

**PRIVATE COMPANY LIMITED BY SHARES**

**WRITTEN RESOLUTIONS**

of

**VIREOL LIMITED**

("Company")

Written resolutions of the Company pursuant to chapter 2 part 13 of the Companies Act 2006 ("Act") proposed by the directors of the Company, proposed as special resolutions as detailed below

**SPECIAL RESOLUTIONS**

- 1 **THAT** each of the ordinary shares of £1 00 in the present issued capital of the Company which are credited as fully paid be subdivided into 100 shares of £0 01 each
2. **THAT** each of the above ordinary shares in the issued share capital of the Company be re-designated as A ordinary shares, having the rights and restrictions of the A Shares set out in the draft articles attached to this resolution (the "**New Articles**")
- 3 **THAT** the articles of association of the Company be amended by deleting the provision which, by virtue of paragraph 42(2) of Schedule 2 to the Companies Act 2006 (Commencement No 8, Transitional Provisions and Savings) Order 2008, is treated as a provision of the articles of association of the Company setting the maximum amount of shares that may be allotted by the Company
- 4 **THAT**, pursuant to section 551 of the Act, the directors be and are generally and unconditionally authorised to exercise all powers of the Company to allot A ordinary shares of £0 01 each ("**Ordinary Shares**"), B ordinary shares of £0 01 each ("**B Shares**") and C ordinary shares of £0 01 each ("**C Shares**") in the Company up to an aggregate nominal amount of £6,035, comprising

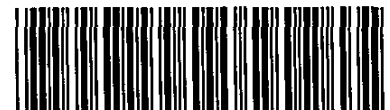
4 1 101,700 Ordinary Shares to be issued to Vireol Bio-Industries Plc,

4 2 375,100 Ordinary Shares to be issued to Ethanol Ventures Limited, and

4 3 the B Shares and C Shares as follows -

Allottee	Number of:	
	B Shares	C Shares
David Knibbs	25,087	16,724
Andrew Hartley	11,783	7,856
Ged Russell	11,783	7,856

TUESDAY



A41 20/12/2011 #143  
COMPANIES HOUSE

Gareth Jones	9,883	6,588
Jane Chappell	1,901	1,267
Paul Thornton	1,901	1,267
David Salkeld	7,982	5,322
Peter McGenity	5,702	3,801

each having the respective rights set out in the articles of association to be amended pursuant to resolution 6 below, **provided that** (unless previously revoked, varied or renewed) this authority shall expire on the fifth year anniversary of the date of this resolution, but the Company may make an offer or agreement before this authority expires which would or might require shares to be allotted after this authority expires and the directors may allot shares pursuant to any such offer or agreement as if this authority had not expired

This authority is in substitution for all existing authorities under section 80 of the Companies Act 1985 and section 550 of the Act (which, to the extent unused at the date of this resolution, are revoked with immediate effect)

- 5 **THAT** subject to the passing of resolution 2 and pursuant to section 570 of the Act, the directors be and are generally empowered to allot equity securities (within the meaning of section 560 of the Act) for cash pursuant to the authority granted by resolution 3 up to an aggregate nominal amount of £6,035, comprising

5 1 101,700 Ordinary Shares to be issued to Vireol Bio-Industries Plc,

5 2 375,100 Ordinary Shares to be issued to Ethanol Ventures Limited,

5 3 the B Shares and C Shares as follows -

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Peter McGenity	5,702	3,801

as if section 561 of the Act did not apply to any such allotment

(unless previously revoked, varied or renewed) this power shall expire on the fifth year anniversary of the date of this resolution

This power is in substitution for all existing powers under section 95(1) of the Companies Act 1985 or section 570 of the Act (which, to the extent unused at the date of this resolution, are revoked with immediate effect)

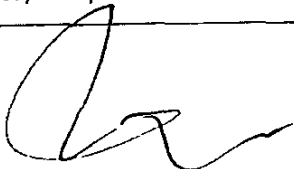
- 6 **THAT** the New Articles be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association

Circulation date: 2/12 2011

Registered office: 10 Old Burlington Street  
London  
W1S 3AG

**Agreement to written resolutions**

We, the undersigned, being persons entitled to vote on the above resolutions, irrevocably agree to such resolutions

Name of corporate member	ETHANOL VENTURES LIMITED	
Name and position of signatory	TIM LEVY <i>Block capitals please</i>	
Signed by authorised person on behalf of corporate member		
		Dated 2/12/11

Name of corporate member	VIREOL BIO-INDUSTRIES PLC	
Name and position of signatory	<i>Block capitals please</i>	
Signed by authorised person on behalf of corporate member		
		Dated

Circulation date: 2 12 11 2011

Registered office: 10 Old Burlington Street  
London  
W1S 3AG

**Agreement to written resolutions**

We, the undersigned, being persons entitled to vote on the above resolutions, irrevocably agree to such resolutions

Name of corporate member	ETHANOL VENTURES LIMITED	
Name and position of signatory	<i>Block capitals please</i>	
Signed by authorised person on behalf of corporate member		
		Dated

Name of corporate member	VIREOL BIO-INDUSTRIES PLC	
Name and position of signatory	<i>ANDREW HARTLEY</i> <i>Block capitals please</i> <i>FINANCE DIRECTOR</i> <i>AND COMPANY SECRETARY</i>	
Signed by authorised person on behalf of corporate member	<i>ASR</i>	
		Dated 2.12.11

**VIREOL LIMITED**  
**(the "Company")**

**WRITTEN RESOLUTIONS: CIRCULATED ON 2 December 2011**

**Note: This document is important and requires your immediate attention.**  
Please read the explanatory statement to members before signifying your agreement to the resolutions in this document

**EXPLANATORY STATEMENT TO MEMBERS**

**1. NATURE OF WRITTEN RESOLUTIONS**

This document contains proposed written resolutions of Vireol Limited for approval by you as a member of the Company. The Resolutions are proposed as special resolutions and each requires members holding not less than 75 per cent of the total voting rights of members entitled to vote on the resolutions to vote in favour of them to be passed.

**2. PERIOD TO APPROVE WRITTEN RESOLUTIONS**

If the Company has not received the necessary level of members' agreement to pass the resolutions by 12 December 2011 (being 28 days from the date the resolutions were first circulated to members), the resolutions will lapse.

**3. ACTION REQUIRED IF YOU WISH TO APPROVE THE RESOLUTIONS**

3.1 Please signify your agreement to the resolutions by completing your details and signing and dating the document in the boxes provided and returning it to the Company by delivering your signed and dated document by hand or by post to the Company's registered address marked "For the attention of the directors."

3.2 **Once you have signified your agreement to the resolutions, you cannot revoke it.** Please ensure that your agreement reaches us no later than the close of business on 12 December 2011. Please note that you can only agree to all of the resolutions and not some only. Any document or reply which purports to approve some only of the resolutions will be treated as a vote against all of the resolutions.

