

**COMPANIES ACTS 1985 TO 2006**

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**COMPANY LIMITED BY SHARES**

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**ARTICLES OF ASSOCIATION**

**(Adopted by a Special Resolution passed  
on 21 May 2019)**

**- of -**

**OXSENSIS LIMITED**



Company no: 04894975

## ARTICLES OF ASSOCIATION

(“Articles”)

(Adopted by a Special Resolution passed

on 21 May 2019)

- of -

**OXSENSIS LIMITED (“Company”)**

### PRELIMINARY

1. The regulations contained or incorporated in the final version of Table A in the Companies (Tables A to F) Regulations 1985 (which is referred to in these Articles as **Table A**) shall, except as provided in these Articles and so far as they are not inconsistent with the provisions of these Articles, apply to and constitute the regulations of the Company.
2. Regulations 12, 23, 40, 50, 53, 54, 64, 65 to 69, 72 to 75, 81 to 84, 89, 93-95, 97, 112, 115 and 118 of Table A shall not apply to the Company.
3. In these Articles:
  - 3.1 Article headings are used for convenience only and shall not affect the construction or interpretation of these Articles; and
  - 3.2 words denoting the singular include the plural and vice versa and reference to one gender includes the other gender and neuter and vice versa.
4. In these Articles the following terms shall have the following meaning:

“**acting in concert**” means has the meaning given to it in the City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended from time to time);

“**A Ordinary Shares**” means the A ordinary shares of £0.01 each in the capital of the Company having the rights set out in these Articles;

“**A Ordinary Shareholders**” means the holders of A Ordinary Shares;

**"A Ordinary Share Amount"** means the A Ordinary Share Subscription Price multiplied by the A Ordinary Share Factor;

**"A Ordinary Share Factor"** means on either an Exit or a Liquidation Event

- (a) where the Exit Price is £30,000,000 or less, three;
- (b) where the Exit Price is above £30,000,000, 3 - Y

where:

$$Y = \frac{(\text{Exit Price (rounded to the nearest £50,000)} - £30,000,000)}{10,000,000}$$

- (c) where the Exit Price is £50,000,000 or more, one;

**"A Ordinary Share Subscription Price"** means £2.83 per A Ordinary Share;

**"Asset Sale"** means the disposal by the Company of all or substantially all of its undertaking and assets (where disposal may include, without limitation, the grant by the Company of an exclusive licence of intellectual property not entered into in the ordinary course of business);

**"Board"** means the board of Directors and any committee of the board constituted for the purpose of taking any action or decision contemplated by these Articles;

**"Controlling Interest"** means an interest in shares giving to the holder or holders control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010;

**"Date of Adoption"** means the date on which these Articles were adopted;

**"Director(s)"** means a director or directors of the Company appointed from time to time;

**"Exit"** means a Share Sale or an Asset Sale;

**"Exit Price"** means the value attributed to the Company, as a whole, in the event of an Exit or a Liquidation Event;

**"Fair Value"** has the meaning given to such term in Article 35.2;

**"Investor Director(s)"** means the directors (if any) appointed in accordance with Articles 62 and 63;

**"Liquidation Event"** means a distribution of assets, a liquidation or a return of capital (other than a conversion, redemption or purchase of shares);

**"Ordinary Shares"** means the ordinary shares of £0.01 each in the capital of the Company having the rights set out in these Articles;

**"Ordinary Shareholders"** means the holders of Ordinary Shares;

**"Privileged Relation"** has the meaning given to such term in Article 29.2;

**"Proceeds of Sale"** means consideration payable (including any deferred and/or contingent consideration) whether in cash or otherwise to those shareholders selling shares under a share sale;

**"Share Reward Scheme"** has the meaning given to such term in Article 15;

**"Share Sale"** means the sale of (or the grant of a right to acquire or to dispose of) any of the shares in the capital of the Company (in one transaction or in a series of transactions) which will result in the purchaser of those shares (or grantee of that right) and persons acting in concert with him together acquiring a Controlling Interest in the Company, except where following completion of the sale the shareholders and the proportion of the shares held by each of them are the same as the shareholders and their shareholdings in the Company immediately prior to the sale;

**"shares"** means the shares in the capital of the Company from time to time having the rights set out in these Articles; and

**"The Wood/Buxton Trust"** means The Wood/Buxton Trust as originally constituted by a settlement dated 14 July 2008.

#### **PRIVATE COMPANY**

5. The Company is a private company within the meaning of the Companies Act 2006 (the **Act**) and accordingly any offer to the public of any shares in or debentures of the Company (whether for cash or otherwise) or allotment of or agreement to allot (whether for cash or otherwise) any shares or debentures with a view to all or any of those shares or debentures being offered for sale to the public is prohibited.

#### **SHARE CAPITAL**

6. In these Articles, unless the context requires otherwise, references to shares of a particular class shall include shares allotted and/or issued after the Date of Adoption of these Articles and ranking *pari passu* in all respects (or in all respects except only as to the date from which those shares rank for dividend) with the shares of the relevant class then in issue.

7. Except as otherwise provided in these Articles, the A Ordinary Shares and the Ordinary Shares shall rank pari passu in all respects but shall constitute separate classes of shares.

## **DIVIDENDS**

8. The profits which the Company may determine to distribute shall be distributed amongst the holders of the shares in proportion to the number of shares held by them respectively.
9. All dividends are expressed net and shall be paid in cash.
10. In the event that the rights granted to any shareholder (together with any persons connected with such shareholder (within the meaning of sections 993 and 994 of Income Tax Act 2007 (ITA)) pursuant to Articles 8 or 9 would operate in such a manner so as to result in the Company being in breach of the requirements relating to control and independence set out in either section 185 or section 296 of ITA, respectively, **(Independence Requirements)**:
  - 10.1 payment of such part of the dividend due to any such shareholder, as determined by the auditors of the Company to be sufficient to procure that the Company does not breach the Independence Requirements in respect of such shareholder, shall be made in accordance with Article 8; and
  - 10.2 any dividend due and unpaid in accordance with this Article 10 shall, subject to not breaching the Independence Requirements, become due and payable on the next dividend date in addition to any other dividends due to such shareholder.

