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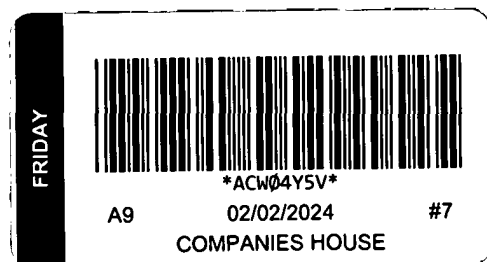
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24 January 2024

Company No. 04515115

# Articles of Association of

# Holland & Barrett International Limited

(adopted by special resolution passed on 20 December 2023)



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**ARTICLES OF ASSOCIATION**  
**OF**  
**HOLLAND & BARRETT INTERNATIONAL LIMITED**  
**(Company)**

(Adopted by special resolution passed on \_\_\_\_\_)

**1 Definitions and interpretation**

1.1 In these Articles, unless the context requires otherwise:

**Accounts** means audited accounts of the Company or (as the case may be) audited consolidated accounts of the Group.

**Accepting Shareholder** has the meaning given to it in Article 15.5.

**Act** means the Companies Act 2006.

**Acting in Concert** has the meaning given to it in the City Code on Takeovers and Mergers for the time being.

**Appointor** has the meaning given to it in Article 39.1.

**Articles** means the Company's articles of association.

**A Share** means an A ordinary share of £1.00 in the Company.

**A Shareholder** means a holder of any A Shares.

**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 and **bankrupt** shall be construed accordingly.

**Board** means the board of Directors.

**Business Day** means a day other than a Saturday or Sunday on which banks are open for general business in London.

**Chairman** has the meaning given to it in Article 25.1.

**Co-Investment Scheme** means, in relation to an Investor (or a Member of the Same Group as that Investor), a scheme or arrangement under which certain officers, employees, partners, investors or other participants of that Investor (or of a Member of the Same Group as that Investor) or of its Fund Manager are entitled or permitted (as individuals or through a body corporate or any other person, entity or other arrangement) to acquire or participate in Shares, or otherwise participate in the Company.

**Commencement Date** means the date on which these Articles are adopted.

**Companies Acts** means every statute for the time being in force concerning companies (including any statutory instrument or other subordinate legislation made under any such statute), so far as it applies to the Company.

**Connected Persons** has the meaning given to it in section 1122 and 1123 of the Corporation Tax Act 2010 except that (i) a party to the Investment Agreement shall not be deemed to be connected with another party to that Agreement only by virtue of the fact that they are both parties to that Agreement; (ii) a Shareholder shall not be deemed to be connected with another Shareholder only by virtue of the fact that they are both Shareholders; and (iii) except where expressly stated, no Group Company shall be a Connected Person of any person for the purposes of the Investment Agreement or these Articles.

**Credited as Paid Up** means amounts paid up or credited as paid up on a Share including both the nominal value and any share premium.

**C Share** means a C ordinary share of £1.00 in the Company.

**C Shareholder** means a holder of any C Shares.

**Deed of Adherence** means a deed of adherence to, and in the form required by, the Investment Agreement.

**Defaulting Shareholder** has the meaning given to it in Article 17.1.

**Directors** means the Company's directors for the time being.

**Disposal** means the sale or other disposal, by a single transaction or series of related transactions, to purchaser(s) which are not members of the Group, of any subsidiary or subsidiaries or other assets (except current assets disposed of in the ordinary course of trading) representing (in terms of net assets, turnover or pre-tax profits) more than ninety per cent. (90%) of the net assets, turnover or pre-tax profits of the Company or (as the case may be) Group as shown by its latest Accounts or its latest Management Accounts delivered to the Investors under the Investment Agreement.

**Drag Along Notice, Drag Buyer, Dragged Shareholders, Dragged Shares and Dragging Shareholders** have the meanings given to them in Article 14.

**Drag Completion Date** means the date of completion of the sale and purchase of the Dragged Shares.

**EBT** means any trust established principally for the benefit of the employees (which may include former employees and/or their dependants) of any Group Member(s), the terms of which have been approved by Investor Consent.

**electronic form** and **electronic means** have the meanings given to them in section 1168 of the Act.

**Eligible Director** means:

- (a) in relation to a decision at a Directors' meeting, a Director who is able to be counted as participating for quorum and voting purposes in the decision at the meeting; and
- (b) in relation to a Directors' written resolution, a Director who would have been able to be counted as participating for quorum and voting purposes in the decision had the resolution or matter been proposed as a resolution at a Directors' meeting.

**Emergency Issue** means an allotment of Securities:

- (a) to the Investors made with the principal purpose of averting or remedying an Enhanced Voting Event; or

- (b) in circumstances where in the reasonable opinion of the Lead Investor or Investor Directors there is a *bona fide* urgent need of the Group or any of its members for such funding.

**Employee** means an individual who is an employee and/or consultant and/or director of any Group Member.

**Enhanced Voting Event** means any of the following:

- (a) an actual event of default (by whatever name called) is outstanding for the purposes of any Facility Agreement or in connection with the Investor Debt or any other event has occurred or circumstances subsist which (with the giving of notice, passing of time or otherwise) will be such an event of default; or
- (b) in the opinion of the Lead Investor having regard to the financial information and/or projections supplied to it as contemplated by this Agreement, on either or both or the next two relevant test dates any financial covenants given in any Facility Agreement or in connection with the Investor Debt are reasonably likely to be materially breached where for these purposes a breach will be material if the ratio required by the financial covenant will be missed by more than 25 per cent or if the Lead Investor otherwise reasonably believes any lender under any Facility Agreement or in connection with the Investor Debt may declare a default or take any enforcement action; or
- (c) any dividend or other payment which has fallen due for payment on any Securities held by any Investor has remained unpaid for more than 15 Business Days after it fell due.

**Equity Shareholder** means a holder of any Equity Shares.

**Equity Shares** means the A Shares and C Shares.

**Excluded Equity Shares** means:

- (a) Shares held by the Company as treasury shares; and
- (b) Shares held by an Equity Shareholder, which, in relation to any general meeting of the Company and any written resolution of the Shareholders and pursuant to Articles 10.4, 18.2 or 48.3, are, for the time being, subject to a Suspension of Rights.

**Exit** has the meaning given to it in the Investment Agreement.

**FCA** means the Financial Conduct Authority acting in its capacity as the competent authority for the purposes of Part VI of the Financial Services and Markets Act 2000 including, where the context so permits, any committee, employee, officer or servant to whom any function of the Financial Conduct Authority may for the time being be delegated.

**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.

**Fund** means any unit trust, investment trust, investment company, limited partnership, general partnership, collective investment scheme, pension fund, insurance company, authorised person under FSMA or any body corporate or other entity, in each case the assets of which are managed professionally for investment purposes.

**Funding Issue** means an allotment of Securities directly or indirectly for the purpose of financing an acquisition by a Group Member of any shares, assets, business or undertaking (and which is not, for any other reason, a Permitted Issue).

**Fund Manager** means a person whose principal business is to arrange, consult, make, manage or advise upon investments.

**Group** means the Company, any New Holding Company and each of their respective subsidiaries and its subsidiary undertakings from time to time and **Group Member** shall be construed accordingly.

**hard copy form** has the meaning given to it in section 1168 of the Act.

**holder** in relation to any Share means the person whose name is entered in the register of members as the holder of that Share.

**Interest** has the meaning given to it in Article 1.3(f)(i).

**Investment Agreement** means the investment agreement entered into or to be entered into on or around the Commencement Date between *inter alios* (1) the Company, (2) the Lead Investor, and (3) the Managers (each as defined therein) (as amended, varied, supplemented, extended, restated, novated and/or replaced from time to time).

**Investor Associate** means in relation to an Investor:

- (a) each Member of the Same Group as the Investor for the time being;
- (b) any general partner, limited partner or other partner or participant in, or member, trustee, nominee, operator or arranger, or Fund Manager to, that Investor or any Member of the Same Group as that Investor for the time being;
- (c) any Member of the Same Group as any general partner, limited partner or other partner or participant in, or member, trustee, nominee, operator or arranger of, or Fund Manager to, that Investor or any Member of the Same Group as that Investor for the time being;
- (d) any Fund which has the same general partner, limited partner, other partner, participant, trustee, nominee or Fund Manager as that Investor or any Member of the Same Group as that Investor for the time being;
- (e) any Fund in respect of which that Investor or any Member of the Same Group as that Investor is a general partner, limited partner, other partner, participant, member, trustee, nominee or Fund Manager;
- (f) where the Investor is a Fund or a general partner, limited partner or other partner or participant in, or member, trustee or nominee of, or Fund Manager to a Fund, a Member of the Same Fund Group as that Fund; and
- (g) any Co-Investment Scheme of that Investor or any Member of the Same Group as that Investor.

**Investor Consent** or **consent of the Investors** or the approval of the Lead Investor means:

- (a) the consent in writing of the Lead Investor; or
- (b) unless otherwise specified in writing by the Lead Investor, the approval of the Board at a duly convened meeting or in accordance with the written resolution procedure as set out in the Articles, such approval including the positive affirmative vote of a majority of the Investor Directors appointed by the Lead Investor (excluding any Investor Directors appointed for or on behalf of any Syndicated Investors, if any) as appointed from time to time.

**Investor Debt** means:

- (a) the £149,813,728 loan notes due 2027 issued by L1R HB Midco Limited in accordance with the loan note instrument entered into on 1 September 2017 (as amended from time to time), and
- (b) the Amended and Restated Facility Agreement dated 22 December 2022 and made between L1R HB Finance Limited and the Lead Investor.

**Investor Director** has the meaning given to in Article 37.1.

**Investor Majority** means the holders for the time being of more than 50 per cent of the A Shares (excluding any A Shares held as treasury shares).

**Investors** means the A Shareholders for the time being (excluding any A Shareholders that only hold A Shares as treasury shares), and **Investor** means any of them.

**Lead Investor** means L1R HB Limited or such other Investor as an Investor Majority may from time to time notify to the Company in writing.

**Lead Investor Group** means the Lead Investor and its Investor Associates for the time being.

**Leaver** means an Employee who ceases to be, or will cease to be (through having given or been given notice), an Employee for any reason whatsoever (including death or bankruptcy);

**Leaver Loan Notes** means sterling loan notes issued or to be issued by the Lead Investor, the Company, or by an entity procured by the Company (acting through the Remuneration Committee) or Lead Investor with equivalent covenant strength and being a holding company of the operating group, which carry an interest rate of two per cent (2%) per annum compounded annually and with redemption terms consistent with the requirements of these Articles and will be transferable only with Investor Consent.

**Listing** means:

- (a) the admission of all or any of the Equity Shares to trading on a market for listed securities operated by a recognised investment exchange (as that term is defined in the Financial Services and Markets Act 2000), together with the admission of such Equity Shares to the Official List of the FCA;
- (b) the admission of all or any of the Equity Shares to trading on the Alternative Investment Market of the London Stock Exchange plc; or
- (c) if the Investor Majority in their absolute discretion so determine, the admission of all or any of the Equity Shares to, or to trading on, any other market wherever situated, together, if necessary, with the admission of such Equity Shares to listing on any official or otherwise prescribed list maintained by a competent or otherwise prescribed listing authority.

**Managers' Representative** has the meaning given to it in the Investment Agreement.

**Member of the Same Fund Group** means in relation to a Fund:

- (a) any general partner, limited partner or other partner or participant in, or member, trustee or nominee of that Fund or the holders of any unit trust which is a participant or partner in or member of that Fund (but only in connection with the dissolution of the Fund or any distribution of assets in the Fund pursuant to the operation of the Fund in the ordinary course of business);



- (b) any other Fund which has the same general partner, limited partner, other partner, participant, member, trustee or nominee as that Fund;
- (c) any other Fund managed or advised by the same Fund Manager as that Fund (or a Fund Manager which is a Member of the Same Group as that Fund Manager);
- (d) the Fund Manager of that Fund (or a Fund Manager of any other Fund which is a Member of the Same Fund Group as that Fund); or
- (e) any Member of the Same Group as the Fund or any general partner, limited partner or other partner in, or participant, member, trustee, nominee or Fund Manager of that Fund.

**Member of the Same Group** in relation to an undertaking (**Undertaking**), means any parent undertaking of that Undertaking for the time being and any undertaking which, in relation to the Undertaking and/or any such parent undertaking, is a subsidiary undertaking for the time being.

**Model Articles** means the model articles for public companies contained in schedule 3 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the Commencement Date.

**New Holding Company** means a newly incorporated company (or a newly acquired company which has not previously traded) formed (or acquired) for the purposes of facilitating a Listing, Sale or Reorganisation.

**New Holding Company Shares** means all shares in the capital of New Holding Company which are in issue immediately following completion of the Reorganisation.

**New Ordinary Shares** means ordinary shares in the capital of New Holding Company issued or to be issued pursuant to Article 16 in circumstances where there is only one class of shares of a New Holding Company in issue immediately following the completion of a Reorganisation.

**Non-Disclosable Interest** has the meaning given to it in Article 32.3.

**Observer** means an observer appointed as such pursuant to Article 38.

**ordinary resolution** has the meaning given to it in section 282 of the Act.

**Other Shareholders** has the meaning given to it in Article 15.

**participate**, in relation to a Directors' meeting, has the meaning given to it in Article 23.

**Partnership Agreement** means the partnership agreement entered into or to be entered into on or around the Commencement Date between *inter alios* the General Partner and the Limited Partners (each as defined therein) (as amended, varied, supplemented, extended, restated, novated and/or replaced from time to time).

**Permitted Distributions** means any distributions to the holders of A Shares in connection with the repayment of any principal amount or interest accrued on the Investor Debt.

**Permitted Investor Transferee** has the meaning given to it in the Investment Agreement.

**Permitted Issue** means any of the following:

- (a) the issue of Shares (including Reserved Shares) pursuant to, or the grant of rights to subscribe for Shares by, the Investment Agreement;

- (b) any issue of Reserved Shares or any other issue of Securities for the purpose of incentivising Employees approved by the Remuneration Committee (with Investor Consent) or otherwise pursuant to any share option scheme or other management incentive plan approved as required under the Investment Agreement;
- (c) an Emergency Issue;
- (d) a Refinancing Issue;
- (e) an allotment of Shares by way of bonus issue;
- (f) an issue of Shares for non-cash consideration;
- (g) a Funding Issue;
- (h) an issue of Shares to a strategic investor approved for the purpose by the Lead Investor;
- (i) an issue of Shares under the arrangements for a Listing;
- (j) an issue which is made at (or above) the fair market value (as determined by the Lead Investor acting reasonably and in good faith); or
- (k) to the extent agreed by (i) the Lead Investor and (ii) the Managers' Representative.

**Pre-emptive Offer** has the meaning given to it in Article 9.4.

**Proposed Sale** and **Proposed Sellers** have the meanings given to them in Article 15.

**proxy notice** has the meaning given to it in Model Article 38 applied by Article 51 (Voting at General Meetings - Model Articles).

