

Company number: **05573418**

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**WRITTEN RESOLUTION**

- of -

**TYPHOO TEA LIMITED (the Company)**

23 December 2022 (the **Circulation Date**)

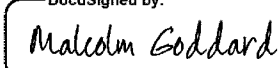
Under Chapter 2 of Part 13 of the Companies Act 2006 (the **Act**), the directors of the Company propose that the following resolution is passed as a special resolution as indicated (the **Resolution**):

**SPECIAL RESOLUTION**

THAT the articles of association annexed to this resolution be and are hereby adopted as the articles of association of the Company in substitution for and to the exclusion of the existing articles of association of the Company, including the objects of the Company previously set out in regulations 1 to 5 of the Company's memorandum of association which by virtue of section 28 of the Act had been treated as a provision of the Company's existing articles of association.

Please read the notes at the end of this document before signifying your agreement to the Resolution.

We, the undersigned, being the eligible members of the Company on the Circulation Date, hereby irrevocably agree to the Resolutions and hereby irrevocably consent to and sanction the passing of the Resolutions.

DocuSigned by:  
  
.....1BBED089330C406.....  
Director, for and on behalf of Karalius Limited

.....  
Director, for and on behalf of Abercross GP I Limited as general partner of Abercross I LP

.....  
Director, for and on behalf of Global Tea and Commodities Ltd

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.....  
Director, for and on behalf of Karalius Limited

*Issam Hamid*.....  
Director, for and on behalf of Abercross GP I Limited as general partner of Abercross I LP

.....  
Director, for and on behalf of Global Tea and Commodities Ltd

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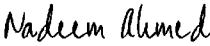
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Director, for and on behalf of Karalius Limited

.....  
Director, for and on behalf of Abercross GP I Limited as general partner of Abercross I LP

DocuSigned by:  
  
2A660C4F7911470...

.....  
Director, for and on behalf of Global Tea and Commodities Ltd

**NOTES TO SHAREHOLDERS:**

- 1) If you agree with the Resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company.
- 2) This Resolution has been circulated on the Circulation Date. If the Resolution is not passed by the last day of the 28 day period beginning with the Circulation Date it will lapse. If you agree to the Resolution, please ensure that your agreement reaches us by the last day of the 28 day period beginning with the Circulation Date.
- 3) An ordinary resolution must be passed by members representing a simple majority (i.e. more than 50%) of the voting rights of eligible members. A special resolution must be passed by members representing not less than 75% of the voting rights of eligible members.
- 4) Please note that once you have indicated your agreement to the Resolution, you may not revoke your agreement.
- 5) If you do not agree with the Resolution, you do not need to do anything. If you do not reply, you will be deemed to have rejected the Resolution.

**"A"**



The Companies Act 2006  
Company limited by shares  
New Articles of Association  
of  
Typhoo Tea Limited

(Adopted by a written resolution passed on 23 December 2022)

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THE COMPANIES ACT 2006  
COMPANY LIMITED BY SHARES  
NEW  
ARTICLES OF ASSOCIATION  
of  
TYPHOO TEA LIMITED

(Adopted by a written resolution passed on 23 December 2022)

**1 Introduction**

- 1.1 The model articles for private companies limited by shares contained or incorporated in Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles (the Model Articles) shall apply to the Company, save insofar as they are varied or excluded by, or are inconsistent with, the following articles.
- 1.2 In these Articles and the Model Articles any reference to any statutory provision shall be deemed to include a reference to each and every statutory amendment, modification, re-enactment and extension thereof for the time being in force.
- 1.3 In these Articles:
- (a) Article headings are used for convenience only and shall not affect the construction or interpretation of these Articles;
  - (b) words denoting the singular include the plural and vice versa and reference to one gender includes the other gender and neuter and vice versa; and
  - (c) Articles 8(2), 9(4), 10(3), 11(2), 13, 14, 17(2), 17(3), 19, 21, 26(5), 27, 28, 29, 30(5) to 30(7) (inclusive), 44(4), 51, 52 and 53 of the Model Articles shall not apply to these Articles.

**2 Definitions**

In these Articles the following words and expressions shall have the following meanings:

Abercross means Abercross GP I Limited, incorporated in Jersey with registration number 122488, whose registered office is at 47 Esplanade, St. Helier, Jersey, JE1 0BD as general partner of Abercross I LP, a limited partnership under Jersey law with registration number 2341 whose registered office is at 47 Esplanade, St. Helier, Jersey, JE1 0BD.

Abercross Director shall have the meaning given in Article 21.4.

Act means the Companies Act 2006 (as amended from time to time).



Acting in Concert has the meaning given to it in The City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended from time to time).

Affiliate means, with respect to any Shareholder, any other person who, directly or indirectly, controls, is controlled by, or is under common control with such Shareholder, including, without limitation, any general partner, managing member, officer or director of such Investor or any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management or advisory company with, such Shareholder.

Allocation Notice shall have the meaning given in Article 13.8.2.

Applicant shall have the meaning given in Article 13.8.2.

A Shares means the A ordinary shares of £0.01 each in the capital of the Company.

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).

Associate in relation to any person means:

- (a) any person who is an associate of that person and the question of whether a person is an associate of another is to be determined in accordance with section 435 of the Insolvency Act 1986 and (whether or not an associate as so determined);
- (b) any Member of the same Group;
- (c) any Member of the same Fund Group.

Auditors means the auditors of the Company from time to time.

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.

B Shares means the B ordinary shares of £0.01 each in the capital of the Company.

Business Day means a day on which English clearing banks are ordinarily open for the transaction of normal banking business in the City of London (other than a Saturday or Sunday).

CEO shall have the meaning given in Article 21.7(a).

CFO shall have the meaning given in Article 21.7(b).

Company means Typhoo Tea Limited, a company registered in England with company number 05573418 whose registered office is at Pasture Road, Moreton, Wirral, Merseyside, CH46 8XF.

Conflict Situation means any situation or matter in which any Director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company.

Controlling Interest means an interest in shares giving to the holder or holders control of the Company within the meaning of section 1124 of CTA.

Continuing Shareholder shall have the meaning given in Article 13.7.1.

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

CTA means the Corporation Tax Act 2010 including any statutory modification or re-enactment for the time being in force.

Date of Adoption means the date on which these Articles were adopted.

Deferred Shares means the deferred shares of £0.27 each in the capital of the Company.

Director(s) means a director or directors of the Company from time to time.

Eligible Director means a Director who is entitled to vote on a particular decision of the Board.

Encumbrance means any mortgage, charge, security, interest, lien, pledge, assignment by way of security, equity, claim, right of pre-emption, option, covenant, restriction, reservation, lease, trust, order, decree, judgment, title defect (including without limitation any retention of title claim), conflicting claim of ownership or any other encumbrance of any nature whatsoever (whether or not perfected other than liens arising by operation of law).

Equity Shares means the Shares other than the Deferred Shares.

Excess Securities shall have the meaning given in Article 9.3(b).

Exit means a Share Sale or an Asset Sale.

Expert Valuer is as determined in accordance with Article 14.2.

Fair Value is as determined in accordance with Article 14.3.

Financial Year means a financial year as determined in accordance with section 390 of the Act.

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

Global Tea means Global Tea and Commodities Ltd (company number 2654245) whose registered office is at 1 Suite 2, 5th Floor, 1 Duchess Street, London, England, W1W 6AN.