## **LIQUIDATION RIGHTS**

11. On a Liquidation Event, the surplus assets of the Company remaining after payment of its liabilities shall be applied (to the extent that the Company is lawfully permitted to do so):
  - 11.1 first:
    - 11.1.1 in paying to each Ordinary Shareholder an amount per Ordinary Share equal to the nominal value of the Ordinary Shares he holds and to each A Ordinary Shareholder an amount per A Ordinary Share equal to the A Ordinary Share Amount;
    - 11.1.2 if there are sufficient assets to pay each Ordinary Shareholder an amount per Ordinary Share equal to the nominal value of the Ordinary Shares he holds and each A Ordinary Shareholder an amount per A Ordinary Share equal to, at least, the nominal value of the A Ordinary Shares he holds but

insufficient assets to pay to each A Ordinary Shareholder an amount per A Ordinary Share equal to the A Ordinary Share Amount, the assets shall be distributed so that each Ordinary Shareholder receives an amount per Ordinary Share equal to the nominal value of the Ordinary Shares he holds and the remainder shall be distributed to the A Ordinary Shareholders pro rata to their respective holdings of A Ordinary Shares; and

- 11.1.3 if there are insufficient assets to pay each Ordinary Shareholder and each A Ordinary Shareholder an amount per share equal to the nominal value of the shares held by each of them, the assets shall be distributed among the holders of Ordinary Shares and A Ordinary Shares pro rata (as if such shares constituted one and the same class) to their respective holdings of shares; and
- 11.2 second, the balance of the surplus assets (if any) shall be distributed among the holders of the Ordinary Shares and A Ordinary Shares pro rata (as if such shares constituted one and the same class) to their respective holdings of shares.
- 12. In the event that the rights granted to any shareholder (together with any persons connected with such shareholder (within the meaning of sections 993 and 994 of ITA)) pursuant to Article 11 would operate in such a manner so as to result in the Company being in breach of the Independence Requirements, any part of the rights of such shareholder to repayment of capital and unpaid arrears, accruals and postponements of dividends so as to ensure that the Company does not breach the Independence Requirements shall be waived.

#### **EXIT PROVISIONS**

- 13. On a Share Sale the Proceeds of Sale shall be distributed among the members (to the extent that the Company is lawfully permitted to do so) as follows:
  - 13.1 first in paying each of the A Ordinary Shareholders, in priority to any other classes of shares, an amount per share equal to the A Ordinary Share Amount (provided that if there are insufficient surplus assets to pay the amounts per share equal to the A Ordinary Share Amount, the remaining surplus assets shall be attributed to the A Ordinary Shareholders pro-rata to their respective holdings of A Ordinary Shares); and
  - 13.2 the balance of the surplus assets (if any) shall be distributed among the holders of the A Ordinary Shares and Ordinary Shares pro rata (as if such shares constituted one and the same class) to the number of such shares held.

The Directors shall not register any transfer of shares if the Proceeds of Sale are not so distributed save in respect of any shares not sold in connection with that Share Sale provided that if the Proceeds of Sale are not settled in their entirety upon completion of

the Share Sale the Directors shall not be prohibited from registering the transfer of the relevant shares so long as the Proceeds of Sale that are settled have been distributed in the order of priority set out in the Articles 13.1 and 13.2.

14. On an Asset Sale the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) in the order of priority set out in Articles 11.1 and 11.2 provided always that if it is not lawful for the Company to distribute its surplus asset in accordance with the provisions of these Articles, the Shareholders shall take any action reasonably required by the Directors (including, but without prejudice to the generality of this Article 14 actions that may be necessary to put the Company into voluntary liquidation) so that Articles 11.1 and 11.2 apply. The foregoing provisions of this Article 14 shall be subject to the terms of Article 12.

#### **ISSUE OF SHARES**

15. Save as set out in Article 16, any equity securities in the capital of the Company issued after the date of these Articles from time to time shall before they are issued be offered to all the members in proportion to the number of the equity securities held by them respectively (and such offer shall be at the same price and on the same terms to each such member). Such offer shall be made by notice specifying the number of equity securities offered, the proportionate entitlement of the relevant member, the price per equity security and limiting a period (being not less than 14 days) within which the offer, if not accepted, will be deemed to be declined and after the expiration of such period the Directors shall offer the equity securities so declined to the persons who have, within the said period, accepted all the equity securities offered to them in the same manner as the original offer and limited by a period of not less than 14 days. If any equity securities comprised in such further offer are declined or deemed to be declined such further offer shall be withdrawn in respect of such equity securities. Applications for equity securities offered in accordance with this Article 15 shall be made by written notice to the Company within the offer period set out in the Company's notice and shall specify the number of equity securities applied for. No member may apply for more than his pro rata entitlement or revoke an application which it makes. At the expiration of the time limited by the notice(s) the Directors shall allot the equity securities so offered to or amongst the members who have notified their willingness to take all or any of such equity securities in accordance with the terms of the offer. No member shall be obliged to take more than the maximum number of equity securities he has indicated his willingness to take. For the purposes of this Article 15, "equity securities" shall be construed in accordance with section 560 of the Act, save that shares to be issued and allotted or options to be granted pursuant to a scheme approved by the Directors over not more than 15% of the Company's share capital on a fully diluted basis (**Share Reward Scheme**) may be issued and allotted or options granted for such issue and allotment by the Company's board including the consent of the Director appointed by

the Albion Investors to Directors or employees of the Company or other persons providing services to the Company, and such shares and options shall not constitute equity securities for these purposes.

16. If a pre-emptive offer of equity securities pursuant to Article 15 is made to Sir Martin Wood and/or Lady K. Audrey Wood and/or their Permitted Transferees (as defined in Article 30), and if any of them do not wish to take up such pre-emptive offer of equity securities, then they may nominate:
  - 16.1 any Privileged Relation of either Sir Martin Wood and/or Lady K. Audrey Wood; or
  - 16.2 any of the trustees of The Wood/Buxton Trust in their personal capacity provided such trustee is also a Privileged Relation of either Sir Martin Wood and/or Lady K. Audrey Wood,to subscribe for all or some of such equity securities.
17. Any equity securities not accepted pursuant to Article 15 or not capable of being so offered except by way of fractions and any equity securities released from the provisions of Article 15 by special resolution or written resolution as therein specified shall be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper, provided that no equity securities shall be issued at a discount and provided further that, in the case of equity securities not accepted as aforesaid, such equity securities shall not be disposed of on terms which are more favourable to the subscribers thereof than the terms on which they were offered to the members.
18. The provisions of Article 15 may be varied or disapplied by a special resolution (including by way of written resolution).
19. In accordance with section 567 of the Act, subsections 561(1) – 562(1) of the Act shall be excluded from applying to the Company.

#### **SHARE CERTIFICATES AND LIENS**

20. Regulation 6 of Table A shall apply as if the words "or executed by the Company and signed by a Director and the secretary of the Company or by two Directors of the Company in accordance with the Act" were inserted after the word "seal" in the second sentence of that Regulation.
21. The lien conferred by Regulation 8 of Table A shall extend to every share in the capital of the Company, whether fully paid or not, and to all shares registered in the name of



any person whether he shall be the sole registered holder thereof or shall be one of two or more joint holders.

### **CALLS ON SHARES**

22. The Directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares or any part thereof (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment of these shares made payable at fixed times, and each member shall (subject to receiving at least fourteen days' notice specifying the time or times and place of payment) pay to the Company at the time or times and place specified the amount called on his shares. A call may be revoked or postponed as the Directors may determine.

