

Company Number: 03875000

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

OF

OCADO RETAIL LIMITED

(the "Company")

**PROPOSED BY THE BOARD OF DIRECTORS OF THE COMPANY IN ACCORDANCE WITH
SECTION 291 OF THE COMPANIES ACT 2006**

Passed on *31 July* 2019

It was resolved THAT:

SPECIAL RESOLUTION

with effect upon completion of the disposal by Ocado Holdings Limited ("OHL") of fifty per cent. (50%) of the issued share capital of the Company to Marks and Spencer Holdings Limited ("M&S Holdings") pursuant to a share purchase agreement entered into between, inter alia, OHL and M&S Holdings on 27 February 2019, the articles of association contained in the document attached to this written resolution and for the purposes of identification marked 'A' be approved and adopted as the articles of association of the Company in substitution for and to the exclusion of the existing articles of association.

By order of the board:

[Signature]
.....

Director/Secretary

31 July 2019
.....

Date

WEDNESDAY



A28 *A8E94K82* 18/09/2019 #53
COMPANIES HOUSE

AGREEMENT BY ELIGIBLE MEMBERS TO WRITTEN RESOLUTION

We, being together all the eligible member(s) of the Company:

1. confirm that we have received a copy of the above written resolution in accordance with section 291 of the Companies Act 2006; and
2. hereby resolve and agree that the above resolution is passed as a written resolution pursuant to Section 288 of the Companies Act 2006 and that such resolution shall take effect as a special resolution.



.....

Dated 31 July 2019

Director
on behalf of
Ocado Holdings Limited,
sole shareholder of the Company

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Part 1

Interpretation and Limitation of Liability

1. Exclusion of other regulations and defined terms

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

- (2) In the articles, unless the context requires otherwise:

“alternate director” has the meaning given in article 25;

“appointor” has the meaning given in article 25;

“articles” means the company’s articles of association;

“bankruptcy” includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

“business day” means a day (other than a Saturday or Sunday) on which banks are open for business (other than solely for trading and settlement in euro) in London;

“capitalised sum” has the meaning given in article 46;

“chair” has the meaning given in article 12;

“chair of the meeting” has the meaning given in article 49;

“Companies Acts” means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;

“Conflict” has the meaning given in article 15;

“conflicts of interest” include a conflict of interest and duty and a conflict of duties and “interest” includes both direct and indirect interests;

“contract” in article 15 includes any transaction or arrangement (whether or not constituting a contract);

“director” means a director of the company, and includes any person occupying the position of director, by whatever name called;

“distribution recipient” has the meaning given in article 40;

“document” includes, unless otherwise specified, any document sent or supplied in electronic form;

“eligible directors” or “eligible director” has the meaning given in article 8(3);

“fully paid” in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;

"group company" means a subsidiary undertaking or parent undertaking of the company or a subsidiary undertaking of any parent undertaking of the company;

"holder" in relation to shares means the person whose name is entered in the register of members as the holder of the shares;

"instrument" means a document in hard copy form;

"Nominating Group" has the meaning given in article 17;

"Nomination" has the meaning given in article 17;

"overseas territory" has the meaning given in article 10;

"paid" means paid or credited as paid;

"participate", in relation to a directors' meeting, has the meaning given in article 10;

"Permitted Situation" has the meaning given in article 15;

"persons entitled" has the meaning given in article 46;

"proxy notice" has the meaning given in article 54;

"shareholder" means a person who is the holder of a share;

"shares" means shares in the company;

"Tax" or "Taxation" includes (without limitation) all taxes, levies, duties, imposts, charges and withholdings of any nature whatsoever, whether of the United Kingdom or elsewhere, together with all penalties, charges and interest relating to any of them or to any failure to comply with any obligation relating to Taxation;

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

"writing" means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

- (3) Unless the context otherwise requires, other words or expressions contained in the articles bear the same meaning as in Companies Act 2006 as in force on the date when the articles become binding on the company.