3.3 If you are signifying agreement to the resolutions on behalf of a person under a power of attorney or other authority, please send a copy of the relevant power of attorney or authority to the Company at the same time as you signify your agreement to the resolutions and in any event by no later than the close of business on 12 December 2011.

**4. ACTION REQUIRED IF YOU DO NOT WISH TO AGREE TO THE RESOLUTIONS**

You do not have to do anything. Failure to respond will not be treated as agreement to the resolutions.

TUESDAY

20/12/2011  
COMPANIES HOUSE

#144

Company Number: 06448126

COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

VIREOL LIMITED

(Adopted by a written resolution passed on 2nd December 2011)

MEMERY CRYSTAL LLP  
44 Southampton Buildings  
London WC2A 1AP  
Tel: 020 7242 5905  
Fax: 020 7242 2058  
Ref: RXN/#2438764

Certified as a true  
copy of the original



Heidi Ellis  
Company Secretary

Company Number: 06448126

**COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**of**

**VIREOL LIMITED**

**(Adopted by a written resolution passed on 2nd December 2011)**

**1. Definitions**

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

**A Shares** the class of A ordinary shares of £0.01 each known as "A Shares" in the capital of the Company,

**A Shareholders** the holders of A Shares from time to time,

**Accepting Shareholder** has the meaning set out in Article 14.5 of these Articles,

**Acquisition Cost** the aggregate cost paid per Share upon acquiring the relevant Shares whether by transfer or subscription,

**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),

**Allocation Notice** has the meaning set out in Article 11.7 of these Articles,

**Applicant** has the meaning set out in Article 11.7 of these Articles,



<b>Appointor</b>	has the meaning set out in Article 20.1 of these Articles,
<b>Articles</b>	the Company's articles of association for the time being in force,
<b>Asset Sale</b>	the disposal by the Company of all or substantially all of its business and assets,
<b>Associate</b>	<p>in relation to any person means</p> <ul style="list-style-type: none"> <li>(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), or</li> <li>(b) any Member of the same Group,</li> </ul>
<b>Bad Leaver</b>	<p>an individual who becomes a Leaver at any time as a result of</p> <ul style="list-style-type: none"> <li>(a) committing any act of gross misconduct or gross incompetence whether during or outside the course of his employment if such an act is prejudicial to the interests of the Company or any other Group Company,</li> <li>(b) refusing to carry out any lawful duties reasonably required of him under his service agreement with the Company or any other Group Company,</li> <li>(c) having received a warning in writing from the Board in respect of poor performance in relation to notified performance criteria he continues to perform his duties to an unsatisfactory</li> </ul>

standard,

- (d) having been adjudicated bankrupt or compounds with his creditors or if he is convicted of any criminal offence punishable with at least six months imprisonment whether or not such a sentence is actually imposed or if he becomes unsound of mind or becomes a patient under the Mental Health Act 1983,
- (e) engaging in conduct of a discriminatory nature or commits any act of harassment of a fellow director or employee of the Company or any Group Company or any customer, prospective customer or supplier of the Company or any Group Company whether during the course of his employment or otherwise,
- (f) resignation by the Employee,

unless the Remuneration Committee resolve in its sole discretion that any individual who ceases to be an Employee in any of the circumstances set out above shall not be treated as a Bad Leaver

**B Shares**

the class of B ordinary shares of £0.01 each known as "B Shares" in the capital of the Company,

**B Shareholders**

the holders of B Shares from time to time,

**Board**

the board of Directors and any committee of the board constituted for the purpose of taking any action or decision contemplated by these Articles,

**Business Day**

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),
<b>CA 2006</b>	the Companies Act 2006 (as amended from time to time),
<b>Called Shareholders</b>	has the meaning set out in Article 13 1 of these Articles,
<b>Called Shares</b>	has the meaning set out in Article 13 2 of these Articles,
<b>Civil Partner</b>	in relation to a Shareholder, a civil partner (as defined in the Civil Partnerships Act 2004) of the Shareholder,
<b>Company</b>	Vireol Limited (registered number 06448126),
<b>Compulsory Transfer Provision</b>	Articles 9 3, Articles 10 6 to 10 13 (inclusive) and Article 10 15,
<b>Connected Person</b>	has the meaning given to it in section 1122 of the Corporation Taxes Act 2010,
<b>Continuing Shareholder</b>	has the meaning set out in Article 11 6 of these Articles,
<b>Controlling Interest</b>	means an interest in shares in the Company conferring more than 50% of the total voting rights conferred by all the issued shares in the Company, taking into account at the relevant time, provisions regarding voting rights contained in the articles of association of that company (and any other relevant agreements in respect of that company) and assuming that the Trigger Date has occurred,
<b>C Shareholders</b>	the holders of C shares from time to time,
<b>C Shares</b>	the class of C ordinary shares of £0 01 each known as "C Shares" in the capital of the

	Company,
<b>Date of Adoption</b>	the date on which these Articles were adopted,
<b>Director(s)</b>	a director or directors of the Company from time to time,
<b>Drag Along Notice</b>	has the meaning set out in Article 13 2 of these Articles,
<b>Drag Along Option</b>	has the meaning set out in Article 13 1 of these Articles,
<b>EBITDA</b>	means, in respect of any Relevant Period, the audited operating profit of the Company before taxation (including the results from discontinued operations) <ul style="list-style-type: none"> <li>(a) <b>before deducting</b> any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalised by the Company in respect of that Relevant Period,</li> <li>(b) <b>before deducting</b> all rentals in respect of that Relevant Period payable by the Company to Future Fuels pursuant to any lease between the Company and Future Fuels,</li> <li>(c) <b>not including</b> any accrued interest owing to the Company,</li> <li>(d) <b>before taking</b> into account any Extraordinary Items,</li> <li>(e) <b>plus or minus the Company's share of the profits or losses (after finance costs and tax) of other entities (after deducting</b> the amount of any profit of any other entity to the extent that the amount</li> </ul>

of the profit included in the financial statements of the Company exceeds the amount actually received in cash by the Company through distributions by the other entity),

- (f) **before taking into account** any unrealised gains or losses on any derivative instrument or financial instrument which in either case does not relate to operating revenue and/or costs of the Company in respect of that Relevant Period (other than any derivative instrument which is accounted for on a hedge accounting basis),
- (g) **before taking into account** any gain or loss arising from an upward or downward revaluation of any other asset and which revaluation does not relate to operating revenue and/or costs of the Company in respect of that Relevant Period, and
- (h) **before taking into account** any amount attributable to the amortisation, depreciation or impairment of non-current assets of the Company,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining audited operating profits of the Company before taxation,

**Employee**

an individual who is employed by the Company or any Group Company or who provides Services or who is a director of the Company or any Group Company,