Group means the Company and its Subsidiary Undertaking(s) (if any) from time to time and Group Company shall be construed accordingly.

Group Conflict Situation means, in respect of each Director, all or any of the following situations existing at any time while such person is a Director:

- (a) being employed or otherwise engaged by any Group Company; or
- (b) holding office, including (but not limited to) office as a director, of any Group Company; or
- (c) being a member of any pension scheme operated from time to time by any Group Company;  
or
- (d) being a member of any Group Company; or
- (e) participating in any share option, bonus or other incentive schemes operated from time to time by any Group Company; or

- (f) participating in any benefit provided by an Employee Trust of which the Director is a beneficiary.

Holding Company means a newly formed holding company, pursuant to which the membership, pro rata shareholdings and classes of shares comprised in such holding company matches that of the Company immediately prior to such transfer.

IPO means the admission of all or any of the Shares or securities representing those shares (including without limitation depositary interests American depositary receipts, American depositary shares and/or other instruments) to or the grant of permission by any like authority for the same to be traded or quoted on Nasdaq or on the Official List of the United Kingdom Listing Authority or on the AIM Market operated by the London Stock Exchange Plc or any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000).

ITEPA means Income Tax (Earnings and Pensions) Act 2003.

Lender Documentation means any loan, intercreditor and security documentation relating to the Lender Facilities, in each case as amended, supplemented, re-stated and novated from time to time including the Mezzanine facility.

Lender Facilities means any loan facility made available the Company or any other Group Company by Zetland pursuant to the Lender Documentation and such other facility, credit and security documentation as is entered into by the Group from time to time whether with Zetland or another bank.

a Member of the same Fund Group means if the Shareholder is a fund, partnership, company, syndicate or other entity whose business is managed by a Fund Manager (an Investment Fund) or a nominee of that person:

- (a) any participant or partner in or member of any such Investment Fund or the holders of any unit trust which is a participant or partner in or member of any Investment Fund (but only in connection with the dissolution of the Investment Fund or any distribution of assets of the Investment Fund pursuant to the operation of the Investment Fund in the ordinary course of business);
- (b) any fund managed by that Fund Manager which is or whose nominee is the transferor;
- (c) any Parent Undertaking or Subsidiary Undertaking of that Fund Manager, or any Subsidiary Undertaking of any Parent Undertaking of that Fund Manager; or
- (d) any trustee, nominee or custodian of such Investment Fund and vice versa;
- (e) a Member of the same Group means as regards any company, a company which is from time to time a Parent Undertaking or a Subsidiary Undertaking of that company or a Subsidiary Undertaking of any such Parent Undertaking.

Mezzanine Facility means the mezzanine facility agreement between (i) the Company (as borrower) and (ii) Zetland (as lender) dated 15 July 2021 as amended on 6 August 2021 as further amended and restated on 21 April 2022 as further amended and restated on the Date of Adoption.

Minimum Transfer Condition shall have the meaning given in Article 13.2(d).

Nasdaq means the NASDAQ Stock Market of the NASDAQ OMX Group Inc.

New Funding Side Letter has the meaning given in the Shareholders' Agreement.

New Securities means any shares or other securities convertible into, or carrying the right to subscribe for those shares, issued by the Company after the Date of Adoption.

Offer Period shall have the meaning given in Article 13.7.

Original Shareholder shall have the meaning given in Article 12.1.

Participation Condition means Abercross having exercised its option under the New Funding Side Letter and having:

- (a) acquired for cash its 42% pro-rata share of the funded portion (principal plus all accrued interest) of Tranche G and Tranche H (as defined under the Mezzanine Facility);
- (b) committed to acquire for cash its 42% pro-rata share of the unfunded portion of Tranche G and Tranche H (as defined under the Mezzanine Facility); and
- (c) not defaulted in its commitment provided under limb (b) above.

Permitted Transfer means a transfer of Shares in accordance with Article 12.

Permitted Transferee means:

- (a) in relation to a Shareholder which is an undertaking (as defined in section 1161(1) of the Act) means any Member of the same Group;
- (b) in relation to a Shareholder which is an Investment Fund means any Member of the same Fund Group;
- (c) another Shareholder, subject to any necessary consents under the Lender Facilities; and
- (d) in relation to Abercross, a partnership or limited company (or any other corporate entity) that is managed or advised by Abercross Holdings Limited (or an Affiliate thereof) if its beneficial owners are substantially comprised of the limited partners (or beneficial owners thereof) of Abercross I LP, save in such circumstances where a third party institutional private equity investor (or such similar institutional investor) is invested in such proposed transferee entity.

Priority Rights means the rights of Shareholders to purchase Shares contained in a Transfer Notice in the priority stipulated in Article 13.6

Proposed Purchaser means a proposed purchaser who at the relevant time has made an offer on arm's length terms.

Recipient shall have the meaning given in Article 29.

Recipient Group Companies shall have the meaning given in Article 29.

Relevant Interest shall have the meaning given in Article 24.1.

Sale Shares has the meaning set out in Article 13.2(a) of these Articles.

Seller has the meaning set out in Article 13.2 of these Articles.

Shareholder means any holder of any Shares.

Shareholders' Agreement means the shareholders' agreement originally dated 15 July as amended and restated on or around the Date of Adoption between Zetland, Abercross, Global Tea and the Company.

Shares means the A Shares, the B Shares, and the C Shares, the Deferred Shares and any other class of share in issue in the capital of the Company from time to time.

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 as 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 shares held by each of them are the same as the shareholders and their shareholdings in the Company immediately prior to the sale.

Subsidiary, Subsidiary Undertaking and Parent Undertaking shall have the meanings set out in sections 1159 and 1162 of the Act.

Surplus Shares shall have the meaning given in Article 13.7.5.

Transfer Notice shall have the meaning given in Article 13.2.

Transfer Price shall have the meaning given in Article 13.2(c).

Zetland means Karalius Limited a company incorporated in England and Wales (registered number 13452700) whose registered office is at 4<sup>th</sup> Floor, 3 St. James's Square, London, United Kingdom, SW1Y 4AD.

Zetland Director shall have the meaning given in Article 21.1.

### 3 Liability of Shareholders

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

### 4 Share capital

- 4.1 The authorised share capital of the Company at the Date of Adoption is £84,411,371.32. The issued share capital of the Company is comprised of 620 A Shares, 512 B Shares, 83 C Shares, and 220,042,071 Deferred Shares.
- 4.2 In these Articles, unless the context requires otherwise, references to shares of a particular class shall include shares created and/or issued after the Date of Adoption 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.
- 4.3 Except as otherwise provided in these Articles, the A Shares, B Shares, and C Shares shall rank pari passu in all respects but shall constitute separate classes of shares.
- 4.4 The words "and the directors may determine the terms, conditions and manner of redemption of any such shares" shall be deleted from article 22(2) of the Model Articles.
- 4.5 Subject to the Act, the Company may purchase its own Shares to the extent permitted by section 692(1ZA) of the Act.

4.6 Paragraph (c) of article 24(2) of the Model Articles shall be amended by the replacement of the words "that the shares are fully paid; and" with the words "the amount paid up on them; and".

4.7 The rights attaching to the Shares as specified in the Shareholders' Agreement attach to the Shares as if the relevant provisions were reproduced in these Articles.

