

Company no. 04491360

The Companies Act 2006

Private Company Limited by Shares

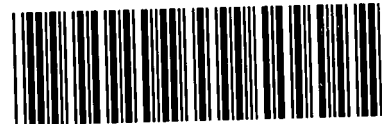
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ARTICLES OF ASSOCIATION  
of  
GONG COMMUNICATIONS LTD

Adopted by special resolution passed on 20 March  
2020

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**Private Company Limited by Shares**

**ARTICLES OF ASSOCIATION**  
**of**  
**GONG COMMUNICATIONS LIMITED**  
**Adopted by special resolution passed on 20 March 2020**

**PART 1**  
**INTERPRETATION AND LIMITATION OF LIABILITY**

**1. Defined terms and interpretation**

**1.1** In the Articles, unless the context requires otherwise:

**"Accepting Offeree"** has the meaning given in Article 37.4;

**"Act"**: the Companies Act 2006 as amended from time to time;

**"acting in concert"**: has the meaning given to it in the City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended);

**"address"**: has the meaning given in section 1148 of the Act;

**"Adoption Date"**: the date of adoption of these Articles;

**"Allocation Notice"**: has the meaning given in Article 34.9;

**"Applicant"**: has the meaning given in Article 34.9;

**"Articles"**: the Company's articles of association for the time being in force;

**"Available Profits"**: means profits available for distribution within the meaning of part 23 of the Act;

**"B Ordinary Shareholder"**: means a holder of B Ordinary Shares from time to time;

**"B Ordinary Shares"**: means the B Ordinary Shares of £0.0001 each in the capital of the Company;

**"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;

**"Board"**: the board of directors of the Company as constituted from time to time;

**"Business Day"**: any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;

**"Buyer"**: has the meaning given in Article 37.1;

**"Called Shares"**: has the meaning given in Article 38.2;

**"Called Shareholders"**: has the meaning given in Article 38.1;

**"capitalised sum"**: has the meaning given in Model Article 36;

**"Chairman"**: has the meaning given in Article 12.1;

**"clear days"**: in relation to a notice, excludes the day the notice is deemed under the Articles to be given and the day on which the specified period expires;

**"Companies Acts"**: means the Companies Acts (as defined in section 2 of the Act), in so far as they apply to the Company;

**"Company"**: means Gong Communications Ltd (Company number 04491360);

**"Company's Lien"**: has the meaning given in Article 21;

**"connected"**: has the meaning given in section 252 of the Act;

**"Controlling Interest"**: an interest in Shares conferring on the Shareholder or Shareholders control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010

**"Deemed Transfer Notice"**: a Transfer Notice which is deemed to have been served by any of the provisions of these Articles;

**"Director"**: means a director of the Company, and includes any person occupying the position of director, by whatever name called;

**"Distribution Recipient"**: means, in respect of a Share in respect of which a dividend or other sum is payable:

- (a) the holder of the Share; or
- (b) if the Share has two or more joint Shareholders, whichever of them is named first in the register of members; or
- (c) if the Shareholder is no longer entitled to the Share by reason of death or bankruptcy, or otherwise by operation of law, the Transmitttee;

**"document"**: includes, unless otherwise specified, any document sent or supplied in electronic form;

**"Drag Along Option"**: has the meaning given in Article 38.1;

**"Drag Along Notice"**: has the meaning given in Article 38.2;

**"Effective Termination Date"**: means the date on which the Employee's employment or consultancy terminates;

**"electronic form"**: has the meaning given in section 1168 of the Act;

**"electronic means"**: has the meaning given in section 1168 of the Act;

**"Eligible Director"**: means a Director who would have been entitled to vote on the matter had it been proposed as a resolution at a Directors' meeting (but excluding any Director whose vote is not to be counted in respect of that particular matter);

**"Employee"**: an individual who is, or has been, a Director and/or an employee of, or who provides or has provided consultancy services to, any Group Company;

**"Employee Shares"**: in relation to an Employee means all Shares held by:

- (a) the Employee in question; and
- (b) any Permitted Transferee of that Employee other than those Shares held by those persons that the Founder declares itself satisfied were not acquired directly or indirectly from the Employee or by reason of that person's relationship with the Employee;

**"Excess Securities"**: has the meaning given in Article 31.5.3;

**"Fair Value"**: has the meaning given in Article 35.2;

**"Family Trust"**: as regards any particular Shareholder who is an individual (or deceased or former Shareholder who is an individual) any trust (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 the particular Shareholder and/or any of the Privileged Relations of that Shareholder (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 or appointed to or for the benefit of any such person or any voting or other rights attaching thereto are exercisable by or as directed by any 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);

**"Financial Year"**: has the meaning set out in section 390 of the Act;

**"Founder"**: means Narda Shirley;

**"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"**: the Company and its subsidiaries (if any) from time to time and **Group Company** shall be construed accordingly;

**"hard copy form"**: has the meaning given in section 1168 of the Act;

**"Independent Expert"**: the auditors for the time being of the Company or, if they decline the instruction, an independent firm of accountants jointly appointed by the Company and the Seller or, in the absence of agreement between the Company and the Seller on the identity of the expert within 20 Business Days of the expiry of the 20 Business Day period referred to in Article 35.1, an independent firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants of England and Wales (in each case acting as an expert and not as an arbitrator);

**"instrument"**: means a document in hard copy form;

**"Issue Price"**: in respect of any Share, the subscription price paid (or agreed to be paid) in respect of that Share, including any share premium;

**"lien enforcement notice"**: means the notice referred to in Article 21.2;

**"Listing"**: the successful application and admission of all or any of the Shares, or securities representing such Shares (including American depositary receipts, American depositary Shares and/or other instruments) to the Official List of the Financial Conduct Authority or on the AIM market operated by the London Stock Exchange plc, or the Nasdaq National Stock Market of the Nasdaq Stock Market Inc., or to any recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000);

**"Mandatory Offer Period"**: has the meaning given in Article 37.3;

**"Member of the Same Group"**: as regards any company, a company which is from time to time a holding company or a subsidiary of that company or a subsidiary of any such holding company;

**"Minimum Transfer Condition"**: has the meaning given in Article 34.2;

**"Model Articles"**: means the model articles for private companies limited by shares contained in Schedule I to The Companies (Model Articles) Regulations 2008 (SJ 2008/3229), as amended prior to the Adoption Date;

**"New Shareholder"**: has the meaning given in Article 38.10;

**"Offer"**: has the meaning given in Article 37.2;

**"Offeree"**: has the meaning given in Article 31.4;

**"Offer Notice"**: has the meaning given in Article 37.3;

**"Offer Period"**: has the meaning given in Article 34.6;

**"ordinary resolution"**: has the meaning given in section 282 of the Act;

**"Original Shareholder"**: has the meaning given in Article 33.1;

**"Ordinary Shares"**: means the Ordinary Shares of £0.0001 each in the capital of the Company;

**"paid"**: means paid or credited as paid;

**"Permitted Transfer"**: a transfer of Shares made in accordance with Article 33;

**"Permitted Transferee"**: in relation to:

- (a) a Shareholder who is an individual, any of their Privileged Relations or the trustee(s) of a Family Trust; and
- (b) a Shareholder which is a company, a Member of the Same Group as that company;

**"persons entitled"**: has the meaning given in Model Article 36;

**"Privileged Relation"**: in relation to a Shareholder who is an individual (or a deceased or former Shareholder who is an individual) means a spouse, civil partner (as defined in the Civil Partnerships Act 2004), child or grandchild (including step or adopted or illegitimate child and their issue);

**"Proposed Buyer"**: has the meaning given in Article 38.1;

**"Proposed Transfer"**: has the meaning given in Article 37.1;

**"Relevant Officer"**: means any person who is or was at any time a Director, secretary or other officer (except an auditor) of the Company or of any undertaking in the same Group as the Company;

**"Relevant Securities"**: means any Shares or other securities convertible into, or carrying the right to subscribe for Shares, issued by the Company after the Adoption Date, other than the grant of any options under a Share Option Plan (and the issue of any shares on exercise of any such options);

**"Restricted Shares"**: has the meaning given in Article 36.3;

**"Sale Date"**: has the meaning given in Article 37.3;

**"Sale Shares"**: has the meaning given in Article 34.2;

**"Seller"**: has the meaning given in Article 34.2;

**"Sellers' Shares"**: has the meaning given in Article 38.1;

**"Selling Shareholders"**: has the meaning given in Article 38.1;

**"Shareholder"**: means the holder of any Share or Shares from time to time;

**"Share Option Plan"**: means a share option plan established by the Company for the benefit of the Directors, managers and key employees;

**"Shares"**: means the Ordinary Shares and B Ordinary Shares in the capital of the Company from time to time and **"Share"** shall be construed accordingly;

**"special resolution"**: has the meaning given in section 283 of the Act;

**"subsidiary"**: has the meaning given in section 1159 of the Act;

**"Surplus Shares"**: has the meaning given in Article 34.7;

**"Tag Offeree"**: has the meaning given in Article 37.2;

**"Transfer Notice"**: has the meaning given in Article 34.2;

**"Transfer Price"**: has the meaning given in Article 35.1;

**"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.

1.2 Unless the context otherwise requires, other words or expressions contained in the articles bear the same meaning as in the Act as in force on the date when the articles become binding on the Company.