2. Liability of members

The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

Part 2

Directors

Directors' Powers and Responsibilities

3. Directors' general authority

Subject to the articles, the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company.

4. Shareholders' reserve power and effect of altering the articles

- (1) The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action.
- (2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.
- (3) No alteration of the articles invalidates anything which the directors have done before the alteration was made.

5. Directors may delegate

- (1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles:
 - (a) to such person or committee;
 - (b) by such means (including by power of attorney);
 - (c) to such an extent;
 - (d) in relation to such matters or territories; and
 - (e) on such terms and conditions,as they think fit.
- (2) If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.
- (3) Where a provision in the articles refers to the exercise of a power, authority or discretion by the directors and that power, authority or discretion has been delegated by the directors to a committee, the provision shall be construed as permitting the exercise of the power, authority or discretion by the committee.
- (4) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

6. Committees

- (1) Committees to which the directors delegate any of their powers must follow procedures (including as to the quorum for meetings) which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.
- (2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

Decision-Making by Directors

7. Directors to take decisions collectively

The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8, where in each case, each director shall have one vote.

8. Unanimous decisions

- (1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter. If an alternate director indicates that he shares the common view, his appointor need not also indicate his agreement.
- (2) Such a decision may take the form of a resolution in writing, at least one copy of which has been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing. A resolution signed by an alternate director need not also be signed by or agreed to by his appointor.
- (3) References in this article to "**eligible directors**" are to directors who would have been entitled to vote on the matter and whose vote would have been counted had it been proposed as a resolution at a directors' meeting.
- (4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

9. Calling a directors' meeting

- (1) Any director or the secretary of the company may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.
- (2) Notice of any directors' meeting must indicate:
 - (a) its proposed date and time;
 - (b) where it is to take place; and
 - (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
- (3) Notice of a directors' meeting must be given to each director in writing. If a director does not receive written notice of a directors' meeting, but nevertheless does attend or participate in such a meeting, the fact that such a director has not received proper notice of the meeting shall not invalidate the proceedings of such meeting and:
 - (a) such director shall be counted as a director for the purpose of establishing the quorum at that directors' meeting; and
 - (b) such director's vote shall be valid at that meeting.
- (4) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company either before or after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

10. Participation in directors' meetings

- (1) Directors “**participate**” in a directors’ meeting, or part of a directors’ meeting, when:
 - (a) the meeting has been called and takes place in accordance with the articles; and
 - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- (2) In determining whether directors are participating in a directors’ meeting, it is irrelevant where any director is or how they communicate with each other, provided that no director may participate from a territory outside the United Kingdom (an “**overseas territory**”) if this would cause the company to be either resident in the overseas territory for any Tax purpose or within a charge to Tax under the laws of the overseas territory.
- (3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is. In the absence of such agreement, the place at which such a meeting shall be deemed to occur shall be in the United Kingdom.

11. Quorum for directors’ and committee meetings

- (1) A quorum shall exist at any directors’ meeting or meeting of a committee of the directors if at least two directors, including at least one director appointed by each shareholder, are present or represented by an alternate director; provided that the presence of a director appointed by a shareholder (or his alternate) shall not be required to form a quorum if the shareholders have agreed that such director is not entitled to vote and count in the quorum at the relevant meeting.
- (2) If a quorum is not present at a meeting of the directors or a committee of the directors at the time when any business is considered, any director present may require that the meeting be reconvened. At least ten business days’ notice of the reconvened meeting shall be given unless all the directors or members of the relevant committee agree.
- (3) If a quorum is not present at a meeting of the directors or a committee of the directors which has been reconvened in accordance with article 11(2) at the time when any business is considered, any director present may require that the meeting be reconvened. At least five business days’ notice of the reconvened meeting shall be given unless all the directors or members of the relevant committee agree.
- (4) If a quorum is not present at a meeting of the directors or a committee of the directors which has been reconvened in accordance with article 11(3) at the time when any business is considered, those directors present will be taken to constitute a quorum with respect to those matters on the agenda which were not disposed of at the meetings adjourned pursuant to articles 11(2) or 11(3).
- (5) Where a director is acting as an alternate director for another director at a meeting, such director shall count as a single director for the purpose of establishing the quorum at that meeting.