### **TRANSFER OF SHARES**

23. The instrument of transfer of any fully paid share shall be executed by or on behalf of the transferor but need not be executed by or on behalf of the transferee. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Company's register of members as the holder of the share. In the case of a partly paid share, the instrument of transfer must also be executed by or on behalf of the transferee.
24. Subject to Article 27, no transfer of any share shall be made or registered without the previous sanction of the Directors.
25. References in Article 24 to a transfer of any share include a transfer or grant of any interest in any share or any right attaching to any share, whether by way of sale, gift, holding on trust, charge, mortgage or pledge, or in any other way, and whether at law or in equity, and also include an agreement to make any such transfer or grant or to exercise the voting rights attaching to a share at the direction of a third party.
26. The Directors may from time to time require any member, or any person becoming entitled to shares on a transmission of those shares, or in the case of any proposed transfer, any proposed transferee, to supply to the Company such information as they may reasonably think relevant for the purpose of determining whether (a) there has been a breach of the Articles, (b) a Relevant Event (as defined in Article 31) has occurred or (c) *(as the case may be) the proposed transfer is permitted under the Articles*. Unless that information is supplied within 30 days of the date of the request, the Directors may refuse to register the transfer.
27. Unless pursuant to these Articles the Directors have an express discretion or are obliged to refuse to register the transfer of any share, the Directors shall register any transfer permitted by or effected in accordance with these Articles within 30 days of the

following being lodged at the registered office of the Company or such other place as the Directors may appoint:

- 27.1 the duly stamped transfer;
  - 27.2 the certificate(s) for the shares to which the transfer relates or an indemnity in lieu of the certificate(s) in a form reasonably satisfactory to the Directors;
  - 27.3 evidence that each proposed transferee has first agreed to be bound, in accordance with its terms, by any applicable provisions of any shareholders' agreement then in force with effect from the date of the transfer; and
  - 27.4 (where the proposed transferee is the trustee of a Family Trust (as defined in Article 29.9), who is to receive the relevant shares in that capacity pursuant to a transfer pursuant to Article 29.9) evidence reasonably satisfactory to the Directors that the trustee has the capacity to give warranties or indemnities (subject to reasonable limitations on its liability) in the event of a sale of those shares.
28. A person becoming entitled to a share by transmission may, upon such evidence being produced as the Directors may properly require, elect by notice to the Company to become the holder of that share but shall have no right to have any person nominated by him registered as the transferee.

#### PERMITTED TRANSFERS

29. Any shares may be transferred as a permitted transfer (a **Permitted Transfer**) by:
- 29.1 any member to any person with the prior consent in writing of 90 per cent of the members of the Company for the time being entitled to receive notice of and to attend and vote at general meeting (which consent may be granted unconditionally or subject to terms and conditions and in the latter case any share so transferred shall be held subject to such terms and conditions notified in writing to the transferee prior to registration of the transfer); or
  - 29.2 any member being an individual to their parent, spouse, widow or widower, brothers and sisters over the age of eighteen or their children or grandchildren over the age of eighteen (a **Privileged Relation**) and for the purposes of this Article 29.2, step and adopted children or grandchildren over the age of eighteen shall be deemed to be a Privileged Relation; or
  - 29.3 any member being a company to any other company which is for the time being its subsidiary or holding company (each as defined in the Act) or another subsidiary of its holding company (each such company being hereinafter referred to as a **Group Company**) but if a Group Company whilst it is a member shall cease to be a Group

Company it shall be deemed to have given a Transfer Notice in respect of all the shares held by it pursuant to Article 34 below; or

- 29.4 STFC Innovations Limited (company number 4361684) (**STFC Innovations**) for as long as it is a member to the Science and Technology Facilities Council (**STFC**) or any transferee of STFC Innovation's business; or
- 29.5 Seven Spires Investment Limited to its holding company or a wholly owned subsidiary or a wholly owned subsidiary of its holding company or any other company under the beneficial ownership of the Jameel family or to a member of the Jameel family; or
- 29.6 Strathdon Holdings Limited to its holding company or a wholly owned subsidiary or a wholly owned subsidiary of its holding company; or
- 29.7 Carbon Trust Investments Limited (a company limited by shares with registered number 4190230) (**CTIL**) to any legal successor of CTIL (or to any successor of the Carbon Trust (a company limited by guarantee with registered number 04190230)) nominated by a Government Department or agency or any company or body to which the powers or functions of CTIL or any such legal successor may be transferred or delegated or to any company or fund within the Carbon Trust group; or
- 29.8 CTIL to any fund or other collective investment scheme or investment company whose business is managed or advised by CT Investment Partners (a limited liability partnership with registered number OC319987) (**CTIP**) or the same investment manager as manages or advises CTIL; or
- 29.9 any member being an individual to a family trust which does not permit any of the settled property or the income from it to be applied otherwise than for the benefit of that member or any of his Privileged Relations and under which no power of control over the voting powers conferred by any share the subject of the family trust is capable of being exercised by, or being subject to the consent of, any person other than the trustees of such family trust or any of the relevant member's Privileged Relations (**Family Trust**). Upon a change of trustees of the Family Trust concerned the trustees may transfer the relevant shares to the new trustees of such Family Trust; or
- 29.10 Sir Martin Wood and/or Lady K. Audrey Wood and/or their respective legal personal representatives, to the trustees of The Wood/Buxton Trust provided such trustees are also Privileged Relations of Sir Martin Wood and/or Lady K. Audrey Wood; or
- 29.11 the trustees of The Wood/Buxton Trust to (i) new trustee(s) of The Wood/Buxton Trust upon a change of trustees, provided such new trustee(s) are also Privileged Relations of Sir Martin Wood and/or Lady K. Audrey Wood or (ii) to any Privileged Relation of Sir Martin Wood and/or Lady K. Audrey Wood; or

- 29.12 subject to the Mandatory Transfer provisions relating to a Good Leaver set out in Article 31 below, persons acting as the legal personal representatives of a deceased member, to a Family Trust or a Privileged Relation to whom the relevant deceased member, if not dead, would be permitted, under these Articles, to transfer the same; or
- 29.13 Rainbow Seed Fund to any fund at that time managed by the same fund manager as Rainbow Seed Fund or to its limited partners.
30. In addition to the provisions in Article 29 above, in the case of the Albion Investors and Frog (being the Albion Investors and Frog (as applicable) as defined in a subscription and shareholders' agreement dated 29 March 2012 between, *inter alia*, (1) the Company, (2) the Executives (as defined therein), (3) the Investors (as defined therein) (as the same may be varied, amended or supplemented from time to time) (the **Shareholders' Agreement**):
- 30.1 any shares held by or on behalf of a unit trust or partnership or other unincorporated association or fund may be transferred or disposed of to the holder or holders of units in such unit trust or partners in such partnership or members of such unincorporated association or investors in such fund from time to time or to trustees for any such person;
- 30.2 any shares held by a nominee or trustee of a partnership may be transferred to the partnership or to any new nominee or trustee for such partnership;
- 30.3 any shares which are held by or on behalf of an Investment Trust (as defined in chapter 21 of the Listing Rules published by the UK Listing Authority) whose shares are listed on the Official List of the UK Listing Authority may be transferred to another such Investment Trust whose shares are also so listed;
- 30.4 any shares held by or on behalf of a partnership, unit trust, investment trust, unincorporated association or other fund or corporation may be transferred to another partnership, unit trust, investment trust, unincorporated association or other fund or corporation which is managed or advised by the same manager or adviser as the transferor or by a holding company of such manager or adviser or any subsidiary company of such holding company;
- 30.5 any holder of shares may transfer any such shares to a co-investment scheme being a scheme under which certain officers, employees or partners of a holder of shares or of its advisers or managers are entitled (as individuals or through a body corporate or any other vehicle) to acquire shares (a **Co-investment Scheme**);
- 30.6 any holder of shares which is a Co-investment Scheme which holds shares through a body corporate or another vehicle may transfer shares to:

- 30.6.1 another body corporate or another vehicle which holds or is to hold shares for the Co-investment Scheme; or
  - 30.6.2 an officer, employee or partner entitled to shares under the Co-investment Scheme; and
- 30.7 shares to any other investment fund managed or advised by the same managers or advisers as the investment fund in respect of which such person is a nominee or custodian,
- and a transferee pursuant to Article 29 or Article 30 is called a **Permitted Transferee**.

