least equal to the consideration per share offered to the Proposed Seller.

11.2.3 The offer referred to in Article 11.2.2 must be expressed to be capable of acceptance for a period of not less than 5 clear days and if it is accepted by any Shareholder (an "Accepting Shareholder") within that period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Shares held by Accepting Shareholders.

12. [Article intentionally left blank]

LIEN

13. The Company shall have a first and paramount lien on every share (whether or not it is a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share and the Company shall also have a first and paramount lien on all shares (whether fully paid or not) standing registered in the name of any member whether solely or one of two or more joint holders for all moneys presently payable by him or his estate to the Company; but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien (if any) on a share shall extend to all dividends payable thereon.

TRANSFER OF SHARES

14. Subject to Article 10, the Directors may, in their absolute discretion, decline to register any transfer of any share, whether or not it is a fully paid share. The first sentence of Regulation 24 of Table A shall not apply to the Company.

MEETINGS

15. Notice of General Meetings

- 15.1 A notice convening a general meeting shall be required to specify the general nature of the business to be transacted only in the case of special business and regulation 38 of Table A shall be modified accordingly. Paragraph (b) in regulation 38 of Table A shall be deleted and the words "in accordance with section 307 of the Companies Act 2006" shall be inserted after the words "if it is so agreed" in that regulation.
- 15.2 All business shall be deemed special that is transacted at an extraordinary general meeting and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the profit and loss account, balance sheet, and the reports of the directors and Auditors, the appointment of, and the fixing of the remuneration of the Auditors and the giving or renewal of any authority in accordance with section 80 of the 1985 Act.
- 15.3 In accordance with Section 325 of the Companies Act 2006 in every notice calling a General Meeting of the Company there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of him and that a proxy need not be a member of the Company. Regulation 38 of Table A shall be modified accordingly and the second sentence of Regulation 59 of Table A shall not apply to the Company.
16. Proceedings at General Meetings
- 16.1 No business shall be transacted at any general meeting unless a quorum of Shareholders is present throughout the meeting. A quorum shall consist of two Shareholders present in person or by proxy or (in the case of a Shareholder being a corporation) by representative of whom one shall be Naxos, and one shall be LCA, save that:
- 16.1.1 if and for so long as all the Shares are of one class (subject to Article 16.1.2) two Shareholders present in person or by proxy holding Shares of that class shall be a quorum; and
- 16.1.2 if and for so long as the Company has only one person as a Shareholder, one Shareholder present in person or by proxy shall be a quorum.
- 16.2 If a quorum is not present within half an hour from the time appointed for a general meeting the general meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other place as the directors may determine, and if at the adjourned general meeting a quorum is not present within half an hour from the time appointed therefore such adjourned general meeting shall be dissolved. Regulation 41 of Table A shall not apply to the Company.

16.3 A poll may be demanded at any general meeting by the Chairman or by any Shareholder present in person or by proxy and entitled to vote. Regulation 46 of Table A shall be altered accordingly.

17. Vote of Shareholders

17.1 Regulation 54 of Table A shall not apply to the Company. Subject to any rights or restrictions for the time being attached to any class or classes of Shares, on a show of hands every Shareholder entitled to vote who (being an individual) is present in person or by proxy (not being himself a Shareholder entitled to vote) or (being a corporate body) is present by a representative or proxy (not being himself a Shareholder entitled to vote) shall have one vote and, on a poll, each Shareholder shall have one vote for each share of which he is the holder.

17.2 A Shareholder shall not be entitled to appoint more than one proxy to attend and vote on the same occasion and accordingly the final sentence of regulation 59 of Table A shall not apply to the Company. Any such proxy shall be entitled to cast the votes to which he is entitled in different ways.

DIRECTORS

18. Number of Directors

Regulation 64 of Table A shall not apply to the Company. The number of directors of the Company shall not be less than two nor more than six.