## 5 Dividends and return of Capital

5.1 Any profits which the Company determines to distribute in respect of any Financial Year shall, subject to the approval of the Board, be applied in distributing such profits amongst the holders of the Equity Shares *pari passu* then in issue according to the number of such Equity Shares held by them. Model Articles 30 and 34 shall be construed accordingly. No profits will be distributed under this Article 5.1 until all amounts have been repaid in full by the Company under the Mezzanine Facility unless with the prior written consent of Zetland.

5.2 On a return of capital (on an Exit, IPO, liquidation or capital reduction or otherwise) the surplus assets of the Company remaining after the payment of its liabilities (including all amounts owing under the Mezzanine Facility) shall be applied:

- (a) first, in paying to each holder of Equity Shares (*pari passu*) any dividends thereon which have been declared but are unpaid;
- (b) second, in paying the holders of the Deferred Shares, if any, a total of £1.00 for the entire class of Deferred Shares (which payment shall be deemed satisfied by payment to any one holder of Deferred Shares); and
- (c) thereafter, subject to Article 5.3, in distributing the balance of such assets amongst the holders of the Equity Shares (*pari passu*) in proportion to the numbers of the Equity Shares held by them respectively.

5.3 If at any time a return of capital is undertaken by the Company and the Participation Condition is not satisfied, the maximum amount payable to the holder or holders of the B Shares in respect of all such returns of capital in respect of the B Shares (but not in respect of its participation in the Mezzanine Facility, the New Funding Side Letter or any other non-equity investment in the Company) under Article 5.2 shall not, in aggregate, exceed £15,000,000.

## 6 Votes in General Meeting

6.1 The A Shares shall confer on each holder of A Shares the right to receive notice of and to attend, speak and vote at all general meetings of the Company and to receive and vote on proposed written resolutions of the Company.

6.2 The B Shares shall confer on each holder of B Shares the right to receive notice of and to attend, speak and vote at all general meetings of the Company and to receive and vote on proposed written resolutions of the Company.

6.3 The C Shares shall confer on each holder of C Shares the right to receive notice of and to attend, speak and vote at all general meetings of the Company and to receive and vote on proposed written resolutions of the Company.

6.4 The Deferred Shares (if any) shall not entitle the holders of them to receive notice of, to attend, to speak or to vote at any general meeting of the Company nor to receive or vote on, or otherwise constitute an eligible member for the purposes of, proposed written resolutions of the Company.

- 6.5 Where Shares confer a right to vote, on a show of hands each holder of such shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy shall have one vote and on a poll each such holder so present shall have one vote for each Share held by him.

## 7 Deferred Shares

- 7.1 The Deferred Shares shall not confer any right as to voting, income or capital (save as provided in Article 5.2(b)).
- 7.2 Subject to the Act, any Deferred Shares may be purchased by the Company at any time at its option for the aggregate sum of one penny for all the Deferred Shares registered in the name of any holder(s) without obtaining the sanction of the holder(s).
- 7.3 The allotment or issue of Deferred Shares or the conversion or re-designation of shares into Deferred Shares shall be deemed to confer irrevocable authority on the Company at any time after their allotment, issue, conversion or re-designation, without obtaining the sanction of such holder(s), to:
- 7.3.1 appoint any person to execute any transfer (or any agreement to transfer) of such Deferred Shares to such person(s) as the Company may determine (as nominee or custodian thereof or otherwise), including (subject to the Act) to the Company itself, in any such case for a price being not more than an aggregate sum of one penny for all the Deferred Shares registered in the name of such holder(s); and/or
- 7.3.2 receive the consideration for such a transfer or purchase (and give a good discharge for it) and hold the same on trust for the transferor(s); and/or
- 7.3.3 give, on behalf of such holder(s), consent to the cancellation of such Deferred Shares; and/or
- 7.3.4 retain the certificate(s) (if any) in respect of such Deferred Shares pending the transfer, cancellation and/or purchase thereof.
- 7.4 No Deferred Share may be transferred without the prior consent of the Board.

## 8 Variation of Rights

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

## 9 Allotment of new shares or other securities: pre-emption

- 9.1 Subject to the remaining provisions of this Article 9, the Directors are generally and unconditionally authorised for the purpose of section 551 of the Act to exercise any power of the Company to:
- (a) offer, allot or grant rights to subscribe for;
- (b) convert securities into, or

- (c) otherwise deal in, or dispose of,  
  
any Shares or any other relevant securities in the Company to any persons, at any times and subject to any terms and conditions as the Directors think proper, provided that:
  - (d) this authority shall be limited to a maximum nominal amount of Shares equal to the amount of the authorised but unissued share capital of the Company immediately following the Date of Adoption;
  - (e) this authority shall only apply insofar as the Company in general meeting has not waived or revoked it;
  - (f) this authority may only be exercised for a period of 5 years commencing upon the Date of Adoption, save that the Directors may make an offer or agreement which would or might require relevant securities to be allotted after the expiry of such authority (and the Directors may allot relevant securities in pursuance of an offer or agreement as if such authority had not expired).
- 9.2 In accordance with section 567(1) of the Act, sections 561(1) and 562 of the Act do not apply to an allotment of equity securities made by the Company.
- 9.3 If the Company proposes to allot any New Securities those New Securities shall not be allotted to any person unless the Company has in the first instance offered them to all holders of Equity Shares on the same terms and at the same price as those New Securities are being offered to other persons on a pari passu and pro rata basis to the number of Equity Shares held by those holders (as nearly as may be without involving fractions). The offer:
- (a) shall be in writing, give details of the number and subscription price of the New Securities;
  - (b) may stipulate that any Shareholder who wishes to subscribe for a number of New Securities in excess of the proportion to which each is entitled shall in their acceptance state the number of excess New Securities (Excess Securities) for which they wish to subscribe; and
  - (c) shall stipulate that unless acceptances of the offer are received by the Company in writing within 10 Business Days of the date the offer the offer shall be deemed to be rejected.
- 9.4 Any New Securities not accepted by Shareholders pursuant to the offer made to them in accordance with Article 9.3 shall be used for satisfying any requests for Excess Securities made pursuant to Article 9.3 and in the event that there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants on a pro rata basis to the number of Shares held by the applicants immediately prior to the offer made to Shareholders in accordance with Article 9.3 (as nearly as may be without involving fractions or increasing the number allotted to any Shareholder beyond that applied for by him) and after that allotment, any Excess Securities remaining shall be offered, subject to Article 9.5, to any other person as the Directors may determine at the same price and on the same terms as the offer to the Shareholders.
- 9.5 In the event that following the offer process referred to in Articles 9.3 and 9.4 any New Securities shall not have been allotted then such New Securities shall be at the disposal of the Board who may allot, grant options over or otherwise dispose of them to any persons at those times and generally on the terms and conditions they think proper.
- 9.6 Any Shareholders who have not accepted New Securities pursuant to the offer made to them in accordance with Article 9.3, shall have the right to acquire such number of New Securities issued to



other Shareholders from such Shareholders on a pro-rata basis so as to ensure that their percentage holding of Shares in the Company prior to the issuance is maintained, such right to expire on the date falling 6 months immediately following the date of the issue of the New Securities under Article 9.3. Such New Securities shall be acquired free from any Encumbrance and the price for each New Security payable by such Shareholders shall be equal to the price per New Security paid on the subscription by the Shareholders who accepted the offer under Article 9.3 plus any interest or coupon accrued on the New Securities or increase in value on the New Securities since the date of the issue of any New Securities under Article 9.3. If such increase in the value is not agreed between the applicable Shareholders it shall be determined by the Expert Valuer who shall be appointed by the Board to certify the increase in value. The Expert Valuer shall act as experts and not as arbitrators and their determination shall be final and binding on the parties (in the absence of fraud or manifest error).