### **MANDATORY TRANSFERS**

31. In these Articles, a **Relevant Event** shall mean:
- 31.1 a member or, in the case of a Permitted Transferee in accordance with Articles 29.1, 29.2 or 29.9, the original member, being adjudicated bankrupt; or
  - 31.2 a Group Company whilst it is a member ceasing to be a Group Company of the relevant member; or
  - 31.3 if a member dies and the legal personal representatives of such a deceased member have not transferred the relevant shares in accordance with Article 29.12 above as a Permitted Transfer within two years of the date of death; or
  - 31.4 a member or, in the case of a Permitted Transferee, the original member, being (i) an *Executive (as defined in the Shareholders' Agreement)*, (ii) *an executive director of the Company*, (iii) an employee of the Company or (iv) a member by virtue of having exercised options granted pursuant to a Share Reward Scheme, ceasing to be connected with the Company (a **Leaver**) and for these purposes such member (or original member) shall only be treated as connected with the Company if he is an employee of the Company and/or an executive director of the Company and/or (other than Scott Hoover) a consultant under a contract for services with either the Company or STFC Innovations or STFC or makes his services available to the Company or STFC Innovations or STFC indirectly under a contract for services between any of them and a body corporate controlled by him as defined by sections 450 and 451 of the Corporation Tax Act 2010.
32. Upon the happening of any Relevant Event, the member in question and/or his Permitted Transferee(s) or the legal personal representatives of a deceased member as the case may be shall promptly notify the Directors that a Relevant Event has occurred and the Directors may then declare (by **Mandatory Transfer Declaration**) that the member in question and/or his Permitted Transferee(s) or legal representative

of a deceased member (as the case may be) shall be deemed to have given a Transfer Notice in respect of all of the shares as shall then be registered in his name and in the name of his Permitted Transferee(s) such shares having previously been the subject of a Permitted Transfer by the relevant member (a **Mandatory Transfer**) PROVIDED THAT the Mandatory Transfer Declaration shall not apply to shares:

- (a) held or transferred by a Leaver (whether a Good Leaver or a Bad Leaver, both as defined in Article 39), where such shares were acquired by such Leaver pursuant to the shareholders' agreement relating to the Company dated 2 July 2007; or
- (b) held or transferred by a Good Leaver, save to the extent such shares exceed 10% of the total issued equity share capital of the Company at the time of the Relevant Event, in which event the Mandatory Transfer Declaration shall apply only to such number of shares (rounded up in the case of fractions to the nearest whole number) as shall so exceed that 10% threshold.

The Mandatory Transfer Declaration shall be made by notice given to the member(s) concerned during the period of 60 days starting on the date when the Directors receive notice under this Article 32 or (if no such notice is received) starting on the date when the Directors became aware of the Relevant Event. If the Relevant Event shall be the bankruptcy of a member the trustee in bankruptcy of such a member will be entitled to act as if they were the registered holders of the shares which are subject to the Mandatory Transfer and as such they will be deemed to be the Seller of the Sale Shares for the purposes of Articles 34 to 51 (inclusive).

#### **PRE-EMPTION ON TRANSFERS OF SHARES**

- 33. Except as provided for in Articles 29 to 32 (inclusive), 53 and 54 no share in the Company shall be transferred unless the rights of pre-emption conferred by Articles 34 to 51 (inclusive) have been exhausted.
- 34. Every member who wishes to transfer shares other than pursuant to Article 29, Article 30 (Permitted Transfers), Article 32 (Mandatory Transfers) or Articles 53 and 54 (Drag Along and Tag Along) (the **Seller**) shall give notice of the fact in writing to the Company (the **Transfer Notice**). The Notice shall specify:
  - 34.1 the number of shares to be sold;
  - 34.2 a cash price per share at which they are proposed to be offered for sale or specify a price to be determined in accordance with Article 35.1 or 35.2;
  - 34.3 whether any third party has indicated a willingness to buy any of them and if so, the number of shares concerned and the date of that indication;

- 34.4 the identity of any such third party and (if it is a company) the person(s) believed by the Seller to control that Company; and
- 34.5 a summary of the terms of purchase put forward by any such third party, including, without limitation, details of the nature and amount of the consideration and the date on which it would be payable.

The Transfer Notice shall also state whether or not the Seller's offer is conditional on acceptances being received for all (or any other specified percentages) of the shares, but may not otherwise be conditional.

- 35. A Transfer Notice shall constitute the Company as agent for the sale of the shares specified therein (the **Sale Shares**) to the members (other than the Seller) at such price (the **Transfer Price**) as may:
  - 35.1 be agreed between the Seller and the Company; or
  - 35.2 in default of agreement, within thirty days of the date of receipt of the Transfer Notice by the Company, be such a price as the Auditors of the Company for the time being (or if either the Seller objects or the Auditors decline to act, the Directors shall instruct a firm of chartered accountants in England and Wales as agreed between the Seller and the Directors or, in default of agreement, the Directors shall forthwith request that the President for the time being of the Institute of Chartered Accountants in England and Wales nominates an independent expert for the purposes of this Article) (the Auditors or firm of accountants appointed in their stead being referred to in these Articles as **Accountants**) shall certify in writing to be their opinion of a fair value for the sale of the shares (**Fair Value**) as between a willing seller and a willing buyer without taking any account of whether the Sale Shares comprise a majority or a minority interest in the Company.
  - 35.3 Save as otherwise provided in Article 37 a Transfer Notice shall not be withdrawn except with the consent of all other members of the Company.
- 36. If the Accountants are asked to certify the Fair Value they shall act as experts and not as arbitrators but they shall in their certificate also state the reasons upon which they rely in certifying the Fair Value and their decision shall be final and binding save in the case of manifest error.
- 37. The Company shall as soon as it receives the Accountants' certificate give a certified copy of it to the Seller and within seven days of receiving the certified copy the Seller may by notice to the Company cancel the Company's authority to sell the Sale Shares (other than in respect of a transfer that is deemed to be a Mandatory Transfer).

38. The cost of obtaining the Accountants' certificate shall be borne by the Company unless the fair value is less than that requested by the Seller or the Seller gives notice of cancellation as set out in Article 37, in which case he shall bear this cost.