19. Alternate Directors

19.1 An alternate director shall be entitled to receive notice of all meetings of the directors and of all meetings of committees of the directors of which his appointer is a Shareholder (subject to his giving to the Company an address within the United Kingdom at which notices may be served on him), to attend and vote at any such meeting at which the director appointing him is not personally present and generally to perform all the functions of his appointer at such meeting as a director in his absence. An alternate director shall not be entitled to receive any remuneration from the Company, save that he may be paid by the Company such part (if any) of the remuneration otherwise payable to his appointer as such appointer may by notice in writing to the Company from time to time direct. Regulation 66 of Table A shall not apply to the Company.

19.2 A director, or any such other person as is mentioned in regulation 65 of Table A, may act as an alternate director to represent more than one director, and an alternate director shall be entitled at any meeting of the directors or of any committee of the directors to one vote for every director whom he represents in addition to his own vote (if any) as a director, but he shall count as only one for

the purpose of determining whether a quorum is present and the final sentence of regulation 88 of Table A shall not apply to the Company.

- 19.3 Save as otherwise provided in the regulations of the Company, an alternate director shall be deemed for the purposes specified in Article 19.1 to be a director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the director appointing him. Regulation 69 of Table A shall not apply to the Company.

20. Appointment and Retirement of Directors

- 20.1 Each of Naxos and LCA shall, whilst they hold Shares, have the right to appoint, remove and replace a Director of the Company and each such Director shall be called an "Investor Director".

- 20.2 Each appointment, removal and replacement in accordance with Article 20.1 above shall be by notice in writing under hand of the relevant party and shall take effect upon lodgement at the office or on delivery to a meeting of the directors.

- 20.3 The directors shall not be required to retire by rotation and regulations 76 to 79 (inclusive) of Table A shall not apply to the Company.

21. Disqualification and Removal of Directors

- 21.1 Notwithstanding the provisions of Article 20 the office of a director shall be vacated if:

21.1.1 he ceases to be a director by virtue of any provision of the Act or these Articles or he becomes prohibited by law from being a director, or

21.1.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally; or

21.1.3 he is, or may be, suffering from mental disorder and either:

21.1.3.1 he is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983, or in Scotland an application for admission under the Mental Health (Scotland) Act 1960, or

21.1.3.2 an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his detention or for the appointment of a receiver,

curator bonis or other person to exercise powers with respect to his property or affairs; or

21.1.4 he resigns his office by notice to the Company; or

21.1.5 he shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated.

and regulation 81 of Table A shall not apply to the Company.

## 22. Gratuities and Pensions

22.1 Regulation 87 of Table A shall not apply to the Company and the directors may exercise any powers of the Company conferred by its Memorandum of Association to give and provide pensions, annuities, gratuities or any other benefits whatsoever to or for past or present directors or employees (or their dependants) of the Company or any subsidiary or associated undertaking (as defined in section 27(3) of the Companies Act 1989) of the Company and the directors shall be entitled to retain any benefits received by them or any of them by reason of the exercise of any such powers.

## 23. Proceedings of the Directors

### 23.1 Specific interests of a director

Subject to the provisions of the 2006 Act and provided (if these Articles so require) that he has declared to the directors in accordance with the provisions of these Articles, the nature and extent of his interest, a director may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest of the following kind:

23.1.1 where a director (or a person connected with him) is party to or in any way directly or indirectly interested in, or has any duty in respect of, any existing or proposed contract, arrangement or transaction with the Company or any other undertaking in which the Company is in any way interested;

23.1.2 where a director (or a person connected with him) is a director, employee or other officer of, or a party to any contract, arrangement or transaction with, or in any way interested in, any body corporate promoted by the Company or in which the Company is in any way interested;

23.1.3 where a director (or a person connected with him) is a shareholder in the Company or a shareholder in, employee, director, member or other

officer of, or consultant to, a holding company of, or a subsidiary of a holding company of, the Company;