12. Chairing of directors’ meetings

- (1) The person appointed for the time being to chair directors’ meetings shall be known as the “**chair**”.
- (2) If the chair is not participating in a directors’ meeting within ten minutes of the time at which it was to start, the participating directors may appoint one of themselves to chair it.

13. Casting vote

If the numbers of votes at a meeting of directors (or at a meeting of a committee established in accordance with article 5) for and against a proposal are equal (ignoring any votes which are to be discounted in accordance with the articles or the Companies Acts), the chair or other director chairing the meeting does not have a casting vote.

14. Transactions or arrangements with the company

(1) Provided that he has disclosed to the directors the nature and extent of any interest of his in accordance with and to the extent required by the Companies Acts, a director notwithstanding his office:

- (a) may be a party to, or otherwise interested in, any contract with the company or in which the company is otherwise interested;
- (b) may be a director or other officer of, or employed by, or a party to any contract with, or otherwise interested in, any group company or in any body corporate promoted by the company or any group company or in which the company or any group company is interested; and
- (c) may act by himself or his firm in a professional capacity for the company (otherwise than as auditor).

(2) For the purposes of this article:

- (a) a director shall be deemed to have disclosed the nature and extent of an interest which consists of him being a director, officer, employee, member, partner or representative of any group company or of any shareholder or any other entity in the same group as, or which is otherwise associated with, such shareholder; and
- (b) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any contract 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 contract of the nature and extent so specified.

(3) Where a director is a director or other officer of, or employed by, a group company, he:

- (a) may in exercising his independent judgement take into account the success of other group companies as well as the success of the company; and
- (b) shall in the exercise of his duties, where that other group company is a parent company, have a duty of confidentiality to the parent company in relation to confidential information of the parent company, but he shall not be restricted by any duty of confidentiality to the company from providing information to any parent company.

15. Conflicts of interest requiring board authorisation

(1) The directors may, subject to the quorum and voting requirements set out in the articles, authorise any matter which would otherwise involve a director breaching his duty under the Companies Acts to avoid conflicts of interest ("**Conflict**").

(2) Any director (including the relevant director) may propose that the relevant director be authorised in relation to any matter which is the subject of a Conflict. Such proposal and

any authority given by the directors shall be effected in the same way that any other matter may be proposed to and decided upon by the directors under the provisions of the articles save that the relevant director shall not count towards the quorum nor vote on any resolution giving such authority.

- (3) Where the directors give authority in relation to a Conflict:
 - (a) the terms of the authority shall be recorded in writing (but the authority shall be effective whether or not the terms are so recorded); and
 - (b) the directors may revoke or vary such authority at any time but this will not affect anything done by the relevant director prior to such revocation in accordance with the terms of such authority.
- (4) Where the directors give authority in relation to a Conflict or where any of the situations referred to in article 14(1) ("**Permitted Situation**") applies:
 - (a) the directors may (whether at the relevant time or subsequently) (i) require that the relevant director is excluded from the receipt of information, the participation in discussion and/or the making of decisions (whether at meetings of the directors or otherwise) related to the Conflict or Permitted Situation; and (ii) impose upon the relevant director such other terms for the purpose of dealing with the Conflict as they may determine;
 - (b) the relevant director will be obliged to conduct himself in accordance with any terms imposed by the board in relation to the Conflict or Permitted Situation; and
 - (c) where the relevant director obtains (otherwise than through his position as a director of the company) information that is confidential to a third party, the director will not be obliged to disclose that information to the company, or to use or apply the information in relation to the company's affairs, where to do so would amount to a breach of that confidence.
- (5) A director shall not, by reason of his office or of the fiduciary relationship thereby established, be liable to account to the company or the shareholders for any remuneration, profit or other benefit realised by reason of his having any type of interest in a Conflict authorised under this article or in any Permitted Situation and no contract shall be liable to be avoided on the grounds of a director having any such interest.