**Encumbrance**

any mortgage, charge, security, interest, lien, pledge, assignment by way of security, equity, claim, right of pre-emption, option, covenant,

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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),

**EPC Contract**

the engineering, procurement and construction contract to be entered into following Financial Close between Future Fuels, the Company and a third party engineering, procurement and construction contractor,

**EVL**

Ethanol Ventures Limited (company number 06445311),

**Expert Valuers**

has the meaning set out in Article 12.1 of these Articles,

**Extraordinary Items**

means any exceptional, one-off, non-recurring or extraordinary items including those arising on

- (a) the restructuring of the activities of an entity and reversals of any provisions for the cost of restructuring,
- (b) disposals, revaluations or impairment of non-current assets,
- (c) disposals of assets associated with discontinued operations

**Family Trust**

as regards any particular individual member or deceased or former individual member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any

person other than the individual and/or Privileged Relations of that individual, and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is liable to be transferred or paid or applied or appointed to or for the benefit of such person or any voting or other rights attaching thereto are exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons,

**Fair Value**

is as determined in accordance with Article 12 2,

**Financial Close**

completion (including, for the avoidance of doubt, satisfaction of all conditions precedent) of the project agreements, investment agreements, banking facilities and other project debt agreements and offtake contracts required to be entered into for the financing of the Plant (expected to be towards the end of 2011),

**Financial Date**

the date when it is determined that the Financial Threshold has been met,

**Financial Threshold**

the aggregate EBITDA for 3 consecutive Relevant Periods being in excess of £75 million as shown in the audited accounts of the Company for those 3 Relevant Periods Two examples are set out in the Schedule to these Articles,

**Flowering Shares**

the B Shares and the C Shares,

**Flowering Shareholders**

the holders of Flowering Shares from time to time,

**Future Fuels**

Future Fuels No 1 LLP (number OC334323),

**Good Leaver**

a person who becomes a Leaver and who is not a Bad Leaver,

<b>Group</b>	the Company, any Subsidiary Undertaking of the Company and any Parent Undertaking of the Company and any Subsidiary Undertaking of such Parent Undertaking,
<b>Group Company</b>	the Company and each member of the Group,
<b>ICTA</b>	the Income and Corporation Taxes Act 1988,
<b>ITEPA</b>	Income Tax (Earnings and Pensions) Act 2003,
<b>Leaver</b>	any Employee from time to time and who ceases to be an Employee for any reason, other than death In these Articles, any reference to the date of cessation of employment (or similar) of any employee of the Group shall be the date upon which the contract of employment or the provision of Services by the individual or appointment as officer of the relevant person terminates or, if earlier, the date upon which the relevant person gives or is given notice of termination of his employment, the termination of his Services or appointment as officer of the relevant Group Company,
<b>Listing</b>	<p>(a) the admission of shares in the capital of the Company, a New Holding Company or a Parent by the UK Listing Authority to its Official List and London Stock Exchange plc having admitted such shares to trading on its market for listed securities, or</p> <p>(b) the admission of shares in the capital of the Company, a New Holding Company or a Parent to trading on AIM, the New York Stock Exchange or Nasdaq or any other recognised investment exchange (as defined in section 285 Financial Services and Markets Act 2000)</p>



<b>A Member of the same Group</b>	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,
<b>Model Articles</b>	the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of these Articles,
<b>New Holding Company</b>	a holding company of the Company in which the share capital structure of the Company is replicated in all material respects,
<b>New Shareholder</b>	has the meaning set out in Article 13.8 of these Articles,
<b>Offer</b>	has the meaning set out in Article 14.2 of these Articles,
<b>Offer Period</b>	has the meaning set out in Article 14.3 of these Articles,
<b>Option</b>	the option granted by EVL to Future Fuels to acquire 400,100 A Shares in the Company (“Option Shares”),
<b>Ordinary Shareholders</b>	the holders of A Shares from time to time,
<b>Ordinary Share Majority</b>	the holders of in excess of 50% of the aggregate nominal value of the A Shares in issue,
<b>Original Beneficiary</b>	the employee who was the original beneficiary of a Pension Trust whose trustee(s) is/are Shareholder(s),
<b>Original Shareholder</b>	an A Original Shareholder and/or a B Original Shareholder and/or a C Original Shareholder,
<b>Parent</b>	any Parent Undertaking of the Company,

<b>Parent Undertaking</b>	has the meaning set out in the CA 2006,
<b>Pension Trust</b>	a trust created pursuant to the establishment of a personal pension plan for the sole benefit of a Shareholder or a Proposed Shareholder,
<b>Permitted Transferee</b>	in relation to a Shareholder who is <ul style="list-style-type: none"> <li>(a) an individual, to any of his Privileged Relations or Trustees,</li> <li>(b) one or more trustees of a Pension Trust, to the Original Beneficiary of such Pension Trust or any of such Original Beneficiary's Privileged Relations or Trustees,</li> <li>(c) an undertaking (as defined in section 1161 of the Act) to any Member of the same Group as that undertaking,</li> </ul>
<b>Permitted Trust</b>	a Pension Trust or Family Trust,
<b>Plant</b>	means the Ethanol production facility to be constructed at the Great Coates site at Grimsby,
<b>Plant Acceptance Date</b>	the date the acceptance certificate (otherwise known as the "Takeover Certificate") for the Plant has been issued in accordance with the EPC Contract,
<b>Preliminary Period</b>	the period from the Date of Adoption to (and inclusive of) the day before the first of the following dates - <ul style="list-style-type: none"> <li>(a) the Trigger Date,</li> <li>(b) the Plant Acceptance Date, and</li> <li>(c) the Financial Date,</li> </ul>
<b>Privileged Relations</b>	in relation to a Shareholder or an Original Beneficiary who is an individual member or

	deceased or former member means a spouse, parent, sibling, Civil Partner, child or grandchild (including step or adopted child and their issue),
<b>Proposed Shareholder</b>	an individual who upon being offered to subscribe for A Shares and/or B Shares and/or C Shares, directs the Company to allot such shares to their Pension Trust,
<b>Proposed Purchaser</b>	a proposed purchaser who at the relevant time has made an offer on arm's length terms,
<b>Proposed Sale Date</b>	has the meaning set out in Article 14 3 of these Articles,
<b>Proposed Sale Notice</b>	has the meaning set out in Article 14 3 of these Articles,
<b>Proposed Sale Shares</b>	has the meaning set out in Article 14 3 of these Articles,
<b>Proposed Seller</b>	any person proposing to transfer any shares in the capital of the Company,
<b>Proposed Transfer</b>	has the meaning set out in Article 14 1 of these Articles,
<b>Relevant Majority</b>	a person or persons from time to time holding Shares carrying the rights to exercise 75% or more of the votes (on a poll) at any general meeting of the Company,
<b>Relevant Period</b>	a financial period of 12 months of the Company,
<b>Remuneration Committee</b>	the remuneration committee of the Board from time to time,
<b>Services</b>	contracted consultancy services provided to the Company pursuant to (i) a management services agreement between Vireol Bio and the Company, (ii) an operation and maintenance agreement between Vireol Bio and the Company, in each

case to be entered into following Financial Close and as amended from time to time, or (iii) such other services agreement as agreed between Vireol Bio and the Company,