- 9.7 The provisions of Articles 9.3 to 9.6 shall not apply to:
  - 9.7.1 New Securities issued in consideration of the acquisition by the Company of any company or business which has been approved in writing by all Shareholders; and
  - 9.7.2 New Securities issued in accordance with Articles 9.9 and 9.10.
- 9.8 No Shares shall be allotted to any Employee, Director, prospective employee or director unless such person has entered into a joint section 431 ITEPA election with the Company.
- 9.9 Notwithstanding the provisions of Article 9.3, if Zetland (with approval of the Board) reasonably considers that it is necessary for the Company to issue New Securities to cure a breach of the Lender Facilities, then upon the direction of Zetland the Company shall issue such number of New Securities (the "New Investor Securities") as is strictly necessary to cure the breach of the Lender Facilities to Zetland (or a Member of the same Fund Group as Zetland) as Zetland shall specify, and the rights of pre-emption of the holders of Shares (other than Zetland) shall, subject to Article 9.10, be deemed to be waived in respect of any such issue. Prior to exercising any right pursuant this Article 9.9 Zetland shall give the Board written notice of its intention to do so and such notice shall contain reasonable details of the nature of the breach of the Lender Facilities and of the amount of New Securities it proposes to issue, provided that in doing so Zetland shall not be required to prejudice its position in relation to any action required to cure the breach of the Lender Facilities, and the failure to give notice shall not limit Zetland's rights under this Article 9.9.
- 9.10 As soon as reasonably practicable following the issue of such New Investor Securities under Article 9.9, and in any event, no later than 10 Business Days after subscription of the New Investor Securities by Zetland under Article 9.9, Zetland shall offer each Shareholder (other than Zetland) (Catch-Up Shareholders) such proportion of such New Investor Securities (the Catch-Up Securities) as they would have been entitled to had Article 9.3 applied (the Catch-Up Offer). Following the issue of any New Investor Securities no matter shall be voted on at general meeting or by written resolution nor shall any Shares be transferred by any Shareholder until such time as the terms of this Article 9.10 have been complied with, unless otherwise agreed with the Catch-Up Shareholders.
- 9.11 A Catch-Up Shareholder shall have 6 months immediately following the date of the issue of the New Investor Securities to Zetland under Article 9.8 (the Catch-Up Period) to accept a Catch-Up Offer, which may be accepted in respect of all or some only of its Catch-Up Securities. Any acceptance by a Catch-Up Shareholder of a Catch-Up Offer must be made in writing, state the number of Catch-

Up Securities offered to him for which he wishes to acquire, and be received by the Company on or prior to the end of the Catch-Up Period, failing which the Catch-Up Shareholder shall be deemed to have declined the Catch-Up Offer. Each acceptance by a Catch-Up Shareholder of a Catch-Up Offer shall be irrevocable.

- 9.12 Catch-Up Securities shall be transferred free of any Encumbrance. The price for the transfer of each Catch-Up Security payable by a Catch-Up Shareholder pursuant to the Catch-Up Offer shall be equal to the price per New Investor Security paid on the subscription by Zetland plus any interest or coupon accrued on the New Investor Securities or increase in value on the Investor New Securities since the date of the issue of any New Investor Securities under Article 9.9. If such increase in the value is not agreed between the applicable Shareholders it shall be determined by the Expert Valuer who shall be appointed by the Board to certify the increase in value. The Expert Valuers shall act as experts and not as arbitrators and their determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 9.13 For the avoidance of doubt, the catch up rights set out in Articles 9.6 and 9.10 to and including 9.12 (inclusive) shall not apply to any amounts advanced to the Company under the terms of the Mezzanine Facility, such catch up rights being set out in the New Funding Side Letter.

## 10 Lien

The Company shall have a first and paramount lien on every Share not fully paid for all and any indebtedness of any holder of it to the Company (whether a sole holder or one of two or more joint holders), whether or not that indebtedness or liability is in respect of the Shares concerned and whether or not it is presently payable.

## 11 Transfers of Shares – general

- 11.1 In Articles 11 to 13 inclusive, reference to the transfer of a Share includes the transfer or assignment of a beneficial or other interest in that Share or the creation of a trust or Encumbrance over that Share and reference to a Share includes a beneficial or other interest in a Share.
- 11.2 No Share may be transferred unless the transfer is made in accordance with these Articles.
- 11.3 If a Shareholder transfers or purports to transfer a Share otherwise than in accordance with these Articles he will be deemed immediately to have served a Transfer Notice in respect of all Shares held by him.
- 11.4 Any transfer of a Share by way of sale which is required to be made under Articles 13 to 15 (inclusive), or in accordance with the Shareholders' Agreement will be deemed to include a warranty that the transferor sells with full title guarantee.
- 11.5 The Directors may refuse to register a transfer if:
- (a) it is a transfer of a Share to a bankrupt, a minor or a person of unsound mind;
  - (b) the transfer is to an employee of the Company, Director or prospective employee or prospective director of the Company who in the opinion of the Board is tax resident in the United Kingdom and such person has not entered in a joint section 431 ITEPA election with the Company;

- (c) it is a transfer of a Share which is not fully paid:
  - (i) to a person of whom the Directors do not approve; or
  - (ii) on which Share the Company has a lien;
- (d) the transfer is not lodged at the registered office or at such other place as the Directors may appoint;
- (e) the transfer is not accompanied by the certificate for the Shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;
- (f) the transfer is in respect of more than one class of Share; or
- (g) the transfer is in favour of more than four transferees.

If the Directors refuse to register a transfer, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

11.6 Notwithstanding anything contained in these Articles, any pre-emption rights conferred on existing members by these Articles (or otherwise) shall not apply to, and the Directors shall not decline to register, nor may they suspend registration of any transfer of shares where such transfer is:

- (a) in favour of any bank or institution to whom such shares are being transferred by way of security (whether as lender, or agent and trustee for a group of banks or institutions or otherwise) (a Secured Institution), or to any nominee of such Secured Institution, pursuant to any such security;
- (b) duly executed by any Secured Institution (or any such nominee or nominees) to whom such shares shall (including any further shares in the Company acquired by reason of its holding of such shares) have been transferred as aforesaid, pursuant to the power of sale under such security; or
- (c) duly executed by a receiver or manager appointed by or on behalf of any Secured Institution or its nominee, under any such security,

and a certificate by any official of any Secured Institution or any such receiver that the shares are or are to be subject to such a security and that the transfer is executed in accordance with the provisions of this Article shall be conclusive evidence of such facts. Any lien on shares which the Company has shall not apply in respect of any shares which have been charged by way of security to a Secured Institution (or any of its subsidiaries) or which are transferred in accordance with the provisions of this Article.

11.7 The Directors may, as a condition to the registration of any transfer of shares in the Company (whether pursuant to a Permitted Transfer or otherwise), require the transferee to execute and deliver to the Company a deed agreeing to be bound by the terms of any shareholders' agreement or similar document in force between some or all of the shareholders and the Company in any form as the Directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor under any such agreement or other document) and if any condition is imposed in accordance with this Article 11.6 the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee.