16. Directors may vote when interested

- (1) Subject where applicable to disclosure in accordance with the Companies Acts or the articles and subject to any terms imposed by the directors in relation to any Conflict or Permitted Situation, a director shall be entitled to vote in respect of any matter in which he is interested directly or indirectly and if he shall do so his vote shall be counted and, whether or not he does, if he is present at the meeting he shall be taken into account in ascertaining whether a quorum is present.
- (2) If a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be decided by a decision of the directors in attendance at that meeting, for which purpose the relevant director is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

17. Conflicts of interest arising out of nomination by shareholder

- (1) Where a director is appointed pursuant to a nomination as such by one or more shareholders (a "**Nomination**");

- (a) any actual or possible conflict with the interests of the company which that director has or may have as a consequence of such Nomination (or which derives from such nomination or his relationship with the nominating shareholder or any other entity in the same group as such shareholder or with which such shareholder is otherwise associated (together, the "**Nominating Group**")) and which would otherwise involve that director breaching his duty under the Companies Acts to avoid conflicts of interest; and
- (b) any consideration of, and taking into account by, the director of the interests of any member of the Nominating Group which would otherwise involve that director breaching his duty under the Companies Acts to exercise independent judgement,

shall hereby be authorised by the company in accordance with section 180(4)(a) of the Companies Act 2006.

- (2) In the circumstances set out in article 17(1):

- (a) where the relevant director obtains (as a consequence of, or deriving from, any position or office he holds with, or his relationship with, a member of the Nominating Group) information that is confidential to any person (other than the company or any of its subsidiaries), the director will not be obliged to disclose that information to the company, or to use or apply the information in relation to the company's affairs, where to do so would amount to a breach of that confidence; and
- (b) the relevant director shall not be in breach of his duty of confidentiality to the company by providing information relating to the company to a person in circumstances.

18. Records of decisions to be kept

The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

19. Directors' discretion to make further rules

Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

20. Change of name

The company may change its name by a decision of the shareholders.

Appointment of Directors

21. Methods of appointing directors

- (1) Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:

- (a) by a decision of the directors, where such person is to be appointed to the position of chief executive officer or chief financial officer; or
 - (b) by a notice of his appointment given in accordance with article 23.
- (2) In any case where, as a result of death, bankruptcy or other events, the company has no shareholders and no directors, the transmittee(s) of the last shareholder have the right, by notice in writing, to appoint one or more persons to be a director.
- (3) For the purposes of paragraph (2), where 2 or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

22. Termination of director's appointment

A person ceases to be a director as soon as:

- (a) that person ceases to be a director by virtue of any provision of the Companies Acts or is prohibited from being a director by law;
- (b) a bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
- (f) notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms;
- (g) that person has for more than six consecutive months been absent without permission of the directors from meetings of directors held during that period and the directors resolve that that person should cease to be director; or
- (h) notice of his removal is given in accordance with article 23.

23. Appointment and removal of directors by shareholders

A shareholder shall be entitled, by notice in writing to the Company and each other shareholder, to appoint two persons who are willing to act as directors, and are permitted by law to do so, as directors and to remove any person appointed by it as a director.

24. Directors' remuneration and expenses

- (1) The directors shall not be entitled to any remuneration or fee from the company for the performance of their duties unless otherwise agreed in writing by all of the shareholders of the company.

- (2) The directors (including alternate directors) may be paid all reasonable travel expenses properly incurred by them in connection with the discharge of their duties.