1.3 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles (but excluding any statutory modification of them not in force on the Adoption Date).



1.4 A reference in these Articles to:

1.4.1 an **Article** is a reference to the relevant numbered article of these Articles; and

1.4.2 a **Model Article** is a reference to the relevant numbered article of the Model Articles, unless expressly provided otherwise.

1.5 Except where the contrary is stated or the context otherwise requires, any reference in the articles to a statute or statutory provision includes any order, regulation, instrument or other subordinate legislation made under it for the time being in force, and any reference to a statute, statutory provision, order, regulation, instrument or other subordinate legislation includes any amendment, extension, consolidation, re-enactment or replacement of it for the time being in force.

1.6 Words importing the singular number only include the plural and vice versa. Words importing the masculine gender include the feminine and neuter gender. Words importing persons include corporations.

## **2. Adoption of the Model Articles**

2.1 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles or regulations set out in any statute or in any statutory instrument or other subordinate legislation.

2.2 Model Articles 9(3), 14(1) to (4) (inclusive), 36(3) and (5) and 51 to 53 (inclusive) shall not apply to the Company.

2.3 Model Article 29 shall be amended by the insertion of the words", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under Model Article 28(2)," after the words "the transmittee's name".

## **3. Liability of Shareholders**

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

## **PART2 DIRECTORS**

### **GENERAL**

#### **4. Number of Directors**

Unless otherwise determined by ordinary resolution, the number of Directors shall not exceed five.

### **DIRECTORS' POWERS AND RESPONSIBILITIES**

#### **5. Directors' general authority and B Corps purpose**

- 5.1 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.
- 5.2 The purposes of the Company are to promote the success of the Company for the benefit of its members as a whole and, through its business and operations, to have a material positive impact on society and the environment, taken as a whole.
- 5.3 A director shall have regard (amongst other matters) to
  - 5.3.1 the likely consequences of any decision in the long term,
  - 5.3.2 the interests of the Company's employees,
  - 5.3.3 the need to foster the Company's business relationships with suppliers, customers and others,
  - 5.3.4 the impact of the Company's operations on the community and the environment,
  - 5.3.5 the desirability of the Company maintaining a reputation for high standards of business conduct, and
  - 5.3.6 the need to act fairly as between members of the Company,

(together, the matters referred to above shall be defined for the purposes of this article as the "Stakeholder Interests")

- 5.4 For the purposes of a director's duty to act in the way he or she considers, in good faith, most likely to promote the success of the Company, a director shall not be required to regard the benefit of any particular Stakeholder Interest or group of Stakeholder Interests as more important than any other
- 5.5 Nothing in this article express or implied, is intended to or shall create or grant any right or any cause of action to, by or for any person (other than the Company)
- 5.6 The directors shall for each financial year of the Company prepare a strategic report as if section 414A(l) of the Companies Act 2006 (as in force at the date of the adoption of these articles) and those provisions of section 414C of the Companies Act 2006 applicable to non-quoted companies (as in force at the date of the adoption of these articles) apply to the Company whether or not they would be required to do so otherwise than by this article

#### **6. Power to change the Company's name**

The Directors may from time to time change the name of the Company to any name considered by the Directors to be advantageous, expedient or otherwise desirable.

**7. Shareholders' reserve power**

- 7.1 The Ordinary Shareholders may, by special resolution, direct the Directors to take, or refrain from taking, specified action.
- 7.2 No such special resolution invalidates anything which the Directors have done before the passing of the resolution.

**8. Directors may delegate**

- 8.1 Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles:

- 8.1.1 to such person or committee;
- 8.1.2 by such means (including by power of attorney);
- 8.1.3 to such an extent;
- 8.1.4 in relation to such matters or territories; and
- 8.1.5 on such terms and conditions

as they think fit. The power to delegate shall be effective in relation to the powers, authorities and discretions of the Directors generally and shall not be limited by the fact that in certain of the Articles, but not in others, express reference is made to particular powers, authorities or discretions being exercised by the Directors or by a committee authorised by the Directors.

- 8.2 If the Directors so specify, any such delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.
- 8.3 The Directors may revoke any delegation in whole or part, or alter its terms and conditions.

**9. Committees**

- 9.1 Committees to which the Directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the Articles which govern the taking of decisions by Directors.
- 9.2 A member of a committee need not be a Director.
- 9.3 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**

**10. Calling a Directors' meeting**

- 10.1 Model Article 9(3) shall be amended by the insertion of the words "provided that, if a Director is absent (whether habitually or temporarily) from the United Kingdom, the Company has an address for sending or receiving documents or information by electronic means to or from that Director outside the United Kingdom" after "each Director".

## **11. Quorum for Directors' meetings**

11.1 The quorum for Directors' meetings may be fixed from time to time by a decision of the Directors and unless otherwise fixed it is two provided that:

11.1.1 if and so long as there is only one Director the quorum shall be one; and

11.1.2 for the purposes of any meeting held pursuant to Article 14 to authorise a Director's conflict, if there is only one Director besides the Director concerned and Directors with a similar interest, the quorum shall be one.

## **12. Appointment and Removal of Directors**

12.1 The Directors may appoint, remove or replace any person as chairman of the board of Directors (**Chairman**). If there is no Chairman in office for the time being, or the Chairman is unable to attend any meeting of the Directors, the Directors present at the meeting may appoint another Director present at the meeting to chair the meeting.

12.2 Model Article 17(1) shall be modified by:

12.2.1 The insertion of the words "of the Ordinary Shareholders" after the words "by ordinary resolution"; and

12.2.2 the inclusion at the end of that Model Article, of the words "provided that the appointment does not cause the number of Directors to exceed the maximum number set out in Article 4".

12.3 If the Company has no Directors and, by virtue of death or bankruptcy, no Ordinary Shareholder is capable of acting, the Transmittée of the last Ordinary Shareholder to have died or to have had a bankruptcy order made against them has the right, by notice in writing, to appoint a person to be a Director.

12.4 For the purposes of Article 12.3, where two or more Ordinary Shareholders die in circumstances rendering it uncertain who was the last to die, a younger Ordinary Shareholder is deemed to have survived an older Ordinary Shareholder.

## **13. Directors' Interests**

Except to the extent that Article 14 applies or the terms of any authority given under that Article otherwise provide, and without prejudice to such disclosure as is required under the Act, a Director may be a party to, or otherwise interested in, any transaction or arrangement with the Company and shall be entitled to participate in the decision-making process for quorum and voting purposes on any resolution concerning a matter in which they have, directly or indirectly, an interest or duty that conflicts or may conflict with the interests of the Company.

## **14. Directors' Conflicts**

14.1 Subject to the provisions of the Act and provided that they have disclosed to the Directors the nature and extent of any material interest of theirs, a Director may, notwithstanding their office or that, without the authorisation conferred by this Article 14.1, they would or might be in breach of their duty under the Act to avoid conflicts of interest, be a Director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any undertaking in the same Group as the Company, or promoted by the Company or by any undertaking in the same Group as the Company, or in which the Company or any undertaking in the same Group as the Company is otherwise interested.