39. If:

39.1 the Seller is a Leaver by reason of:

39.1.1 his dismissal in circumstances where such cessation occurs where the Seller is guilty of any fraud or dishonesty or gross negligence or he is dismissed by virtue of summary dismissal or summary termination under his employment contract or contract for services with the applicable Group Company (howsoever such term is described therein) and such dismissal is not subsequently found to be wrongful; or

39.1.2 in the case of a Seller who is a consultant (other than Scott Hoover) engaged under a consultancy agreement or contract for services by any Group Company and who becomes a Leaver as a result of a fundamental breach by him under his consultancy agreement; or

39.1.3 his voluntary termination (which shall exclude (i) termination on the grounds of ill health (as determined by at least two medical reports from independent specialists as being unable to perform substantially all of his duties as an employee of a Group Company for a period of 12 months and such Seller becomes a Leaver as a result thereof) and (ii) termination on the grounds of constructive dismissal) of his contract of employment or, as the case may be, contract for services within two years of the date of the Shareholders' Agreement (as defined in article 30); or

39.1.4 the Seller (other than any of the Investors (as defined in the Shareholders' Agreement) and any person to whom they are permitted to transfer shares under Articles 29 or 30) breaches any provision of the Shareholders' Agreement where the Board (acting reasonably) considers such breach to be a fundamental or substantive breach of that Seller's obligations under the Shareholders' Agreement,

then the Seller will be a bad leaver (a **Bad Leaver**), and in all other cases he shall be a good leaver (a **Good Leaver**). The Transfer Price applying to Good Leavers shall be the price determined in accordance with Article 35 above and in the case of Bad Leaver shall be the lower of £6.00 per share and the Fair Value as the case may be.

40. Within 14 days of the Transfer Price being determined as set out above in Article 35, the Directors may resolve to recommend that the Company should purchase all or some of the Sale Shares. In this case, the Company shall:



- 40.1 draw up a draft contract of purchase which provides for completion of the purchase of the relevant Sale Shares on the expiration of seven days after the passing of the special resolution mentioned in Article 40.2. Without prejudice to his right to revoke the Transfer Notice under Article 37, the Seller is deemed to have agreed to such a contract and that he shall transfer the relevant Sale Shares to the Company at completion; and
- 40.2 convene a general meeting (or pass a written resolution) of the members to consider a special resolution to authorise such contract of purchase, such meeting to be held not later than 30 days after the date on which the Transfer Price is finally determined. The Directors will procure that the relevant requirements of sections 690 - 732 (inclusive) of the Act relating to the purchase by a company of its own shares are complied with.
- 41. In the event that the Directors do not resolve that the Company should purchase all of the Sale Shares or the requirements of Article 40 are not met, within 21 days of the determination of the Transfer Price the Company shall by written notice offer the Sale Shares (other than any which are to be purchased by the Company pursuant to Article 40 above) to each of the members (apart from the Seller):
  - 41.1 informing him of the number of Sale Shares to which he is entitled (which shall be as nearly as practicable in the proportion which the number of the shares of the Company held by him bears to the total number of issued shares of the Company excluding the Sale Shares);
  - 41.2 informing him of the Transfer Price; and
  - 41.3 inviting him to state in writing within 14 days from the date of the notice (which shall be dated) whether he is willing to purchase any and, if so, how many of the Sale Shares to which he is entitled. Each application made under this Article 41.3 shall be irrevocable and shall give rise to a legally binding agreement between the members giving it and the Seller.
- 42. If the Transfer Notice was subject to a total transfer condition which is not satisfied then the Transfer Notice shall lapse.
- 43. If any of the Sale Shares shall remain after such applicants have been satisfied in full the Company shall:
  - 43.1 give a further notice to each of the members of the Company (other than the Seller and those members who have not applied for their full entitlement) informing them of the Sale Shares remaining; and

- 43.2 invite each of them to state in writing within 14 days from the date of this further notice (which shall be dated) whether he is willing to purchase any and, if so, what maximum number of the Sale Shares remaining.
44. If any member applies pursuant to the provisions set out in Article 41 and the Transfer Notice does not lapse in accordance with Article 42, the Company:
- 44.1 shall allocate such shares (or as many of them as shall be applied for) in proportion to the number of shares of the Company held by each of them (discounting for these purposes the Sale Shares);
- 44.2 forthwith give notice of each such Allocation (**Allocation Notice**) of such allocations to the Seller and each of the persons to whom such shares have been allocated; and
- 44.3 specify in such Allocation Notice the place and time (being not later than 14 days after the date of such notice) at which the sale of such shares shall be completed.
45. If the aggregate number of Sale Shares applied for by all members to whom the offer is made exceeds the number of Sale Shares, the Sale Shares shall be allocated to the applying numbers in proportion to the number of shares held by them on the date of the Transfer Notice (discounting for these purposes the Sale Shares). No applicant shall be obliged to take more than the maximum number of Sale Shares specified by him and if as a result of this any Sale Shares shall remain unallocated the Directors shall be entitled to allocate them amongst those members who wish to acquire them as the Directors at their sole discretion shall think fit and such allocation shall be included in a further allocation notice (the **Further Allocation Notice**).
46. The Sale Shares shall be sold free from all charges, liens and encumbrances and otherwise with full title guarantee at the Transfer Price, and together with all rights attaching to the Sale Shares on or after the date of the Transfer Notice, including the right to receive dividends and the right to be sold or allotted any other shares by virtue of the holding of any of the Sale Shares.
47. Once these allocations have been made, the Seller shall be obliged, on payment of the Transfer Price, to transfer the Sale Shares comprised in the Allocation Notice and (where appropriate) the Further Allocation Notice to the purchasing member or members named and at the time and place specified in the relevant notice.
48. If the Seller does not comply with the obligation in Article 47 one of the Directors, or some other person duly nominated by a resolution of the Board for that purpose may, as agent for the Seller, execute complete and deliver in the name and on behalf of the Seller a form of transfer of the Sale Shares to the purchasing member or members and the Directors may:

- 48.1 receive and give a good discharge for the purchase money on behalf of the Seller;
- 48.2 (subject to the form of transfer being duly stamped in respect of the stamp duty payable on the transfer) enter the name of the purchasing member or members in the register of members of the Company as the holder or holders by transfer of the shares purchased by him or them; and
- 48.3 forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such money in trust for the Seller until he delivers up his certificate or certificates for the Sale Shares to the Company at which time he shall be paid the purchase money.
49. In the event that not all the Sale Shares are sold under Articles 40 to 48 above, the Seller may at any time within three calendar months after the date of the Allocation Notice (or, if none, within three calendar months after the expiration of the 14 day period specified in Article 41.3) notify the Company of his intention to transfer the remaining Sale Shares not sold to any person or persons in pursuance of a bona fide sale at a price being not less than the Transfer Price.
50. If the Sale Shares are not being sold solely for a consideration which is immediately payable in cash, then the value of that consideration shall be determined by the Company's Auditors unless agreed between the Seller and the Directors before the date falling 7 days after the date set out in Article 44. The Company's Auditors shall act as experts and not as arbitrators and their decision shall, save in the case of manifest error, be final and binding on all the members, and their cost being borne by the Company. The Company shall ensure that details of any agreement or determination under this Article 50 are promptly supplied to each member.
51. In the event that the Seller is unable to find a third party to acquire the remaining sale shares the Directors shall offer any remaining Sale Shares not sold to any person or persons at a price not being less than the Transfer Price (subject to Article 39) as they see fit.
52. In the event of a Mandatory Transfer where neither the Company nor the members (apart from the Seller) wish to purchase any of the Sale Shares in accordance with the provisions of Articles 40 to 48 and a third party purchaser cannot be found to purchase the Sale Shares from the Seller in accordance with Articles 49 to 51, subject to the provisions of Article 51 the Seller will be entitled to retain the Sale Shares subject to the immediate cessation of all voting rights attaching to such shares (including the attendance at general meetings of the Company). The voting rights attaching to the relevant Sale Shares shall be reinstated upon the registration of any subsequent transfer (other than to a Permitted Transferee pursuant to Article 29) of such shares in accordance with these Articles.