Alternate Directors

25. Appointment and removal of alternate directors

- (1) Any shareholder who has appointed a director pursuant to article 23 (the "**appointor**") may appoint as an alternate any other person to:
 - (a) exercise that director's powers; and
 - (b) carry out that director's responsibilities,in relation to the taking of decisions by the directors in the absence of the alternate's appointor (such person known as an "**alternate director**").
- (2) Any appointment or removal of an alternate must be effected by notice in writing to the company signed by the appointor, or in any other manner approved by the directors.
- (3) The notice must:
 - (a) identify the proposed alternate; and
 - (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

26. Rights and responsibilities of alternate directors

- (1) An alternate director has the same rights, in relation to any directors' meeting and all meetings of committees of directors of which his appointor is a member or directors' written resolutions, as the alternate's appointor.
- (2) Except as the articles specify otherwise, alternate directors:
 - (a) are deemed for all purposes to be directors;
 - (b) are liable for their own acts and omissions;
 - (c) are subject to the same restrictions as their appointor; and
 - (d) are not deemed to be agents of or for their appointor.
- (3) Subject to the articles, a person who is an alternate director but not also a director:
 - (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating); and
 - (b) may sign or otherwise indicate his agreement to a written resolution (but only if it is not signed or to be signed or otherwise agreed by that person's appointor).

No alternate may be counted as more than one director for such purposes.

- (4) Subject to the articles, a director who is also an alternate director has an additional vote on behalf of each appointor who:
 - (a) is not participating in a directors' meeting; and
 - (b) would have been entitled to vote if he was participating in it.
- (5) An alternate director is not entitled to receive any remuneration from the company for serving as an alternate director unless all of the shareholders otherwise agree.

27. Termination of alternate directorship

- (1) An alternate director's appointment as an alternate terminates:
 - (a) when the alternate's appointor revokes the appointment by notice to the company in writing specifying when it is to terminate;
 - (b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
 - (c) on the death of the alternate's appointor; or
 - (d) when the alternate's appointor's appointment as a director terminates.

Part 3

Shares and Distributions

Shares

28. All shares to be fully paid

- (1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.
- (2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum.

29. Powers to issue different classes of share

- (1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue further classes of shares with such rights or restrictions as may be determined by a decision of the shareholders.
- (2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.
- (3) The rights, restrictions, terms and conditions attached to any shares issued pursuant to paragraph (1) or (2) of this article shall apply as if the same were set out in the articles.

30. Payment of commissions on subscription for shares

- (1) The company may pay any person a commission in consideration for that person:

- (a) subscribing, or agreeing to subscribe, for shares; or
 - (b) procuring, or agreeing to procure, subscriptions for shares.
- (2) Any such commission may be paid:
 - (a) in cash, or in fully paid shares or other securities, or partly in one way and partly in the other; and
 - (b) in respect of a conditional or an absolute subscription.

31. Exclusion of pre-emption rights

The pre-emption provisions in sections 561 and 562 of the Companies Act 2006 shall not apply to any allotment of equity securities made by the company.

32. Company not bound by less than absolute interests

Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

33. Share certificates

- (1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.
- (2) Every certificate must specify:
 - (a) in respect of how many shares, of what class, it is issued;
 - (b) the nominal value of those shares;
 - (c) that the shares are fully paid; and
 - (d) any distinguishing numbers assigned to them.
- (3) No certificate may be issued in respect of shares of more than one class.
- (4) If more than one person holds a share, only one certificate may be issued in respect of it.
- (5) Certificates must:
 - (a) have affixed to them the company's common seal; or
 - (b) be otherwise executed in accordance with the Companies Acts.

34. Replacement share certificates

- (1) If a certificate issued in respect of a shareholder's shares is:
 - (a) damaged or defaced; or

- (b) said to be lost, stolen or destroyed,

that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

- (2) A shareholder exercising the right to be issued with such a replacement certificate:
 - (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
 - (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
 - (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

35. Share transfers

- (1) The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent, save that the directors shall not refuse to register the transfer of a share in circumstances in which that share is transferred as a result of the exercise by The Crown Estate Commissioners of such security as they may have from time to time over such share.
- (2) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.
- (3) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- (4) The company may retain any instrument of transfer which is registered.
- (5) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.