14.2 No Director shall:

- 14.2.1 by reason of their office, be accountable to the Company for any benefit which they derive from any office or employment, or from any transaction or arrangement, or from any interest in any undertaking, that is authorised under Article 14.1 (and no such benefit shall constitute a breach of the duty under the Act not to accept benefits from third parties, and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit);
- 14.2.2 be in breach of their duties as a Director by reason only of them excluding themselves from the receipt of information, or from participation in decision-making or discussion (whether at meetings of the Directors or otherwise), that will or may relate to any office, employment, transaction, arrangement or interest that is authorised under Article 14.1; or
- 14.2.3 be required to disclose to the Company, or use in relation to the Company's affairs, any confidential information obtained by them in connection with any office, employment, transaction, arrangement or interest that is authorised under Article 14.1 if their doing so would result in a breach of a duty or an obligation of confidence owed by them in that connection.

14.3 A general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified; and an interest of which a Director has no knowledge and of which it is unreasonable to expect them to have knowledge shall not be treated as an interest of theirs.

14.4 The Directors may, if the quorum and voting requirements set out below are satisfied, authorise any matter that would otherwise involve a Director breaching their duty under the Act to avoid conflicts of interest, and any Director (including the Director concerned) may propose that the Director concerned be authorised in relation to any matter the subject of such a conflict provided that:

- 14.4.1 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 resolved upon by the Directors

under the provisions of the Articles, except that the Director concerned and any other Director with a similar interest:

- (a) shall not be counted for quorum purposes as participating in the decision-making process while the conflict is under consideration;
- (b) may, if the other Directors so decide, be excluded from participating in the decision-making process while the conflict is under consideration; and
- (c) shall not vote on any resolution authorising the conflict except that, if any such Director does vote, the resolution will still be valid if it would have been agreed to if their votes had not been counted; and

14.4.2 where the Directors give authority in relation to such a conflict:

- (a) they may (whether at the time of giving the authority or at any time or times subsequently) impose such terms upon the Director concerned and any other Director with a similar interest as they may determine, including, without limitation, the exclusion of that Director and any other Director with a similar interest from the receipt of information, or participation in any decision-making or discussion (whether at meetings of the Directors or otherwise) related to the conflict;
- (b) the Director concerned and any other Director with a similar interest will be obliged to conduct themselves in accordance with any terms imposed from time to time by the Directors in relation to the conflict but will not be in breach of their duties as a Director by reason of their doing so;
- (c) the authority may provide that, where the Director concerned and any other Director with a similar interest obtains information that is confidential to a third party, the Director will not be obliged to disclose that information to the Company, or to use the information in relation to the Company's affairs, where to do so would amount to a breach of that confidence;
- (d) the authority may also provide that the Director concerned or any other Director with a similar interest shall not be accountable to the Company for any benefit that they receive as a result of the conflict;
- (e) the receipt by the Director concerned or any other Director with a similar interest of any remuneration or benefit as a result of the conflict shall not constitute a breach of the duty under the Act not to accept benefits from third parties;
- (f) 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
- (g) the Directors may withdraw such authority at any time.

14.5 Subject to Article 14.6, if a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chairman, whose ruling in relation to any Director other than the Chairman is to be final and conclusive.

14.6 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chairman, the question is to be decided by a decision of the Directors at that meeting, for which purpose the Chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

## **ALTERNATE DIRECTORS**

### **15. Appointment and removal of alternate Directors**

- 15.1 Any Director may appoint as an alternate any other Director, or any other person, to:
- 15.1.1 exercise that Director's powers; and
  - 15.1.2 carry out that Director's responsibilities,
- in relation to the taking of decisions by the Directors, in the absence of the alternate's appointor.
- 15.2 Any appointment or removal of an alternate must identify the proposed alternate and be effected by notice in writing to the Company signed by their appointor, or in any other manner approved by the Directors.

### **16. Rights and responsibilities of alternate Directors**

- 16.1 An alternate Director may act as alternate Director to more than one Director and has the same rights in relation to any decision of the Directors as the alternate's appointor.
- 16.2 Except as the Articles specify otherwise, alternate Directors:
- 16.2.1 are deemed for all purposes to be Directors;
  - 16.2.2 are liable for their own acts and omissions;
  - 16.2.3 are subject to the same restrictions as their appointors; and
  - 16.2.4 are not deemed to be agents of or for their appointors
- and, in particular (without limitation), each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which their appointor is a Director.
- 16.3 A person who is an alternate Director but not a Director:
- 16.3.1 may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating);
  - 16.3.2 may participate in a unanimous decision of the Directors (but only if their appointor is an Eligible Director, but does not participate); and
  - 16.3.3 shall not be counted as more than one Director for the purposes of Model Articles 19 (3)(a) and (b).
- 16.4 A Director who is also an alternate Director is entitled, in the absence of their appointor, to a separate vote on behalf of their appointor, in addition to their own vote on any decision of the Directors (provided that their appointor is an Eligible Director), but shall not count as more than one Director for the purposes of determining whether a quorum is present.
- 16.5 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company.

**17. Termination of alternate directorship**

An alternate Director's appointment as an alternate terminates:

- 17.1.1 when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
- 17.1.2 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;
- 17.1.3 on the death of the alternate's appointor;
- 17.1.4 when the alternate's appointor's appointment as a Director terminates; or
- 17.1.5 when the alternate is removed in accordance with the Articles.



## **PART3**

### **SHARES AND DISTRIBUTIONS**

#### **SHARES**

#### **18. Rights attaching to Shares**

- 18.1 The share capital of the Company shall comprise Ordinary Shares and B Ordinary Shares. The Ordinary Shares and B Ordinary Shares shall rank *pari passu* in all respects, save as provided in (but not limited to) Articles 7.1, 12.2, 12.3, 18.2, 31, 34, 38 and 42.
- 18.2 The B Ordinary Shares shall have no voting rights attached to them (save as provided in Article 30.1), and B Ordinary Shareholders shall not have the right to receive notices of any general meetings, or the right to attend at such general meetings.

#### **19. Payment of commissions on subscription for Shares**

- 19.1 The Company may pay any person a commission in consideration for that person:
- 19.1.1 subscribing, or agreeing to subscribe, for Shares; or
  - 19.1.2 procuring, or agreeing to procure, subscription for Shares.
- 19.2 Any such commission may be paid:
- 19.2.1 in cash, or in fully paid or partly paid Shares or other securities, or partly in one way and partly in the other; and
  - 19.2.2 in respect of a conditional or an absolute subscription.

#### **20. Fractional entitlements**

- 20.1 Where there has been a consolidation or division of Shares and, as a result, Shareholders are entitled to fractions of Shares, the Directors may:
- 20.1.1 sell the Shares representing the fractions to any person including the Company for the best price reasonably obtainable;
  - 20.1.2 authorise any person to execute an instrument of transfer of the Shares to the purchaser or a person nominated by the purchaser; and
  - 20.1.3 distribute the net proceeds of sale in due proportion among the Shareholders of the Shares.
- 20.2 Where any Shareholder's entitlement to a portion of the proceeds of sale under Article 20.1 amounts to less than a minimum figure determined by the Directors, that Shareholder's portion may be retained for the benefit of the Company.
- 20.3 The person to whom the Shares are transferred pursuant to Article 20.1 is not obliged to ensure that any purchase money is received by the person entitled to the relevant fractions. The transferee's title to the Shares is not affected by any irregularity in or invalidity of the process leading to their sale.

## LIEN AND FORFEITURE

### 21. Company's Lien over Shares

21.1 The Company has a lien (the **Company's Lien**) over every Share, whether or not fully paid, which is registered in the name of any person indebted or under any liability to the Company, whether they are the sole registered holder of the Share or one of several joint holders, for all monies payable by them (either alone or jointly with any other person) to the Company, whether payable immediately or at some time in the future.

### 21.2 Enforcement of the Company's Lien

21.2.1 Subject to the provisions of this Article 21, if:

- (a) a lien enforcement notice has been given in respect of a Share; and
  - (b) the person to whom the notice was given has failed to comply with it,
- the Company may sell that Share in such manner as the Directors decide.