**Sale Date** has the meaning set out in Article 13.5 of these Articles.

**Sale Shares** has the meaning set out in Article 11.2 of these Articles,

**Seller** has the meaning set out in Article 11.2 of these Articles,

**Sellers' Shares** has the meaning set out in Article 13.1 of these Articles,

**Selling Shareholders** has the meaning set out in Article 13.1 of the Articles,

**Shareholder** any holder of any Shares,

**Shares** the A Shares, the B Shares and the C Shares from time to time,

**Share Sale** any sale after Financial Close to any person other than a Connected Person of the Company 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 Associates of his and persons Acting in Concert with him together acquiring a Controlling Interest, 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 and Subsidiary** have the meanings set out in the CA 2006,

**Undertaking**

**Surplus Assets** the surplus assets of the Company remaining after payment of its liabilities,

**Transfer Event** liquidation, administration or administrative receivership,

**Transfer Price** has the meaning set out in Article 11.2 of these Articles,

**Trigger Date** the date when the first Trigger Event occurs,

**Trigger Event** any of the following events

- (a) Share Sale,
- (b) an Asset Sale, or
- (c) a Listing

**Trustee** in relation to a Shareholder means the trustee or the trustees of a Family Trust, and

**Vireol Bio** Vireol Bio-Industries Plc (company number 05576758),

**Winding Up** the passing of any resolution for the winding up of the Company, or any other return of capital (on liquidation, capital reduction or otherwise) (other than upon the redemption of shares of any class or the purchase by the Company of its own shares)

1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in CA 2006 shall have the same meanings in these Articles

1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles

- 1 4 A reference in these Articles to an “Article” is a reference to the relevant Article of these Articles unless expressly provided otherwise
- 1 5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of
- (a) any subordinate legislation from time to time made under it, and
  - (b) any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts
- 1 6 Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms
- 1 7 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles
- 1 8 Articles 11(2) and (3), 14(1), (2), (3) and (4), 17(2), 21, 27, 28, 52 and 53 of the Model Articles shall not apply to the Company
- 1 9 Article 7 of the Model Articles shall be amended by
- (a) the insertion in Article 7(2)(a) of the words “for the time being” after the words “one director”, and
  - (b) the insertion in Article 7(2) of the words “(for so long as he remains the sole director)” after the words “and the director may”
- 1 10 Article 20 of the Model Articles shall be amended by the insertion of the words “(including alternate directors) and the secretary” before the words “properly incur”
- 1 11 In Article 24(2)(c) of the Model Articles, the words “that the shares are fully paid” shall be deleted and replaced with the words “the extent to which the shares have been paid”
- 1 12 In Article 25(2)(c) of the Model Articles, the words “evidence, indemnity and the payment of a reasonable fee” shall be deleted and replaced with the words “evidence and indemnity”

- 1 13 Articles 31(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words “either” and “or as the directors may otherwise decide”

**2. Share Capital**

- 2 1 The share capital of the Company at the Date of Adoption is comprised of A Shares, B Shares and C Shares

- 2 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

- 2 3 Except as otherwise provided in these Articles, the A Shares, the B Shares and the C Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares

**3. Dividends**

- 3 1 In the Preliminary Period, each A Share shall rank equally for any dividends paid thereon which shall be paid *pro rata* to the nominal value of each A Share and the holders of Flowering Shares shall not be entitled to receive a dividend during this period

- 3 2 Following the Preliminary Period, dividends shall be paid as follows -

- 3 2 1 if the Trigger Date or the Financial Date has occurred then each Share shall rank equally for any dividend paid thereon which shall be paid *pro rata* to the nominal value of each Share as if the A Shares, the B Shares and the C Shares were one class of Share,

- 3 2 2 if neither the Trigger Date nor the Financial Date has occurred but the Plant Acceptance Date has occurred then each A Share and B Share shall rank equally for any dividends paid thereon which shall be paid *pro rata* to the nominal value of each A Share and B Share as if the A Shares and B Shares were one class of Share The C Shareholders shall not be entitled to receive a dividend until the Trigger Date or the Financial Date has occurred (if ever)

#### **4. Voting**

4 1 In the Preliminary Period, on a show of hands every holder of an A Share who (being an individual) is present in person or by proxy or (being a corporation) is present by representative not being himself a Shareholder shall have one vote, and on a poll the holders of each A Share shall have one vote for each A Share held. During this period the Flowering Shares shall not entitle the holders of them to receive notice of, to attend, to speak or vote at any general meeting of the Company.

4 2 Following the Preliminary Period, voting at general meetings shall be as follows -

- (a) if the Trigger Date or the Financial Date has occurred then on a show of hands every Shareholder who (being an individual) is present in person or by proxy or (being a corporation) is present by representative not being himself a Shareholder shall have one vote, and on a poll the holders of each Share shall have one vote for each Share held,
- (b) if neither the Trigger Date nor the Financial Date has occurred but the Plant Acceptance Date has occurred then on a show of hands every A Shareholder and B Shareholder who (being an individual) is present in person or by proxy or (being a corporation) is present by representative not being himself a Shareholder shall have one vote, and on a poll the holders of each A Share and B Share shall have one vote for each A Share or B Share held. The C Shareholders shall not be entitled to receive notice of, to attend, to speak or vote at any general meeting of the Company until the Trigger Date or the Financial Date has occurred (if ever).

#### **5. Capital**

5 1 In the Preliminary Period, on a distribution of assets on a Winding Up, the Surplus Assets shall be distributed as follows (to the extent that the Company is lawfully permitted to do so)

- (a) first in paying to each of the Shareholders an amount per Share held equal to the nominal value of each Share,
- (b) second in paying the balance of any Surplus Assets to each of the A Shareholders which shall be paid pro rata to the nominal value of each A Share.