36. Transmission of shares

- (1) If title to a share passes to a transmittee, the company may only recognise the transmittee as having any title to that share.
- (2) Subject to article 36(3), a transmittee who produces such evidence of entitlement to shares as the directors may properly require:
 - (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person; and
 - (b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder from whom the transmittee derived such entitlement had.
- (3) Transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the event which gave rise to the transmission, unless they become the holders of those shares.

37. Exercise of transmitters' rights

- (1) Transmitters who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.
- (2) If the transmitter wishes to have a share transferred to another person, the transmitter must execute an instrument of transfer in respect of it.
- (3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmitter has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

38. Transmitters bound by prior notices

If a notice is given to a shareholder in respect of shares and a transmitter (or any person nominated under article 36(2)) is entitled to those shares, the transmitter (and any person nominated under article 36(2)) is bound by the notice if it was given to the shareholder before the transmitter's name has been entered in the register of members.

Dividends and Other Distributions

39. Procedure for declaring dividends

- (1) If approved following a decision of the shareholders:
 - (a) the company may declare dividends; and/or
 - (b) the directors may decide to pay interim dividends.
- (2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- (3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- (4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, or unless each of the shareholders instruct the company otherwise in writing:
 - (a) it must be paid by reference to each shareholder's holding of shares in the class in respect of which the dividend is paid on the date of the resolution or decision to declare or pay it; and
 - (b) it shall be apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid;

but if any share is issued on terms providing that it shall rank for dividend as from a particular date, that share shall rank for dividend accordingly.

- (5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.

- (6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- (7) If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

40. Payment of dividends and other distributions

- (1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means:
 - (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or
 - (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.
- (2) In the articles, "**the distribution recipient**" means, in respect of a share in respect of which a dividend or other sum is payable:
 - (a) the holder of the share;
 - (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
 - (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

41. No interest on distributions

The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by:

- (a) the terms on which the share was issued; or
- (b) the provisions of another agreement between the holder of that share and the company.

42. Unclaimed distributions

- (1) All dividends or other sums which are:
 - (a) payable in respect of shares; and
 - (b) unclaimed after having been declared or become payable,

may be invested or otherwise made use of by the directors for the benefit of the company until claimed.

- (2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.

- (3) If:

- (a) twelve years have passed from the date on which a dividend or other sum became due for payment; and
- (b) the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

43. Non-cash distributions

- (1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors or by a decision of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

- (2) For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:

- (a) fixing the value of any assets;
- (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
- (c) vesting any assets in trustees.

44. Waiver of distributions

Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if:

- (a) the share has more than one holder; or
- (b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

45. Distribution in specie on winding up

- (1) If the company is wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by law divide among the shareholders in specie the whole or any part of the assets of the company and may, for that purpose, value any assets and determine how the division shall be carried out as between the shareholders or different classes of shareholders. The liquidator may, with the

applicable sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the shareholders as he with the like sanction determines, but no shareholder shall be compelled to accept any assets upon which there is a liability.

- (2) Where the right to a dividend has accrued but the dividend has not been paid in full when the company is wound up, the assets available for distribution on a winding-up will be applied first in paying the accrued dividend and thereafter shall be applied among the holders of shares in proportion to the amount paid up on such shares, subject to the rights attaching to the shares providing otherwise. For these purposes the right to a dividend shall be treated as having accrued if any part of any amount that the shareholders intend to be paid as a distribution is to be carried forward from one distribution payment date to the next and such distribution, or part of a distribution, is to be paid to certain shareholders in priority to other shareholders before any other distributions are made.