**Refinancing Issue** means an allotment of Securities to any person(s) who (not being Connected Person(s) of any of the Investors) is or are (or Connected Person(s) of whom is or are) to provide or are already providing funding to any Group Member for its bona fide requirements and such an allotment is a condition of the provision or continued provision of such funding.

**Remuneration Committee** means the remuneration committee of the Board appointed in accordance with the terms of the Investment Agreement.

**Reorganisation** has the meaning given to it in the Investment Agreement.

**Reorganisation Completion Date** means the date of completion of the Reorganisation when, amongst other matters, the Reorganisation Dragged Shares are transferred to a New Holding Company (subject to the payment of any applicable stamp duty or the obtaining of any exemption or relief to or from the payment of stamp duty).

**Reorganisation Drag Along Notice** has the meaning given to in in Article 16.1.

**Reorganisation Dragged Shareholders** has the meaning given to in in Article 16.1.

**Reorganisation Dragged Shares** has the meaning given to in in Article 16.1.

**Reserved Shares** has the meaning given to it in the Investment Agreement.

**Securities** means:

- (a) Shares or shares in any Group Member;
- (b) Leaver Loan Notes and any other loan notes, deep discounted bonds or debt securities of or in any Group Member;
- (c) any other debt or equity securities of or in any Group Member; and
- (d) rights to subscribe for, or to convert securities into the securities listed in (a) to (c) above,

but excluding any security listed above which is issued by a Group Member to another Group Member.

**Share** means a share in the Company.

**Shareholder** means a person who is the holder of a Share.

**Share Sale** means any transaction or series of related transactions whereby any person (together with its Connected Persons and any other persons with whom it is Acting in Concert) obtains the ownership of more than 50 per cent of the voting rights of the Equity Shares for the time being in issue and conferring the right to vote at all general meetings (excluding any Equity Shares held as treasury shares) but excluding, unless otherwise agreed by Investor Consent, (i) any sale or transfer of Shares or interest in them as part of a Reorganisation; and (ii) any sale or transfer of Shares or an interest in them to, or acquisition (by subscription or otherwise) of Shares or an interest in them by, any Investor(s) or persons or entities who in relation to any Investor fall within any of categories (a) and (b) of the definition of Permitted Investor Transferee.

**Share Securities** means Shares or rights to subscribe for, or to convert securities into, Shares.

**special resolution** has the meaning given to it in section 283 of the Act.

**Suspension of Rights** means that in relation to a Share all rights:

- (a) to receive notice of and to attend and speak at any general meeting of the Company or any separate meeting of the holders of any class of Shares or to receive a copy of any proposed written resolution of the Shareholders or of a class of the Shareholders; and
- (b) to vote (either in person or by proxy and whether on a show of hands or on a poll at any general meeting of the Company or at any separate meeting of the holders of any class of Shares or on a written resolution of the Shareholders or of a class of the Shareholders),

shall cease to be rights which apply to such Share and to the holder of such Share (in such capacity only).

**Synthetic Exit Provisions** means the provisions of Schedule 1 to these Articles and any directly related provisions of the Investment Agreement.

**Tag Buyer, Tag Offer, Tagged Securities** have the meanings given to them in Article 15.2.

**Third Party** means (i) a person who is not a shareholder or a Connected Person or Investor Associate of any shareholder or (ii) a person approved in writing as a 'Third Party' by the Lead Investor and the Managers' Representative.

**Transmittee** means a person entitled to a Share or any Interest in a Share due to the death or bankruptcy of a Shareholder or otherwise by operation of law.

**Valuer** means a leading global investment bank, professional valuer or global accountancy firm with, in each case, appropriate retail expertise:

- (a) agreed in writing between the Relevant Parties within 5 Business Days of the obligation or entitlement to refer the matter for determination arising; or
- (b) in the absence of agreement in accordance with the above, selected by the Managers' Representative from the Valuer List if one is in force, provided that if no such selection is made within 5 Business Days of notification, the Lead Investor shall in its sole discretion select the Valuer; or
- (c) if no Valuer List is in force, nominated in writing by the President for the time being of the Institute of Chartered Accountants in England and Wales upon the application by any Relevant Party.

**Valuer List** means a written list specifying three different Valuers provided by the Lead Investor to the Company, which may be withdrawn or replaced at any time, in which case the latest list becomes the **Valuer List**.

**writing** and **written** 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 requires otherwise, other words or expressions contained in these Articles bear the same meaning as in the Act as in force on the Commencement Date.

1.3 In these Articles (unless the context requires otherwise), any reference to:

- (a) a numbered Article is to that numbered article of these Articles and to a numbered Model Article is to that numbered article of the Model Articles;
- (b) the allotment of Securities or any similar expression includes the grant of a right to subscribe for, or to convert any securities into, Shares but excludes the allotment of Shares pursuant to any such right;
- (c) **including, to include, includes** or **in particular** shall be deemed to include the words "without limitation";
- (d) the day on which a notice is given is to the day on which the notice is deemed received in accordance with Article 66;
- (e) any gender includes all genders, the singular includes the plural (and vice versa), and persons includes individuals, bodies corporate, unincorporated associations and partnerships (whether or not any of them have a separate legal personality); and
- (f) a **transfer** of Shares or any similar expression shall be deemed to include any direction (by way of renunciation, assignment or otherwise) by a Shareholder entitled to an allotment, issue or transfer of Shares that a Share be allotted, issued or transferred to some person other than himself and any reference to a **transfer** of Shares or any similar expression shall also be deemed to include:
  - (i) any sale, assignment or other disposition of the legal or equitable interest or any other right or interest in a Share (including any voting right attached to a Share) (**Interest**);

- (ii) the sale or transfer by the Company of Shares held as treasury shares;
- (iii) the creation or granting of any mortgage, charge, pledge or other encumbrance or security interest or trust over any Interest; and
- (iv) any grant of an option to acquire any Interest,

whether effected by a Shareholder or otherwise, whether for consideration or otherwise and whether effected by an instrument in writing or otherwise provided that any change in (or change in the respective entitlements of) the partners, participants, shareholders, unitholders (or any other interests) in any shareholder (or any person who indirectly holds shares or any Interest in Shares) which is a Fund or an Investor or any mortgage, charge or other encumbrances created over their interest in such share, Fund or Investor shall not be or deemed to be a transfer of Shares; and

- (g) a statute or a statutory provision includes that statute or statutory provision as amended or re-enacted (with or without modification) and any subordinate legislation made under it (in each case whether before, on or after the Commencement Date).

- 1.4 The contents list and headings in these Articles are included for ease of reference only and shall not affect the construction or interpretation of these Articles.

## **2 Model Articles**

- 2.1 These Articles and the Model Articles specifically applied to the Company by these Articles shall together constitute the articles of association of the Company.

- 2.2 When a Model Article specifically applies to the Company:

- (a) the terms defined in Article 1 (Definitions and interpretation) shall apply to such Model Article (notwithstanding that such terms may be in lower case in the Model Article); and
- (b) the terms defined in Model Article 1 shall apply to such Model Article, unless those terms are otherwise defined in Article 1 (Definitions and interpretation).

- 2.3 Except to the extent that the Model Articles are specifically applied to the Company by these Articles, no regulations or 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 regulations or articles of association of the Company.

## **3 Liability of members**

Model Article 2 (Liability of members) shall apply.

## **4 Shares**

- 4.1 Subject to these Articles, but without prejudice to the rights attached to any existing Share, the Company may, with Investor Consent, issue Shares with such rights or restrictions as may be determined by ordinary resolution.
- 4.2 The Company may, with Investor Consent, issue Shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder. The terms, conditions and manner of redemption of any such Shares shall be set out in the Articles.

## **5 Distributions - Equity Shares**

### **5.1 Subject to:**

- (a) any Permitted Distributions;
- (b) any distributions made pursuant to Articles 7.3 and/or 7.4; and
- (c) the terms of the Investment Agreement,

any profits available for distribution which the Company determines to distribute shall be distributed amongst the holders of the A Shares and C Shares pursuant to and in accordance with Article 6.3.

### **5.2 The Company may, distribute any profits available for distribution amongst the holders of A Shares only (pro rata to the number of the A Shares held by them) in relation to a Permitted Distribution.**

## **6 Return of capital**

### **6.1 For the purposes of this Article 6:**

**Additional Investment Amount** means:

- (a) any additional amounts invested by the Investor (or any Investor Associate) in the Group whether in equity or debt or otherwise after the Adoption Date (which is not already included in the calculation of the Latest Net Debt); but
- (b) excluding any amounts determined by the Board (acting reasonably and in its sole discretion) relating to any Excluded Long Term Investments;

**EBITDA** means the Group's earnings before interest, tax, depreciation and amortisation.

**EBITDA Adjustment Principles** has the meaning given to it in the Investment Agreement.

**Excluded Long Term Investments** means any investment in the Group relating to any matter, project, transaction or investment which is of a long-term nature as determined by the Board (acting reasonably).

**Exit C Share Amount** means any surplus assets and retained profits of the Company available for distribution among the Shareholders in excess of the Exit Hurdle Amount *multiplied* by the Exit Relevant Percentage.

**Exit Hurdle Amount** has the meaning given to it in the Investment Agreement.

**Exit Relevant Percentage** means 5 per cent;

**Investor Return** means:

- (a) any dividends or other return of capital paid to the Investor (or any Investor Associate) in respect of its A Shares between the Adoption Date and immediately prior to the relevant date (being the date of completion of the relevant Exit, Synthetic Exit or other relevant return of capital); and
- (b) any other amounts paid to the Investor (or any Investor Associate) which are attributable to the share or loan capital the Investor (or any Investor Associate) holds in the Company or any other member of the Group,

but in each case excluding:

- (a) any proceeds received by the Investor in connection with any relevant Exit;
- (b) any amounts received by the Investor (or any Investor Associate) in respect of equity or debt capital in connection with their transfer to a permitted syndicatee (in accordance with the Investment Agreement); and
- (c) any monitoring fee paid to the Investor (or any Investor Associate),

and any other amounts determined by the Board (acting reasonably) to be excluded in Investor Returns.

**Latest EBITDA** means the EBITDA determined by the Board (acting reasonably) and by reference to the EBITDA as shown in the Relevant Accounts (as adjusted pursuant to the EBITDA Adjustment Principles).

**Latest Net Debt** means the net debt of the Group at the relevant time (including any debt provided by third party financiers and any debt, loan notes or preference shares provided by the Investor or any Investor Associate) and taking into account any cash or cash equivalents as derived from the Relevant Accounts.

**Relevant Accounts** means the annual audited accounts for the financial year ended 30 September 2026.

**SE C Share Amount** means an amount calculated as follows:

*the SE Relevant Percentage times the SE Equity Value;*

**SE Equity Value** means:

*(Latest EBITDA times the SE Multiple) less Latest Net Debt.*

**SE Hurdle Amount** has the meaning given to it in the Investment Agreement.

**SE Multiple** has the meaning given to it in the Investment Agreement.

**SE Relevant Percentage** means 5.329 per cent.

*Return of capital on an Exit*

6.2 On an Exit, the surplus assets and retained profits of the Company available for distribution among the Shareholders shall be applied in the following order and priority:

- (a) until the Exit Hurdle Amount has been achieved, to the holders of A Shares only and such amount shall be applied to the holders of the A Shares pro rata based on the number of A Shares held by them;
- (b) once the Exit Hurdle Amount has been achieved:
  - (i) the holders of the C Shares shall be entitled to the Exit C Share Amount and such amount shall be applied to the holders of the C Shares pro rata based on the number of C Shares held by them; and
  - (ii) the holders of A Shares shall be entitled to the remainder and such amount shall be applied to the holders of the A Shares pro rata based on the number of A Shares held by them.

*Return of capital on a Synthetic Exit or otherwise*

- 6.3 On a Synthetic Exit, a return of capital of the Company on a winding up or otherwise (other than a redemption of Shares or the purchase by the Company of its own Shares and excluding an Exit), the surplus assets and retained profits of the Company available for distribution among the Shareholders shall be applied in the following order and priority:
- (a) if the SE Hurdle Amount has not been achieved, to the holders of A Shares only and such amount shall be applied to the holders of the A Shares pro rata based on the number of A Shares held by them; or
  - (b) if the SE Hurdle Amount has been achieved:
    - (i) the holders of the C Shares shall be entitled to the SE C Share Amount and such amount shall be applied to the holders of the C Shares pro rata based on the number of C Shares held by them; and
    - (ii) the holders of A Shares shall be entitled to remainder and such amount shall be applied to the holders of the A Shares pro rata based on the number of A Shares held by them.
- 6.4 The Board shall determine (in its absolute discretion) whether the SE Hurdle Amount has been achieved at the relevant time for the purposes of this Article 6.
- 6.5 Any return on a particular class of Shares shall be made amongst their holders pro rata as nearly as possible to their respective holdings of Shares of that class.

## **7 Exit**

- 7.1 In the event of a Share Sale, the selling Shareholders shall procure that the amount (if any) of consideration which they shall be entitled to receive for the Shares they are transferring shall be that to which they would be entitled if the aggregate value of the total consideration to be paid for such Shares as a whole was allocated to the selling Shareholders in the order of priority set out in Article 6 (Return of capital).
- 7.2 For the avoidance of doubt, **total consideration** for the purposes of Article 7.1 shall be construed as meaning the value or worth of the total consideration regardless of the form of the total consideration and shall exclude any offer to subscribe for or acquire any share, debt instrument or other security in the capital of any person which is purchasing or acquiring the selling Shareholders' Shares (or a Member of the same Group as any such person) made to a selling Shareholder which is in addition to the consideration proposed to be paid for all the selling Shareholders' Shares.
- 7.3 In the event of a Disposal, the Shareholders shall procure that the proceeds of sale arising from the Disposal shall (to the extent that the Company is lawfully able to do so) be distributed to the Shareholders in the order of priority set out in Article 6 (Return of capital).
- 7.4 If any of the consideration to be paid on a Share Sale or a Disposal is to be deferred or is otherwise not payable until after completion of such Share Sale or Disposal, the selling Shareholders (in the case of a Share Sale) or the Shareholders (in the case of a Disposal) shall procure that:
- (a) any initial consideration to be paid at the time of completion shall:
    - (i) in the case of a Share Sale, be allocated to the selling Shareholders in the order of priority set out in Article 6 (Return of capital); and



- (ii) in the case of a Disposal, (to the extent that the Company is lawfully able to do so) be distributed to the Shareholders in the order of priority set out in Article 6 (Return of capital); and
  - (b) if, and to the extent that, any such deferred or other consideration is subsequently to be paid, it shall:
    - (i) in the case of a Share Sale, be allocated to the selling Shareholders in the order of priority set out in Article 6 (Return of capital) after taking into account any prior allocations of consideration to the selling Shareholders that have already taken place; and
    - (ii) in the case of a Disposal, (to the extent that the Company is lawfully able to do so) be distributed to the Shareholders in the order of priority set out in Article 6 (Return of capital) after taking into account any prior distributions of the proceeds of sale to the Shareholders that have already taken place
- 7.5 In the event of a Listing, the Shareholders shall procure that the proceeds of the sale of all or any of the Equity Shares pursuant to the Listing shall be allocated to the selling Equity Shareholders in the order of priority set out in Article 6 (Return of capital).