21.2.2 A lien enforcement notice:

- (a) may only be given in respect of a Share which is subject to the Company's Lien, in respect of which a sum is payable and the due date for payment of that sum has passed;
- (b) must specify the Share concerned;
- (c) must require payment of the sum within 14 clear days of the notice;
- (d) must be addressed either to the holder of the Share or to a Transmittée of that holder; and
- (e) must state the Company's intention to sell the Share if the notice is not complied with.

21.2.3 Where Shares are sold under this Article 21:

- (a) the Directors may authorise any person to execute an instrument of transfer of the Shares to the purchaser or to a person nominated by the purchaser; and
- (b) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in, or invalidity of, the process leading to the sale.

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

- (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice; and
- (b) second, to the person entitled to the Shares at the date of the sale, but only after the certificate for the Shares sold has been surrendered to the Company for cancellation, or an indemnity in a form reasonably satisfactory to the Directors has been given for any lost certificates, and subject to a lien equivalent to the Company's Lien over the Shares before the sale for any money payable (whether immediately or at some time in the future) after the date of the lien enforcement notice.

21.2.5 A statutory declaration by a Director or the Company secretary (if any) that the declarant is a Director or the Company secretary and that a Share has been sold to satisfy the Company's Lien on a specified date:

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

## **22. Notice of intended forfeiture**

22.1 A notice of intended forfeiture:

- 22.1.1 may be sent in respect of any Share in respect of which a call has not been paid as required by a call notice;
- 22.1.2 must be sent to the holder of that Share (or all the joint holders of that Share) or to a Transmittree of that holder;
- 22.1.3 must require payment of the call and any accrued interest and all expenses that may have been incurred by the Company by reason of such non-payment by a date which is not less than 14 clear days after the date of the notice;
- 22.1.4 must state how the payment is to be made; and
- 22.1.5 must state that, if the notice is not complied with, the Shares in respect of which the call is payable will be liable to be forfeited.

## **23. Directors' power to forfeit Shares**

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

## **24. Effect of forfeiture**

24.1 Subject to the Articles, the forfeiture of a Share extinguishes:

- 24.1.1 all interests in that Share, and all claims and demands against the Company in respect of it; and
- 24.1.2 all other rights and liabilities incidental to the Share as between the person whose Share it was prior to the forfeiture and the Company.

24.2 Any Share which is forfeited in accordance with the Articles:

- 24.2.1 is deemed to have been forfeited when the Directors decide that it is forfeited;
- 24.2.2 is deemed to be the property of the Company; and
- 24.2.3 may be sold, re-allotted or otherwise disposed of as the Directors think fit.

24.3 If a person's Shares have been forfeited:

- 24.3.1 the Company must send that person notice that forfeiture has occurred and record it in the register of members;

- 24.3.2 that person ceases to be a Shareholder in respect of those Shares;
  - 24.3.3 that person must surrender the certificate for the Shares forfeited to the Company for cancellation;
  - 24.3.4 that person remains liable to the Company for all sums payable by that person under the Articles at the date of forfeiture in respect of those Shares, including any interest (whether accrued before or after the date of forfeiture); and
  - 24.3.5 the Directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal.
- 24.4 At any time before the Company disposes of a forfeited Share, the Directors may decide to cancel the forfeiture on payment of all calls, interest and expenses due in respect of it and on such other terms as they think fit.
- 25. Procedure following forfeiture**
- 25.1 If a forfeited Share is to be disposed of by being transferred, the Company may receive the consideration for the transfer and the Directors may authorise any person to execute the instrument of transfer.
- 25.2 A statutory declaration by a Director or the Company secretary that the declarant is a Director or the Company secretary and that a Share has been forfeited on aspecified date:
- 25.2.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share; and
  - 25.2.2 subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the Share.
- 25.3 A person to whom a forfeited Share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the Share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the Share.
- 25.4 If the Company sells a forfeited Share, the person who held it prior to its forfeiture is entitled to receive from the Company the proceeds of such sale, net of any commission, and excluding any amount which:
- 25.4.1 was, or would have become, payable; and
  - 25.4.2 had not, when that Share was forfeited, been paid by that person in respect of that Share,
- but no interest is payable to such a person in respect of such proceeds and the Company is not required to account for any money earned on them.
- 26. Surrender of Shares**
- 26.1 A Shareholder may surrender any Share:
- 26.1.1 in respect of which the Directors may issue a notice of intended forfeiture;
  - 26.1.2 which the Directors may forfeit; or
  - 26.1.3 which has been forfeited.

- 26.2 The Directors may accept the surrender of any such Share.
- 26.3 The effect of surrender on a Share is the same as the effect of forfeiture on that Share.
- 26.4 A Share which has been surrendered may be dealt with in the same way as a Share which has been forfeited.

## **DIVIDENDS AND OTHER DISTRIBUTIONS**

### **27. Dividends**

- 27.1 In respect of any Financial Year, the Company's Available Profits will be applied as set out in this Article 27.
- 27.2 Any Available Profits which the Company may determine to distribute in respect of any Financial Year, will be distributed among the holders of the Shares pro rata to their respective holdings of Shares.
- 27.3 Subject to the Act and these Articles, the Board may pay interim dividends if justified by the Available Profits in respect of the relevant period.
- 27.4 Every dividend shall accrue on a daily basis assuming a 365 day year. All dividends are expressed net and shall be paid in cash.
- 27.5 If there are nil paid or partly paid Share(s), any holder of such Share(s) shall only be entitled, in case of any dividend, to be paid an amount equal to the amount of the dividend multiplied by the percentage of the amount that is paid up (if any) on such Share(s) during any portion or portions of the period in respect of which a dividend is paid.

### **28. Deductions from distributions in respect of sums owed to the Company**

- 28.1 If:
- 28.1.1 a Share is subject to the Company's Lien; and
- 28.1.2 the Directors are entitled to issue a lien enforcement notice in respect of it,
- they may, instead of issuing a lien enforcement notice, deduct from any dividend or other sum payable in respect of the Share any sum of money which is payable to the Company in respect of that Share to the extent that they are entitled to require payment under a lien enforcement notice.
- 28.2 Money so deducted must be used to pay any of the sums payable in respect of that Share.
- 28.3 The Company must notify the Distribution Recipient in writing of:
- 28.3.1 the fact and amount of any such deduction;
- 28.3.2 any non-payment of a dividend or other sum payable in respect of a Share resulting from any such deduction; and
- 28.3.3 how the money deducted has been applied.

### **29. Liquidation Preference**

On a distribution of assets on liquidation, capital reduction or otherwise (other than a conversion or purchase of Shares), the surplus assets of the Company remaining after the payment of its

liabilities shall be (to the extent that the Company is lawfully able to do so) distributed to the Shareholders pro rata to the number of Shares held.

**30. Variation Of Class Rights**

- 30.1 Whenever the share capital of the Company is divided into different classes of Shares, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding up) with the consent in writing of the holders of at least 75% in nominal value of the issued Shares of that class (excluding any holder(s) of Restricted Shares).
- 30.2 The creation of a new class of Shares which has preferential rights to one or more existing classes of Shares shall not constitute a variation of the rights of those existing classes of shares.

**31. Pre-emption rights on the issue of further Shares**

- 31.1 Subject to the remaining provisions of this Article 31, the Directors are generally and unconditionally authorised, for the purposes of section 551 of the Act, to exercise any power of the Company to:

- 31.1.1 offer or allot;
- 31.1.2 grant rights to subscribe for or to convert any security into; and
- 31.1.3 otherwise deal in, or dispose of,

any Shares (or any options, warrants, conversion rights and all other rights to acquire or subscribe for Shares) to any person, at any time and subject to any terms and conditions as the Directors think proper.

- 31.2 The authority referred to in Article 31.1:

- 31.2.1 shall be limited to a maximum nominal amount of £100 of Shares;
- 31.2.2 shall only apply insofar as the Company has not, subject to these Articles, renewed, waived or revoked it by ordinary resolution; and
- 31.2.3 may only be exercised for a period of five years from the Adoption Date save that, subject to these Articles, the Directors may make an offer or agreement which would, or might, require any Shares to be allotted after the expiry of such authority (and the Directors may allot Shares in pursuance of an offer or agreement as if such authority had not expired).

- 31.3 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.