Capitalisation of Profits

46. Authority to capitalise and appropriation of capitalised sums

- (1) Subject to the articles, the directors may, if they are so authorised by the shareholders:
- (a) decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of any of the company's reserves or funds, including but not limited to the share premium account, capital redemption reserve, merger reserve or revaluation reserve; and
 - (b) appropriate any sum which they so decide to capitalise (a "**capitalised sum**") to the persons who would have been entitled to it if it were distributed by way of dividend (the "**persons entitled**") and in the same proportions.
- (2) Capitalised sums must be applied:
- (a) on behalf of the persons entitled, and
 - (b) in the same proportions as a dividend would have been distributed to them.
- (3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (4) A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (5) Subject to the articles, the directors may:
- (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
 - (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and
 - (c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

Part 4

Decision-Making by Shareholders

Organisation of General Meetings

47. Attendance and speaking at general meetings

- (1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- (2) A person is able to exercise the right to vote at a general meeting when:
 - (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
 - (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (4) In determining attendance at a general meeting, it is immaterial whether any two or more shareholders attending it are in the same place as each other.
- (5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

48. Quorum for general meetings

- (1) No business other than the appointment of the chair of the meeting is to be transacted at a general meeting (including any adjournment thereof) if the persons attending it do not constitute a quorum.
- (2) A quorum at any general meeting shall exist if all the shareholders entitled to vote (or their duly authorised representatives) are present in person or by proxy.
- (3) If a quorum is not present within 30 minutes of the time of the meeting (or such longer time as the persons present may all agree to wait) from the time appointed for any general meeting, or if during a general meeting a quorum ceases to be present, the meeting shall stand adjourned for at least ten business days or such longer period as the chair or (if the chair is not present) a majority of the directors present and voting at any directors' meeting convened to consider the reconvening of the general meeting may determine.
- (4) If a quorum is not present at any general meeting which has been reconvened in accordance with article 48(3) within 30 minutes of the time of the meeting (or such longer time as the persons present may all agree to wait), or if during such general meeting a quorum ceases to be present, the meeting shall stand adjourned for at least five business days or such longer period as the chair or (if the chair is not present) a majority of the directors present and voting at any directors' meeting convened to consider the reconvening of the general meeting may determine.

- (5) If a quorum is not present at any general meeting which has been reconvened in accordance with article 48(4) within 30 minutes of the time of the meeting (or such longer time as the persons present may all agree to wait), or if during such general meeting a quorum ceases to be present, then those shareholders present will be taken to constitute a quorum with respect to those matters on the agenda which were not disposed of at the general meetings adjourned pursuant to articles 48(3) or 48(4).

49. Chairing general meetings

- (1) If a chair has been appointed in accordance with article 12, the chair shall chair general meetings if present and willing to do so.
- (2) If no such chair has been appointed, or if the chair is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:

- (a) the directors present; or
- (b) (if no directors are present), the meeting,

must appoint a director or shareholder to chair the meeting, and the appointment of the chair of the meeting must be the first business of the meeting.

- (3) The person chairing a meeting in accordance with this article is referred to as "**the chair of the meeting**".

50. Attendance and speaking by directors and non-shareholders

- (1) Directors may attend and speak at general meetings, whether or not they are shareholders.
- (2) The chair of the meeting may permit other persons who are not:

- (a) shareholders of the company; or
- (b) otherwise entitled to exercise the rights of shareholders in relation to general meetings,

to attend and speak at a general meeting.

51. Adjournment

- (1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chair of the meeting must adjourn it.
- (2) The chair of the meeting may adjourn a general meeting at which a quorum is present if:
- (a) the meeting consents to an adjournment; or
- (b) it appears to the chair of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The chair of the meeting must adjourn a general meeting if directed to do so by the meeting.

- (4) When adjourning a general meeting, the chair of the meeting must:
 - (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors; and
 - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
 - (a) to the same persons to whom notice of the company's general meetings is required to be given; and
 - (b) containing the same information which such notice is required to contain.
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

Voting at General Meetings

52. General

A resolution put to the vote of a general meeting must be decided on a poll in such manner as the chair of the meeting directs.