## 8 Synthetic Exit

The provisions of schedule 1 to these Articles shall apply.

## 9 Issue of shares

- 9.1 Except with Investor Consent, any Share Securities allotted to:
- (a) Investors shall be, or be in relation to, A Shares; and
  - (b) C Shareholders shall be, or be in relation to, C Shares.
- 9.2 Model Article 44 (Payment of commissions on subscription for shares) shall apply.
- 9.3 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 (within the meaning of section 560 of the Act) by the Company.
- 9.4 Except for any Permitted Issue, any Share Securities proposed to be allotted for cash where the issue price is less than the fair market value (as determined by the Lead Investor in good faith) shall be offered by the Company (where relevant on behalf of itself and/or other Group Members) at the same price and on the same terms to the Equity Shareholders, other than in relation to any Excluded Equity Shares, pro rata to their holdings of Equity Shares (as nearly as possible without involving fractions) (**Pre-emptive Offer**).
- 9.5 The Pre-emptive Offer shall:
- (a) if the Investor Majority so direct the Company in writing, be conditional upon the relevant Equity Shareholders (and/or, where such Equity Shareholders are Investors, their Investor Associate(s)) also subscribing for the same proportion of any other Securities in any Group Member (including loan notes, deep discount bonds or other debt instruments) to be issued in connection with the allotment of the Share Securities (as nearly as possible without involving fractions) as the Share Securities actually to be granted or allotted to the relevant Equity Shareholder pursuant to the Pre-emptive Offer bears to the total number of Share Securities actually to be granted or allotted pursuant to the Pre-emptive Offer; and

- (b) be made by notice specifying the Share Securities offered, the price for them, a time (being not less than 20 Business Days) within which the offer, if not accepted, shall be deemed to be declined and any other terms.
- 9.6 The Directors may (with Investor Consent) round up or down fractional entitlements under any Pre-emptive Offer, provided that the number of Securities allotted does not exceed the total number of Securities offered and such rounding does not result in an Equity Shareholder being allotted more Share Securities than he has indicated he is willing to accept.
- 9.7 Any Share Securities not taken up at the end of the above procedures for a Pre-emptive Offer may (with Investor Consent), within the period of three months from the end of the period for acceptance of the relevant Pre-emptive Offer, be offered by the Company to any other person(s) at no lesser price and on no more favourable terms than those on which they were offered under the relevant Pre-emptive Offer.

## **10 Transfer and transmission of shares - general**

### **10.1 Shares may only be transferred:**

- (a) in accordance with Articles 11 (Permitted Transfers - Investors) or 12 (Permitted Transfers - treasury shares);
- (b) in accordance with clause 13 of the Investment Agreement and clause 32 of the Partnership Agreement;
- (c) if such Share is a C Share, with Investor Consent;
- (d) pursuant to, and in accordance with, Article 14 (Drag Along) (including the transfer of the Dragged Shareholders' Shares pursuant to a Drag Along Notice and, irrespective of whether a Drag Along Notice has been served (but subject to Article 15 (Tag Along)), the transfer of some or all of the Dragging Shareholders' Shares to a Drag Buyer (or as the Drag Buyer may direct));
- (e) pursuant to, and in accordance with, Article 15 (Tag Along) (including the transfer of the Accepting Shareholders' Tagged Securities pursuant to a Tag Offer and, irrespective of whether there are any Accepting Shareholders, the transfer of some or all the Proposed Sellers' Shares pursuant to a Proposed Sale); or
- (f) pursuant to, and in accordance with Article 16 (Reorganisation Drag Along) (including the transfer of the Reorganisation Dragged Shareholders' shares pursuant to a Reorganisation Drag Along Notice and, irrespective of whether a Reorganisation Drag Along Notice has been served, the transfer of all of the Investor Majority's Shares to a New Holding Company).

### **10.2 Notwithstanding any other provisions of these Articles, the Directors shall not register a transfer of Shares:**

- (a) to any person who is bankrupt, is less than 18 years of age and/or does not have (or whom the Directors reasonably believe does not have) legal capacity to hold and/or transfer such Shares or to comply with these Articles;
- (b) (except with Investor Consent) if the Shares are not fully paid;
- (c) if the instrument of transfer is not either duly stamped or duly certified (or otherwise shown to the satisfaction of the Directors to be exempt from stamp duty);

- (d) (except with Investor Consent) if the transferee (not being a party to the Investment Agreement, whether as an original party or by having executed a Deed of Adherence) has not, in a legally binding manner, entered into and delivered to the Company a Deed of Adherence.
- 10.3 Model Article 63 (other than 63(5)(a)) shall apply, except Model Article 63(1)(b) shall be modified by replacing the words "is partly paid" with the words "are not fully paid".
- 10.4 If title to a Share passes to a Transmitttee, the Company may only recognise the Transmitttee as having any title to that Share until it is transferred in accordance with these Articles. Pending such a transfer, the Transmitttee has the same rights and liabilities as the holder had in respect of such Share except, unless and to the extent that the Investor Majority otherwise direct the Company in writing, the relevant Share will be subject to a Suspension of Rights (and such Share shall not be counted in determining the total number of votes which may be cast at any general meeting of the Company or at any separate meeting of the holders of any class of Shares or required for the purposes of a written resolution of the Shareholders or of a class of the Shareholders). Any transfer of a Share by a Transmitttee shall be treated as if it were made or executed by the person from whom the Transmitttee has derived rights in respect of the Share, and as if the event which gave rise to the transmission had not occurred.

## **11 Permitted transfers - Investors**

An Investor may transfer any Shares to:

- 11.1 an Investor Associate (or its trustee or nominee);
- 11.2 where the Investor holds the Shares as a trustee or nominee, the beneficial owner of such Shares, another trustee or nominee of such beneficial owner and/or any other person(s) to whom the beneficial owner could have transferred any Shares under this Article 11 if it had been an Investor;
- 11.3 where the Investor holds the Shares as a result of permitted transfer(s) under this Article 11, the transferor(s) of such Shares and/or any other person(s) to whom the transferor(s) could have transferred any Shares under this Article 11 if they had remained Investors;
- 11.4 any person, entity or arrangement which is entitled or permitted to hold or participate in Shares under a Co-Investment Scheme of that Investor or any Member of the Same Group as that Investor (or its trustee or nominee);
- 11.5 any other Investor (or its trustee or nominee);
- 11.6 when the Investor holds Manager Shares for the purposes of warehousing such Manager Shares for future allocation to or for the benefit of Employees, to any Employees or EBT (any benefit accruing to or in respect of any warehoused Shares or any proceeds received in respect of warehoused Shares being held for the benefit of Employees); and/or
- 11.7 subject to Article 15 (Tag Along), any other person with Investor Consent.

## **12 Permitted transfers - treasury shares**

Any Share held by the Company as a treasury share may be sold or transferred to any person or cancelled, in each case, in accordance with the Act and with Investor Consent.

### 13 Synthetic Exit – Valuer's determination

- 13.1 If any Valuer is required to determine the Option Share Consideration for the purposes of a sale of Option Shares under the Synthetic Exit Provisions, the Investor and the Managers' Representative on behalf of the holders of the relevant Option Shares shall promptly request such determination and shall agree and sign an engagement letter with the Valuer in relation to such determination.
- 13.2 For the purposes of this Article 13, the "**Relevant Parties**" shall be the Investor and the Managers' Representative on behalf of the holders of the relevant Option Shares.
- 13.3 The Relevant Parties:
- (a) shall use their respective reasonable endeavours to agree the terms of the engagement letter with the Valuer within 10 Business Days of the agreement or nomination of the Valuer in writing; and
  - (b) shall not unreasonably withhold or delay their agreement to any terms of engagement proposed by the Valuer (which may include a limitation on its liability, a waiver of claims against it and/or "hold-harmless" provisions and other similar indemnities at a level and of a nature consistent with market practice at that time) or the other(s).
- 13.4 The terms of engagement of the Valuer (including without limitation his fees and costs and any limitations on liability) shall be such reasonable commercial terms as agreed between the Value and the Lead Investor consistent with the provisions of this Article 13 including:
- (a) the Valuer shall be instructed to issue his determination in writing and address and supply it to the Relevant Parties;
  - (b) the Valuer shall be instructed to take account of such representations as may be made by the Relevant Parties as he shall see fit, and each of the Relevant Parties shall be entitled to make such representations separately but shall do so as expeditiously as reasonably possible; and
  - (c) the Valuer shall be instructed to make his determination as expeditiously as is reasonably possible.
- 13.5 In the absence of agreement of the engagement letter within the relevant period specified in Article 13.3(a), the Company or Investor (as applicable) may (and shall if directed by the Investor Majority) use its powers under the power of attorney in the Investment Agreement or act as agent of the relevant Option Shares with full power and authority to agree the terms of the engagement letter with the Valuer for and on behalf of such person.
- 13.6 The Relevant Parties shall sign the engagement letter as agreed with the Valuer within two Business Days after its agreement (whether pursuant to Article 13.1 and/or 13.5).
- 13.7 If all the holders of the relevant Option Shares (as applicable) have not signed the engagement letter within the relevant period specified in Article 13.6, the Company may (and shall if directed by the Investor Majority) use its powers under the power of attorney in the Investment Agreement or act as agent of such person with full power and authority to sign and deliver the agreed engagement letter for and on behalf of such person.
- 13.8 The authorities given pursuant to Articles 13.5 and 13.7 shall be irrevocable and are given by way of security for the performance of the obligations of the relevant Option Shares under Articles 13.3(a) and 13.6.
- 13.9 The Company shall give the Valuer access to all the accounting records and any other documents of the Group it may reasonably require to determine the Option Share

Consideration for the purposes of a sale of Option Shares (subject to the Valuer agreeing such confidentiality provisions as the Directors may reasonably require).

- 13.10 In determining the Option Share Consideration for the purposes of a sale of Option Shares, the Valuer shall act as an expert (not as an arbitrator) and its written determination shall be conclusive and binding on the Relevant Parties concerned (except in the case of fraud or manifest error).
- 13.11 In determining the Option Share Consideration for the purposes of a sale of Option Shares, the Valuer shall be instructed to have regard to the SEFMV Principles.
- 13.12 The fees and expenses of the Valuer shall be borne by the Company, unless the amount of the Option Share Consideration determined is less than 110% of the amount initially proposed to the Managers' Representative by the Remuneration Committee or Lead Investor in which case such fees and expenses shall be borne by the Managers selling or obliged to sell Option Shares under the Option concerned pro rata to their respective Option Share Consideration entitlements.
- 13.13 If any Valuer becomes unwilling or incapable of acting, then a replacement Valuer shall be appointed and Articles 13.1 to 13.12 shall apply to the replacement Valuer as if it was the first Valuer appointed and as if references to the date of proposal in the definition of Valuer and in such Articles were to the date on which the first Valuer becomes unwilling or incapable of acting.
- 13.14 If the Option Share Consideration of some other Option Shares (of a relevant or equivalent (in terms of capital rights) class) has been determined by a Valuer as at a date within the twelve (12) months preceding or following the relevant date, such calculation of Option Share Consideration shall apply (with Investor Consent).

## 14 Drag Along

- 14.1 If the Investors or any of them (**Dragging Shareholders**) wishes to transfer (whether through a single transaction or a series of related transactions) at least 50% of the A Shares registered in their name pursuant to a bona fide sale to a Third Party on arm's length terms and/or to any of its Connected Persons and/or to any other persons with whom it is Acting in Concert (together the **Drag Buyer**), the Investor Majority shall have the right by notice (**Drag Along Notice**) to each of the other Shareholders, other than the Company when it holds Shares as treasury shares, (**Dragged Shareholders**) to require all such Dragged Shareholders to sell and transfer to the Drag Buyer (or as the Drag Buyer may direct) the legal and beneficial title to, such proportion of the Equity Shares registered in their name as is equal to the proportion which the Equity Shares that the Dragging Shareholders are proposing to transfer to the Equity Shares bears to the Dragging Shareholders total holding of Equity Shares, (such Shares being the **Dragged Shares**) (free from all liens, charges and encumbrances and together with all rights attaching to them and with full title guarantee), in respect of a sale and transfer, to the Drag Buyer (or as the Drag Buyer may direct) in accordance with the provisions of this Article 14.
- 14.2 A Drag Along Notice may be given to the Dragged Shareholders at any time before the completion of the transfer of the Dragging Shareholders' Equity Shares to the Drag Buyer (or as the Drag Buyer may direct). It shall specify:
  - (a) that the Dragged Shareholders are required to redeem and/or transfer (as applicable) their Dragged Shares pursuant to this Article 14;
  - (b) the identity of the Drag Buyer (and, if relevant, the transferee(s) to whom the Drag Buyer directs the Dragged Shares are to be transferred);

- (c) the amount (if any) and form of consideration for which the Dragged Shares are to be transferred (determined in accordance with Articles 14.4 to 14.5);
- (d) the proposed, place, date and time of transfer; and
- (e) the other terms and conditions of sale to which the Dragged Shareholders are required to adhere (determined in accordance with Article 14.8),

and shall be accompanied by all documents required to be executed by the Dragged Shareholders to give effect to the relevant transfer and, (if relevant) a form of election for any alternative consideration offered by the Drag Buyer (with Investor Consent) pursuant to Article 14.7.