- 31.4 Unless otherwise agreed by special resolution if the Company proposes to allot any Relevant Securities, those Relevant Securities shall not be allotted to any person unless the Company has first offered them to the Ordinary Shareholders (on the date of the offer) of the Shares (each an **Offeree**) on a pari passu basis (as if they constituted Shares of the same class) and in the respective proportions that the number of Ordinary Shares held by each such Ordinary Shareholder bears to the total number of Ordinary Shares held by such Shareholders (as nearly as possible without involving fractions) and on the same terms, and at the same price, as those Relevant Securities are being, or are to be, offered to any other person.

- 31.5 An offer made under Article 31.4 shall:

- 31.5.1 be in writing and give details of the number, class and subscription price (including any share premium) of the Relevant Securities being offered;
  - 31.5.2 remain open for a period of at least 30 Business Days from the date of service of the offer; and
  - 31.5.3 stipulate that any Offeree who wishes to subscribe for a number of Relevant Securities in excess of the number to which they are entitled under Article 31.4 shall, in their acceptance, state the number of excess Relevant Securities (**Excess Securities**) for which they wish to subscribe.
- 31.6 If, on the expiry of an offer made in accordance with Article 31.4, the total number of Relevant Securities applied for is less than the total number of Relevant Securities so offered, the Directors shall allot the Relevant Securities to the Offerees in accordance with their applications, subject to a maximum of each Offeree's proportionate entitlement.
- 31.7 Any Relevant Securities not accepted by Offerees pursuant to an offer made in accordance with Article 31.4 shall be used to satisfy any requests for Excess Securities made pursuant to Article 31.5.3. If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants in the respective proportions that the number of Shares held by each such applicant bears to the total number of such Shares held by all applicants (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any Ordinary Shareholder beyond that applied for by them).
- 31.8 If, after completion of the allotments referred to in Articles 31.6 and 31.7, not all of the Relevant Securities have been allotted, the balance of such Relevant Securities shall, subject to Article 31.9 be offered to any other person(s) as the Directors may determine, at the same price and on the same terms as the offer to the Ordinary Shareholders.
- 31.9 No Shares shall be allotted to any current or prospective Employee or Director of any Group Company unless such person shall first have entered into a joint election with the relevant Group Company under section 431 of the Income Tax (Earnings and Pensions) Act 2003.

## **TRANSFERS OF SHARES**

### **32. Transfers of Shares: general**

- 32.1 In these Articles, reference to the transfer of a Share includes the transfer, assignment or other disposal of a beneficial or other interest in that Share, or the creation of a trust or encumbrance over that Share, and reference to a Share includes a beneficial or other interest in a Share.
- 32.2 No Share shall be transferred to any person, and the Directors shall refuse to register a transfer of any Share, unless it is made in accordance with these Articles. Subject to Article 32.5, the Directors shall register any duly stamped transfer made in accordance with these Articles, unless they suspect that the proposed transfer may be fraudulent.
- 32.3 If a Shareholder transfers (or purports to transfer) a Share other than in accordance with these Articles, they shall, save with the approval of the Board to the contrary, be deemed to have immediately served a Transfer Notice in respect of all Shares held by them.
- 32.4 Unless expressly provided otherwise in these Articles, if a Transfer Notice is deemed to have been given under these Articles, the Deemed Transfer Notice shall be treated as having specified that:
- 32.4.1 it does not contain a Minimum Transfer Condition; and

- 32.4.2 the Seller wishes to transfer all the Shares held by them (including any Shares acquired after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Transfer Notice).
- 32.5 Any Transfer Notice (but not an Offer Notice (as defined in Article 37) or a Drag Along Notice (as defined in Article 38.2)) served in respect of the transfer of any Share which has not completed before the date of service of a Deemed Transfer Notice shall (save with Board approval to the contrary) automatically be revoked by the service of a Deemed Transfer Notice.
- 33. Permitted transfers of Shares**
- 33.1 A Shareholder (the **Original Shareholder**) may transfer all or any of their or its Shares to a Permitted Transferee.
- 33.2 Where Shares are held by the trustee(s) of a Family Trust, the trustee(s) may transfer Shares to:
- 33.2.1 the Original Shareholder;
- 33.2.2 any Privileged Relation(s) of the Original Shareholder;
- 33.2.3 subject to Article 33.3, the trustee(s) of another Family Trust of which the Original Shareholder is the Settlor; or
- 33.2.4 subject to Article 33.3, to the new (or remaining) trustee(s) upon a change of trustee(s) of a Family Trust,
- without any price or other restriction.
- 33.3 A transfer of Shares may only be made to the trustee(s) of a Family Trust if the Board is satisfied:
- 33.3.1 with the terms of the trust instrument and, in particular, with the powers of the trustee(s);
- 33.3.2 with the identity of the proposed trustee(s); and
- 33.3.3 that no costs incurred in connection with the setting up or administration of that Family Trust are to be paid by the Company.
- 33.4 If the Original Shareholder is a company, and a Permitted Transfer has been made, the Permitted Transferee shall, within 10 Business Days of ceasing to be a Member of the Same Group as the Original Shareholder, transfer the Shares held by it to:
- 33.4.1 the Original Shareholder; or
- 33.4.2 a Member of the Same Group as the Original Shareholder,
- (which in either case is not in liquidation), without any price or other restriction. If the Permitted Transferee fails to make a transfer in accordance with this Article 33.4, a Transfer Notice shall be deemed to have been given in respect of such Shares on the expiry of the period set out in this Article 33.4.
- 33.5 If the Original Shareholder is an individual and a Permitted Transfer has been made to a Privileged Relation of the Original Shareholder, the Permitted Transferee (or the Transmitttee(s) of any such person), shall within 10 Business Days of ceasing to be a Privileged Relation of the Original Shareholder (whether by reason of death, divorce or otherwise) either:



33.5.1 execute and deliver to the Company a transfer of the Shares held by them to the Original Shareholder (or to any Permitted Transferee of the Original Shareholder) for such consideration as may be agreed between them; or

33.5.2 give a Transfer Notice to the Company in accordance with Article 34,

failing which a Transfer Notice shall be deemed to have been given in respect of such Shares on the expiry of the period set out in this Article 33.5. This Article 33.5 shall not apply to a Transmittree of a Permitted Transferee if that Transmittree is also a Permitted Transferee of the Original Shareholder, to the extent that such Transmittree is legally or beneficially entitled to those Shares.

33.6 Notwithstanding any other provision of this Article 33, a transfer of any Shares approved by the Directors (acting with the consent of the Founder) may be made without any price or other restriction and any such transfer shall be registered by the Directors.

#### **34. Pre-emption rights on the transfer of Shares**

34.1 Except where the provisions of Article 33, Article 37 or Article 38 apply, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights in this Article 34.

34.2 A Shareholder who wishes to transfer Shares (a **Seller**) shall, before transferring or agreeing to transfer any Shares, give notice in writing (a **Transfer Notice**) to the Company specifying:

34.2.1 subject to Article 32.4.2, the number of Shares they wish to transfer (**Sale Shares**);

34.2.2 the name of the proposed transferee, if any;

34.2.3 the price per Sale Share (in cash), if any, at which they wish to transfer the Sale Shares; and

34.2.4 subject to Article 32.4.1, whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold (a **Minimum Transfer Condition**).

34.3 Once given, a Transfer Notice may only be withdrawn with approval of the Board.

34.4 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price.

34.5 As soon as practicable following the later of:

34.5.1 receipt of a Transfer Notice (or in the case of a Deemed Transfer Notice, the date such notice is deemed to be served); and

34.5.2 the determination of the Transfer Price,

the Directors shall (unless the Transfer Notice is withdrawn in accordance with Article 34.3) offer the Sale Shares for sale in the manner set out in the remaining provisions of this Article 34 at the Transfer Price. Each offer shall be in writing and shall give details of the number and Transfer Price of the Sale Shares offered.

34.6 The Directors shall offer the Sale Shares to the Ordinary Shareholders (other than the Seller), inviting them to apply in writing within the period from the date of the offer to the date 20 Business Days after the offer (both dates inclusive) (the **Offer Period**) for the maximum number of Sale Shares they wish to buy.