11.8 To enable the Directors to determine whether or not there has been any disposal of shares in the capital of the Company (or any interest in shares in the capital of the Company) in breach of these Articles the Directors shall require any holder or the legal personal representatives of any deceased holder or any person named as transferee in any transfer lodged for registration or any other person who the Directors may reasonably believe to have information relevant to that purpose, to furnish to the Company that information and evidence the Directors may request regarding any matter which they deem relevant to that purpose, including (but not limited to) the names, addresses and interests of all persons respectively having interests in the shares in the capital of the Company from time to time registered in the holder's name. If the information or evidence is not provided to enable the Directors to determine to their reasonable satisfaction that no breach has occurred, or where as a result of the information and evidence the Directors are reasonably satisfied that a breach of these Articles has occurred, the Directors shall immediately notify the holder of such shares in the capital of the Company in writing of that fact and the following shall occur:

- (a) the relevant shares shall cease to confer upon the holder of them (including any proxy appointed by the holder) any rights:
  - (i) to vote whether on a show of hands or on a poll and whether exercisable at a general meeting or on a written resolution of the Company or at any separate meeting or written resolution of the class in question); or
  - (ii) to receive dividends or other distributions otherwise attaching to those shares or to any further shares issued in respect of those shares; and
- (b) the holder may be required at any time following receipt of the notice to transfer some or all of its Shares to any person(s) at the price that the Directors may require by notice in writing to that holder.

The rights referred to in (a) above may be reinstated by the Board and shall in any event be reinstated upon the completion of any transfer referred to in (b) above.

11.9 In any case where the Board may require a Transfer Notice to be given in respect of any Shares, if a Transfer Notice is not duly given within a period of 10 Business Days of demand being made, a Transfer Notice shall be deemed to have been given at the expiration of that period. If a Transfer Notice is required to be given or is deemed to have been given under these Articles, the Transfer Notice will be treated as having specified that:

- (a) the Transfer Price for the Sale Shares will be as agreed between the Board (any director with whom the Seller is connected (within the meaning of section 252 of the Act) not voting) and the Seller, or, failing agreement within 5 Business Days after the date on which the Board becomes aware that a Transfer Notice has been deemed to have been given, will be the Fair Value of the Sale Shares;
- (b) it does not include a Minimum Transfer Condition (as defined in Article 13.2(d)); and
- (c) the Seller wishes to transfer all of the Shares held by it.

## 12 Permitted transfers

12.1 A Shareholder (the Original Shareholder) may transfer all or any of his or its Shares to a Permitted Transferee without restriction as to price or otherwise, and to the extent that such Shareholder transfers all of its Shares to a Permitted Transferee in accordance with these Articles references in these Articles to that Shareholder shall be deemed mean that Permitted Transferee.

- 12.2 Where under the provision of a deceased Shareholder's will or laws as to intestacy, the persons legally or beneficially entitled to any Shares, whether immediately or contingently, are Permitted Transferees of the deceased Shareholder, the legal representative of the deceased Shareholder may transfer any Share to those Permitted Transferees, in each case without restriction as to price or otherwise. Shares previously transferred as permitted by this Article 12.2 may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder without restriction as to price or otherwise.
- 12.3 If a Permitted Transferee who was a Member of the same Group as the Original Shareholder ceases to be a Member of the same Group as the Original Shareholder, the Permitted Transferee must not later than 5 Business Days after the date on which the Permitted Transferee so ceases, transfer the Shares held by it to the Original Shareholder or a Member of the same Group as the Original Shareholder (which in either case is not in liquidation) without restriction as to price or otherwise failing which it will be deemed to have given a Transfer Notice in respect of those Shares.
- 12.4 If a Permitted Transferee who was a Member of the same Fund Group as the Original Shareholder ceases to be a Member of the same Fund Group, the Permitted Transferee must not later than 5 Business Days after the date on which the Permitted Transferee so ceases, transfer the Shares held by it to the Original Shareholder or a Member of the same Fund Group as the Original Shareholder (which in either case is not in liquidation) without restriction as to price or otherwise failing which it will be deemed to give a Transfer Notice in respect of such Shares.
- 12.5 On the death (subject to Article 12.2), bankruptcy, liquidation, administrator or administrative receivership of a Permitted Transferee (other than a joint holder) his personal representatives or trustee in bankruptcy, or its liquidator, administrator or administrative receiver must within 5 Business Days after the date of the grant of probate, the making of the bankruptcy order or the appointment of the liquidator, administrator or the administrative receiver execute and deliver to the Company a transfer of the Shares held by the Permitted Transferee without restriction as to price or otherwise. The transfer shall be to the Original Shareholder if still living (and not bankrupt or in liquidation) or, if so directed by the Original Shareholder, to any Permitted Transferee of the Original Shareholder. If the transfer is not executed and delivered within 5 Business Days of such period or if the Original Shareholder has died or is bankrupt or is in liquidation, administration, or administrative receivership, administrator or administrative receiver, the personal representative or trustee in bankruptcy or liquidator will be deemed to have given a Transfer Notice.
- 12.6 A transfer of any Shares approved by all Shareholders may be made without restriction as to price or otherwise and each transfer shall be registered by the Directors.
- 12.7 Any Shares may at any time be transferred where there is a sale of the entire issued share capital of the Company to a Holding Company, which has been approved by a majority of the Board.
- 13 Transfers of Shares subject to pre-emption rights
- 13.1 Save where the provisions of Article 12 applies, or where a transfer is made in accordance with the Shareholders' Agreement, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights contained in this Article 13.
- 13.2 A Shareholder who wishes to transfer Shares (a Seller) shall, except as otherwise provided in these Articles, before transferring or agreeing to transfer any Shares give notice in writing (a Transfer Notice) to the Company specifying:

- (a) the number of Shares which he wishes to transfer (the Sale Shares);

- (b) if he wishes to sell the Sale Shares to a third party, the name of the proposed transferee;
  - (c) the price (in cash) at which he wishes to transfer the Sale Shares (which will be deemed to be Fair Value of the Sale Shares if no cash price is agreed between the Seller and the Board (the Transfer Price); and
  - (d) whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold to Shareholders (a Minimum Transfer Condition).
- 13.3 Except with the written consent of the Board, no Transfer Notice once given or deemed to have been given under these Articles may be withdrawn.
- 13.4 A Transfer Notice constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price.
- 13.5 As soon as practicable following the later of:
  - (a) receipt of a Transfer Notice; and
  - (b) in the case where the Transfer Price has not been specified or the Transfer Notice is deemed to have been served, the determination of the Transfer Price under Article 14,

the Board shall offer the Sale Shares for sale to the Shareholders in the manner set out in Articles 13.6. Each offer must be in writing and give details of the number and Transfer Price of the Sale Shares offered.
- 13.6 Priority for offer of Sale Shares
  - 13.6.1 The Company shall offer the Shares in the following priority:
    - (a) first, to Zetland;
    - (b) second, to the remaining Shareholders,

on the basis as set out in Article 13.7, save where the Seller is Zetland, in which case the Shares shall be offered only to the remaining Shareholders.
- 13.7 Transfers: Offer
  - 13.7.1 The Board shall offer the Sale Shares pursuant to the Priority Rights to all shareholders specified in the offer other than the Seller (the Continuing Shareholders) inviting them to apply in writing within the period from the date of the offer to the date 10 Business Days after the offer (inclusive) (the Offer Period) for the maximum number of Sale Shares they wish to buy.
  - 13.7.2 If the Sale Shares are subject to a Minimum Transfer Condition then any allocation made under Article 13.7 will be conditional on the fulfilment of the Minimum Transfer Condition.
  - 13.7.3 If, at the end of the Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Board shall allocate the Sale Shares to each Continuing Shareholder in the proportion (fractional entitlements being rounded to the nearest whole number) which his existing holding of Shares bears to the total number of Shares held by those Continuing Shareholders who have applied for Sale Shares but no allocation shall be made to a Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy.