- 23.1.4 where a director (or a person connected with him) holds and is remunerated in respect of any office or place of profit (other than the office of auditor) in respect of the Company or body corporate in which the Company is in any way interested;
- 23.1.5 where a director is given a guarantee, or is to be given a guarantee, in respect of an obligation incurred by or on behalf of the Company or any body corporate in which the Company is in any way interested;
- 23.1.6 where a director (or a person connected with him or of which he is a member or employee) acts (or any body corporate promoted by the Company or in which the Company is in any way interested of which he is a director, employee or other officer may act) in a professional capacity for the Company or any body corporate promoted by the Company or in which the Company is in any way interested (other than as auditor) whether or not he or it is remunerated for this;
- 23.1.7 an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest; or
- 23.1.8 any other interest authorised by ordinary resolution.

## 23.2 Interests of an Investor Director

In addition to the provisions of Article 23.1, subject to the provisions of the 2006 Act and provided (if these Articles so require) that he has declared to the directors in accordance with the provisions of these Articles, the nature and extent of his interest, where a director is an Investor Director he may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest arising from any duty he may owe to, or interest he may have as an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or direct or indirect investor (including without limitation by virtue of a carried interest, remuneration or incentive arrangements or the holding of securities) in:

- 23.2.1 a Fund Manager;
- 23.2.2 any of the funds advised or managed by a Fund Manager from time to time; or
- 23.2.3 another body corporate or firm in which a Fund Manager or any fund advised by such Fund Manager has directly or indirectly invested, including without limitation any portfolio companies.

23.3 Interests of which a director is not aware

For the purposes of this Article 23, an interest of which a director is not aware and of which it is unreasonable to expect him to be aware shall not be treated as an interest of his.

23.4 Accountability of any benefit and validity of a contract

In any situation permitted by this Article 23 (save as otherwise agreed by him) a director shall not by reason of his office be accountable to the Company for any benefit which he derives from that situation and no such contract, arrangement or transaction shall be avoided on the grounds of any such interest or benefit.

23.5 Terms and conditions of Board authorisation

Subject to Article 23.6, any authority given in accordance with section 175(5)(a) of the 2006 Act in respect of a director ("Interested Director") who has proposed that the directors authorise his interest ("Relevant Interest") pursuant to that section may, for the avoidance of doubt:

23.5.1 be given on such terms and subject to such conditions or limitations as may be imposed by the authorising directors as they see fit from time to time, including, without limitation:

23.5.1.1 restricting the Interested Director from voting on any resolution put to a meeting of the directors or of a committee of the directors in relation to the Relevant Interest;

23.5.1.2 restricting the Interested Director from being counted in the quorum at a meeting of the directors or of a committee of the directors where such Relevant Interest is to be discussed; or

23.5.1.3 restricting the application of the provisions in Articles 23.7 and 23.8, so far as is permitted by law, in respect of such Interested Director;

23.5.2 be withdrawn, or varied at any time by the directors entitled to authorise the Relevant Situation as they see fit from time to time; and

23.5.3 subject to Article 23.6, an Interested Director must act in accordance with any such terms, conditions or limitations imposed by the authorising directors pursuant to section 175(5)(a) of the 2006 Act and this Article 23.

23.6 Terms and conditions of Board authorisation for an Investor Director

Notwithstanding the other provisions of this Article 23, it shall not (save with the consent in writing of an Investor Director) be made a condition of any authorisation of a matter in relation to that Investor Director in accordance with section 175(5)(a) of the 2006 Act, that he shall be restricted from voting or counting in the quorum at any meeting of, or of any committee of the directors or that he shall be required to disclose, use or apply confidential information as contemplated in Article 23.8.

23.7 Director's duty of confidentiality to a person other than the Company

23.7.1 Subject to Article 23.8 (and without prejudice to any equitable principle or rule of law which may excuse or release the director from disclosing information, in circumstances where disclosure may otherwise be required under this Article 23), if a director, otherwise than by virtue of his position as director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required:

23.7.1.1 to disclose such information to the Company or to any director, or to any officer or employee of the Company; or

23.7.1.2 otherwise to use or apply such confidential information for the purpose of or in connection with the performance of his duties as a director.