- 34.7 If:
- 34.7.1 at the end of the Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Directors shall allocate the Sale Shares to each Ordinary Shareholder who has applied for Sale Shares in the proportion which their existing holding of Ordinary Shares bears to the total number of Ordinary Shares in issue (excluding any Ordinary Shares held by the Seller). Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Sale Shares being allocated, in which case, the allocation of any such fractional entitlements shall be determined by the Directors). No allocation shall be made to a holder of more than the maximum number of Sale Shares which they have stated they are willing to buy;
  - 34.7.2 not all Sale Shares are allocated following allocations in accordance with Article 34.7.1, but there are applications for Sale Shares that have not been satisfied, the Directors shall allocate the remaining Sale Shares to such applicants in accordance with the procedure set out in Article 34.7.1. The procedure set out in this Article 34.7.2 shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and
  - 34.7.3 at the end of the Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Directors shall allocate the Sale Shares to the Ordinary Shareholders in accordance with their applications. The balance (the **Surplus Shares**) shall, subject to 34.8 be offered to any other person in accordance with 34.12.
- 34.8 Where the Transfer Notice contains a Minimum Transfer Condition:
- 34.8.1 any allocation made under Articles 34.6 and 34.7 shall be conditional on the fulfilment of the Minimum Transfer Condition; and
  - 34.8.2 if the total number of Sale Shares applied for under Articles 34.6 and 34.7 is less than the number of Sale Shares, the Board shall notify the Seller and all those Shareholders to whom Sale Shares have been conditionally allocated stating that the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.
- 34.9 Where either:
- 34.9.1 the Transfer Notice does not contain a Minimum Transfer Condition; or
  - 34.9.2 allocations have been made in respect of all the Sale Shares,
- the Directors shall, when no further offers or allocations are required to be made under Articles 34.6 and 34.7, give notice in writing of the allocations of Sale Shares (an **Allocation Notice**) to the Seller and each Ordinary Shareholder to whom Sale Shares have been allocated (each an **Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant and the place and time for completion of the transfer of the Sale Shares (which shall be at least 10 Business Days, but not more than 20 Business Days, after the date of the Allocation Notice).
- 34.10 On the date specified for completion in the Allocation Notice, the Seller shall, against payment from an Applicant, transfer the Sale Shares allocated to such Applicant, in accordance with any requirements specified in the Allocation Notice.
- 34.11 If the Seller fails to comply with Article 34.10:
- 34.11.1 the Chairman (or, failing them, any other Director or some other person nominated by a resolution of the Directors) may, as agent and attorney on behalf of the Seller:

- (a) complete, execute and deliver in their name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
  - (b) receive the Transfer Price and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Transfer Price); and
  - (c) (subject to the transfer being duly stamped) enter the Applicants in the register of members as the holders of the Shares purchased by them; and
- 34.11.2 the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until they have delivered their certificate(s) for the relevant Shares (or an indemnity, in a form reasonably satisfactory to the Directors, in respect of any lost certificate, together with such other evidence (if any) as the Board may reasonably require to prove good title to those Shares) to the Company.
- 34.12 Where a Transfer Notice lapses pursuant to Article 34.8.2 or an Allocation Notice does not relate to all the Sale Shares, then, subject to Article 34.13 and Article 34.14, the Seller may, at any time during the 20 Business Days following the date of lapse of the Transfer Notice, or the date of service of the Allocation Notice as the case may be, transfer the Sale Shares (in the case of a lapsed offer) or the Surplus Shares (as the case may be) to any person at a price at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this Article 34.12 shall continue to be subject to any Minimum Transfer Condition.
- 34.13 The Seller's right to transfer Shares under Article 34.12 does not apply if the Directors reasonably consider that:
  - 34.13.1 the transferee is a person (or a nominee for a person) whom the Board determines to be a competitor (or a Member of the Same Group as a competitor) of the business of any Group Company;
  - 34.13.2 the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee;
  - 34.13.3 the Seller has failed or refused to promptly provide information available to them and reasonably requested to enable it to form the opinion referred to in Article 34.13.2; or
  - 34.13.4 the Company chooses to exercise its option to purchase B Ordinary Shares under Article 34.14.
- 34.14 Where the Seller would, but for the application of this Article 34.14, have the right to transfer B Ordinary Shares under Article 34.12, the Company itself may choose to buy back the Sale Shares or Surplus Shares (as the case may be) at a price at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) to the Company in accordance with this Article 34.14 shall continue to be subject to any Minimum Transfer Condition.
- 35. Valuation**
  - 35.1 The **Transfer Price** for each Sale Share the subject of a Transfer Notice (or Deemed Transfer Notice) shall, save where expressly provided otherwise in these Articles, be the price per Sale Share (in cash) agreed between the Directors (any Director with whom the Seller is connected not voting), and the Seller or, in default of agreement within 20 Business Days of the date of service of the Transfer Notice (or, in the case of a Deemed Transfer Notice, the date on which the board of Directors first has actual knowledge of the facts giving rise to such deemed service), the Fair Value of each Sale Share.

- 35.2 The **Fair Value** shall be the price per Sale Share determined by the Independent Expert on the following bases and assumptions:
- 35.2.1 valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer as at the date the Transfer Notice was served (or deemed served);
  - 35.2.2 if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - 35.2.3 that the Sale Shares are capable of being transferred without restriction;
  - 35.2.4 valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent; and
  - 35.2.5 reflecting any other factors which the Independent Expert reasonably believes should be taken into account.
- 35.3 If any difficulty arises in applying any of these assumptions or bases then the Independent Expert shall resolve that difficulty in whatever manner it shall in its absolute discretion think fit.
- 35.4 The Directors will give the Independent Expert access to all accounting records or other relevant documents of the Group, subject to it agreeing such confidentiality provisions as the Directors may reasonably impose.
- 35.5 The parties are entitled to make submissions to the Independent Expert and shall provide (or procure that others provide) the Independent Expert with such assistance and documents as the Independent Expert may reasonably require for the purpose of reaching a decision.
- 35.6 The Independent Expert shall act as expert and not as arbitrator and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 35.7 The Independent Expert shall be requested to determine the Fair Value within 15 Business Days of its appointment and to deliver its certificate to the Company. Forthwith upon receipt, the Company shall deliver a copy of the certificate to the Seller.
- 35.8 The cost of obtaining the Independent Expert's certificate shall be borne by the parties equally or in such other proportions as the Independent Expert directs unless:
- 35.8.1 the Seller withdraws the relevant Transfer Notice in accordance with Article 34.3; or
  - 35.8.2 in respect of a Deemed Transfer Notice, the Fair Value is less than the price per Sale Share offered to the Seller by the Directors before the appointment of the Independent Expert,
- in which case the Seller shall bear the cost.

## **36. Compulsory transfers**

- 36.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder (or equivalent procedure in any jurisdiction outside England and Wales) shall be deemed to have given a Transfer Notice in respect of that Share at such time as the Directors may determine.
- 36.2 If a Shareholder which is a body corporate either suffers or resolves to appoint a liquidator, administrator or administrative receiver over it, or any material part of its assets (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or suffers or takes any equivalent action in any jurisdiction outside England and

Wales, that Shareholder shall be deemed to have given a Transfer Notice in respect of all Shares held by it at such time as the Directors may determine.

36.3 Forthwith upon a Transfer Notice being deemed to be served under this Article 36, the Shares subject to the relevant Deemed Transfer Notice (**Restricted Shares**) shall cease to confer on the holder of them any rights:

36.3.1 to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise), including in respect of any resolution of any class of Shares;

36.3.2 to receive dividends or other distributions otherwise attaching to those Shares; or

36.3.3 to participate in any future issue of Shares issued in respect of those Shares.

The Directors may reinstate the rights referred to in this Article 36.3 at any time and, in any event, such rights shall be reinstated in respect of any Shares transferred pursuant to this Article 36 on completion of such transfer.

### 37. Tag along

37.1 In the event that a proposed transfer of Shares (other than a transfer of Shares made pursuant to Article 33, or Article 36, but after the operation of the pre-emption procedure set out in Article 34 or where Article 44 applies (unless a Drag Along Notice lapses and no further Drag Along Notices are served in accordance with the provisions of Article 38.3)), whether made as one or as a series of transactions (a **Proposed Transfer**) would, if completed, result in any person (the **Buyer**), together with any person acting in concert with the Buyer, acquiring a Controlling Interest, the remaining provisions of this Article 37 shall apply.