## DRAG ALONG AND TAG ALONG

53. In the event that any of the members (**Proposed Transferors**) alone or together holding shares conferring in aggregate 75% or more of the total voting rights conferred by all the shares in the capital of the Company wish to dispose of such shares to one or more third parties (the **Proposed Transferees**), the Proposed Transferors shall give notice to all other members of the Company and all other persons who at the date of such notice have rights (whether or not contingent) to acquire shares (the **Remaining Members**) of the Proposed Transferors' intention to sell such shares specifying the identity of the Proposed Transferees, the number of shares which the Proposed Transferors propose to sell, confirmation that the proposed sale is a bona fide sale on an arm's length basis and the price per share which would result under the terms of the proposed sale (the **Drag Price**) and:
- 53.1 provided the Proposed Transferee shall have made an offer to purchase all of the shares of the Remaining Members at the Drag Price, the Proposed Transferors may give notice in writing (the **Drag Notice**) to the Remaining Members who have not accepted the offer by the Proposed Transferee, such notice to be given within 14 days of the later of the giving of the first notice by the Proposed Transferor referred to in Article 53 above and the expiry of the period specified in the offer by the Proposed Transferee for acceptance of the offer, to require the Remaining Members to sell all of their shares to the Proposed Transferees at the Drag Price; and
- 53.2 the Remaining Members shall be obliged to sell all their shares at the Drag Price within 14 days of the giving of the notice by the Proposed Transferor specified in Article 53.1 or such later date as the Company may specify if necessary for the purpose of ensuring that rights to acquire share in the Company become exercisable, and, if such Remaining Members fail to execute and deliver transfers in respect of shares held by it and any other documents or indemnities necessary for the acceptance of this offer, the Proposed Transferors may authorise any member to execute on behalf of such Remaining Members such transfer forms and any other necessary documents in respect of those Remaining Members' shareholdings as are necessary to transfer the shareholdings to the Proposed Transferees (such authorised person being deemed to be the duly appointed attorney of the Remaining Member in question with full power to execute, complete and deliver in the name and on behalf of the Remaining Member in question the necessary transfer form and other documents and indemnities and where any offer provides for any election to be made between forms of consideration to make the relevant election on behalf of that member). The Directors may receive and give a good discharge for the purchase money on behalf of the Remaining Members in question and (subject to the transfers being duly stamped) enter the name of the Proposed Transferees in the register of members as the holder or holders by transfer of the shares so purchased by them. The Directors shall forthwith pay the purchase money into a separate bank account in the Company's name and shall hold such

money in trust for the Remaining Members until they shall deliver up their certificates for the shares so purchased to the Company when he shall thereupon be paid the purchase money.

54. Notwithstanding the provisions of Article 53 above, the Directors shall not without the consent of all the members of the Company for the time being register a transfer to any Proposed Transferees of shares conferring in aggregate 50% or more of the total voting rights conferred by all the shares in the capital of the Company (the **Controlling Shares**) unless the Proposed Transferors have procured that the Proposed Transferees make an offer to purchase the shares of the Remaining Members upon the same terms. The rights of pre-emption shall apply prior to any offer being accepted by the Proposed Transferors of the Proposed Transferee.
55. In the event that the Proposed Transferors wish to dispose of any Controlling Shares to one or more Proposed Transferees then no agreement will be concluded by the Proposed Transferors for the disposal of the Controlling Shares without first having procured that the Proposed Transferees agree (subject only to completion of the purchase of the Controlling Shares) to purchase all of the Shares held by the Remaining Members at the same price per share that the Proposed Transferors have offered the Proposed Transferees pursuant to the provisions contained in this Article 55. The provisions of this Article 55 shall not apply to any transfer or proposed transfer in connection with which a Drag Notice is served pursuant to and in accordance with the provisions of Article 53.
56. If any Remaining Member's shares are acquired pursuant to a Drag Notice under Article 53.1 they shall not be required to give:
- 56.1 any warranties, representation, indemnities, covenants or insurance other than those which relate to or are in respect of title to the number of shares registered in its name in respect of which these rights have been exercised and its capacity to enter into this relevant agreement for the sale of shares;
- 56.2 any restrictive covenants which in any way restrict it from carrying on any business.
57. The pre-emption provisions contained in Articles 39 to 47 shall not apply to a transfer of shares made pursuant to and in accordance with the terms of Articles 53 to 55 (inclusive).

#### PROCEEDINGS AT GENERAL MEETING

58. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Two persons entitled to vote upon the business to be transacted, each being a member or a proxy for a

*member or a duly authorised representative of a corporation shall be a quorum at any general meeting (and at any adjourned meeting).*

59. At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is, before or on the declaration of the result of the show of hands, demanded by any member present in person or by proxy. Regulation 46 of Table A shall be modified accordingly.

#### **VOTES OF MEMBERS**

60. Subject to any rights or restrictions for the time being attached to any class or any classes of shares, every member present in person or by proxy shall have one vote on a show of hands and one vote for each share of which he is the holder on a poll. Where a member is himself a proxy for another member or members, then he shall on a show of hands have one vote for himself as a member and one vote for each member for whom he is a proxy.
61. Regulations 60 and 61 of Table A shall apply as if the following sentence was added at the end of each of these Regulations: "Any such instrument shall be deemed to confer authority to demand or join in a demand for a poll and to vote on any amendment of a resolution put to the meeting for which it is given as the proxy thinks fit."

#### **DIRECTORS**

62. In addition to the powers of appointment under Table A, the Albion Investors and their Permitted Transferees shall, for so long as they hold, in aggregate, not less than 10% of the Company's issued share capital shall have the right to appoint and maintain in office one Director (**Investor Director**). The Albion Investors may at any time remove any such Investor Director appointed by it or them and appoint another person in his place, and the other members shall not vote so as to remove that Investor Director from office.
63. In addition to the powers of appointment under Table A, Frog, Rainbow and Carbon Trust and their Permitted Transferees, for as long as they hold, in aggregate, not less than 10% of the Company's issued share capital shall have the right to appoint and maintain in office one Director (also an **Investor Director**). Frog, Rainbow and Carbon Trust may at any time remove any such Investor Director appointed by it or them and appoint another person in his place PROVIDED ALWAYS that such appointment is made in respect of only one Director between them, and the other members shall not vote so as to remove that Investor Director from office.
64. Andrew Rickman shall have the right, for so long as he, Sir Martin Wood, Lady K. Audrey Wood and their respective Permitted Transferees hold not less than 10% of the Company's issued share capital, to be appointed to the Board, but shall offer to resign

from the Board at such time as either (i) those persons no longer hold at least 10%, in aggregate, of the Company's issued share capital or (ii) he no longer has the support of Sir Martin Wood and/or Lady K. Audrey Wood or their successors in title to whom their shares have been transferred in accordance with these Articles provided that such successors in title (including without limitation the trustees of the Wood/Buxton Trust) are also Privileged Relations of Sir Martin Wood and/or Lady K. Audrey Wood.