- 14.3 A Drag Along Notice may be revoked by the Investor Majority at any time prior to the completion of the sale and purchase of the Dragged Shares by notice to the Dragged Shareholders.
- 14.4 The amount (if any) of consideration for which the Dragged Shareholders shall be obliged to sell each of their Dragged Shares shall be that to which they would be entitled if the aggregate value of the total consideration to be paid by the Drag Buyer for all of the Dragging Shareholders' Shares and the Dragged Shares as a whole was allocated to the Dragging Shareholders and the Dragged Shareholders in the order of priority set out in Article 6 (Return of capital).
- 14.5 For the avoidance of doubt, for the purposes of Article 14.4 **total consideration** shall be construed as meaning the value or worth of the total consideration regardless of the form of the total consideration.
- 14.6 The amount of consideration (if any) to be paid by the Drag Buyer for the Dragged Shares (as determined in accordance with Article 14.4) shall be paid in cash or in such other form of non-cash consideration with an equivalent cash value as shall be elected by the Drag Buyer (with Investor Consent), provided that:
  - (a) the form of any non-cash consideration and the proportion of cash and/or any non-cash consideration to be paid for the Dragged Shares shall be the same for each Dragged Shareholder;
  - (b) the form of any non-cash consideration to be paid for the Dragged Shares shall be the same as the form of any non-cash consideration to be paid for the Investor Majority's Securities; and
  - (c) the proportion of cash and/or any non-cash consideration to be paid for the Dragged Shares shall be the same as, or a greater proportion of cash than, the proportion of cash and/or any non-cash consideration to be paid for the Investor Majority's Securities.
- 14.7 The Drag Buyer (with Investor Consent) may also offer all of the Dragged Shareholders another form of consideration and a different proportion of cash and/or non-cash consideration which they may elect to receive as an alternative in whole or in part to the consideration set out in the Drag Along Notice.
- 14.8 Subject to Articles 14.4 to 14.7, the Dragged Shares shall be acquired on the same, or no more onerous, terms and conditions (including the same, or no more onerous, representations, warranties, covenants, undertakings, indemnities and requirements relating to contributing to any retention (if any)) for which:
  - (a) where there are Dragging Shareholders with the same class of Securities as the holder of the relevant Dragged Shares, those Dragging Shareholders; or

(b) otherwise, the Investors,

are selling their Securities, disregarding any terms and conditions which are not directly related to the sale of the Dragging Shareholders' Securities.

- 14.9 Completion of the sale and purchase of the Dragged Shares shall take place on the same date and at the same time and place as the sale of the Dragging Shareholders' Securities to the Drag Buyer (or as the Drag Buyer may direct) unless all of the Dragged Shareholders and the Dragging Shareholders otherwise agree, in which case completion of the sale and purchase of the Dragged Shares shall take place on a date that is no more than 20 Business Days later.
- 14.10 On or before the Drag Completion Date each Dragged Shareholder shall deliver to the Company:
- (a) duly executed transfers of the Dragged Shares on or prior to the transfer of the Equity Shares of the Dragging Shareholders to the Drag Buyer) registered in its name in favour of the Drag Buyer (or as the Drag Buyer directs in the Drag Along Notice);
  - (b) the relevant share certificate(s) in respect of those Dragged Shares (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificates);
  - (c) a duly executed sale agreement (in a form agreed by the Dragging Shareholders); and
  - (d) any other related documents required by the Investor Majority to be executed by the Dragged Shareholders.
- 14.11 Subject to compliance with Article 14.10 and to the extent only that the Drag Buyer has put the Company in the requisite cleared funds or other form of consideration, the Company shall on the Drag Completion Date pay, on behalf of the Drag Buyer, to each of the Dragged Shareholders in respect of its Dragged Shares the consideration (if any) it is due in accordance with Articles 14.4 to 14.7, less any amount that is to be deducted from such consideration pursuant to Article 14.13. Payment to the Dragged Shareholder shall be made to the relevant Dragged Shareholder's last known address on the Company's register of members. The Company's receipt of the requisite cleared funds or other form of consideration from the Drag Buyer shall be a good discharge to the relevant Drag Buyer. Pending compliance by each Dragged Shareholder with its obligations in Article 14.10, the Company shall hold the funds or other form of consideration received from the Drag Buyer in respect of the Dragged Shares (less any amount that is to be deducted from such funds pursuant to Article 14.13) on trust for the Dragged Shareholders, without any obligation to pay interest.
- 14.12 Unless and to the extent that the Investor Majority otherwise direct the Company in writing, upon any person (other than the Drag Buyer or its nominee), following the date of service of a Drag Along Notice, becoming a Shareholder (or increasing an existing shareholding in the Company) including pursuant to the exercise of any option, warrant or other right to acquire or subscribe for, or to convert any security into, Shares (**New Securityholder**):
- (a) a Drag Along Notice on the same terms as the previous Drag Along Notice shall be deemed to have been served upon the New Securityholder, who shall then be bound to sell and transfer the legal and beneficial title to the same proportion of the New Securityholder's Equity Shares acquired by him as those being sold and transferred by the Dragged Shareholders (free from all liens, charges and encumbrances and together with all rights attaching to them and with full title guarantee) to the Drag Buyer (or as the Drag Buyer may direct); and
  - (b) the provisions of this Article 14 shall apply (with necessary modifications) to the New Securityholder as if it were a Dragged Shareholder, except that, where completion of

the sale and purchase of the Dragged Shares to the Dragged Buyer (or as the Drag Buyer may direct) has already taken place, the completion date of the sale and purchase of the Securities shall take place on such date as the Drag Buyer shall determine.

- 14.13 The reasonable transaction fees, costs and expenses incurred by the Dragging Shareholders and the Dragged Shareholders that (as determined by the Investor Majority) are attributable to the transfer of Securities made in accordance with this Article 14 shall be borne by each of the Dragging Shareholders and the Dragged Shareholders pro rata to their holdings of Equity Shares being transferred. An amount equal to the Dragged Shareholders' proportionate share of such fees, costs and expenses shall, if the Investor Majority so requires, be deducted by the Company from the amount of consideration which the Dragged Shareholders are entitled to receive for their Dragged Shares (as determined in accordance with Article 14.4) and shall be used to pay their proportionate share of such fees, costs and expenses.
- 14.14 The provisions of this Article 14 shall apply *mutatis mutandis* to Leaver Loan Notes, and any references to Shareholders, Shares, Equity Shares, Dragged Shares, and Dragged Shareholders shall be construed accordingly.

## 15 Tag Along

- 15.1 This Article 15 shall not apply to a Proposed Sale in respect of which a Drag Along Notice has been served or which is in accordance with Articles 11 (Permitted Transfers - Investors) or 12 (Permitted Transfers - treasury shares) or clause 13 of the Investment Agreement and clause 32 of the Partnership Agreement.
- 15.2 If the Investors or any of them (**Proposed Sellers**) proposes to transfer to any person (whether through a single transaction or a series of related transactions) more than 50% of the Equity Shares registered in their name pursuant to a bona fide sale to a Third Party on arm's length terms and/or to any of its Connected Persons and/or to any other persons with whom it is Acting in Concert (together the **Tag Buyer**) (**Proposed Sale**), the Proposed Sellers shall not be entitled to transfer such Equity Shares and no such Equity Shares shall be capable of being purchased or transferred unless the Tag Buyer (or the Company in its capacity as agent for the Tag Buyer) shall have offered (**Tag Offer**) in accordance with this Article 15 to purchase from each of the other Equity Shareholders, other than in relation to any Excluded Equity Shares, (not being a Tag Buyer) (**Other Shareholders**) such proportion of the Equity Shares registered in their name as is equal to the proportion which the Equity Shares that the Proposed Sellers are proposing to transfer to the Tag Buyer bears to the Proposed Sellers' total holding of Equity Shares (the **Tagged Securities**).
- 15.3 A Tag Offer shall be made by notice specifying:
- (a) the identity of the Tag Buyer;
  - (b) the number of Equity Shares that the Proposed Sellers are proposing to transfer to the Tag Buyer and the proportion that this bears to the Proposed Sellers' total holding of Equity Shares and the number of Equity Shares that the Tag Buyer is therefore offering to purchase from the Other Shareholders;
  - (c) the amount and form of consideration and the proportion of cash and/or securities that the Tag Buyer is proposing to pay for each of those Equity Shares (determined in accordance with Article 15.4);
  - (d) the proposed, place, date and time of transfer;
  - (e) a time (being not less than 10 Business Days) within which the offer, if not accepted, shall be deemed to be declined; and



- (f) to the extent not set out in the accompanying documents, any other terms and conditions of sale on which the Tag Buyer is proposing to purchase the Proposed Sellers' and the Accepting Shareholders' Equity Shares,

and shall be accompanied by all documents required to be executed by the Other Shareholders if they accept the Tag Offer.

- 15.4 The amount and form of consideration and the proportion of cash and/or securities which the Tag Buyer shall offer and is proposing to pay for each of the Tagged Securities shall be the same as that offered and to be paid for each of the Proposed Sellers' Equity Shares being transferred to the Tag Buyer pursuant to the Proposed Sale, save that the actual amount (if any) of consideration which each of the Proposed Sellers and the Accepting Shareholders shall receive for the Shares they are transferring shall be that to which they would be entitled if the aggregate value of the total consideration as a whole to be paid by the Tag Buyer for such Shares was allocated to the Proposed Sellers and the Accepting Shareholders in the order of priority set out in Article 6 (Return of capital).
- 15.5 Each Other Shareholder who accepts the Tag Offer within the offer period (**Accepting Shareholder**) shall be required to:
- (a) transfer the legal and beneficial title to all of his Tagged Securities to the Tag Buyer free from all liens, charges and encumbrances and together with all rights attaching to them and with full title guarantee;
  - (b) subject to Article 15.4, sell his Tagged Securities on the same terms and conditions (including the same representations, warranties, covenants, undertakings, indemnities and requirements relating to contributing to any retention) as are to be given to and by the Proposed Sellers pursuant to the Proposed Sale;
  - (c) deliver to the Tag Buyer the relevant share certificate(s) for his Tagged Securities (or an indemnity in a form reasonably satisfactory to the Directors for lost certificates) and a duly executed sale agreement (in a form agreed by the Proposed Sellers) setting out the relevant terms and conditions of sale; and
  - (d) pay his proportionate share of such fees, costs and expenses that are to be borne by the Accepting Shareholders pursuant to Article 15.8.
- 15.6 Completion of the sale and purchase of any Tagged Securities in respect of which the Tag Offer has been accepted shall be conditional upon, and shall take place on the same date and at the same time and place as, the completion of the Proposed Sale (unless any of the Accepting Shareholders and the Tag Buyer (with Investor Consent) agree otherwise), save that if any Accepting Shareholder fails to comply with his obligations under Article 15.5 on or before the completion of the Proposed Sale:
- (a) the completion of the Proposed Sale may be made without the completion of the sale and purchase of that Accepting Shareholder's Tagged Securities (provided that it shall be on no more favourable terms and conditions to the Proposed Sellers than those stated in the original Tag Offer); and
  - (b) the Tag Buyer shall not be under any further obligation to purchase those Tagged Securities.
- 15.7 If some or all of the Other Shareholders do not accept the Tag Offer within the offer period, the completion of the Proposed Sale may be made within three months of the end of that period (provided that it shall be on no more favourable terms and conditions to the Proposed Sellers than those stated in the original Tag Offer).

- 15.8 The reasonable transaction fees, costs and expenses incurred by the Proposed Sellers and the Accepting Shareholders that (as determined by the Investor Majority) are attributable to the transfer of Securities made in accordance with this Article 15 shall be borne by each of the Proposed Sellers and the Accepting Shareholders pro rata to their holdings of Equity Shares being transferred.

## 16 Reorganisation Drag Along

- 16.1 This Article 16 shall apply in circumstances where a Reorganisation is proposed by an Investor Majority in relation to which a New Holding Company will acquire all the Shares in issue at the date of such acquisition on the basis that:

- (a) the consideration payable by the New Holding Company to:
  - (i) each Shareholder (in that capacity) shall be the issue to such holder of a number of shares in the capital of the New Holding Company either:
    - (A) with materially equivalent rights to the Shares that such Shareholder holds prior to the Reorganisation (including in respect of the economic entitlements set out in Article 6); or
    - (B) in the event that the New Holding Company Shares are proposed to be all New Ordinary Shares, which are New Ordinary Shares,  
  
in each case such that immediately thereafter such holder will hold the same proportion (or as nearly as practicable the same proportion) of the total number of New Holding Company Shares then in issue as the number of Shares held by such holder immediately prior to the Reorganisation represented as a proportion of the total number of Shares then in issue (provided always that the relevant economic entitlements set out in Article 6 are taken into account in the number of New Holding Company Shares issued)); and
- (b) all the New Holding Company Shares shall, immediately following their issue, constitute the entire, or substantially all of the, issued share capital of the New Holding Company.

- 16.2 If the Investor Majority approve a Reorganisation, the Investor Majority shall have the right by notice (**Reorganisation Drag Along Notice**) to each of the other Shareholders, (**Reorganisation Dragged Shareholders**) to require all such Reorganisation Dragged Shareholders to transfer the legal and beneficial title to all of the Shares held by such Reorganisation Dragged Shareholders (the **Reorganisation Dragged Shares**) (free from all liens, charges and encumbrances and together with all rights attaching to them and with full title guarantee) to a New Holding Company in accordance with the provisions of this Article 16.

- 16.3 A Reorganisation Drag Along Notice may be given to the Reorganisation Dragged Shareholders at any time before the completion of the transfer of the Investor Majority Shares to the New Holding Company for the consideration set out in Article 16.1. It shall specify:

- (a) that the Reorganisation Dragged Shareholders are required to transfer all of their Shares pursuant to this Article 16;
- (b) the identity of the New Holding Company;
- (c) the form of consideration for which the Reorganisation Dragged Shares are to be transferred (determined in accordance with Article 16.1);

- (d) the proposed, place, date and time of transfer; and
- (e) the other terms and conditions of transfer to which the Reorganisation Dragged Shareholders are required to adhere (determined in accordance with this Article 16),

and shall be accompanied by all documents required to be executed by the Reorganisation Dragged Shareholders to give effect to the relevant transfer.

- 16.4 The consideration for which the Reorganisation Dragged Shareholders shall be obliged to transfer each of their Reorganisation Dragged Shares shall be determined in accordance with Article 16.1.
- 16.5 Subject to Article 16.1, the Reorganisation Dragged Shares shall be acquired on the same, or no more onerous, terms and conditions for which the Investor Majority are transferring their Shares.
- 16.6 A Reorganisation Drag Along Notice may be revoked by the Investor Majority at any time and in their sole discretion prior to the completion of the transfer of the Reorganisation Dragged Shares by notice to the Reorganisation Dragged Shareholders.
- 16.7 Completion of the transfer of the Reorganisation Dragged Shares and the issue of the New Holding Company Shares shall take place on the same date and at the same time and place as the transfer of the Investor Majority's Shares to the New Holding Company (for the consideration set out in Article 16.1).
- 16.8 On or before the Reorganisation Completion Date each Reorganisation Dragged Shareholder shall (to the extent required by the Investor Majority):
  - (a) provide such information as is required by the Investor Majority or the Board or the board of directors of New Holding Company to establish and to evidence the direct and indirect legal and beneficial ownership of all Reorganisation Dragged Shares;
  - (b) transfer the legal and beneficial title to all its Reorganisation Dragged Shares to the New Holding Company free from all liens, charges and encumbrances and together with all rights attaching to them and with full title guarantee;
  - (c) deliver to the Company duly executed transfers of the Reorganisation Dragged Shares registered in its name in favour of New Holding Company;
  - (d) deliver to the Company the relevant share certificate(s) in respect of those Reorganisation Dragged Shares (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificates);
  - (e) deliver to the Company a duly executed transfer agreement or share for share exchange agreement (in a form agreed by the Investor Majority); and
  - (f) enter into any other related documents (including any shareholders' agreement on terms materially similar to, or no more onerous on the Reorganisation Dragged Shareholders than, those contained in the Investment Agreement and in these Articles) reasonably required by the Investor Majority to be executed by the Reorganisation Dragged Shareholders in order to give effect to Article 16.7.
- 16.9 Subject to compliance with Article 16.8, the New Holding Company shall issue to each of the Reorganisation Dragged Shareholders in respect of and as consideration for its Reorganisation Dragged Shares the consideration it is due in accordance with Article 16.1. The issue of the New Holding Company Shares shall be made to each relevant Reorganisation Dragged Shareholder using the last known details of the Reorganisation Dragged Shareholders (including name and address) on the Company's register of members.