37.2 The Seller shall procure that, prior to the completion of the Proposed Transfer, the Buyer shall make an offer (the **Offer**) to each Shareholder (each a **Tag Offeree**) in respect of their Shares (other than any Restricted Shares) on the date of the Offer to buy all of the Shares held by such Tag Offerees on the date of the Offer for a consideration in cash per Share (the **Offer Price**) which is equal to the highest price per Share offered, paid or to be paid by the Buyer, or any person acting in concert with the Buyer, for any Shares in connection with the Proposed Transfer or any transaction in the six calendar months preceding the date of completion of the Proposed Transfer.

37.3 The Offer shall be made by notice in writing (an **Offer Notice**) addressed to each Tag Offeree on the date of the Offer at least 15 Business Days (the **Mandatory Offer Period**) before the date fixed for completion of the Proposed Transfer (the **Sale Date**). The Offer Notice shall specify:

37.3.1 the identity of the Buyer (and any person(s) acting in concert with the Buyer);

37.3.2 the Offer Price and any other terms and conditions of the Offer;

37.3.3 the Sale Date; and

37.3.4 the number of Shares which would be held by the Buyer (and persons acting in concert with the Buyer) on completion of the Proposed Transfer.

37.4 The completion of the Proposed Transfer shall be conditional in all respects on:

37.4.1 the making of an Offer in accordance with this Article 37; and

37.4.2 the completion of the transfer of any Shares by any Tag Offeree (each an **Accepting Offeree**) who accepts the Offer within the Mandatory Offer Period,

- and the Directors shall refuse to register any Proposed Transfer made in breach of this Article 37.4.
- 37.5 The Proposed Transfer is, but the purchase of Shares from Accepting Offerees pursuant to an Offer made under this Article 37 shall not be, subject to the pre-emption provisions of Article 34.
- 38. Drag along**
- 38.1 If the holder(s) for the time being of not less than 75% by nominal value of all Ordinary Shares (the **Selling Shareholders**) wish(es) to transfer all of their interest in Ordinary Shares (**Sellers' Shares**) to a bona fide purchaser on arm's-length terms (**Proposed Buyer**), the Selling Shareholders shall have the option, subject to prior Board approval, (**Drag Along Option**) to require all the other Shareholders of Shares on the date of the request (**Called Shareholders**) to sell and transfer all their interest in Shares to the Proposed Buyer (or as the Proposed Buyer may direct) in accordance with the provisions of this Article 38.
- 38.2 Subject to Article 38.1, the Selling Shareholders may exercise the Drag Along Option by giving notice in writing to that effect (a **Drag Along Notice**), at any time before the completion of the transfer of the Sellers' Shares, to the Proposed Buyer and each Called Shareholder. A Drag Along Notice shall specify:
- 38.2.1 that the Called Shareholders are required to transfer all their Shares (**Called Shares**) pursuant to this Article 38;
  - 38.2.2 the identity of the Proposed Buyer (and, if relevant, the transferee(s) nominated by the Proposed Buyer);
  - 38.2.3 the consideration payable for the Called Shares calculated in accordance with Article 38.4;
  - 38.2.4 the proposed date of completion of transfer of the Called Shares.
- 38.3 Once given, a Drag Along Notice may not be revoked save with the prior consent of the Directors. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not completed the transfer of all the Sellers' Shares to the Proposed Buyer (or as the Proposed Buyer may direct) within 30 Business Days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 38.4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be the same as that which the Selling Shareholders shall sell the Sellers' Shares to the Proposed Buyer.
- 38.5 No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in this Article 38.
- 38.6 Completion of the sale and purchase of the Called Shares shall take place on the same date as, and conditional upon the completion of, the sale and purchase of the Sellers' Shares unless:
- 38.6.1 all of the Called Shareholders and the Selling Shareholders otherwise agree; or
  - 38.6.2 that date is less than 10 Business Days after the date of service of the Drag Along Notice, in which case completion of the sale and purchase of the Called Shares shall take place 20 Business Days after the date of service of the Drag Along Notice.
- 38.7 Within 15 Business Days of the Selling Shareholders serving a Drag Along Notice on the Called Shareholders, the Called Shareholders shall deliver stock transfer forms for their Shares in

- favour of the Proposed Buyer (or as the Proposed Buyer may direct), together with the share certificate(s) in respect of those Shares (or a suitable indemnity in respect thereof) to the Company. On the expiration of that 15 Business Day period the Company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts they are respectively due pursuant to Article 38.4 to the extent the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the amounts due pursuant to Article 38.4 shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders pursuant to Article 38.4 in trust for the Called Shareholders without any obligation to pay interest.
- 38.8 To the extent that the Proposed Buyer has not, on the expiration of the 15 Business Day period, put the Company in funds to pay the amounts due pursuant to Article 38.4, the Called Shareholders shall be entitled to the return of the stock transfer forms and Share certificate(s) (or suitable indemnity) for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this Article 38 in respect of their Shares.
- 38.9 If any Called Shareholder fails to deliver to the Company a duly executed stock transfer form (or forms) in respect of the Called Shares held by them (together with the Share certificate(s) in respect of those Called Shares (or a suitable indemnity in respect thereof)) the defaulting Called Shareholder shall be deemed to have appointed any person nominated for the purpose by the Selling Shareholders to be their agent and attorney to execute and deliver all necessary transfers on their behalf, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares. After the Proposed Buyer (or person(s) nominated by the Proposed Buyer) has been registered as the holder of any such Called Shares, the validity of such proceedings shall not be questioned by any person. Failure to produce a Share certificate shall not impede the registration of any transfer of Shares under this Article 38.
- 38.10 Upon any person, following the issue of a Drag Along Notice, becoming a Shareholder (or increasing an existing shareholding) including, without limitation, pursuant to the exercise of any option, warrant or other right to acquire or subscribe for, or to convert any security into, Shares, whether or not pursuant to a Share Option Scheme (a **New Shareholder**), a Drag Along Notice shall be deemed to have been served upon the New Shareholder, on the same terms as the previous Drag Along Notice, who shall then be bound to sell and transfer all such Shares acquired by them to the Proposed Buyer (or as the Proposed Buyer may direct) and the provisions of this Article 38 shall apply mutatis mutandis to the New Shareholder, save that completion of the sale of such Shares shall take place forthwith upon the later of the Drag Along Notice being deemed served on the New Shareholder and the date of completion of the sale of the Called Shares. References in this Article 38.10 to a person becoming a Shareholder (or increasing an existing shareholding) shall include the Company, in respect of the acquisition of any of its own Shares.
- 38.11 A transfer of Called Shares to a Proposed Buyer (or as the Proposed Buyer may direct) pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the pre-emption provisions of Article 34.
- 38.12 Any Transfer Notice or Deemed Transfer Notice served in respect of the transfer of any Share which has not completed before the date of service of a Drag Along Notice shall automatically be revoked by the service of a Drag Along Notice.
- 39. Departing Shareholders**
- 39.1 Unless the Board determine that this Article 39.1 shall not apply, if at any time an Employee ceases to be an Employee, the relevant Employee shall be deemed to have given a Transfer Notice in respect of all the Employee Shares on the Effective Termination Date.
- 39.2 In such circumstances the Transfer Price shall be the nominal value of the Employee Shares.

- 39.3 For the purposes of this Article, the Employee Shares shall be offered in the following order of priority:
- 39.3.1 to any person(s) approved by the Board (other than the departing Employee); and/or
  - 39.3.2 to the Company (subject always to the provisions of the Act).
- 39.4 All voting rights attached to Employee Shares held by an Employee or by any Permitted Transferee of that Employee (the "**Restricted Member**"), if any, shall at the time he ceases to be an Employee be suspended unless the Board notify him otherwise.
- 39.5 Any Employee Shares whose voting rights are suspended pursuant to Article 39.4 ("**Restricted Shares**") shall confer on the holders of Restricted Shares the right to receive a notice of and attend all general meetings of the Company but shall have no right to vote either in person or by proxy or to vote on any proposed written resolution. Voting rights suspended pursuant to Article 39.4 shall be automatically restored immediately prior to a Listing. If a Restricted Member transfers any Restricted Shares in accordance with these Articles all voting rights attached to the Restricted Shares so transferred shall upon completion of the transfer (as evidenced by the transferee's name being entered in the Company's register of members) automatically be restored.