53. Errors and disputes

- (1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- (2) Any such objection must be referred to the chair of the meeting, whose decision is final.

54. Content of proxy notices

- (1) Proxies may only validly be appointed by a notice in writing (a "**proxy notice**") which:
 - (a) states the name and address of the shareholder appointing the proxy;
 - (b) identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed;
 - (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

- (4) Unless a proxy notice indicates otherwise, it must be treated as:
 - (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
 - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

55. Delivery of proxy notices

- (1) A person who is entitled to attend, speak or vote at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- (2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (4) The directors may require the production of any evidence which they consider necessary to determine the validity of any proxy notice.

56. Amendments to resolutions

- (1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
 - (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chair of the meeting may determine); and
 - (b) the proposed amendment does not, in the reasonable opinion of the chair of the meeting, materially alter the scope of the resolution.
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
 - (a) the chair of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
 - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- (3) If the chair of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chair's error does not invalidate the vote on that resolution.

57. Class meetings

The provisions of the articles relating to general meetings shall apply, with any necessary modifications, to any separate general meeting of the holders of shares of a class. For this purpose, a general meeting at which no holder of a share other than an ordinary share may, in his capacity as a shareholder, attend or vote shall also constitute a separate general meeting of the holders of the ordinary shares.

Part 5

Administrative Arrangements

58. Means of communication to be used

- (1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Acts provide for documents or information which are authorised or required by any provision of those Acts to be sent or supplied by or to the company.
- (2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.
- (3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

59. When notice or other communication deemed to have been received

- (1) Any notice, document or information sent or supplied by the company to the shareholders or any of them:
 - (a) by post, shall be deemed to have been received 24 hours after the time at which the envelope containing the notice, document or information was posted unless it was sent by second class post, or there is only one class of post, or it was sent by air mail to an address outside the United Kingdom, in which case it shall be deemed to have been received 48 hours after it was posted. Proof that the envelope was properly addressed, prepaid and posted shall be conclusive evidence that the notice, document or information was sent;
 - (b) by being left at a shareholder's registered address, or such other postal address as notified by the shareholder to the company for the purpose of receiving company communications, shall be deemed to have been received on the day it was left;
 - (c) by electronic means, shall be deemed to have been received 24 hours after it was sent. Proof that a notice, document or information in electronic form was addressed to the electronic address provided by the shareholder for the purpose of receiving communications from the company shall be conclusive evidence that the notice, document or information was sent; and
 - (d) by making it available on a website, shall be deemed to have been received on the date on which notification of availability on the website is deemed to have been received in accordance with this article or, if later, the date on which it is first made available on the website.

60. Company seals

- (1) Any common seal may only be used by the authority of the directors.
- (2) The directors may decide by what means and in what form any common seal is to be used.

- (3) Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.
- (4) For the purposes of this article, an authorised person is:
 - (a) any director of the company;
 - (b) the company secretary (if any); or
 - (c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

61. No right to inspect accounts and other records

Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.

Directors' Indemnity and Insurance

62. Indemnity

- (1) Subject to paragraph (4), a relevant director shall be indemnified out of the company's assets against:
 - (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company;
 - (b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme; and
 - (c) any other liability incurred by that director as an officer of the company or an associated company.
- (2) The company may fund a relevant director's expenditure for the purposes permitted under the Companies Acts and may do anything to enable a relevant director to avoid incurring such expenditure as provided in the Companies Acts.
- (3) No relevant director shall be accountable to the company or the shareholders for any benefit provided pursuant to this article and the receipt of any such benefit shall not disqualify any person from being or becoming a director of the company.
- (4) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

63. Insurance

- (1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.

64. Definitions

- (1) In articles 62 and 63:

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate;
- (b) a "relevant director" means any director or former director of the company or an associated company; and
- (c) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company.