13.7.4 If not all Sale Shares are allocated in accordance with Article 13.7.3 but there are applications for Sale Shares that have not been satisfied those Sale Shares shall be allocated to the relevant applicant(s) in accordance with the procedure set out in Article 13.7.3.

13.7.5 If, at the end of the Offer Period, the number of Sale Shares applied for is less than the number of Sale Shares, the Board shall allocate the Sale Shares to the Continuing Shareholders in accordance with their applications and the balance (the Surplus Shares) will be offered to any other person in accordance with Article 13.8.5.

### 13.8 Completion of transfer of Sale Shares

13.8.1 If the Transfer Notice includes a Minimum Transfer Condition and the total number of Shares applied for is less than the number of Sale Shares the Board shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under Article 13.7 stating the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

13.8.2 If:

(a) the Transfer Notice does not include a Minimum Transfer Condition; and

(b) allocations have been made in respect of all the Sale Shares,

the Board shall, when no further offers are required to be made under Articles 13.7 give written notice of allocation (an Allocation Notice) to the Seller and each Shareholder to whom Sale Shares have been allocated (an Applicant) specifying the number of Sale Shares allocated to each Applicant and the place and time (being not less than 5 Business Days nor more than 10 Business Days after the date of the Allocation Notice) for completion of the transfer of the Sale Shares.

13.8.3 Upon service of an Allocation Notice, the Seller must, against payment of the Transfer Price, transfer the Sale Shares in accordance with the requirements specified in it.

13.8.4 If the Seller fails to comply with the provisions of Article 13.8.3:

(a) the chairman of the Company or, failing him, one of the Directors, or some other person nominated by a resolution of the Board, may on behalf of the Seller:

(i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;

(ii) receive the Transfer Price and give a good discharge for it; and

(iii) (subject to the transfer being duly stamped) enter the Applicants in the register of Shareholders as the holders of the Shares purchased by them; and

(b) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered to the Company his certificate or certificates for the relevant Shares (or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate).

13.8.5 If an Allocation Notice does not relate to all the Sale Shares then, subject to Article 13.8.6, the Seller may, within eight weeks after service of the Allocation Notice, transfer the Surplus Shares to any person at a price at least equal to the Transfer Price provided that the sale of the Surplus Shares shall continue to be subject to any Minimum Transfer Conditions.

13.8.6 The right of the Seller to transfer Shares under Article 13.8.5 does not apply if the Board is of the opinion on reasonable grounds that:

- (a) the transferee is a person (or a nominee for a person) who the Board determines in their absolute discretion is a competitor with (or an Associate of a competitor with) the business of the Company or with a Subsidiary Undertaking of the Company;
- (b) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or
- (c) the Seller has failed or refused to provide promptly information available to it or him and reasonably requested by the Board for the purpose of enabling it to form the opinion mentioned above.

#### 13.9 Waiver of restrictions

The restrictions imposed by this Article may be waived in relation to any proposed transfer of Shares with consent of Zetland.

### 14 Valuation of Shares

14.1 If a Transfer Notice does not specify a Transfer Price or if a Transfer Notice is deemed to have been served then, upon service of the Transfer Notice or, in the case of the deemed service of a Transfer Notice, on the date on which the Board first has actual knowledge of the facts giving rise to such deemed service, the Board shall either:

- (a) appoint expert valuers in accordance with Article 14.2 (the Expert Valuers) to certify the Fair Value of the Sale Shares; or
- (b) (if the Fair Value has been certified by Expert Valuers within the preceding 12 weeks) specify that the Fair Value of the Sale Shares will be calculated by dividing any Fair Value so certified by the number of Sale Shares to which it related and multiplying such Fair Value by the number of Sale Shares the subject of the Transfer Notice.

14.2 The Expert Valuers will be either:

- (a) the Auditors; or
- (b) if so specified in the relevant Transfer Notice, an independent firm of Chartered Accountants to be agreed between the Board and the Seller or failing agreement not later than the date 10 Business Days after the date of service of the Transfer Notice to be appointed by the then President of the Institute of Chartered Accountants in England and Wales on the application of either party.

14.3 The Fair Value of the Sale Shares shall be determined by the Expert Valuers on the following assumptions and bases:

- (a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer;
- (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
- (c) that the Sale Shares are capable of being transferred without restriction;



- (d) valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent; and
  - (e) reflect any other factors which the Expert Valuers reasonably believe should be taken into account.
- 14.4 If any difficulty arises in applying any of these assumptions or bases then the Expert Valuers shall resolve that difficulty in whatever manner they shall in their absolute discretion think fit.
- 14.5 The Expert Valuers shall be requested to determine the Fair Value within 10 Business Days of their appointment and to notify the Board of their determination.
- 14.6 The Expert Valuers shall act as experts and not as arbitrators and their determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 14.7 The Board will give the Expert Valuers access to all accounting records or other relevant documents of the Company subject to them agreeing such confidentiality provisions as the Board may reasonably impose.
- 14.8 The Expert Valuers shall deliver their certificate to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Seller. Unless the Sale Shares are to be sold under a Transfer Notice, which is deemed to have been served, the Seller may by notice in writing to the Company within 5 Business Days of the service on him of the copy certificate, cancel the Company's authority to sell the Sale Shares.
- 14.9 The cost of obtaining the certificate shall be paid by the Company unless:
  - (a) the Seller cancels the Company's authority to sell; or
  - (b) the sale is pursuant to a Transfer Notice which is deemed to have been served, and the Sale Price certified by the Expert Valuers is less than the price (if any) offered by the directors to the Seller for the Sale Share before Expert Valuer was instructed,

in which case the Seller shall bear the cost.
- 15 Compulsory transfers – general
  - 15.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder shall be deemed to have given a Transfer Notice in respect of that Share at a time determined by the Directors.
  - 15.2 If a Share remains registered in the name of a deceased Shareholder for longer than one year after the date of his death the Directors may require the legal personal representatives of that deceased Shareholder either:
    - (a) to effect a Permitted Transfer of such Shares (including for this purpose an election to be registered in respect of the Permitted Transfer); or
    - (b) to show to the satisfaction of the Directors that a Permitted Transfer will be effected before or promptly upon the completion of the administration of the estate of the deceased Shareholder.

If either requirement in this Article 15.2 shall not be fulfilled to the satisfaction of the Directors a Transfer Notice shall be deemed to have been given in respect of each such Share save to the extent that, the Directors may otherwise determine.

15.3 If a Shareholder which is a company or a Permitted Transferee of that Shareholder, either suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it or any material part of its assets, the relevant Shareholder or Permitted Transferee shall be deemed to have given a Transfer Notice in respect of all the shares held by the relevant Shareholder and/or such Permitted Transferee save to the extent that, and at a time, the Directors may determine.

15.4 Save for Zetland for whom the provisions of the Article 15.4 shall not apply, and subject to Article 15.5, if there is a change in control (as control is defined in section 1124 of CTA) of any Shareholder which is a company, it shall be bound at any time, if and when required in writing by the Directors to do so, to give (or procure the giving in the case of a nominee) a Transfer Notice in respect of all the Shares registered in its and their names and their respective nominees' names save that, in the case of the Permitted Transferee, it shall first be permitted to transfer those Shares back to the original Shareholder from whom it received its Shares or to any other Permitted Transferee before being required to serve a Transfer Notice.