#### **CAPITALISATION OF PROFITS**

**40. Authority to capitalise and appropriation of capitalised sums**

- 40.1 A capitalised sum which was appropriated from profits available for distribution may be applied:
- 40.1.1 in or towards paying up any amounts unpaid on existing Shares held by the persons entitled; or
  - 40.1.2 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.
- 40.2 Subject to the Articles the Directors may:
- 40.2.1 apply capitalised sums in accordance with Article 40.1 and Model Article 36(4) partly in one way and partly in another;
  - 40.2.2 make such arrangements as they think fit to deal with Shares or debentures becoming distributable in fractions under this Article 40 (including the issuing of fractional certificates or the making of cash payments); and
  - 40.2.3 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 40.



## **PART 4**

### **DECISION-MAKING BY SHAREHOLDERS**

#### **ORGANISATION OF GENERAL MEETINGS**

##### **41. Quorum for general meetings**

No business other than the appointment of the chairman of the general meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

#### **VOTING AT GENERAL MEETINGS**

##### **42. Voting**

42.1 Subject to any other provisions in these Articles concerning voting rights, each Ordinary Share (but not each B Ordinary Share) in the Company shall carry the right to receive notice of, and to attend, speak and vote at all general meetings of the Company.

42.2 A poll on a resolution may be demanded by the chairman of the general meeting, the Directors or by any qualifying person (as defined in section 318 of the Act) present and entitled to vote on the resolution.

42.3 Model Article 44(3) shall be amended by the insertion of the words "a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made" as a new paragraph at the end of that Model Article.

42.4 Model Article 45(1) shall be amended by the deletion of Model Article 45(1)(d) and its replacement with the words "is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate".

42.5 Model Article 45(3) shall be amended by the insertion of the words, "but the Company shall not be obliged to ascertain that any proxy has complied with those or any other instructions given by the appointor and no decision on any resolution shall be vitiated by reason only that any proxy has not done so".

42.6 On a vote on a resolution on a show of hands at a meeting, every proxy present who has been duly appointed by one or more Ordinary Shareholders entitled to vote on the resolution has one vote, except that if the proxy has been duly appointed by more than one Ordinary Shareholder entitled to vote on the resolution and:

42.6.1 has been instructed by one or more of those Ordinary Shareholders to vote for the resolution and by one or more other of those Ordinary Shareholders to vote against it; or

42.6.2 has been instructed to vote the same way (either for or against) on the resolution by all of those Ordinary Shareholders except those who have given the proxy discretion as to how to vote on the resolution,

the proxy is entitled to one vote for and one vote against the resolution.

## **APPLICATION OF RULES TO CLASS MEETINGS**

### **43. Class meetings**

- 43.1 The provisions of the Articles relating to general meetings apply, with any necessary modifications, to meetings of the holders of any class of Shares.

## **PART 5 ADMINISTRATIVE ARRANGEMENTS**

### **44. Means of communication to be used**

- 44.1 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 Act provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.
- 44.2 Except insofar as the Companies Acts require otherwise, the Company shall not be obliged to accept any notice, document or other information sent or supplied to the Company in electronic form unless it satisfies such stipulations, conditions or restrictions (including, without limitation, for the purpose of authentication) as the Directors think fit, and the Company shall be entitled to require any such notice, document or information to be sent or supplied in hard copy form instead.
- 44.3 In the case of joint Shareholders of a Share, except insofar as the Articles otherwise provide, all notices, documents or other information shall be given to the joint Shareholder whose name stands first in the register of members in respect of the joint holding and shall be deemed to have been given to all the joint Shareholders. For all purposes, including the execution of any appointment of proxy, resolution in writing, notice or other document (including anything sent or supplied in electronic form) executed or approved pursuant to any provision of the Articles, execution by any one of such joint Shareholders shall be deemed to be and shall be accepted as execution by all the joint Shareholders.
- 44.4 In the case of a Shareholder that is a corporation, for all purposes, including the execution of any appointment of proxy, resolution in writing, notice or other document (including anything sent or supplied in electronic form) executed or approved pursuant to any provision of the Articles, execution by any Director or the secretary of that corporation or any other person who appears to any officer of the Company (acting reasonably and in good faith) to have been duly authorised to execute shall be deemed to be and shall be accepted as execution by that corporation.
- 44.5 A Shareholder whose registered address is not within the United Kingdom and who notifies the Company of an address within the United Kingdom at which notices, documents or other information may be served on or delivered to them shall be entitled to have such things served on or delivered to them at that address (in the manner referred to above). If the address is that Shareholder's address for sending or receiving documents or information by electronic means the Directors may at any time without prior notice (and whether or not the Company has previously sent or supplied any documents or information in electronic form to that address) refuse to send or supply any documents or information to that address.
- 44.6 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.

44.7 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.

44.8 Every person who becomes entitled to a Share shall be bound by any notice in respect of that Share which, before their name is entered in the register of members, has been given to the person from whom they derive their title.

**45. When information sent by the Company deemed to have been received**

45.1 Any document or information sent or supplied by the Company shall be deemed to have been received by the intended recipient:

45.1.1 where the document or information is properly addressed and sent by first class post or other delivery service to an address in the United Kingdom, on the day (whether or not it is a working day) following the day (whether or not it is a working day) on which it was put in the post or given to the delivery agent and, in proving that it was duly sent, it shall be sufficient to prove that the document or information was properly addressed, prepaid and put in the post or duly given to the delivery agent;

45.1.2 where (without prejudice to Article 44.5) the document or information is properly addressed and sent by post or other delivery service to an address outside the United Kingdom, five working days after it was put in the post or given to the delivery agent and, in proving that it was duly sent, it shall be sufficient to prove that the document or information was properly addressed, prepaid and put in the post or duly given to the delivery agent;

45.1.3 where the document or information is not sent by post or other delivery service but delivered personally or left at the intended recipient's address, on the day (whether or not a working day) and time that it was sent;

45.1.4 where the document or information is properly addressed and sent or supplied by electronic means, on the day (whether or not a working day) and time that it was sent and proof that it was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that it was sent;

45.1.5 where the document or information is sent or supplied by means of a website, when the material was first made available on the website or (if later) when the intended recipient received (or is deemed to have received) notice of the fact that the material was available on the website.

**46. 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.

**47. Provision for Employees on cessation of business**

The Directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a Director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that subsidiary.

## **DIRECTORS' INDEMNITY AND INSURANCE**

### **48. Indemnity**

48.1 Subject to Article 48.2 (but without prejudice to any indemnity to which a Relevant Officer is otherwise entitled):

48.1.1 a Relevant Officer may be indemnified out of the Company's assets to whatever extent the Directors may determine against:

- (a) any liability incurred by that officer in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or any undertaking in the same Group as the Company;
- (b) any liability incurred by that officer in connection with the activities of the Company, or any undertaking in the same Group as the Company, in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Act);
- (c) any other liability incurred by that officer as an officer of the Company or of any undertaking in the same Group as the Company; and

48.1.2 the Company may, to whatever extent the Directors may determine, provide funds to meet expenditure incurred or to be incurred by a Relevant Officer in defending any criminal or civil proceedings in connection with any alleged negligence, default, breach of duty or breach of trust by them in relation to the Company or any undertaking in the same Group as the Company, or any investigation, or action proposed to be taken, by a regulatory authority in that connection, or for the purposes of an application for relief, or in order to enable the Relevant Officer to avoid incurring such expenditure.

48.2 This Article 48 does not authorise any indemnity that would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

### **49. Insurance**

49.1 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any Relevant Officer in respect of any relevant loss.

49.2 In this Article 49, a "**relevant loss**" means any loss or liability which has been or may be incurred by a Relevant Officer in connection with that officer's duties or powers in relation to the Company, any undertaking in the same Group as the Company or any pension fund or Employees' share scheme of the Company or of any undertaking in the same Group as the Company.