65. Such above appointments in Articles 62 and 63 (inclusive) or, as the case may be, removals shall be effected by serving notice in writing upon the Secretary specifying the name of the person appointed or member removed and such appointment or, as the case may be, removal shall be effective upon service of such notice or such later date (not being more than 30 days after the date of service of such notice) specified by such appointer, as the case may be, in such notice. No appointment shall be effective until the appointee has confirmed in writing to the Secretary his consent to become a Director. In the event that the aggregate shareholding of a member or group of members entitled to appoint Directors pursuant to Articles 62 and 63 above (each an **Appointer**) falls below 10% of the issued share capital of the Company, such Appointer shall be deemed to have served notice in writing upon the Secretary removing any Investor Director appointed by such Appointer from office, with immediate effect.
66. Each Investor Director may make such disclosures in relation to the Company as he thinks fit to each person or persons who appointed him (as the case may be).
67. Provisions under these Articles would not apply in respect of any actions or matters requiring or seeking the acceptance, approval, agreement, consent or words having similar effect of an Investor Director, if (i) at any time no Investor Director has been appointed to office or, (ii) an Investor Director declares to the Board that he considers that providing such consent gives rise or may give rise to a conflict of interest to his duties as a Director.
68. Any Director who is appointed to an executive office or who serves on any committee or who otherwise performs services which, in the opinion of the Directors, are outside the scope of the ordinary duties of a Director may be paid such remuneration by way of salary, percentage of profits or otherwise as the Directors may from time to time determine.
69. The Directors shall be entitled to reimbursement of all such reasonable expenses as they may incur in attending and returning from meetings of the Directors, or of committees of the Directors, or general meetings, or which they may otherwise incur, whether in the United Kingdom or abroad, in or about the business of the Company.

70. A person may be appointed a Director notwithstanding that he shall have reached the age of seventy and no Director shall be liable to vacate office by reason of his reaching that or any other age.

### **BORROWING POWERS**

71. Subject to the Act, the Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital or any part of these, and to issue debentures, debenture stock and other securities whether outright or as security for any debt, liability, guarantee or obligation of the Company, or of any third party.

### **POWERS AND DUTIES OF DIRECTORS**

72. Subject to making such disclosure and declaration of his interest as is required by the Act, a Director may contract with and participate in the profits of any contract with the Company as if he were not a Director.
73. A Director may hold any other office or place of profit under the Company at such remuneration and upon such terms as the Directors may determine.
74. Without prejudice to the powers conferred by Regulation 87 of Table A, the Directors on behalf of the Company may provide or contribute to the provision of life or other assurance for the benefit of any Director engaged or formerly engaged in full time service with the Company or any subsidiary of the Company, or the dependants of any such Director.

### **REMOVAL OF DIRECTORS**

75. The office of Director shall be vacated:-
- (1) if he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
  - (2) if he becomes prohibited from being a Director by reason of any order made under the Company Directors Disqualification Act 1986; or
  - (3) if he becomes incapable by reason of mental disorder, illness or injury of managing and administering his property and affairs; or
  - (4) if he resigns his office by notice to the Company; or



- (5) if he shall for more than six consecutive months have been absent from meetings of the Directors without leave expressed by a resolution of the Directors, and the Directors resolve that his office be vacated; or
- (6) if the Company shall be so resolved by an special resolution at an general meeting or by an ordinary resolution pursuant to section 168 of the Act; or

PROVIDED ALWAYS that Articles 75(5) and (6) shall not apply to any Investor Director.

### **ROTATION OF DIRECTORS**

- 76. A Director shall not retire by rotation and Regulations 76, 78 and 79 of Table A shall be modified accordingly.

### **PROCEEDINGS OF DIRECTORS**

- 77. No business may be transacted at any meeting of the Directors or a committee of the Directors unless a quorum is present. The quorum for the transaction of the business of the Directors, whether at a meeting of the Board or a committee of the Board may be fixed from time to time by a decision of the Board and unless otherwise fixed it shall be three. The quorum must include both Investor Directors appointed in accordance with Articles 62 and 63 respectively, (if any) (save that where a Relevant Situation (as defined in Article 84) of an Investor Director is being authorised by other Directors in accordance with section 175 of the Act, such Investor Director shall not be included in the quorum required for the purpose of such authorisation but shall otherwise be included for the purpose of forming the quorum at the meeting) unless:

- 77.1 such Investor Director for itself, or his alternate, gives notice in writing prior to the commencement of such meeting; or

- 77.2 such Investor Director fails to attend a Board meeting and then does not attend the adjourned Board meeting (provided that such Board meeting is adjourned for not less than two weeks from the original),

in which case such adjourned meeting may stand quorate notwithstanding his absence at any such adjourned Board meeting, PROVIDED THAT nothing shall alleviate the Company's obligations to observe the provisions of the Shareholders' Agreement.

- 78. A resolution in writing signed by all the Directors shall be as effective as a resolution passed at a meeting of the Directors duly convened and held, and may consist of several documents in the same form, each signed by one or more of the Directors.

- 79. A meeting of the Directors or of a committee of the Directors may consist of a conference between Directors who are not all in one place, but of whom each is able

(directly or by telephonic communication) to speak to each of the others, and to be heard by each of the others simultaneously, and the word “meeting” in these Articles shall be construed accordingly. A Director taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly. Any such meeting shall be deemed to take place at the location of the Chairman of the meeting or if the Chairman has not been appointed the location where the majority of Directors are present.

80. Unless otherwise agreed in writing by all Directors, at least seven business days written notice shall be given to each Director of every meeting of the Directors (and in the case of any Investor Director appointed by an Investor, addressed to that Investor as its registered office from time to time). **Business day** shall be construed as a day (other than a Saturday or Sunday) on which banks are open for ordinary banking business in London.
81. The Chairman shall not have a second or casting vote and Regulation 88 of Table A shall be modified accordingly.
82. Subject to Article 86, if a Director is in any way directly or indirectly interested in a proposed transaction or arrangement with the Company or a transaction or arrangement that has been entered into by the Company, he must declare the nature and extent of that interest to the Directors in accordance with sections 177(2) and 182(2) of the Act. As long as the Director does this, he may vote at the meeting and may be counted in determining whether a quorum is present at the meeting. A disclosure that complies with sections 177(2) or 182(2), as applicable, of the Act will be sufficient disclosure for the purposes of this Article 82.
83. A Director need not declare an interest under Article 82:
- (a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
  - (b) if, or to the extent that, the other Directors are already aware of it (and for this purpose the other Directors are treated as being aware of anything of which they ought reasonably to be aware); or
  - (c) if, or to the extent that, it concerns terms of his service contract that have been *or are to be considered by a meeting of the Directors or a committee of the Directors* appointed for the purpose under the Company's constitution.
84. The Board may, subject to Article 87, authorise any matter which relates to a situation in which a Director (the **Relevant Director**) has, or can have, a direct or indirect interest which conflicts or possibly may conflict, with the interests of the Company and which would, if not so authorised, result in a breach of duty by the Relevant Director under section 175 of the Act (a **Relevant Situation**).