5 2 If the Trigger Date or the Financial Date has occurred then on a distribution of assets on a Winding Up, the Surplus Assets shall be distributed (to the extent that the



Company is lawfully permitted to do so) to the Shareholders pro rata to their respective holdings of Shares as if the A Shares, B Shares and C Shares were one class of Share

5.3 If neither the Trigger Date nor the Financial Date has occurred but the Plant Acceptance Date has occurred then on a distribution of assets on a Winding Up, the Surplus Assets shall be distributed as follows (to the extent that the Company is lawfully permitted to do so)

- (a) first in paying to each of the Shareholders an amount per Share held equal to the nominal value of each Share,
- (b) second in paying the balance of any Surplus Assets to each of the A Shareholders and B Shareholders which shall be paid pro rata to the nominal value of each A Share and B Share as if the A Shares and B Shares were one class of Share

**6. Sale**

On a Share Sale, the proceeds of the Share Sale shall be paid to the Shareholders who participate in the Share Sale pro rata to their respective holdings of the Shares sold as if the A Shares, B Shares and C Shares were one class of Share

**7. Variation of Rights**

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. ITEPA**

No Shares which would be considered to be restricted for the purposes of Chapter 2, Part 7 of ITEPA shall be allotted or transferred to any Employee, Director, prospective employee or director unless, if the Board so requests, such person has entered into a joint election in accordance with the provisions of section 431 of ITEPA with the relevant Group Company or Group Companies

**9. Transfers of Shares – General**

9.1 In Articles 9 to 11 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

- 9 2 No Share may be transferred unless the transfer is made in accordance with these Articles
- 9 3 If a Shareholder transfers or purports to transfer a Share otherwise than in accordance with these Articles he will be deemed to have offered all his Shares held by him for sale in accordance with the provisions of Article 11 *mutatis mutandis* and the Transfer Price will be the lower of the Fair Value per Share calculated in accordance with the provisions of Article 12 and the Acquisition Cost of the Shares
- 9 4 Any transfer of a Share by way of sale which is required to be made under Articles 9 to 11 (inclusive) will be deemed to include a warranty that the transferor sells with full title guarantee
- 9 5 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 may 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 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 (or any proxy) any rights
- (i) to vote whether on a show of hands or on a poll and whether exercisable at a general meeting of the Company or at any separate meeting 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 provisions of Article 9 3 shall apply

**10. Share Transfers**

- 10 1 Until the Plant Acceptance Date or a Trigger Date, a B Shareholder (“**the B Original Shareholder**”) may only transfer all or any of his B Shares pursuant to a Compulsory Transfer Provision or to a Permitted Transferee
- 10 2 Until the Financial Date or a Trigger Date, a C Shareholder (“**the C Original Shareholder**”) may only transfer all or any of his C Shares pursuant to a Compulsory Transfer Provision or to a Permitted Transferee
- 10 3 Once the Plant Acceptance Date or a Trigger Date has passed and subject to the provisions of CA 2006 a B Shareholder may transfer all or any of his B Shares in accordance with the provisions of Article 10 1 and in addition the provisions of Article 11
- 10 4 Once the Financial Date or a Trigger Date has passed and subject to the provisions of CA 2006, a C Shareholder may transfer all or any of his C Shares in accordance with the provisions of Article 10 2 and in addition the provisions of Article 11
- 10 5 An A Shareholder (“**the A Original Shareholder**”) may transfer all or any if his/its Shares without restriction as to price or otherwise to a Permitted Transferee
- 10 6 In the event that the Trustees cease, for any reason, to be a trustee or the trustees of a Permitted Trust they shall transfer the Shares they hold to the Original Shareholder or Original Beneficiary (as the case may be) or a Permitted Transferee of the Original Shareholder or Original Beneficiary (as the case may be) without restriction as to price or otherwise failing which the Trustees will be deemed to have offered those Shares for sale in accordance with the provisions of Article 11 *mutatis mutandis* In such circumstances, the Transfer Price shall be the Acquisition Cost of the Shares
- 10 7 If a Permitted Transferee
  - (a) 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 then 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 Permitted Transferee of the Original Shareholder

(which in either case is not subject to a Transfer Event) without restriction as to price or otherwise failing which it will be deemed to have given a Transfer Notice in respect of those Shares and the provisions of Article 11 will apply *mutatis mutandis* to such a transfer. In such circumstances, the Transfer Price shall be the Acquisition Cost of the Shares.

- (b) enters into a Transfer Event, then the Permitted Transferee must not later than 5 Business Days after the date on which the Permitted Transferee so enters into a Transfer Event, transfer the Shares held by it to the Original Shareholder or a Permitted Transferee of the Original Shareholder (which in either case is not subject to a Transfer Event) without restriction as to price or otherwise failing which it will be deemed to have given a Transfer Notice in respect of those Shares and the provisions of Article 11 will apply *mutatis mutandis* to such a transfer with the Transfer Price being the Fair Value per Share calculated in accordance with the provisions of Article 12.

10.8 If a Permitted Transferee who is a spouse or Civil Partner of the Original Shareholder or Original Beneficiary (as the case may be) ceases to be a spouse or Civil Partner of the Original Shareholder whether by reason of divorce or otherwise (but save by reason of death of the Permitted Transferee or Original Shareholder (as the case may be) on which event this Article shall not apply) he must, within 15 Business Days of so ceasing execute and deliver to the Company a transfer of the Shares held by him to the Original Shareholder or Original Beneficiary (as the case may be) (or, to any Permitted Transferee of the Original Shareholder or Original Beneficiary (as the case may be)) for such consideration as may be agreed between them failing which he shall be deemed to have offered such Shares for sale in accordance with the provisions of Article 11 *mutatis mutandis*. In such circumstances, the Transfer Price shall be the Acquisition Cost of the Shares.

10.9 If a Flowering Shareholder is a Leaver, he shall be obliged (unless the Remuneration Committee in its sole discretion decides otherwise) to offer such Flowering Shares of which he is the Original Shareholder or Original Beneficiary for sale in accordance with the provisions of Article 11 *mutatis mutandis*. In such circumstances, the Transfer Price shall be as follows -

- (a) if the Leaver is a Good Leaver, the Transfer Price shall be Fair Value per Share calculated in accordance with the provisions of Article 12,
- (b) if the Leaver is a Bad Leaver, the Transfer Price shall be the lower of Fair Value per Share calculated in accordance with the provisions of Article 12 and the Acquisition Cost of all the Flowering Shares held by him.

- 10 10 Subject to Article 10 9, a person entitled to any Share in consequence of the bankruptcy of a Shareholder shall be deemed to have offered his Shares for sale in accordance with Article 11 at a time determined by the Directors and approved by the holders of an Ordinary Share Majority and the provisions of Article 11 shall apply *mutatis mutandis* to such transfer with the Transfer Price being the Fair Value per Share calculated in accordance with the provisions of Article 12
- 10 11 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 10 11 may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder without restriction as to price or otherwise
- 10 12 If any Shares remain registered in the name of a deceased Shareholder for longer than one year after the date of his death, the relevant Shares shall be offered for sale in accordance with Article 11 save to the extent that the Directors may otherwise determine and the provisions of Article 11 shall apply *mutatis mutandis* to such transfer with the Transfer Price being the Fair Value per Share calculated in accordance with the provisions of Article 12
- 10 13 If an Original Shareholder enters into a Transfer Event or is subject to a change of control (as control is defined in section 840 of ICTA) then there will be deemed to have been given a Transfer Notice in respect of the Shares of which it is the Original Shareholder and the provisions of Article 11 shall apply *mutatis mutandis* to such a transfer In such circumstances, the Transfer Price will be Fair Value per Share calculated in accordance with the provisions of Article 12
- 10 14 EVL shall be entitled to -
- (a) grant the Option to Future Fuels without restriction as to price or otherwise and on such terms as agreed between them,
  - (b) transfer the Option Shares to Future Fuels pursuant to the Option without restriction as to price or otherwise
- 10 15 Any transfer of Shares by Peter McGenitty pursuant to Clause 4 5 of his share subscription agreement entered into on or around the date of adoption of these Articles, is approved