23.8 Where such duty of confidentiality arises out of a situation in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company, Article 23.7 shall apply only if the conflict arises out of a matter which falls within Article 23.1 or Article 23.2 or has been authorised under section 175(5)(a) of the 2006 Act.

23.9 Additional steps to be taken by a director to manage a conflict of interest

Where a director has an interest which can reasonably be regarded as likely to give rise to a conflict of interest, the director may take such additional steps as may be necessary or desirable for the purpose of managing such conflict of interest, including compliance with any procedures laid down from time to time by the directors for the purpose of managing conflicts of interest generally and/or any specific procedures approved by the directors for the purpose of or in connection with the situation or matter in question, including without limitation:

23.9.1 absenting himself from any discussions, whether in meetings of the directors or otherwise, at which the relevant situation or matter falls to be considered; and



- 23.9.2 excluding himself from documents or information made available to the directors generally in relation to such situation or matter and/or arranging for such documents or information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him to have access to such documents or information.

#### 23.10 Requirement of a director to declare an interest

Subject to section 182 of the 2006 Act, a director shall declare the nature and extent of any interest permitted by Article 23.1 or Article 23.2 at a meeting of the directors, or by general notice in accordance with section 184 (notice in writing) or section 185 (general notice) of the 2006 Act or in such other manner as the directors may determine, except that no declaration of interest shall be required by a director in relation to an interest:

- 23.10.1 falling under Article 23.1.7;
- 23.10.2 if, or to the extent that, the other directors are already aware of such interest (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware); or
- 23.10.3 if, or to the extent that, it concerns the terms of his service contract (as defined by section 227 of the 2006 Act) that have been or are to be considered by a meeting of the directors, or by a committee of directors appointed for the purpose under these Articles.

#### 23.11 Shareholder approval

- 23.11.1 Subject to section 239 of the 2006 Act, the Company may by ordinary resolution ratify any contract, transaction or arrangement, or other proposal, not properly authorised by reason of a contravention of any provisions of this Article 23.

#### 23.12 For the purposes of this Article 23:

- 23.12.1 a conflict of interest includes a conflict of interest and duty and a conflict of duties;
- 23.12.2 the provisions of section 252 of the 2006 Act shall determine whether a person is connected with a director;
- 23.12.3 a general notice to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified.

- 23.13 The quorum for the transaction of business of the directors shall throughout the meeting be two comprising at least the Naxos Director or its alternate and the LCA Director or its alternate, provided that if at any time there shall be no such director in office, the quorum at that time shall not require the presence of that director.
- 23.14 The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Unless all directors indicate their willingness to accept shorter notice of a meeting of the directors, at least 7 clear days' prior notice of the time and place of each meeting of the directors shall be given. Questions arising at any meeting shall be determined by a majority of votes and in the case of an equality of votes the chairman of the meeting shall not have a second or casting vote.
- 23.15 A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors. Notice of every meeting of the directors shall be given to every director in accordance with the provisions referred to in Article 23.14 and 23.17 but the non-receipt of notice by any director shall not of itself invalidate the proceedings at any meeting of the directors.
- 23.16 Any director including an alternate director may participate in a meeting of the directors or a committee of the directors of which he is a Shareholder by means of a conference telephone or similar means of communications equipment whereby all persons participating in the meeting can hear each other and participation in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the 2006 Act, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- 23.17 Regulation 88 of Table A shall be amended by substituting for the sentence:
- "It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom."
- the following sentence:
- "Notice of every meeting of the directors shall be given to each director and his alternate director, including directors and alternate directors who may for the time being be absent from the United Kingdom and have given the Company an address within the United Kingdom for service."
- 23.18 The words "of filling vacancies, or" shall be omitted from regulation 90 of Table A.