85. The Relevant Director seeking authorisation in respect of a Relevant Situation must declare to the Board the nature and extent of his interest in that Relevant Situation as soon as is reasonably practicable. The Relevant Director must provide the Board with such details as are necessary for the Board to decide whether or not to authorise the Relevant Situation. The Relevant Director must also provide such additional information as may be requested by the Board.
86. Any Director (including the Relevant Director) may propose that a Relevant Situation be authorised by the Board. Such proposal and any authorisation given by the Board shall be effected in the same way that any other matter may be proposed to and resolved upon by the Board in accordance with the provisions in these Articles, save that:
- (a) the Relevant Director and any other Director with an interest in the Relevant Situation shall not count towards the quorum nor vote on any resolution giving such authorisation; and
  - (b) a Relevant Director may, if the other Directors so decide, be excluded from any meeting of the Board or any committee of Directors while the Relevant Situation is under consideration.
87. Where the Board authorises a Relevant Situation:
- (a) the Board may (whether at the time of giving the authorisation or subsequently):
    - (i) require that a Relevant Director is excluded from the receipt of information, the participation in discussion and/or the making of decisions (whether at meetings of the Board or otherwise) related to the Relevant Situation; and
    - (ii) impose upon a Relevant Director such other terms for the purpose of dealing with the Relevant Situation as it may determine;
  - (b) the Relevant Director will be obliged to conduct himself in accordance with any terms imposed by the Board in relation to the Relevant Situation;
  - (c) the Board may provide that where the Relevant Director obtains or has obtained (through his involvement in the Relevant Situation and otherwise than through his position as a Director) information that is confidential to a third party, the Director will not be obliged to disclose that information to the Company, or to use or apply the information in relation to the Company's affairs;
  - (d) the terms of the authorisation must be recorded in writing (but the authority will be effective whether or not the terms are so recorded); and

- (e) the Board may revoke or vary such authorisation at any time but this will not affect anything done by the Relevant Director prior to such revocation or variation in accordance with the terms of such authorisation.
88. For the purposes of Articles 84 to 87, a conflict of interest includes a conflict of interest and duty and a conflict of duties.

#### **EXECUTIVE DIRECTORS AND COMMITTEE**

89. The Directors may from time to time appoint one or more of their body to any executive office or offices of the Company for such period and on such terms and at such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as they may think fit and, subject to the terms of any agreement entered into in any particular case, the Directors may at any time revoke such appointment.
90. The Directors may from time to time entrust to and confer upon any one or more of the Directors as a committee all or any of the powers exercisable by the Directors (excepting the power to make calls, issue, allot or forfeit shares, borrow money or issue debentures) upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of such powers. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the Articles regulating the proceedings of Directors, so far as they are capable of applying.

#### **NOTICE**

91. The Company may give any notice to a member by hand or by sending it by pre-paid first class post to the intended recipient at his registered address (or such other address as the member may from time to time duly notify to the Company) or by leaving it at that address or by giving it using electronic communications to an address for the time being notified to the company by the member. In the case of joint holders of a share, all notices shall be given to the joint holder whose name stands first in the register of members in respect of the joint holding and notice so given shall be sufficient notice to all the joint holders. In this Article 91, "**address**" in relation to electronic communications, includes any number or address used for the purposes of such communications.

In this Article 91, **address** in relation to electronic communications, includes any number or address used for the purposes of such communications.

92. Proof that an envelope containing a notice was properly addressed, pre-paid and posted as a pre-paid first class letter shall be conclusive evidence that the notice was

given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given.

- 93. A notice shall be deemed to be given:
  - 93.1 if delivered by hand, at the time of delivery;
  - 93.2 in the case of pre-paid first class post, 48 hours after the envelope containing it was posted; and
  - 93.3 in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

#### **INDEMNITY**

- 94. Subject to Article 97 and the provisions of and to the extent permitted by the Act, every Director, alternate Director or other officer (excluding the auditors) of the Company shall be entitled to be indemnified out of the assets of the Company against all costs, charges, losses and liabilities (**Liabilities**) which he may incur in the performance or purported performance of his duties or the exercise, or the purported exercise, of his powers, or otherwise in connection with such actual or purported performance or exercise, including any Liabilities incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as a Director, an officer or an employee of the Company. Regulation 118 of Table A shall not apply.
- 95. Without prejudice to Article 94, the Directors may exercise all the powers of the Company to purchase and maintain insurance for or for the benefit of any person who is or was at any time:
  - 95.1 a director, alternate director or other officer of any Relevant Company (as defined in Article 96 below); or
  - 95.2 a trustee of any pension fund or retirement, death or disability scheme for the benefit of any employee of any Relevant Company or employees' share scheme in which employees of any Relevant Company are interested,including (without limitation) insurance against liability within Article 96 attaching to him in relation to any Relevant Company, or any such pension fund, retirement or other scheme or employees' share scheme.
- 96. For these purposes, **Relevant Company** shall mean the Company or any other undertaking which is or was at any time:

- 96.1 the holding company of the Company; or
- 96.2 a subsidiary of the Company or of such holding company; or
- 96.3 a company in which the Company has an interest (whether direct or indirect).
- 97. No Director shall be indemnified by the Company or any Relevant Company against:
  - 97.1 any liability incurred by the Director (in his personal capacity) to the Company or any Relevant Company; or
  - 97.2 any liability incurred by the Director to pay a fine imposed in criminal proceedings or a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirements of a regulatory nature; or
  - 97.3 any liability incurred by the Director:
    - 97.3.1 *in defending any criminal proceedings in which he is convicted (save where such conviction/judgement does not arise from any direct or indirect act or omission of such Director but the Director is convicted purely on a vicarious liability basis);*
    - 97.3.2 *in defending civil proceedings brought by the Company or any Relevant Company in which final judgment (within the meaning set out in section 234 of the Act) is given against him; or*
    - 97.3.3 *in connection with any application under sections 661(3) or 661(4) or 1157 of the Act (as the case may be) for which the court refuses to grant him relief,*

save that, in respect of a provision indemnifying a director of a company (whether or not the Company) that is a trustee of an occupational pension scheme (as that term is used in section 235 of the Act) against liability incurred in connection with that company's activities as trustee of the scheme, the Company shall also be able to indemnify any such director without the restrictions in Articles 97.3.1, 97.3.2 or 97.3.3 applying.

#### **LIMITED LIABILITY**

- 98. The liability of the Company's members is limited to the amount (if any) unpaid on the shares held by them.