- 16.10 Unless and to the extent that the Investor Majority otherwise direct the Company in writing, upon any person (other than the New Holding Company), following the date of service of a Reorganisation Drag Along Notice, becoming a Shareholder (or increasing an existing shareholding in the Company) including pursuant to the exercise of any option, warrant or other right to acquire or subscribe for, or to convert any security into, Shares (**New Reorganisation Shareholder**):
- (a) a Reorganisation Drag Along Notice on the same terms as the previous Reorganisation Drag Along Notice shall be deemed to have been served upon the New Reorganisation Shareholder, who shall then be bound to transfer the legal and beneficial title to the New Reorganisation Shares free from all liens, charges and encumbrance and together with all rights attaching to them and with full title guarantee), in respect of a transfer, to the New Holding Company; and
  - (b) the provisions of this Article 16 shall apply (with necessary modifications) to the New Reorganisation Shareholder as if it were a Reorganisation Dragged Shareholder as at the date of the original Reorganisation Drag Along Notice, except that, where completion of the transfer of the Reorganisation Dragged Shares to the New Holding Company has already taken place, the completion date of the transfer of the Shares shall take place on such date as the Investor Majority shall determine.

## **17 Transfer provisions - default by Shareholder**

- 17.1 This Article 17 applies when a Shareholder is in default of its obligations under Articles 14.10 or 16.8 (**Defaulting Shareholder**).
- 17.2 The Company may (and shall if directed by the Investor Majority) use its powers under the power of attorney in clause 16 of the Investment Agreement or act as agent of the Defaulting Shareholder with full power and authority in the Defaulting Shareholder's name and on its behalf to:
- (a) approve, sign and execute any agreements, documents and/or instruments and undertake any action, which the Company in its absolute discretion considers necessary or desirable in order for such Defaulting Shareholder to give effect to the transfer of the relevant Shares to the relevant transferee and to otherwise comply with and perform its obligations under Articles 14.10 or 16.8; and
  - (b) (as appropriate) deliver any such agreements, documents and/or instruments to the relevant transferee against receipt by the Company of the consideration (if any) payable for the relevant Shares (to be held on trust for the Defaulting Shareholder without any obligation to pay interest) (such receipt being a good discharge to the relevant transferee who shall not be bound to see to the application of such payment).
- 17.3 The Directors shall, notwithstanding any failure of the Defaulting Shareholder to deliver up its certificate (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificates) for the relevant Shares, subject to due stamping, authorise the registration of the transfer(s) and of the relevant transferee(s) (or, where relevant, the Company) as the holder(s) of the relevant Shares so transferred.
- 17.4 The cancellation of the relevant Shares or the registration of the relevant transferee(s) (or, where relevant, the Company) as the registered holder(s) of such Shares shall not be affected by any irregularity in, or invalidity of, such proceedings, and shall not be questioned by any person. The Defaulting Shareholder shall be entitled to receive the consideration for such Shares, less any amount that is to be deducted from such consideration pursuant to Article 14.13, when he delivers up his certificate (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificates) for the relevant Shares to the Company.

- 17.5 The authority given pursuant to this Article 17 shall be irrevocable and is given by way of security for the performance of the obligations of the Defaulting Shareholder under Articles 14.10 or 16.8.

## **18 Transfer provisions - evidence of compliance**

- 18.1 For the purpose of ensuring that:

- (a) a transfer of Shares is permitted under these Articles; and/or
- (b) no circumstances have arisen whereby a transfer of Shares is required to be or ought to have been made,

the Directors may (and shall if directed by the Investor Majority) require any Shareholder to provide, and/or procure that any other person provides, the Company with such information and evidence as the Directors or the Investor Majority require regarding any matter which they consider relevant for such purpose. Pending the provision of such information the Directors shall be entitled to refuse to register any relevant transfer.

- 18.2 Failing such information or evidence referred to in Article 18.1 being provided to the reasonable satisfaction of the Investor Majority within 10 Business Days of being requested, the Directors may (and shall if directed by the Investor Majority) notify the relevant Shareholder in writing of that fact. If the Shareholder fails to provide, or procure the provision of, such information or evidence to the reasonable satisfaction of the Investor Majority within 10 Business Days of receipt of such written notice, then (unless and to the extent that the Investor Majority otherwise direct the Company in writing) any Shares held by the relevant Shareholder shall automatically be subject to a Suspension of Rights (and such Shares held by the relevant Shareholder shall not be counted in determining the total number of votes which may be cast at any general meeting of the Company or at any separate meeting of the holders of any class of Shares or required for the purposes of a written resolution of the Shareholders or of a class of the Shareholders) until the failure to provide, or procure the provision of, such information or evidence is remedied to the reasonable satisfaction of the Investor Majority.

- 18.3 If as a result of the provision of such information and evidence or otherwise, the Investor Majority are reasonably satisfied that:

- (a) a transfer of Shares has taken place which is not permitted under these Articles; or
- (b) circumstances have arisen whereby a transfer of Shares is required to be or ought to have been made,

the Directors may (and shall if directed by the Investor Majority) notify the relevant Shareholder in writing of that fact. If the Shareholder fails to remedy the situation to the reasonable satisfaction of the Investor Majority within 10 Business Days of receipt of such written notice, then the Investor Majority may serve a written notice on the relevant Shareholder at any time and from time to time requiring such Shareholder to take any action or enter into any documentation as may be required by the Investor Majority (including any duly executed transfer of any relevant Shares, an indemnity in a form reasonably satisfactory to the Investor Majority for any lost certificates and/or any duly executed sale agreement) until the situation referred to in this Article 18.3 is remedied to the reasonable satisfaction of the Investor Majority.

## 19 Directors' powers and responsibilities - Model Articles

19.1 The following Model Articles apply:

3	Directors' general authority
4	Members' reserve power
5, except that the Directors shall not exercise any rights under Model Article 5 without Investor Consent.	Directors may delegate
6, except that the Directors shall not exercise any rights under Model Article 6(2) without Investor Consent.	Committees

## 20 Directors to take decisions collectively

Decisions of the Directors must be taken by:

- 20.1 a majority decision at a meeting; or
- 20.2 a majority decision by a Directors' written resolution adopted in accordance with Article 21 (Directors' written resolutions).

## 21 Directors' written resolutions

- 21.1 Any Director may propose a Directors' written resolution and the company secretary (if any) must propose a Directors' written resolution if a Director so requests.
- 21.2 Subject to Article 21.3, a Directors' written resolution is proposed by giving notice in writing of the proposed resolution to each Director.
- 21.3 Any Director may waive his entitlement to notice of any proposed Directors' written resolution, either prospectively or retrospectively, and any retrospective waiver shall not affect the validity of the Directors' written resolution.
- 21.4 Subject to Article 27 (Investor Directors' enhanced voting rights), a proposed Directors' written resolution is adopted when a majority of the Eligible Directors have signed one or more copies of it, provided that (other than in the case of a decision taken in accordance with Article 24.7) those Directors would have formed a quorum at a Directors' meeting had the resolution been proposed at such a meeting.
- 21.5 Once a Directors' written resolution has been adopted, it must be treated as if it had been a decision taken at a Directors' meeting in accordance with these Articles.
- 21.6 An alternate director may sign a proposed Directors' written resolution (in addition to signing it in his capacity as a Director in his own right, if relevant) on behalf of each of his Appointors who:
  - (a) have not signed or are not to sign the Directors' written resolution; and

- (b) are Eligible Directors in relation to the Directors' written resolution,

provided that (a) the alternate director is himself an Eligible Director in relation to the Directors' written resolution and (b) (other than in the case of a decision taken in accordance with Article 24.7) those persons actually signing the Directors' written resolution would have formed a quorum at a Directors' meeting had the resolution been proposed at such a meeting.

## **22 Calling a Directors' meeting**

- 22.1 Any Director 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.
- 22.2 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.
- 22.3 Subject to Article 22.4, notice of a Directors' meeting must be given to each Director. Notice does not need to be in writing. A Director who participates in a meeting shall be deemed to have received proper notice of the meeting.
- 22.4 Any Director may waive his entitlement to notice of any Directors' meeting, either prospectively or retrospectively, and any retrospective waiver shall not affect the validity of the meeting or of any business conducted at it.

## **23 Participation in Directors' meetings**

- 23.1 Subject to these Articles, 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 these 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.
- 23.2 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.
- 23.3 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.

## **24 Quorum for Directors' meetings**

- 24.1 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on or a decision is to be taken, except a proposal to call another meeting or a decision taken in accordance with Article 24.7.
- 24.2 Subject to Article 27 (Investor Directors' enhanced voting rights), the quorum for Directors' meetings (other than Directors' meetings that are adjourned in accordance with Article 24.6) is two Directors (or such other number of Directors as may be fixed from time to time by the

Directors (with Investor Consent)) of which one (save in the circumstances set out in Article 24.3) must be an Investor Director or his alternate director.

24.3 The circumstances referred to in Articles 24.2 and 24.6 are:

- (a) where Investor Consent is given;
- (b) where there is no Investor Director in office; or
- (c) in respect of a particular decision at a Directors' meetings, where there is no Investor Director in office who would be able to be counted as participating for quorum purposes in relation to that decision.

24.4 Subject to these Articles, a person who is an alternate director, but is not a Director in his own right, may be counted as participating for the purposes of determining whether a quorum is participating in any decision at a Directors' meeting, provided that his Appointor (or one of his Appointors):

- (a) is not participating in the decision at the Directors' meeting; and
- (b) would have been an Eligible Director in relation to the decision if he had been participating in it.

24.5 No alternate director may be counted as more than one Director for the purposes of determining whether a quorum is participating in any decision at a Directors' meeting.

24.6 If the necessary quorum is not present within 10 minutes of the time at which the Directors' meeting was due to start, or if during the meeting a quorum ceases to be present, the meeting shall be adjourned for the consideration of the same business until the same time and place the next following week when those Directors or the Director present, provided that (save in the circumstances set out in Article 24.3) one of them or the one Director is an Investor Director or his alternate director, shall constitute a quorum.

24.7 If the total number of Directors (other than alternate directors) in office for the time being is less than the number for the time being of Directors required to form a quorum in accordance with Article 24.2, the remaining Director or Directors must not (save with Investor Consent) take any decision other than a decision to appoint sufficient Directors to make up the required quorum or to call a general meeting to do so.

## 25 Chairman of the Board

25.1 An Investor Majority (or the Lead Investor, on their behalf) shall have the right to appoint or nominate any Director to be chairman of the Board (**Chairman**) and to remove him from that office and to appoint a replacement.

25.2 The Director so appointed as Chairman shall preside at every Directors' meeting in which he is participating, but if no Chairman has been appointed, or if he is unwilling to preside at a Directors' meeting or he is not participating in a Directors' meeting within 10 minutes of the time it was to start, an Investor Director will be the Chairman for the purposes of that Directors' meeting.

## 26 Voting at Directors' meetings

26.1 Subject to these Articles (including Article 27 (Investor Directors' enhanced voting rights)), a decision is taken at a Directors' meeting by a majority of the votes of the Eligible Directors participating in the decision at the meeting, which majority must include the positive affirmative vote of an Investor Director.



- 26.2 Subject to these Articles (including Article 27 (Investor Directors' enhanced voting rights)), each Director participating in a decision at a Directors' meeting has one vote.
- 26.3 Subject to these Articles, an alternate director shall have one vote (in addition to his own vote in his capacity as a Director in his own right, if relevant) on any decision at a Directors' meeting for each of his Appointors who:
- (a) are not participating in the decision at the Directors' meeting; and
  - (b) would have been Eligible Directors in relation to the decision if they had been participating in it.
- 26.4 If the numbers of votes for and against a proposal at a Directors' meeting are equal, the votes of the Investor Directors in attendance shall be deemed to represent one vote more than the other directors in attendance.

## **27 Investor Directors' enhanced voting rights**

If an Enhanced Voting Event has occurred and the Investor Majority serve a notice in writing to that effect on the Company then notwithstanding any other provisions of these Articles, with effect from when the notice is received by the Company until such notice is withdrawn by a further notice in writing to the Company from the Investor Majority:

- 27.1 one Investor Director (or his alternate director) shall be sufficient to constitute a quorum at a Directors' meeting;
- 27.2 the Investor Director(s) (and/or their alternate directors) shall have that number of votes in relation to each resolution of the Directors which exceed by one the number of votes in aggregate of the other Directors and their alternate directors; and
- 27.3 if an Investor Director signs a Directors' written resolution, that resolution shall be deemed to have been adopted, notwithstanding that a majority of the Eligible Directors have not signed one or more copies of it.

## **28 Participating and voting when Director interested**

- 28.1 A Director shall not be counted as participating for quorum and voting purposes in a decision at a Directors' meeting to authorise a matter for the purposes of section 175 of the Act if, in accordance with section 175(6) of the Act, the matter is such that the authorisation would only be effective if:
- (a) any requirement as to the quorum at the Directors' meeting at which the matter is considered is met without him counting; and
  - (b) the matter was agreed to without him voting or would have been agreed to if his vote had not been counted.
- 28.2 Without prejudice to the obligations of any Director:
- (a) to disclose any interest in proposed or existing transactions or arrangements with the Company in accordance with the Companies Acts; and
  - (b) to disclose any interest in accordance with Article 32.2(b),
- and subject always to Article 28.1 and the terms on which any authorisation by the Directors for the purposes of section 175 of the Act has been given, a Director shall be counted as

participating for quorum and voting purposes in any decision at a Directors' meeting that is concerned with a matter in which he has, directly or indirectly, an interest provided that he has first obtained Investor Consent (unless the Director concerned is an Investor Director (or his alternate director), in which case no such consent shall be required).

- 28.3 If any question arises at a Directors' meeting as to the right of a Director (other than the Chairman) to be counted as participating for quorum or voting purposes in the meeting (or part of the meeting), 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.
- 28.4 If any question arises at a Directors' meeting as to the right of the Chairman to be counted as participating for quorum or voting purposes in the meeting (or part of the meeting), 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 for quorum or voting purposes.

## **29 Directors' discretion to make further rules**

Subject to these Articles, the Directors may (with Investor Consent) 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.