**11. Transfers of Shares subject to pre-emption rights**

11 1 Save where a Compulsory Transfer Provision applies and other than pursuant to a Share Sale or a transfer to a Permitted Transferee or any transfer pursuant to Article 10 14 above, any transfer of

- (a) A Shares by an A Shareholder at any time, or
- (b) B Shares and/or C Shares by a Flowering Shareholder once they are entitled to be transferred other than in accordance with a Compulsory Transfer Provision or to a Permitted Transferee,

shall be subject to the provisions of this Article 11

11 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 (the “**Minimum Transfer Condition**”)

11 3 Except with the written consent of all the Directors, no Transfer Notice once given or deemed to have been given under these Articles may be withdrawn

11 4 A Transfer Notice constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price

11 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 in accordance with these Articles,

the Board shall offer the Sale Shares for sale in accordance with Article 11.6. Each offer must be in writing and give details of the number and Transfer Price of the Sale Shares offered.

11.6 Transfers Offer

- (a) The Board shall offer the Sale Shares first to the Company (or to a nominee or an employee benefit trust specified by the Company) and secondly to all Shareholders 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 15 Business Days after the offer (inclusive) (the **"Offer Period"**) for the maximum number of Sale Shares they wish to buy at the Transfer Price.
- (b) If the Sale Shares are subject to a Minimum Transfer Condition then any allocation made under Article 11.6 will be conditional on the fulfilment of the Minimum Transfer Condition.
- (c) 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 first to the Company (or to a nominee or an employee benefit trust specified by the Company) and secondly (if any Sale Shares remain) 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 anyone of more than the maximum number of Sale Shares which he has stated he is willing to buy.
- (d) If not all Sale Shares are allocated in accordance with Article 11.6(c) 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 11.6(c).
- (e) If, at the end of the Offer Period, the number of Sale Shares applied for is less than the number of Sale Shares and the Transfer Notice does not include a Minimum Transfer Condition, the Board shall allocate the Sale Shares in accordance with Articles 11.6(c) and 11.6(d) above and the balance (the **"Surplus Shares"**) will be retained by the Seller or, in the case of Shares not subject to a Compulsory Transfer Provision, shall be subject to Article 11.7.
- (f)

11 7 Completion of transfer of Sale Shares

(a) 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 required to be sold pursuant to the Minimum Transfer Condition the Board shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under Articles 11 6 stating the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect and the provisions of Article 11 7(c) shall apply

(b) If

(i) the Transfer Notice does not include a Minimum Transfer Condition,  
or

(ii) 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 11 6, give written notice of allocation ("**Allocation Notice**") to the Seller and each person to whom Sale Shares have been allocated ("**Applicant**") specifying the number of Sale Shares allocated to each Applicant and the place and time (being not less than 10 Business Days nor more than 20 Business Days after the date of the Allocation Notice) for completion of the transfer of the Sale Shares

(c) Upon service of an Allocation Notice, the Seller must, against payment of the Transfer Price (which each Applicant must pay without set-off), transfer the Sale Shares in accordance with the requirements specified in it

(d) If the Seller fails to comply with the provisions of Article 11 7(c)

(i) 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

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

(2) (subject to the transfer being duly stamped) enter the Applicant in the register of Shareholders as the holder of the Shares purchased by each of them, and



- (ii) the Company may receive the Transfer Price (and give a good discharge for it) and 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)
- (e) If an Allocation Notice does not relate to all the Sale Shares and the Sale Shares are subject to a Minimum Transfer Condition, then the Seller may, within eight weeks after service of the Allocation Notice, transfer the Sale Shares to any person at a price at least equal to the Transfer Price
- (f) If the Sale Shares are not subject to a Minimum Transfer Condition and there are any Surplus Shares pursuant to Article 11 6(e), the Seller may within eight weeks of after the allocation of the relevant Sale Shares to the Continuing Shareholders, transfer the Surplus Shares to any person at a price at least equal to the Transfer Price

#### 11 8 Waiver of restrictions

The restrictions imposed by this Article may be waived in relation to any proposed transfer of Shares with the consent of Shareholders who, but for the waiver, would or might have been entitled to have such shares offered to them in accordance with this Article

#### 12. Valuation of Shares

- 12 1 In the case of a transfer pursuant to Articles 9 3, 10 7, 10 9, 10 10, 10 12 and 10 13, the Board shall appoint an independent firm of Chartered Accountants (the "**Expert Valuers**") to certify the Fair Value of the Sale Shares or the Company
- 12 2 The "Fair Value" of any Shares to be sold pursuant to Articles 9 3, 10 7, 10 9, 10 10, 10 12 and 10 13 shall (subject to Article 12 3 below) be determined by the Expert Valuer on the bases set out in section 272 and 273 of the Taxation of Chargeable Gains Act 1992
- 12 3 In determining the "Fair Value" of the Sale Shares, no adjustment shall be made for the fact that the Sale Shares represent a minority shareholding in the Company (if that is the case)

- 12 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
- 12 5 The Expert Valuers shall be requested to determine the Fair Value within 20 Business Days of their appointment and to notify the Board of their determination
- 12 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)
- 12 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
- 12 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
- 12 9 The cost of obtaining the certificate shall be paid by the Seller

**13. Drag-Along**

- 13 1 If the holders of a Controlling Interest ("**the Selling Shareholders**") wish to transfer all their interest in Shares which constitute the Controlling Interest ("**the Sellers' Shares**") to a Proposed Purchaser, the Selling Shareholders shall have the option ("**the Drag Along Option**") to require all the other holders of Shares ("**the Called Shareholders**") to sell and transfer all their Shares to the Proposed Purchaser or as the Proposed Purchaser shall direct in accordance with the provisions of this Article
- 13 2 The Selling Shareholders may exercise the Drag Along Option by giving a written notice to that effect ("**a Drag Along Notice**") to the Called Shareholders at any time before the transfer of the Sellers' Shares to the Proposed Purchaser A Drag Along Notice shall specify that the Called Shareholders are required to transfer all their Shares ("**the Called Shares**") under this Article, the person to whom they are to be transferred, the consideration for which the Called Shares are to be transferred (calculated in accordance with this Article) and the proposed date of transfer
- 13 3 Drag Along Notices shall be irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares by the Selling Shareholders to the Proposed Purchaser within 40 Business Days after the date of service of the Drag Along Notice The Selling Shareholders shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice

- 13 4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be equal to the highest price per Share offered by the Proposed Purchaser to the Selling Shareholders and shall be paid in the same manner as to the Selling Shareholders
- 13 5 Within 5 Business Days of the Selling Shareholders serving a Drag Along Notice on the Called Shareholders, the Called Shareholders shall deliver stock transfer forms for their Called Shares in favour of the Proposed Purchaser or as the Proposed Purchaser shall direct, together with the relevant share certificate(s) (or a suitable indemnity in lieu thereof) to the Company Completion of the sale of the Called Shares shall take place at the same time as completion of the sale of the Sellers' Shares ("**the Sale Date**") On the Sale Date, the Company shall pay the Called Shareholders, on behalf of the Proposed Purchaser, the amounts they are due pursuant to Article 13 4 to the extent the Proposed Purchaser has put the Company in the requisite funds The Company's receipt for the price shall be a good discharge to the Proposed Purchaser The Company shall hold the amounts due to the Called Shareholders pursuant to Article 13 4 in trust for the Called Shareholders without any obligation to pay interest
- 13 6 To the extent that the Proposed Purchaser has not, on the Sale Date, put the Company in funds to pay the price due pursuant to Article 13 4, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificate (or suitable indemnity) for the relevant Called Shares and the Called Shareholders shall have no further rights or obligations under this Article 13 in respect of their Called Shares
- 13 7 If a Called Shareholder fails to deliver stock transfer forms and share certificates (or suitable indemnity) for its Called Shares to the Company upon the expiration of that 5 Business Day period, the Directors shall, if requested by the Proposed Purchaser, authorise any Director to transfer the Called Shares on the Called Shareholder's behalf to the Proposed Purchaser (or its nominee(s)) to the extent the Proposed Purchaser has, at the expiration of that 5 Business Day period, put the Company in funds to pay the price for the Called Shareholder's Called Shares offered to him The Board shall then authorise registration of the transfer once appropriate stamp duty has been paid The defaulting Called Shareholder shall surrender his share certificate for his Called Shares (or provide a suitable indemnity) to the Company On surrender, he shall be entitled to the amount due to him under Article 13 4
- 13 8 On any person, following the issue of a Drag Along Notice, becoming a Shareholder of the Company pursuant to the exercise of a pre-existing option to acquire Shares in the Company or pursuant to the conversion of any convertible security of the Company ("**a New Shareholder**"), a Drag Along Notice shall be deemed to have

been served on the New Shareholder on the same terms as the previous Drag Along Notice who shall then be bound to sell and transfer all Shares so acquired to the Proposed Purchaser or as the Proposed Purchaser may direct and the provisions of this Article shall apply with the necessary changes to the New Shareholder except that completion of the sale of the Shares shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder

- 13 9 The rights of pre-emption set out in these Articles shall not arise on any transfer of Shares to a Proposed Purchaser (or its nominee) pursuant to a sale in respect of which a Drag Along Notice has been duly served pursuant to this Article 13

**14. Tag Along**

- 14 1 The provisions of Article 14 2 will apply if one or more Proposed Sellers proposes to transfer in one or a series of related transactions any Shares ("**the Proposed Transfer**") which would, if put into effect, result in the Proposed Purchaser (and Associates of his or persons Acting in Concert with him) acquiring a Controlling Interest
- 14 2 A Proposed Seller must, before making a Proposed Transfer, procure the making by the Proposed Purchaser of an offer ("**the Offer**") to the other Shareholders to acquire all of their Shares for a consideration per Share equal to the highest price per Share offered by the Proposed Purchaser to the Proposed Sellers
- 14 3 The Offer must be given by written notice ("**a Proposed Sale Notice**") at least 10 Business Days ("**the Offer Period**") prior to the proposed sale date ("**Proposed Sale Date**") The Proposed Sale Notice must set out, to the extent not described in any accompanying documents, the identity of the Proposed Purchaser, the purchase price and other terms and conditions of payment, the Proposed Sale Date and the number of Shares proposed to be purchased by the Proposed Purchaser ("**the Proposed Sale Shares**")
- 14 4 If any holder of Shares (other than the Proposed Sellers) is not given the rights accorded him by this Article, the Proposed Sellers will not be entitled to complete their sale and the Company will not register any transfer intended to carry that sale into effect
- 14 5 If the Offer is accepted by any Shareholder ("**an Accepting Shareholder**") within the Offer Period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Shares held by Accepting Shareholders

- 14 6 The rights of pre-emption set out in these Articles shall not arise on any transfer of Shares to a Proposed Purchaser (or its nominee) pursuant to a sale in respect of which a Proposed Sale Notice has been duly served pursuant to this Article 14

**15. Appointment and removal of Directors**

- 15 1 The holder(s) from time to time of Shares carrying the rights to exercise more than 50% of the votes (on a poll) at any general meeting of the Company shall by written notice served on the Board be entitled to remove any person as a director of the Company
- 15 2 The Relevant Majority shall by written notice served on the Board be entitled to appoint any person as a director of the Company

**16. Quorum for Directors' meetings**

- 16 1 Subject to Article 16 2, the quorum for the transaction of business at a meeting of Directors is any two Directors
- 16 2 For the purposes of any meeting (or part of a meeting) held pursuant to section 175 of CA 2006 to authorise a Director's conflict, if there is only one Director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one Director
- 16 3 If the total number of Directors in office for the time being is less than the quorum required, the Directors must not take any decision other than a decision
- (a) to appoint further Directors, or
  - (b) to call a general meeting so as to enable the shareholders to appoint further Directors

**17. Transactions or other arrangements with the Company**

- Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the CA 2006 and provided he has declared the nature and extent of his interest in accordance with the requirements of the CA 2006, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the company
- 17 1 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,

- 17 2 shall be entitled to participate in any decision of the Directors (or committee of directors) in respect of such contract or proposed contract in which he is interested,
- 17 3 shall be entitled to vote at a meeting of Directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested,
- 17 4 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director,
- 17 5 may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested, and
- 17 6 shall not, save as he may otherwise agree, be accountable to the company for any benefit which he (or a person connected with him (as defined in section 252 of CA 2006)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of CA 2006

**18. Records of decisions to be kept**

Where decisions of the Directors are taken by electronic means, such decisions shall be recorded by the Directors in permanent form, so that they may be read with the naked eye

**19. Appointment of Directors**

In any case where, as a result of death or bankruptcy, the Company has no shareholders and no Directors, the transmittee(s) of the last Shareholder to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a natural person (including a transmittee who is a natural person), who is willing to act and is permitted to do so, to be a Director

**20. Appointment and removal of alternate directors**

- 20 1 Any Director ("Appointor") may appoint as an alternate any other Director, or any other person approved by resolution of the Directors, to