15.5 The provisions of Article 15.4 shall not apply in circumstances where Abercross transfers its Shares to a Permitted Transferee.

## 16 General meetings

If the Directors are required by the Shareholders under section 303 of the Act to call a general meeting, the Directors shall convene the meeting for not later than 28 days after the date on which the Directors become subject to the requirement under section 303 of the Act.

## 17 Proxies

17.1 The instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the Directors may:

- (a) be deposited at the office or at any other place within the United Kingdom as may be specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting at any time before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote;
- (b) be delivered at the meeting or adjourned meeting at which the person named in the instrument proposes to vote to the chairman or to the secretary or to any Director; or
- (c) in the case of a poll, be delivered at the meeting at which the poll was demanded to the chairman or to the secretary or to any Director, or at the time and place at which the poll is held to the chairman or to the secretary or to any Director or scrutineer,

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

## 18 Directors' borrowing powers

The Directors may where required exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property and uncalled capital and to issue debentures,

debenture stock and other securities as security for any debt, liability of obligation of the Company or of any third party.

## 19 Alternate directors

19.1 Notwithstanding any provision of these Articles to the contrary, any person appointed as a Director (the Appointer) may appoint any Director or any other person as he thinks fit to be his alternate Director to:

- (a) exercise that Director's powers; and
- (b) carry out that Director's responsibilities in relation to the taking of decisions by the Directors in the absence of the alternate's Appointer.

The appointment of an alternate Director shall not require approval by a resolution of the Directors.

19.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the Appointer, or in any other manner approved by the Directors.

19.3 The notice must:

- (a) identify the proposed alternate; and
- (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice.

19.4 An alternate Director may act as an alternate to more than one Director and has the same rights, in relation to any Directors' meeting (including as to notice) or Directors' written resolution, as the alternate's Appointer.

19.5 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 Appointers; and
- (d) are not deemed to be agents of or for their Appointers,

and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his Appointer is a member.

19.6 A person who is an alternate Director but not a Director:

- (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's Appointer is not participating); and
- (b) may sign a Directors' written resolution (but only if his Appointer is an Eligible Director in relation to that decision, but does not participate).

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

- 19.7 A Director who is also an alternate Director is entitled, in the absence of his Appointer, to a separate vote on behalf of each Appointer, in addition to his own vote on any decision of the Directors (provided that his Appointer is an Eligible Director in relation to that decision).
- 19.8 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director, except such part of the alternate's Appointer's remuneration as the Appointer may direct by notice in writing made to the Company.
- 19.9 An alternate Director's appointment as an alternate shall terminate:
- (a) when the alternate's Appointer revokes the appointment by notice to the Company in writing specifying when it is to terminate;
  - (b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's Appointer, would result in the termination of the Appointer's appointment as a Director;
  - (c) on the death of the alternate's Appointer; or
  - (d) when the alternate's Appointer's appointment as a Director terminates.

## 20 Number of Directors

Unless and until the Company in general meeting shall otherwise determine the number of Directors shall be not less than two. The number of Directors shall not exceed 8 without the consent of the Board.

## 21 Appointment of Directors

### Zetland Directors

- 21.1 Subject to Article 21.6.2, for so long as Zetland (or any of its Permitted Transferees) holds Shares it shall have the right to appoint and maintain in office two natural persons as Zetland may from time to time nominate as directors of the Company (and as a member of each and any committee of the Board) and to remove any director so appointed and, upon his removal whether by Zetland or otherwise, to appoint another director in his place (the "Zetland Directors", and each a "Zetland Director").
- 21.2 Appointment and removal of a Zetland Director in accordance with Article 21.1 shall be by written notice from Zetland to the Company which shall take effect on delivery at the Company's registered office or at any meeting of the Board or committee thereof.
- 21.3 The Zetland Directors (or any Zetland Director present at a meeting of the Board) shall carry a majority of the voting rights of the Directors at all times.

### Abercross Directors

- 21.4 For so long as Abercross (or any of its Permitted Transferees) holds Shares it shall have the right to appoint and maintain in office two natural person as Abercross may from time to time nominate as a directors of the Company (and as a member of each and any committee of the Board) and to remove any director so appointed and, upon his removal whether by Abercross or otherwise, to appoint another director in his place (the "Abercross Directors" and each an "Abercross Director").

21.5 Appointment and removal of the Abercross Director in accordance with Article 21.4 shall be by written notice from Abercross to the Company which shall take effect on delivery at the Company's registered office or at any meeting of the Board or committee thereof.

21.6 In the event that Nadeem Ahmed is removed as an Abercross Director:

21.6.1 for so long as Global Tea holds not less than 5% of Equity Shares in issue it shall have the right to appoint and maintain in office one natural person as Global Tea may from time to time nominate as a director of the Company (and as a member of each and any committee of the Board) and to remove any director so appointed and, upon his removal whether by Global Tea or otherwise, to appoint another director in his place; and

21.6.2 for so long as Zetland (or any of its Permitted Transferees) holds Shares it shall have the right to appoint and maintain in office one natural person as Zetland may from time to time nominate as an additional director of the Company (being an additional appointment right to the appointment rights at Article 21.1) (and as a member of each and any committee of the Board) and to remove any director so appointed and, upon his removal whether by Zetland or otherwise, to appoint another director in his place.

CEO, CFO and Chairman

21.7 The Board shall be entitled to appoint:

(a) an independent person to be a director of the Company, acting as chief executive officer (the "CEO") who shall be entitled to attend and speak and vote at meetings; and

(b) an independent person to be a director of the Company, acting as chief financial officer (the "CFO") who shall be entitled to attend and speak and vote at meetings,

(c) by notice in writing addressed to the Company.

21.8 Each Director shall be entitled at his request to be appointed to any committee of the Board established from time to time and to the board of directors of any Subsidiary Undertaking.

21.9 Zetland shall be entitled to appoint an additional director as chairman of the Company (Chairman). Removal of the chairman (and appointment of a replacement chairman) shall be by written notice from Zetland to the Company which shall take effect on delivery at the Company's registered office or at any meeting of the Board or committee thereof.

## 22 Disqualification of Directors

In addition to that provided in Article 18 of the Model Articles, the office of a Director shall also be vacated if he is convicted of a criminal offence (other than a minor motoring offence) and the Directors resolve that his, her or its office be vacated.

## 23 Proceedings of Directors

23.1 At at least 6 board meetings will be held in each calendar year, and the majority of the Board can call for more meetings as required.

23.2 The quorum for meetings of the Board is three of the Directors provided that to be quorate, any meeting of the Board must include at least one Director appointed by Zetland (if appointed), and at least one Director appointed by Abercross (if appointed) (save that where a Relevant Interest of a Director is being authorised by other Directors in accordance with section 175(5)(a) of the Act, such

Director and any other interested 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). If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such quorum ceases to be present, the meeting shall stand adjourned to the day 2 business days later at the same time and place or at such time and place as determined by the Directors present at such meeting. If a quorum is not present at any such adjourned meeting within half an hour from the time appointed, then the meeting shall proceed so long as a Director appointed by Zetland (if appointed) is present.