## **30 Records of Directors' 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 decision taken by the Directors.

## **31 Transactions or arrangements with the Company**

Subject to:

- 31.1 compliance with the Companies Acts (including sections 177 (Duty to declare interest in proposed transaction or arrangement) and 182 (Declaration of interest in existing transaction or arrangement) of the Act); and
- 31.2 (other than in the case of an Investor Director (or his alternate director)) Investor Consent, a Director may be a party to, or otherwise (directly or indirectly) interested in, any transaction or arrangement with the Company.

## **32 Directors' conflicts of interest**

- 32.1 Subject to Article 32.2, for the purposes of section 175 of the Act:
- (a) a Director shall be authorised to hold office as a director or other officer of, be employed or engaged by, hold shares or other securities in, or otherwise be interested in, whether directly or indirectly, any other Group Member or any other undertaking in which the Company is otherwise (directly or indirectly) interested;
  - (b) an Investor Director (and his alternate director) shall be authorised to hold office as a director or other officer of, be employed or engaged by, hold shares or other securities in, or otherwise be interested in, whether directly or indirectly:
    - (i) an Investor;

- (ii) an Investor Associate; or
    - (iii) any other company in which an Investor or Investor Associate also holds shares or other securities or is otherwise (directly or indirectly) interested;
  - (c) a Director shall be authorised to enter into, or otherwise be interested in, whether directly or indirectly, any transaction or arrangement in which the Company is (directly or indirectly) interested (other than a transaction or arrangement with the Company); and
  - (d) a Director shall be authorised to be a party to any transaction or arrangement with any other Group Member or any other undertaking in which the Company is otherwise (directly or indirectly) interested.
- 32.2 In the case of any Director (other than an Investor Director (or his alternate director)) any authorisation pursuant to Article 32.1 is subject to:
- (a) Investor Consent; and
  - (b) the Director declaring the nature and extent of his interest (other than a Non-Disclosable Interest) to the other Directors.
- 32.3 For the purposes of this Article 32, a **Non-Disclosable Interest** is an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest or one that the other Directors are already aware of or ought reasonably to be aware of.
- 32.4 For the purposes of section 175 of the Act, where an office, employment, engagement, position or interest held by an Investor Director (or his alternate director) in another entity has been authorised pursuant to Article 32.1(b) and his relationship with that entity gives rise to an actual or potential conflict of interest (or any actual or potential conflict of interest may reasonably be expected to arise out of the matter so authorised), an Investor Director (and/or his alternate director) shall be authorised to:
- (a) attend and vote at meetings of the Directors (or any committee of the Board) at which any matter relating to the actual or potential conflict of interest will or may be discussed and receive board papers or other documents relating to such meeting;
  - (b) receive confidential information and other documents and information relating to any Group Member, use and apply such information in performing his duties as a director, officer or employee of, or consultant to an Investor or Investor Associate and disclose that information to third parties in accordance with these Articles and/or the Investment Agreement;
  - (c) give or withhold consent or give any approval, direction, agreement, opinion (of satisfaction or otherwise), request, decision, determination or notice which is required to be given or may be given by or on behalf of the Investors, the Investor Majority (including an Investor Consent) or the Investor Director(s) pursuant to the Investment Agreement and/or these Articles on behalf of the Investors, the Investor Majority or the Investor Director(s); and
  - (d) exercise the rights conferred on him pursuant to Article 27.
- 32.5 The following provisions of this Article apply to any authorisation of a matter by the Directors for the purposes of section 175 of the Act:
- (a) an authorisation may extend to any actual or potential conflict of interest (including a conflict of interest and duty and a conflict of duties) which may reasonably be expected to arise out of the matter so authorised;

- (b) an authorisation shall be subject to such conditions or limitations as the Directors may determine, whether at the time such authorisation is given or subsequently, and may be terminated by the Directors at any time; and
  - (c) a Director must comply with any obligations imposed on him by the Directors pursuant to any authorisation.
- 32.6 If a matter, office, employment, engagement, position, transaction or arrangement or interest has been authorised either pursuant to Article 32.1 or by the Directors in accordance with section 175 of the Act, then the Director in question shall not be required to disclose to the Company any confidential information received by him (other than by virtue of his position as a Director) relating to such matter, office, employment, engagement, position, transaction or arrangement or interest, or to use such information in relation to the Company's affairs, if to do so would result in a breach of a duty or obligation of confidence owed by him in relation to or in connection with that matter, office, employment, engagement, position, transaction or arrangement or interest.
- 32.7 For the purposes of this Article 32, a conflict of interest includes a conflict of interest and duty and a conflict of duties.

### **33 Accounting for profit when interested**

- 33.1 Subject to compliance with the Companies Acts (including section 177 (Duty to declare interest in proposed transaction or arrangement) and 182 (Declaration of interest in existing transaction or arrangement) of the Act) and (other than in the case of an Investor Director (or his alternate director)) to Investor Consent:
  - (a) a Director shall not be accountable to the Company for any profit, remuneration or other benefit which he (or a person connected with him as defined in section 252 of the Act) derives from or in connection with any interest (whether directly or indirectly) in any transaction or arrangement with the Company;
  - (b) no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest, profit, remuneration or benefit; and
  - (c) the receipt of any such profit, remuneration or other benefit shall not constitute a breach of his duty under section 176 of the Act.
- 33.2 Subject always to the obligation of the Director to disclose his interest in accordance with Article 32.2(b) and to the terms on which any authorisation for the purposes of section 175 of the Act has been given and (other than in the case of an Investor Director (or his alternate director)) to Investor Consent:
  - (a) a Director shall not be accountable to the Company for any profit, remuneration or other benefit which he (or a person connected with him as defined in section 252 of the Act) derives from or in connection with anything authorised pursuant to Article 32.1 or by the Directors for the purposes of section 175 of the Act;
  - (b) no such thing authorised shall be liable to be avoided on the grounds of any such interest, profit, remuneration or benefit; and
  - (c) the receipt of any such profit, remuneration or other benefit shall not constitute a breach of his duty under section 176 of the Act.

## **34 Methods of appointing Directors**

- 34.1 Any person who is willing to act as a Director, and is permitted by law to do so, may (subject to Investor Consent) be appointed to be a Director:
- (a) by ordinary resolution;
  - (b) by notice in writing to the Company signed by (or, in the case of a corporation, signed on its behalf by a director or by a person authorised by a decision of the directors or other governing body) the holder or holders of such number of Shares as confer the right to a majority of the votes at a general meeting or on a written resolution of the Shareholders (and may consist of several documents in similar form each signed by or on behalf of one or more holders), such appointment to take effect when the notice is received by the Company or on such later date (if any) specified in the notice; or
  - (c) by a decision of the Directors.
- 34.2 Article 34.1 does not apply to the appointment of an Investor Director.

## **35 Termination of Director's appointment**

A person ceases to be a Director as soon as:

- 35.1 (other than in the case of an Investor Director (or his alternate director)) that person is removed as a Director:
- (a) by ordinary resolution; or
  - (b) by notice in writing to the Company signed by (or, in the case of a corporation, signed on its behalf by a director or by a person authorised by a decision of the directors or other governing body) the holder or holders of such number of Shares as confer the right to a majority of the votes at a general meeting or on a written resolution of the Shareholders (and may consist of several documents in similar form each signed by or on behalf of one or more holders), such removal to take effect when the notice is received by the Company or on such later date (if any) specified in the notice,
- provided that any such removal shall be without prejudice to any claim such Director may have for breach of any contract of service between him and the Company;
- 35.2 that person ceases to be a Director by virtue of any provision of the Companies Acts (including pursuant to section 168 of the Act) or is prohibited from being a Director by law;
- 35.3 a bankruptcy order is made against that person;
- 35.4 a composition or arrangement is made with that person's creditors generally in satisfaction of that person's debts;
- 35.5 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;
- 35.6 notice in writing is received by the Company from the Director that he is resigning from office, and such resignation has taken effect in accordance with its terms;
- 35.7 (other than in the case of an Investor Director (or his alternate director)) notice in writing signed by all of the other Directors (with Investor Consent) removing that person from office is received by that person; or

35.8 being an executive Director, he becomes a Leaver.

## **36 Directors' remuneration and expenses**

36.1 Model Articles 23 (Directors' remuneration) and 24 (Directors' expenses) apply.

## **37 Investor Director(s)**

37.1 Without prejudice to any right the Investors may have to appoint or remove a Director under Articles 34.1 and 35.1 or under the Act, the Investor Majority shall have the right to appoint any number of persons as non-executive Directors of the Company (each an **Investor Director** and together the **Investor Directors**). Any such appointment must be effected by notice in writing to the Company by the Investor Majority who may in a similar manner remove from office any Investor Director appointed pursuant to this Article, and appoint any person in place of any such Investor Director so removed, any such appointment or removal to take effect when such notice is received by the Company or on such later date (if any) specified in the notice.

37.2 The Investor Director(s) shall be entitled to be appointed to any committee of the Directors and to the board of directors of any Group Member and to any committee of the directors of any Group Member.

37.3 Any consent or approval, direction, agreement, opinion (of satisfaction or otherwise), request, decision, determination or notice which is required to be given or may be given by the Investor Director(s), whether acting as agent on behalf of the Investors or the Investor Majority or otherwise, pursuant to these Articles may consist of several documents in similar form each signed by or on behalf of one or more Investor Director(s) and may be subject to conditions.

37.4 When there is no Investor Director in office any reference in these Articles to any consent or approval, direction, agreement, opinion (of satisfaction or otherwise), request, decision, determination or notice which is required to be given or may be given by the Investor Director(s) may instead be given by or on behalf of the Investor Majority.

## **38 Observer**

38.1 The Investor Majority shall have the right at any time to appoint any one person to be an observer (**Observer**). Any such appointment must be effected by notice in writing to the Company by the Investor Majority who may in a similar manner remove any Observer appointed pursuant to this Article, and appoint any person in place of any such Observer so removed, any such appointment or removal to take effect when such notice is received by the Company or on such later date (if any) specified in the notice.

38.2 The Observer shall be entitled:

- (a) to receive notice of meetings of directors (and committees of directors) of each Group Member and all other information in respect of such meetings that an Investor Director would be entitled to receive and shall be entitled to receive such information (including notices of such meetings) at the same time as the Investor Director(s); and
- (b) to attend, observe and speak (but not vote) at meetings of directors (and committees of directors) of each Group Member,

but shall not be a director of any Group Member and shall not be counted in the quorum of any meeting of directors (or committee of directors) of any Group Member).

### **39 Appointment and removal of alternate directors**

- 39.1 Any Director (other than an alternate director) (**Appointor**) may appoint any of the following as an alternate to exercise that Director's powers and carry out that Director's responsibilities in relation to the taking of decisions by the Directors in the absence of the alternate's Appointor, and may remove from office an alternate so appointed by him:
- (a) in the case of an Investor Director, any person willing to act; and
  - (b) in the case of any other Director, any other Director or any other person willing to act who is approved by resolution of the Directors (with Investor Consent).
- 39.2 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. The appointment or removal shall take effect, subject to any required approval of the Directors, when the notice is received by the Company or on such later date (if any) specified in the notice.
- 39.3 The notice must:
- (a) identify the proposed or existing alternate; and
  - (b) in the case of a notice of appointment, contain (or be accompanied by) a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice.
- 39.4 A person may act as an alternate for more than one Director.

### **40 Rights and responsibilities of alternate directors**

- 40.1 Except as these 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 Appointors; and
  - (d) are not deemed to be agents of or for their Appointors.
- 40.2 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director, except such part of his Appointor's remuneration as the Appointor may direct by notice in writing made to the Company.
- 40.3 Subject to these Articles, an alternate director has the same rights in relation to any decision of the Directors and any meetings of committees of Directors as each of the alternate's Appointors. In particular, each alternate director is entitled to receive notice of all proposed Directors' written resolutions and of all Directors' meetings and meetings of committees of Directors which each of his Appointors is entitled to receive.

### **41 Termination of alternate directorship**

An alternate director's appointment as an alternate for an Appointor terminates:

- 41.1 when that Appointor removes his alternate director in accordance with Article 39 (Appointment and removal of alternate Directors);

- 41.2 on the occurrence in relation to the alternate director of any event which, if it occurred in relation to that Appointor, would result in the termination of that Appointor's appointment as a Director;
- 41.3 on the death of that Appointor;
- 41.4 when that Appointor's appointment as a Director terminates; or
- 41.5 when notice in writing is received by the Company from the alternate director that he is resigning as an alternate director of that Appointor, and such resignation has taken effect in accordance with its terms.

## **42 Directors' indemnity and insurance**

To the extent permitted by the Companies Acts, the Company may:

- 42.1 indemnify any director of the Company or of any associated company against any liability;
- 42.2 purchase and maintain insurance against any liability for any director of the Company or of any associated company.

## **43 Written resolutions**

- 43.1 A resolution of the Shareholders (or a class of Shareholders) may be passed as a written resolution in accordance with Chapter 2 of Part 13 of the Act.
- 43.2 A proposed written resolution lapses if it is not passed before the end of the period of 28 days beginning with the circulation date (as defined in section 290 of the Act).

## **44 Calling general meetings**

- 44.1 An Investor Director and/or any Investor acting alone may call a general meeting.
- 44.2 If, and for so long as, the Company has only a single Shareholder, such Shareholder shall be entitled at any time to call a general meeting.
- 44.3 A Shareholder present in person or by proxy at a general meeting shall be deemed to have received proper notice of the meeting and, if required, of the purposes for which it was called.

## **45 Quorum for general meetings**

- 45.1 Subject to Articles 45.2 and 48.3, the quorum for a general meeting shall be as stated in the Act but the quorum must include at least a member of the Lead Investor Group present in person or by proxy.
- 45.2 If a general meeting is adjourned pursuant to Model Article 33(1) (applied by Article 51 (Voting at general meetings - Model Articles)) and at such an adjourned meeting the persons attending within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during such an adjourned meeting a quorum ceases to be present, then the quorum shall be a member of the Lead Investor Group present in person or by proxy.



## **46 Voting restrictions**

46.1 The voting rights of Shareholders as stated in the Act are subject to Article 48 (Voting - Equity Shares) and the voting rights of Shareholders as stated in the Act and in Article 48 (Voting - Equity Shares) are subject to:

- (a) Article 10.4 (Transmission of Shares);
- (b) Article 18.2 (Transfer provisions - Evidence of compliance); and
- (c) Article 47 (No voting of Shares on which money due and payable).

## **47 No voting of Shares on which money due and payable**

Unless the Directors (with Investor Consent) otherwise determine, no voting rights attached to a Share may be exercised unless all amounts (including the nominal value and any share premium) due and payable to the Company in respect of that Share have been paid.

## **48 Voting - Equity Shares**

48.1 Subject to Articles 46 (Voting restrictions) and 48.3, the Equity Shareholders shall (in that capacity) be entitled to receive notice of, and to attend, speak and vote at, general meetings of the Company and to vote on any written resolution of the Shareholders.