- (a) exercise that Director's powers, and

- (b) carry out that Director's responsibilities,
- in relation to the taking of decisions by the Directors, in the absence of the alternate's Appointor
- 20 2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the Directors
- 20 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
- 21. Rights and responsibilities of alternate directors**
- 21 1 An alternate director may act as alternate director to more than one Director and has the same rights in relation to any decision of the Directors as the alternate's Appointor
- 21 2 Except as the Articles specify otherwise, alternate directors
- (a) are deemed for all purposes to be Directors,
- (b) are liable for their own acts and omissions,
- (c) are subject to the same restrictions as their Appointors, and
- (d) are not deemed to be agents of or for their Appointors
- and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his Appointor is a member
- 21 3 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 present (but only if that person's Appointor is not participating),

- (b) may participate in a unanimous decision of the Directors (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate), and
  - (c) shall not be counted as more than one Director for the purposes of Articles 21 3(a) and (b)
- 21 4 A Director who is also an alternate director is entitled, in the absence of his Appointor, to a separate vote on behalf of his Appointor, in addition to his own vote on any decision of the Directors (provided that his Appointor is eligible to vote in relation to that decision in accordance with these Articles), but shall not count as more than one Director for the purposes of determining whether a quorum is present
- 21 5 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as his Appointor but shall not be entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's Appointor's remuneration as the Appointor may direct by notice in writing made to the company

**22. Termination of alternate directorship**

An alternate director's appointment as an alternate terminates

- (a) when the alternate's Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate,
- (b) on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a director,
- (c) on the death of the alternate's Appointor, or
- (d) when the alternate's Appointor's appointment as a Director terminates

**23. 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



**24. Secretary**

The Directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the Directors

**25. Proxies**

25 1 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate"

25 2 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the Directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that Article

**COMMUNICATIONS**

**26. Means of communication to be used**

26 1 Any notice, document or other information, including a share certificate may be delivered or served on the intended recipient -

- (a) by delivering it by hand,
- (b) by sending it by post or other delivery service in an envelope (with postage or delivery paid),
- (c) by fax (except for share certificates) to a fax number notified to the company,
- (d) by electronic mail (except a share certificate) to an address notified to the company in writing,
- (e) by a website (except a share certificate) the address of which shall be notified to the recipient in writing,
- (f) by a relevant system, or
- (g) by advertisement in at least two national newspapers

This Article does not affect any provision in any relevant legislation or the Articles requiring notices or documents to be delivered in a particular way

26 2 Notices or documents shall be deemed to be delivered in accordance with the following provisions -

- (a) if delivered by hand, it is treated as being delivered at the time it is handed to the intended recipient,
- (b) if sent by post or other delivery service not referred to below, it is treated as being delivered -
  - (i) 24 hours after it was posted, if first class post was used, or
  - (ii) 72 hours after it was posted or given to delivery agents, if first class post was not used

provided it can be proved conclusively that a notice or document was delivered by post or other delivery service by showing that the envelope containing the notice or document was properly addressed and put into the post system or given to delivery agents with postage or delivery paid,

- (c) if sent by fax, it is treated as being delivered at the time it was sent,
- (d) if sent by electronic mail, it is treated as being delivered at the time it was sent,
- (e) if sent by a website, it is treated as being delivered when the material was first made available on the website, or if later, when the recipient received (or is deemed to have received) notice of the fact that the material was available on the website,
- (f) if sent by a relevant system, it is treated as being delivered when the Company (or a sponsoring system participant acting on its behalf) sends the issuer instructions relating to the notice or document,
- (g) if a notice is given by advertisement, it is treated as being delivered at midday on the day when the last advertisement appears in the newspapers

## **27. Indemnities and Insurance**

27 1 Subject to the provisions of the CA 2006

- (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 section 144 or 727 of the CA 2006 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
- 27 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
- 28. Directors' Conflicts of Interest and Transactions with the Company**
- 28 1 The Directors shall have the power to authorise any matter which would or might otherwise constitute or give rise to a breach of duty of a director under section 175 of the CA 2006 to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company Save that such authorisation of the Directors shall be effective only if the required quorum at the meeting at which the matter is considered is met without counting the interested director and the matter was agreed to without such director voting or would have been agreed to if their vote had not been counted
- 28 2 Subject to Article 28 3, a Director shall be under no duty to the Company with respect to any information which he obtains or has obtained otherwise than as a Director of the Company and in respect of which he has a duty of confidentiality to another person In particular, the Director shall not be in breach of the general duties he owes to the Company under CA 2006 because he fails

- (a) to disclose any such information to the Board or to any director or other officer or employee of the Company, and/or
  - (b) to use or apply any such information in performing his duties as a director of the Company
- 28 3 To the extent that the relationship between a Director and a person to whom he owes a duty of confidentiality gives rise to a conflict of interest or possible conflict of interest, Article 28 2 applies only if the existence of that relationship has been authorised by the Board pursuant to Article 28 1
- 28 4 Where the existence of a Director's relationship with another person is authorised by the Board pursuant to Article 28 1 and his relationship with that person gives rise to a conflict of interest or possible conflict of interest, the director shall not be in breach of the general duties he owes to the Company under the CA 2006 because he
  - (a) absents himself from meetings of the Board at which any matter relating to the conflict of interest or possible conflict of interest will or may be discussed or from the discussion of any such matter at a meeting or otherwise, and/or
  - (b) makes arrangements not to receive documents and information relating to any matter which gives rise to the conflict of interest or possible conflict of interest sent or supplied by the Company and/or makes arrangements for such documents and information to be received and read by a professional adviser, for so long as he reasonably believes such conflict of interest or possible conflict of interest subsists
- 28 5 The provisions of Articles 28 1 and 28 4 are without prejudice to any equitable principle or rule of law which may excuse the director from
  - (a) disclosing information in circumstances where disclosure would otherwise be required under these Articles, or
  - (b) attending meetings or discussions or receiving documents and information as referred to in Article 28 4, in circumstances where such attendance or receiving such documents and information would otherwise be required under these Articles
- 28 6 For the purpose of these Articles
  - (a) a "**conflict of interest**" includes a conflict of interest and duty and a conflict of duties,

- (b) an “**interest**” means a direct or an indirect interest, and
- (c) an “**interest, transaction or arrangement of which a Director is aware**” includes an interest, transaction or arrangement of which that Director ought reasonably to be aware

## **SCHEDULE**

### **Example 1**

If EBITDA (calculated in accordance with these Articles) for the first Relevant Period is £30 million, for the second Relevant Period is £30 million and for the third Relevant Period is £30 million then the Financial Threshold would have been met

### **Example 2**

If EBITDA (calculated in accordance with these Articles) for the first Relevant Period is £10 million, for the second Relevant Period is £10 million and for the third Relevant Period is £60 million then the Financial Threshold would have been met