- 23.3 In the event that a meeting of the Directors is attended by a Director who is acting as alternate for one or more other Directors, the Director or Directors for whom he is the alternate shall be counted in the quorum despite their absence, and if on that basis there is a quorum the meeting may be held despite the fact (if it is the case) that only one Director is physically present.
- 23.4 Any Director who participates in the proceedings of a meeting by means of a communication device (including a telephone) which allows all the other Directors present at that meeting (whether in person or by alternate or by means of that type of communication device) to hear at all times that Director and that Director to hear at all times all other Directors present at the meeting (whether in person or by alternate or by means of that type of communication device) shall be deemed to be present at the meeting and shall be counted when reckoning a quorum. A meeting held by these means shall be deemed to take place where the largest group of participators in number is assembled. In the absence of a majority the location of the chairman shall be deemed to be the place of the meeting.
- 23.5 Provided (if these Articles so require) that he has declared to the Directors, in accordance with the provisions of these Articles, the nature and extent of his interest (and subject to any restrictions on voting or counting in a quorum imposed by the Directors in authorising a Relevant Interest), a Director may vote at a meeting of the Directors or of a committee of the Directors on any resolution concerning a matter in which he has an interest, whether a direct or an indirect interest, or in relation to which he has a duty and shall also be counted in reckoning whether a quorum is present at such a meeting.
- 23.6 The Zetland Directors shall have a majority of votes at all times. The chairman shall not have a casting vote.
- 23.7 A decision of the Directors may take the form of a resolution in writing, where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement in writing (including confirmation given by electronic means). Reference in Article 7(1) of the Model Articles to Article 8 of the Model Articles shall be deemed to also include a reference to this Article 23.7.
- 24 Directors – power to authorise conflicts of interest
- 24.1 The Directors may authorise, to the fullest extent permitted by law, any matter which would otherwise result in a Director infringing his duty to avoid a Conflict Situation (Relevant Interest) provided that, for this purpose, the Director in question and any other interested Director are not counted in the quorum at any board meeting at which such matter is authorised and it is agreed to without their voting or would have been agreed to if their votes had not been counted.
- 24.2 Any authorisation given under Article 24.1 may (whether at the time of giving the authorisation or subsequently) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the conflict so authorised.

24.3 Where the Directors give authority under Article 24.1:

- (a) they may (whether at the time of giving the authority or subsequently) require that the relevant Director is excluded from the receipt of information, participation in discussion and/or the making of decisions (whether at Directors' meetings or otherwise) related to the matter that is the subject of the authorisation and impose upon the relevant Director such other terms for the purpose of the authorisation as they think fit and:
  - (i) the relevant Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the authorisation; and
  - (ii) the relevant Director will not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the Act provided he acts in accordance with such terms;
- (b) they may provide that where the relevant Director obtains (otherwise than through his position as a Director of the Company) information that is confidential to a third party, the Director will not be obliged to disclose that information to the Company, or to use or apply the information in relation to the Company's affairs, where to do so would amount to a breach of that confidence;
- (c) the Directors may revoke or vary the authority at any time but this will not affect anything done by the relevant Director prior to such revocation in accordance with the terms of such authority.

24.4 A Director shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any matter which has been authorised by the Directors pursuant to Article 24.1 (subject in any case to any limits or conditions to which such approval was subject).

24.5 For the purposes of section 175 and 180(4) of the Act and for all other purposes, and notwithstanding the provisions of Articles 24.1 to 24.4, it is acknowledged that a Director may be or become subject to a Group Conflict Situation or Group Conflict Situations.

24.6 A Director's duties to the Company arising from his holding office as Director shall not be breached or infringed as a result of any Group Conflict Situation having arisen or existing in relation to him and such Group Conflict Situation shall, for the purposes of section 180(4) of the Act, be deemed authorised.

24.7 Any Director the subject of a Group Conflict Situation shall:

- (a) not be held accountable to the Company for any benefit he directly or indirectly derives from his involvement in any Group Company;
- (b) be entitled to receive notice (including any relevant board papers) of, attend, count in the quorum towards and vote at board meetings relating in any way to, and deal generally with, matters concerning, connected with or arising from the Group Conflict Situation concerned; and
- (c) be entitled to keep confidential and not disclose to the Company any information which comes into his possession as a result of such Group Conflict Situation where such information is confidential as regards any third party.

## 25 Directors – transactions or other arrangements with the company

25.1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
- (b) shall be entitled to count in the quorum and to vote at a meeting of Directors or of a committee of the Directors, or participate in any Board decision, in respect of such transaction or arrangement or such proposed transaction or arrangement.

## 26 Execution of documents

In its application to the Company, Articles 49(4)(a) and (b) of the Model Articles shall be modified as follows:

- (a) “any two directors of the company; and
- (b) one director and the company secretary.”

## 27 Notices

27.1 Any notice shall be in writing and shall be conclusively deemed to have been duly given:

- (a) when hand delivered to the relevant party;
- (b) when received when sent by facsimile, e-mail or any other form of electronic communication at the relevant address;
- (c) two Business Days after dispatch if sent to an address in the United Kingdom by post;
- (d) 5 Business Days after dispatch if sent by reputable international overnight courier addressed to the relevant party provided that delivery in at least 5 (5) Business Days was guaranteed at the time of sending and the sending Party receives a confirmation of delivery from the courier service provider; or
- (e) by airmail (registered or certified) 15 Business Days after sending.

27.2 In proving service of a notice it shall be sufficient to prove that personal delivery was made, or that the relevant notice or other written communication was properly addressed stamped and posted or in the case of a facsimile, e-mail or other form of electronic communication evidence that the relevant communication was properly sent.

## 28 Indemnities and insurance

28.1 Subject to the provisions of the Act:

- (a) every Director or other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his, her or its office or otherwise in relation to his, her or its office, including any liability incurred by him in defending any proceedings, whether civil



or criminal, in which judgment is given in his, her or its favour or in which he is acquitted or in connection with any application under sections 661(3) or (4) or 1157 of the Act in which relief is granted to him by the court, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his, her or its office or otherwise in relation to his, her or its office;

- (b) the Directors may exercise all the powers of the Company to purchase and maintain insurance for any such Director or other officer against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company.

28.2 The Company shall (at the cost of the Company) effect and maintain for each Director policies of insurance insuring each Director against risks in relation to his office as each director may reasonably specify including without limitation, any liability which by virtue of any rule of law may attach to him in respect of any negligence, default of duty or breach of trust of which he may be guilty in relation to the Company.

## 29 Data protection

Each of the Shareholders and Directors of the Company (from time to time) consent to the processing of their personal data by the Company, its Shareholders and Directors (each a Recipient) for the purpose of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information among themselves. A Recipient may process the personal data either electronically or manually. The personal data which may be processed under this Article shall include any information which may have a bearing on the prudence or commercial merits of investing, or disposing of any shares (or other investment or security) in the Company. Other than as required by law, court order or other regulatory authority, that personal data may not be disclosed by a Recipient or any other person except to a Member of the same Group (Recipient Group Companies) and to employees, directors and professional advisers of that Recipient or the Recipient Group Companies and funds managed by any of the Recipient Group Companies. Each of the Company's Shareholders and Directors (from time to time) consent to the transfer of relevant personal data to persons acting on behalf of the Recipient and to the offices of any Recipient both within and outside the European Economic Area for the purposes stated above, where it is necessary or desirable to do so.

## 30 Secretary

Subject to the provisions of the Act, the Directors may appoint a secretary for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.