- 23.19 The penultimate sentence of regulation 88 of Table A shall not apply to the Company.
- 23.20 Regulations 94 to 97 (inclusive) of Table A shall not apply to the Company.
24. No person shall be elected a Director at any general meeting unless:
- (i) he is recommended by the Directors; or
  - (ii) not less than fourteen nor more than thirty five clear days before the date of the meeting, a notice in writing signed by a member qualified to vote at the meeting has been given to the Company of the intention to propose that person for election, together with a notice in writing signed by that person of his willingness to be elected.
25. A Director shall not be required to hold any share qualification but shall nevertheless be entitled to receive notice of and to attend at all general meetings of the Company and at all separate general meetings of the holders of any class of shares in the capital of the Company.
26. Any director (including an alternate director) may participate in a meeting of the directors or a committee of the directors of which he is a member by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the Act, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.

#### THE SEAL

27. If the Company has a seal it shall only be used with the authority of the directors or of a committee of the directors. The directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined every instrument to which the seal is affixed shall be signed by one director and by the secretary or another director. The obligation under regulation 6 in Table A relating to the sealing of share certificates shall apply only if the Company has a seal. Regulation 101 of Table A shall not apply to the Company.

#### CAPITALISATION OF PROFITS

28. The words "special resolution" shall be substituted for the words "ordinary resolution" in regulation 110 of Table A.

### NOTICES

29. Where a notice is sent by first class post, proof of the notice having been posted in a properly addressed prepaid envelope shall be conclusive evidence that the notice was given and shall be deemed to have been given at the expiration of 24 hours after the envelope containing the same is posted.
30. If at any time by reason of the suspension or curtailment of postal services within the United Kingdom the Company is unable effectively to convene a general meeting by notices sent through the post, a general meeting may be convened by a notice advertised in at least one national daily newspaper and such notice shall be deemed to have been duly served on all Shareholders entitled thereto at noon on the day when the advertisement appears. In any such case the Company shall send confirmatory copies of the notice by post if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom again becomes practicable.

### WINDING UP

31. In regulation 117 of Table A, the words "with the like sanction" shall be inserted immediately before the words "determine how the division".

### INDEMNITY

32. Subject to the provisions of the 2006 Act every director (including an alternate director) or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the lawful execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 144 of the 1985 Act or section 1157 of the 2006 Act in which relief is granted to him by the court, and no director (including an alternate director) or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the lawful execution of the duties of his office or in relation thereto. Regulation 118 of Table A shall not apply to the Company.
33. The directors shall have power to purchase and maintain at the expense of the Company for the benefit of any director (including an alternate director) or officer of the Company insurance against any liability as is referred to in section 232(2) of the 2006 Act and, subject to the provisions of the Act, against any other liability which may attach to him or loss or expenditure which he may incur in relation to anything done or alleged to have been done or omitted to be done as a director, (including as an alternative director) officer.

34. The directors may authorise the directors of companies within the same group of companies as the Company to purchase and maintain insurance at the expense of the Company for the benefit of any director (including an alternate director), other officer or auditor of such company in respect of such liability, loss or expenditure as is referred to in Article 33.

#### VARIATION OF CLASS RIGHTS

35. If at any time the share capital of the Company is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of the issue of the Shares for that class) may, whether or not the Company is being wound-up, be varied with the consent in writing of the holders of three-fourths in number of the issued Shares of that class and with the consent of three-fourths in number of the issued B Preference Shares. To every such separate general meeting the provisions of the regulations of the Company relating to general meetings shall apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third in number of the issued Shares of the class and that any holder of Shares of the class present in person or by proxy may demand a poll. If any such separate general meeting shall be adjourned owing to the absence of a quorum and if at the adjourned meeting a quorum shall not be present within half-an-hour from the time appointed for such adjourned meeting the holder or holders of Shares of the class concerned who are present shall constitute a quorum and shall have power to decide upon all matters which could properly have been disposed of at the meeting from which the adjournment took place.