48.2 Subject to Articles 46 (Voting restrictions) and 48.3, upon any resolution proposed at a general meeting of the Company on a show of hands and on a poll every Equity Shareholder who is present in person or by proxy shall have one vote in respect of each Equity Share registered in his name and on a vote on a written resolution of the Shareholders every Equity Shareholder shall have one vote in respect of each Equity Share registered in his name.

48.3 If an Enhanced Voting Event has occurred and the Investor Majority serve a notice in writing to that effect on the Company then, with effect from when the notice is received by the Company until such notice is withdrawn by a further notice in writing to the Company from the Investor Majority:

- (a) the C Shares shall, in relation to any general meeting of the Company and any written resolution of the Shareholders (and not in relation to any separate meeting of the holders of any class of Shares or any written resolution of a class of the Shareholders), be subject to a Suspension of Rights (and such C Shares shall not be counted in determining the total number of votes which may be cast at any general meeting of the Company or required for the purposes of a written resolution of the Shareholders); and
- (b) the quorum for any such general meetings of the Company shall be a member of the Lead Investor Group present in person or by proxy.

48.4 The Company shall send a copy of any notice received pursuant to Article 48.3 to all C Shareholders for information purposes, but its failure to do so shall not affect the application of Article 48.3.

## **49 Delivery of proxy notices**

49.1 A proxy notice must be received by the Company before the commencement of the general meeting or adjourned meeting to which it relates.

- 49.2 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person. However, if that person votes at the meeting or adjourned meeting on a resolution, then as regards that resolution any proxy notice delivered to the Company by or on behalf of that person shall:
- (a) on a show of hands, be invalid;
  - (b) on a poll, be invalid to the extent that such person votes in respect of the Shares to which the proxy notice relates.
- 49.3 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. A notice revoking a proxy appointment only takes effect if it is received by the Company before the commencement of the meeting or adjourned meeting to which it relates.
- 49.4 When two or more valid but different proxy notices are received in respect of the same Share for use at the same meeting or adjourned meeting, the one which is last validly received (regardless of its date or the date of its execution) shall be treated as replacing and revoking the other(s) as regards that Share. If the Company is unable to determine which was last received, none of them shall be treated as valid in respect of that Share.
- 49.5 If a proxy notice or notice of revocation of a proxy notice is not signed by the person appointing or revoking the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

## 50 Corporate representatives

Where a Shareholder that is a corporation has authorised a representative or representatives to act on its behalf at a general meeting or at any separate meeting of the holders of any class of Share in accordance with the Act:

- 50.1 the corporation shall, for the purposes of these Articles, be deemed to be present in person at any such meeting if any such representative is present at it, and all references to attendance and voting in person shall be construed accordingly;
- 50.2 a Director or the company secretary (if any) may require any such representative to produce a certified copy of such authority before such representative is entitled to exercise any power on behalf of the corporation which he represents; and
- 50.3 a vote given or poll demanded by such representative at a general meeting or adjourned meeting (or at any separate meeting of the holders of any class of Share) shall be valid even though his authority has previously terminated unless notice in writing of the termination was received by the Company before the commencement of that meeting.

## 51 Voting at General meetings - Model Articles

- 51.1 The following Model Articles apply:

29	Attendance and speaking at general meetings
30	Quorum for general meetings

31, except that any appointment pursuant to Model Article 31(2) shall be made by the Investor Director(s) or if no Investor Director(s) are present, any A Shareholder.	Chairing general meetings
32	Attendance and speaking by directors and non-members
33, except that Model Article 33(1) shall be subject to Article 45.2.	Adjournment
34	Voting: general
35	Errors and disputes
36	Demanding a poll
37, except that polls must be taken immediately and in such manner as the chairman of the meeting directs.	Procedure on a poll
38	Content of proxy notices
40	Amendments to resolutions

## 52 Variation of Share rights

52.1 Subject to Article 52.2, the rights attached to any class of Shares may be varied:

- (a) with the consent in writing from the holders for the time being of more than 50 per cent in nominal value of the Shares of that class that are eligible to vote at a separate meeting of the holders of that class; or
- (b) by an ordinary resolution passed at a separate meeting of the holders of that class sanctioning the variation.

52.2 For the purposes of Article 52.1 where any variation of rights applies in the same way to A Shares and C Shares (or, if different, in a manner no less favourable or to no greater detriment to C Shares compared to A Shares) the A Shares and the C Shares shall be treated as being within the same class of shares

52.3 The allotment of, or the grant of rights to subscribe for, or to convert any securities into, Shares which have preferential rights to one or more existing classes of Shares shall not constitute an alteration of the rights attached to any such existing classes of Shares.

## 53 Class meetings

The provisions of these Articles relating to general meetings apply, with any necessary modifications, to meetings of the holders of any class of Shares. In particular, any separate meeting for the holders of any class of Shares shall be called and conducted in all respects as nearly as possible in the same way as a general meeting of the Company, provided that:

- 53.1 no Shareholder, other than a Director, shall be entitled to notice of, or to attend or speak at, any such meeting unless he is a holder of Shares of that class;
- 53.2 the quorum at any such meeting (other than an adjourned meeting) shall be two persons (or if there is only one person holding Shares of that class, one person) present in person or by proxy holding or representing by proxy at least one-third in nominal value of the Shares of that class (excluding any shares of that class held as treasury shares);
- 53.3 the quorum at any adjourned meeting shall be one person holding Shares of that class who is present in person or by proxy; and
- 53.4 a poll may be demanded by any person holding Shares of that class who is present in person or by proxy and entitled to vote at the meeting and, subject to these Articles, on a poll, every Shareholder who is present in person or by proxy shall have one vote for every Share of that class he holds.

## 54 Distributions - Model Articles

Subject to Article 5 (Distributions – Equity Shares), the following Model Articles apply:

70, except that the Directors may not exercise their powers under Model Article 70(1) to pay interim dividends without Investor Consent.	Procedure for declaring dividends
71	Calculation of dividends
72	Payment of dividends and other distributions
73	Deductions from distributions in respect of sums owed to the company
74	No interest on distributions
75	Unclaimed distributions
76	Non-cash distributions
77	Waiver of distribution

## 55 Interests in shares

Model Article 45 (Company not bound by less than absolute interests) shall apply.

## **56 Liens, calls on shares, forfeiture and surrender**

The following Model Articles apply, except that the Directors may not exercise their powers under Model Articles 52(3), 53(1), 54, 57, 59 or 60 without Investor Consent:

52, except that the company's lien shall apply to every share which is not fully paid	Company's lien over partly paid shares
53	Enforcement of the company's lien
54	Call notices
55	Liability to pay calls
56	When call notice need not be issued
57	Failure to comply with call notice: automatic consequences
58	Notice of intended forfeiture
59	Directors' power to forfeit shares
60	Effect of forfeiture
61	Procedure following forfeiture
62	Surrender of shares

## **57 Capitalisation**

Model Article 78 shall apply, but any Shares allotted pursuant to Model Article 78(3) can only be allotted to the persons entitled (and not as they direct) and, for the purposes of Model Article 78, unless the relevant ordinary resolution provides otherwise, if the Company holds treasury shares of the relevant class, it shall be treated as if it were entitled to receive the dividends in respect of those treasury shares which would have been payable if those treasury shares had been held by a person other than the Company.

## **58 Fractions arising on consolidation and division**

- 58.1 Model Article 69 (Procedure for disposing of fractions of shares) shall apply, except that the Directors may not exercise their powers under Model Article 69(2)(a) without Investor Consent.
- 58.2 Whenever, as the result of any consolidation or consolidation and division of Shares, any Shareholders would become entitled to fractions of Shares, the Directors may (with Investor Consent), subject to the provisions of the Companies Acts, allot to each such Shareholder, credited as fully paid by way of capitalisation, the minimum number of new Shares required to round up his holding following the consolidation to a whole number (such allotment being deemed to have been effected immediately before consolidation). For such purpose, the Directors may:

- (a) capitalise a sum equal to the aggregate nominal amount of the new Shares to be allotted on that basis out of any profits or reserve of the nature referred to in Model Article 78(1); and
- (b) appropriate and apply such sum in paying up in full the appropriate number of new Shares for allotment and distribution to such Shareholders on that basis; and
- (c) generally do all acts and things required to give effect to any capitalisation pursuant to this Article 58.

## **59 Company secretary**

The Directors may appoint any person who is willing to act to be the company secretary for such term and on such conditions as they think fit, and may remove any company secretary so appointed.

## **60 Share certificates, company seal and records**

The following Model Articles apply:

46	Certificates to be issued except in certain circumstances
47 except 47(2)(a)	Contents and execution of certificates
48	Consolidated certificates
49	Replacement share certificates
81, except to the extent relating to security seals	Company seals
83	No right to inspect accounts and other records

## **61 Form of notice**

Any notice or other document to be given pursuant to these Articles (other than a notice calling a meeting of the Directors) must be in writing.

## **62 Consents, directions, notices etc by Investor(s)**

Any consent or approval, direction, agreement, opinion (of satisfaction or otherwise), request, decision, determination or notice which is required to be given or may be given by or on behalf of the Investors or the Investor Majority (including an Investor Consent) pursuant to these Articles may be given by the Investor Director(s) acting as agent on behalf of the Investors or the Investor Majority, may consist of several documents in similar form each signed by or on behalf of one or more Investors and may be subject to conditions.

## **63 Notices to the Company**

Any notice, document or other information may be served on or sent or supplied to the Company by anyone:

- 63.1 by sending it through the post in a prepaid envelope addressed to the Company or any officer of the Company at its registered office or such other place in the United Kingdom as may from time to time be specified by the Company for that purpose;
- 63.2 by delivering it by hand to or leaving it at its registered office or such other place in the United Kingdom as may from time to time be specified by the Company for that purpose in an envelope addressed to the Company or any officer of the Company;
- 63.3 by sending or supplying it by electronic means to an address specified by the Company from time to time for that purpose; or
- 63.4 by any other means authorised in writing by the Company.

## **64 Notices to Shareholders and Transmittees**

- 64.1 Any notice, document or other information may be served on or sent or supplied to any Shareholder:
  - (a) personally;
  - (b) by sending it through the post in a prepaid envelope addressed to the Shareholder at his registered address;
  - (c) by delivering it by hand to or leaving it at that address in an envelope addressed to the Shareholder;
  - (d) by sending or supplying it by electronic means to an address notified by the Shareholder to the Company from time to time for that purpose; or
  - (e) by any other means authorised in writing by the relevant Shareholder.
- 64.2 Nothing in Article 64.1 shall affect any provision of the Companies Acts requiring offers, notices or documents to be served on or sent or supplied to a Shareholder in a particular way.
- 64.3 In the case of joint holders of a Share:
  - (a) all notices, documents or other information shall be served on or sent or supplied to the person named first in the register in respect of the joint holding, and notice so given shall be sufficient notice to all joint holders; and
  - (b) any request for consent to the receipt of communications in electronic form shall be sent or supplied to the person named first in the register in respect of the joint holding, and any express consent given by such holder to the receipt of communications in such manner shall bind all joint holders.
- 64.4 If a notice, document or other information is served on or sent or supplied to a Shareholder in respect of Shares and a Transmitttee is entitled to those Shares, the Transmitttee is bound by the notice.
- 64.5 Notices, documents or other information to be served on or sent or supplied to a Transmitttee may be served on or sent or supplied to him by name, or by the title of the representative of the deceased or trustee of the bankrupt (or by any like description), at an address supplied for

the purpose by him. Articles 64.1 and 66 shall apply to any notice, document or information so served, sent or supplied as if references in those Articles to:

- (a) **Shareholder** are to the Transmittree; and
- (b) a Shareholder's **registered address** or **address** are to the address so supplied.

This Article 64.5 is without prejudice to paragraph 17 of Schedule 5 to the Act.

- 64.6 A Call Option Exercise Notice and any other notice to a Manager Shareholder for the purposes of Schedule 1 of these Articles may be given to the Managers' Representative on the Manager Shareholder's behalf and shall be valid and effective if so given.

## **65 Notices to Directors**

Any notice, document or other information may be served on or sent or supplied to a Director by the Company or by any other Director or the company secretary (if any):

- 65.1 personally;
- 65.2 by sending it through the post in a prepaid envelope addressed to the Director at his registered address or such other postal address as may from time to time be specified by him for that purpose;
- 65.3 by delivering it by hand to or leaving it at that address in an envelope addressed to him;
- 65.4 by sending or supplying it by electronic means to an address specified from time to time by the Director for that purpose; or
- 65.5 by any other means authorised in writing by the Director.

## **66 Service of notices on Shareholders or Directors**

Any notice, document or other information (other than any notice, document or other information given to the Company including, for the avoidance of doubt, the appointment of a proxy):

- 66.1 addressed to a Shareholder or a Director in the manner prescribed by these Articles shall, if sent by post (whether in hard copy form or electronic form), be deemed to have been received:

- (a) (if prepaid as first class) 24 hours after it was posted;
- (b) (if prepaid as second class) 48 hours after it was posted;
- (c) (if prepaid as airmail) 72 hours after it was posted,

and, in proving such receipt, it shall be sufficient to prove that the envelope containing such notice, document or other information was properly addressed, prepaid and put in the post;

- 66.2 not sent by post, but addressed to a Shareholder or a Director and delivered by hand to or left at an address in accordance with these Articles, shall be deemed to have been received on the day it was so delivered or left;



- 66.3 served, sent or supplied to a Shareholder or a Director by electronic means shall be deemed to have been received on the day it was sent, and, in proving such receipt, it shall be sufficient to show that such notice, document or information was properly addressed;
- 66.4 served, sent or supplied by any other means authorised in writing by the Shareholder or the Director shall be deemed to have been received when the Company has carried out the action it has been authorised to take for that purpose.

# Schedule 1 Synthetic Exit

## Part 1 Definitions and Interpretation

For the purposes of this Schedule 1:

**"Adjusted Option Share Consideration"** has the meaning given in paragraph 6.7;

**"Call Option"** means a Call Option granted to the Lead Investor pursuant to Part 2 of this Schedule 1;

**"Call Option Exercise Notice"** means an exercise notice to be served in relation to a Call Option in the form specified in Annex B to Part 2 of this Schedule 1;

**"Call Option Exercise Period"** means the period commencing on the Call Option Trigger Date and at any time thereafter;

**"Call Option Trigger Date"** has the meaning given in the Investment Agreement;

**"Exercise Notice"** means a Call Option Exercise Notice or a Put Option Exercise Notice, as applicable;

**"Lapse Event"** means an Exit, in respect of the Option Shares subject to that Exit (and for the avoidance of doubt, this Schedule 1 shall continue to apply to those Option Shares that continue to be held by a C Shareholder) following an Exit;

**"Option Exercise Period"** means, as regards an Option, the applicable Put Option Exercise Period or Call Option Exercise Period;

**"Option Share Consideration"** means, in respect of any Option Shares and exercise of an Option, their Synthetic Exit FMV on the Put Option Trigger Date, as agreed or determined under Part 2 of this Schedule 1 or such other price as shall be agreed in writing between the relevant C Shareholder and the Lead Investor;

**"Option Shares"** means the C Shares which are permitted by Part 2 of this Schedule 1 to be included in an Exercise Notice;

**"Options"** means the Put Option and the Call Options granted as provided in Part 2 of this Schedule 1 and references to an Option shall be construed accordingly;

**"Put Option"** means the Put Option granted to a C Shareholder pursuant to Part 2 of this Schedule 1;

**"Put Option Exercise Notice"** means an exercise notice to be served in relation to the Put Option in the form specified in Annex A to Part 2 of this Schedule 1;

**"Put Option Exercise Period"** means (subject to the provisions of Part 2 of this Schedule 1 concerning a Lapse Event) the period of three months following the Put Option Trigger Date;

**"Put Option Trigger Date"** has the meaning given in the Investment Agreement;

**"Related C Shareholders"** means as regards a C Shareholder and insofar as any of them holds C Shares: (i) that C Shareholder and (ii) his Connected Persons;

**"SEFMV Principles"** are that the fair market value of the Option Shares concerned shall be calculated in accordance with article 6.3 assuming their sale as part of a sale of all of the issued share capital of the Company on Put Option Trigger Date under an arm's length transaction between two willing parties and apportioning to them their resultant entitlement under the Articles with no discount

because they represent a minority interest or are subject to transfer restrictions under these Articles or the Investment Agreement;

**"Synthetic Exit FMV"** means, as regards any Option Shares and as at the Put Option Trigger Date, the fair market value of the Option Shares on the basis of the SEFMV Principles, as agreed or determined as provided in these Articles; and

**"Trigger Date"** means:

- (a) the Put Option Trigger Date in the case of the Put Option; and
- (b) the Call Option Trigger Date in the case of the Call Option.

## Part 2 Put and Call Options

### 1. GRANT OF OPTIONS

- 1.1 The Lead Investor grants each of the C Shareholders (excluding the Warehousing Vehicle) on the terms of this Part 2 of this Schedule 1 an option ("**Put Option**") exercisable in the Put Option Exercise Period to require the Lead Investor to purchase or procure the purchase of all or up to all of the C Shareholder's Option Shares as provided below.
- 1.2 Each C Shareholder grants the Lead Investor on the terms of this Part 2 of this Schedule 1 an option (a "**Call Option**") exercisable in the Call Option Exercise Period to purchase or procure the purchase of all of that C Shareholder's Option Shares held when the Call Option is exercised (other than those which have been the subject to a prior exercise of an Option where their purchase pursuant to that Option has not then been completed).
- 1.3 Exercise of an Option shall oblige (a) the C Shareholder by or in respect of whom the Option is exercised to sell his Option Shares to the Lead Investor on the terms of this Part 2 of this Schedule 1 with full title guarantee and free from encumbrances, together with the benefit of all rights attaching to them at and any time after the date of the exercise of the Option, including all rights to distributions and (b) the Lead Investor to purchase or procure the purchase of those Option Shares on and subject to the terms of this Part 2 of this Schedule 1.
- 1.4 The Put Option shall automatically lapse and be of no further effect on the occurrence of a Lapse Event except to the extent previously validly exercised.
- 1.5 Any Option Shares purchased but not paid for within six months of the relevant transfer may, upon request by the relevant transferors, be transferred back to such transferors for no monetary consideration.
- 1.6 The rights of the Lead Investor and each C Shareholder under this Part 2 of this Schedule 1 and related provisions of these Articles are rights attaching or referable to the C Shares.

### 2. OPTION SHARES: PUT OPTION

- 2.1 Subject to paragraph 2.2 of this Part 2 of this Schedule 1 and unless otherwise agreed in writing by the Lead Investor:
  - (A) the Put Option may be exercised by a C Shareholder (or between them by Related C Shareholders) in respect of all or up to all of the C Shares held by the C Shareholder when it is exercised other than any C Shares the subject of a Lapse Event, to the extent still then held; and
  - (B) where C Shares are held by a C Shareholder and/or his Related C Shareholders, the Put Option must be exercised by him and his Related C Shareholders at the same time (pro-rata to the number of C Shares held by a C Shareholder and his Related C Shareholders).
- 2.2 For the avoidance of doubt, the Lead Investor may nominate any Nominated Transferee to acquire all or part of the Option Shares.

### 3. OPTION SHARE CONSIDERATION

- 3.1 The price payable for the Option Shares of a C Shareholder to be purchased pursuant to the exercise of a Call Option or the Put Option (as appropriate) shall be its Option Share Consideration.
- 3.2 The Option Share Consideration for all C Shares to be sold on exercise of a Put Option or under a Call Option shall be the same price per share and will not differ as between individual

C Shareholders, except to the extent specifically agreed as regards his Option Shares between a C Shareholder and the Lead Investor.

- 3.3 The Option Share Consideration shall be satisfied in cash, by bank transfer in cleared funds to such bank account as the selling C Shareholder shall (as he shall be hereby obliged to do) specify in writing to the Lead Investor at least five days before completion of the purchase of the Option Shares concerned and such payment shall be an effective discharge of the Lead Investor's obligation to pay or procure payment of the amount concerned. The Lead Investor shall not be concerned to see the application, or be answerable for the loss or misapplication, of any such amount.
- 3.4 If a C Shareholder is obliged but does not supply an account for payment or otherwise defaults in accepting payment of the Option Share Consideration for any Option Share, the Company shall if so required by the Lead Investor receive such Option Share Consideration and shall hold it in trust without interest for the C Shareholder concerned. The receipt of the Directors or any Investor Director on behalf of the Company for the Option Share Consideration so paid shall be a good discharge to the Lead Investor and purchasers of the Option Shares concerned (who shall not be bound to see to its application) and after the name(s) of the transferee(s) has been entered in the Company's register of members in purported exercise of those powers the validity of the proceedings shall not be questioned by any person.

#### **4. EXERCISE OF PUT OPTION**

- 4.1 The Put Option may be exercised by a C Shareholder at any time during the Put Option Exercise Period, by delivery to the Lead Investor at its registered office of a Put Option Exercise Notice duly signed by or on behalf of the C Shareholder concerned.
- 4.2 The Put Option Exercise Notice shall take effect when it is received or deemed received by the Lead Investor under the notices provisions set out in these Articles. For the purposes of Part 2 of this Schedule 1, notices may be served on the Lead Investor at its registered office for the time being or its principal London business address.
- 4.3 The Put Option may only be exercised in respect of a number of Option Shares and in a manner consistent with the provisions of paragraph 2 of this Part 2 of this Schedule 1.
- 4.4 An exercise of the Put Option shall be irrevocable unless the Lead Investor agrees otherwise in writing.
- 4.5 The Put Option may not be exercised without the written consent of the Lead Investor during any time when the provisions of article 14, article 15 or article 16 are being applied.
- 4.6 So far as applicable to the Option Shares concerned and to the extent not previously validly exercised, the Put Option shall lapse on the end of the Put Option Exercise Period.

#### **5. EXERCISE OF CALL OPTION**

- 5.1 A Call Option may be exercised by the Lead Investor at any time during the Call Option Exercise Period, by sending the relevant C Shareholder a Call Option Exercise Notice duly signed by or on behalf of the Lead Investor.
- 5.2 The Call Option Exercise Notice shall take effect when it is received or deemed received by the relevant C Shareholder under the notices provisions set out in these Articles.
- 5.3 An exercise of a Call Option in respect of a C Shareholder shall be irrevocable unless that C Shareholder agrees otherwise in writing.

- 5.4 A Call Option may not be exercised during any time when the provisions of article 14, article 15 or article 16 are being applied.

**6. COMPLETION OF PURCHASE OF OPTION SHARES**

- 6.1 If an Option is duly exercised, completion of the sale and purchase of the Option Shares shall take place at the Company's registered office or (if so required by the Lead Investor) its business offices in London notified to the Managers' Representative, on such business day falling not later than 60 days after the later of (i) the end of the relevant Option Exercise Period and (ii) agreement or determination of the Option Share Consideration payable for the Option Shares, or at such other place and/or on such other date as shall be agreed in writing between the Lead Investor and the Managers' Representative.

- 6.2 On Completion:

- (A) the relevant C Shareholder concerned shall deliver to the Lead Investor a duly executed transfer of his Option Shares in favour of the Lead Investor and/or to such other transferees (including the Company and any Warehousing Vehicle, in each case having sufficient reserves and otherwise being permitted to purchase the Option Shares) and in such proportions as the Lead Investor may direct, together with the relevant share certificate(s) or an indemnity in a form reasonably required by the Lead Investor in the case of any missing share certificate(s); and
- (B) subject to that delivery, the Lead Investor shall make or procure payment of the Option Share Consideration due to that C Shareholder as provided in paragraph 3 of this Part 2 of this Schedule 1.

- 6.3 As security for his obligations under this Part 2 of this Schedule 1, each C Shareholder hereby irrevocably appoints the Lead Investor and the Company (acting alone or jointly) as his agent for the purposes of executing and delivering on his behalf any documents, acts and things which that C Shareholder (or his estate or trustee in bankruptcy (or equivalent) as the case may be) is obliged hereunder but fails when so required to execute and deliver and do in respect of the sale of his Option Shares provided always that the Lead Investor shall only be entitled to execute and deliver documents pursuant to this paragraph 6.3 if the Lead Investor has made or procured payment of the Option Share Consideration in accordance with this Part 2 of this Schedule 1 (such payment to be conditional upon the relevant documentation being executed or the relevant actions being completed).

- 6.4 If the Lead Investor or the C Shareholder fails to comply with any obligation in paragraph 6.1 above in any material respect, the Lead Investor, in the case of non-compliance by the C Shareholder, or the C Shareholder in the case of non-compliance by the Lead Investor, shall, in addition to any other rights that the relevant party may have, be entitled by written notice to the C Shareholder or the Lead Investor (as the case may be):

- (A) to fix a new date for the completion (not being more than 20 Business Days after the agreed date for the completion) in which case the provisions of paragraph 6.1 shall apply to the completion as so deferred; or
- (B) to effect the completion so far as practicable even if in respect of part only of the Option Shares, having regard to the defaults which have occurred; or
- (C) subject to paragraph 6.5 of this Part 2 of this Schedule 1 and to the first completion date having first been deferred for a period of at least 10 days under paragraph 6.4(A) above and the C Shareholders and Lead Investor having used reasonable endeavours to effect completion during that period, terminate its obligation to sell or as the case may be buy the Option Shares which have not been purchased, without liability on its part.

- 6.5 No C Shareholder may terminate his obligations to sell under paragraph 6.4(C) of this Part 2 of this Schedule 1 before the expiry of six months from the date of exercise of the Option concerned.
- 6.6 Without limiting paragraph 6.2 of this Part 2 of this Schedule 1, the Lead Investor may by written notice to the Company require that all or any of the Option Shares to be purchased shall be acquired by the Company, subject to that being permitted under the Act. In that event each member shall join in passing such shareholder resolutions and otherwise execute and deliver such documents, deeds acts and things as are lawful and required by the Company and/or the Lead Investor for the Company to complete and make payment of any Option Share Consideration required on its part under the terms of any such redemption or acquisition. As security for his obligations under this paragraph 6.6, each member irrevocably appoints and authorises such person(s) as shall be nominated by the Lead Investor to act as his agent for the purposes of passing any such resolutions and otherwise executing and delivering such documents, deeds acts and things.
- 6.7 If, at any time following completion of the Put Option or a Call Option, the Lead Investor determines that any Relevant Accounts contained a misstatement or misstatements which would have a material adverse effect on the relevant Synthetic Exit FMV and/or the Option Share Consideration, the Option Share Consideration shall be recalculated in accordance with the principles set out in paragraph 7 of this Part 2 of Schedule 1, but by reference to the restated Relevant Accounts (the "**Adjusted Option Share Consideration**"). If the Option Share Consideration paid to a C Shareholder in respect of any Option Shares is higher than the Adjusted Option Share Consideration, such C Shareholder shall be liable on demand by the Company to pay to the Company the excess price concerned. The Company may in its absolute discretion use all or any part of such monies in making adjustment payments to the purchasers of the Option Shares concerned but otherwise shall be entitled to retain the same for its own purposes. For the purposes of this paragraph 6.7, a "**material adverse effect**" means a reduction in the relevant Synthetic Exit FMV and/or the Option Share Consideration of more than ten per cent (10%).
7. **DETERMINATION PROVISIONS**
- 7.1 The Managers' Representative is authorised by each C Shareholder to agree with the Lead Investor or represent that C Shareholder in the event of any disagreement concerning the Option Share Consideration applicable to any Option which is to be or has been exercised, even if the Managers' Representative is not himself or is not to be a seller of Option Shares under the terms of the Option concerned.
- 7.2 The Company (through the Remuneration Committee) or the Lead Investor shall within sixty days following the Put Option Trigger Date provide to the C Shareholders its detailed calculation (on the SEFMV Principles) of the Option Share Consideration per share for the C Shares applicable to the Put Option or Call Option, as the case may be. If the Managers' Representative (on behalf of the C Shareholders) does not notify the Remuneration Committee and Lead Investor in writing of any disagreement with such calculations (specifying in reasonable detail the items disputed) within five business days of the delivery of the calculation, the Option Share Consideration for the C Shares for the relevant Option shall be deemed agreed for the purposes of this Part 2 of this Schedule 1.
- 7.3 If any disputed items are notified by the Managers' Representative under paragraph 7.2 above or any other any dispute arises between the Managers' Representative and the Lead Investor as regards any financial calculation required for the purposes of this Part 2 of this Schedule 1 (other than as regards the amount of any Option Share Consideration which has been deemed agreed), and continues unresolved for more than five business days (or such longer period as the Managers' Representative and Lead Investor shall agree in writing), the matter shall be referred for determination under Article 13.

## **ANNEX A**

### **Put Option Exercise Notice**

To: [Name of Lead Investor]

Date:

I refer to Part 2 of Schedule 1 to the articles of association of Holland & Barrett International Limited (registered in England & Wales with company number 04515115) and under which, inter alia, you granted me the Put Option as therein mentioned. Words and expressions defined in those articles bear the same meaning where used below.

I hereby exercise the Put Option in respect of [●] C Shares.

.....  
[Name of C Shareholder]



## **ANNEX B**

### **Call Option Exercise Notice**

To: [Name of C Shareholder]

Date:

We refer to Part 2 of Schedule 1 to the articles of association of Holland & Barrett International Limited (registered in England & Wales with company number 04515115) under which, inter alia, you granted us a Call Option as therein mentioned. Words and expressions defined in those articles bear the same meaning where used below.

We hereby exercise the Call Option in respect of [●] C Shares.

.....

[Name of Lead Investor]