

Articles of association

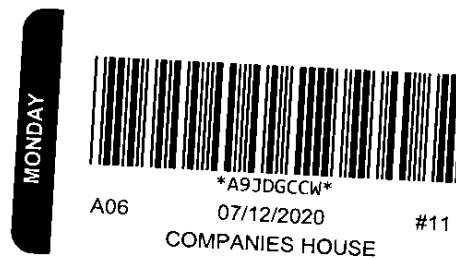
of

Brookgate Limited

Company number: 7057863

(Private company limited by shares)

as adopted by written special resolution passed on
2020



APPENDIX 1: ARTICLES OF ASSOCIATION

Contents

1.	Preliminary	2
2.	Share capital.....	10
3.	Rights attaching to shares	11
4.	Variation of class rights	19
5.	Share certificates	20
6.	Permitted transfers	20
7.	Mandatory transfers	21
8.	Pre-emption procedure	23
9.	Valuation	26
10.	Tag along and Co-Sale	26
11.	Drag along	28
12.	Registration.....	30
13.	Transmission of Shares.....	31
14.	Quorum for general meetings	31
15.	General meetings.....	31
16.	General meeting on members' requisition	32
17.	Voting: general.....	32
18.	Errors and disputes.....	33
19.	Proxies.....	33
20.	Revocation of proxy notices	34
21.	Votes of proxies	34
22.	Directors may delegate	35
23.	Committees.....	35
24.	Directors to take decisions collectively	35
25.	Unanimous decisions	35
26.	Calling a directors' meeting.....	36
27.	Participation in directors' meetings.....	36
28.	Quorum for directors' meetings	36
29.	Casting vote	37
30.	Directors may vote and count for quorum.....	37
31.	Conflicts of interest	37
32.	Records of decisions to be kept	39
33.	Directors' discretion to make further rules	39
34.	Number of directors	40
35.	Termination of director's appointment	40
36.	The Investor Directors and Chairman	40
37.	Observer	40
38.	Directors' remuneration and expenses	41
39.	Appointment and removal of alternates.....	41
40.	Rights and responsibilities of alternate directors.....	42
41.	Termination of alternate directorship	43
42.	Secretary.....	43
43.	Borrowing powers.....	43
44.	Company communications with members	43
45.	Indemnity, Funds and Insurance.....	46
46.	Relationship with Loan Agreement	46
47.	Resolutions	47

No. 7057863

The Companies Acts 2006

Private company limited by shares

Articles of association

of

Brookgate Limited (the "Company")

(as adopted by written special resolution passed on 2020)

1. Preliminary

- 1.1 The Model Articles shall apply to the Company save insofar as they are excluded or varied by these Articles or are inconsistent with these Articles and such regulations (except as so excluded, varied or inconsistent) together with these Articles shall be the articles of association of the Company (to the exclusion of any other regulations set out in any statute, statutory instrument or other subordinate legislation from time to time in force). If there is any conflict or inconsistency between any provision of the Model Articles and these Articles, the latter shall prevail.

- 1.2 In these Articles, unless a contrary intention is expressly stated, the following words and expressions shall have the following meanings:

"Accounts" means the audited individual accounts of the Company or, if at the end of the relevant financial year the Company is a parent company and is not exempt from the requirement to produce group accounts, the audited group accounts of the Company and its subsidiary undertaking(s), for each financial year.

"acting in concert" has the meaning set out in the City Code on Takeovers and Mergers from time to time.

"address" has the meaning set out in Section 1148, CA 2006.

"A Distribution Amount" has the meaning set out in Article 3.1(b).

"Annual Business Plan" means the annual business plan of the Group in respect of each financial year which shall include a budget, projected profit and loss account, projected balance sheet, projected cash flow statement and a statement of business objectives relating to the financial year to which such annual business plan relates, excluding project level operations of Roselead and Cotmist.

"A Ordinary Shareholder" means a holder of A Ordinary Shares.

"A Ordinary Shares" means the A ordinary shares of £1 each in the capital of the Company.

"A Preference Shares" means the redeemable A preference shares of £0.00001 in the capital of the Company.

"Approved Offer" means an irrevocable offer in writing that is for all the shares in the capital of the Company on terms providing for a distribution of proceeds in accordance with Article 3.2 which has received Shareholder Consent.

"Articles" means these articles of association as altered or varied from time to time and **"Article"** means a provision of these Articles.

"Board" means the board of directors of the Company from time to time.

"Board Invitee" such person (being an Employee Trust or an existing or prospective Employee) as the Board, with Shareholder Consent, may nominate.

"B Preference Shares" means the redeemable B preference shares of £0.00001 in the capital of the Company.

"Business Plan" means the business plan for the Group approved by the directors on the date of adoption of these Articles.

"CA 2006" means the Companies Act 2006.

"Called Shareholders" has the meaning set out in Article 11.1.

"Called Shares" has the meaning set out in Article 11.1.

"Cessation Date" means the date on which a Leaver ceases to be an Employee.

"Companies Acts" has the meaning set out in Section 2, CA 2006.

"Conflict Situation" has the meaning set out in Article 31.1(a).

"Conflicted Director" has the meaning set out in Article 31.1(a).

"Controller" means in relation to a corporate member a person who has the power or ability to direct the management or the policies of that member, whether through the ownership of voting capital, by contract or otherwise.

"Controlling Interest" means an interest (within the meaning of Schedule 1, CA 2006) in shares conferring in aggregate 45% or more of the total voting rights conferred by all the shares in the equity share capital of the Company for the time being in issue.

"Cotmist" means Cotmist Limited, a company registered in England and Wales with company registration number 02330075.

"Cotmist Matter" means any matter relating to Cotmist Limited, a company

registered in England and Wales with company registration number 02330075.

"C Preference Shares" means the redeemable C preference shares of £0.00001 in the capital of the Company.

"Deed of Adherence" means a deed of adherence to the Investment Agreement substantially in the form set out in the Investment Agreement.

"Deferred Shares" means the Deferred Shares of £1 each in the capital of the Company.

"Disposal" means the sale or other disposal (whether by one transaction or a series of related transactions) of:

- (a) the whole or a material part of the business and assets of the Company; or
- (b) the entire issued share capital of any Subsidiary or Subsidiaries to the extent that it or they comprise the whole or a substantial part of the business and assets of the Group.

"document" means any document, including but not limited to, any summons, notice, order, register, certificate or other legal process.

"D Preference Shares" means the redeemable D preference shares of £0.00001 in the capital of the Company.

"electronic address" has the meaning set out in Section 333(4), CA 2006.

"electronic form" has the meaning set out in Section 1168, CA 2006.

"electronic means" has the meaning set out in Section 1168, CA 2006.

"eligible director" means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter).

"Employee" means a person who at the date of adoption of these Articles or subsequently is employed by any Group Company and/or holds the office of director of any Group Company.

"Employee Trust" means any trust established by the Board (with Shareholder Consent) to encourage or facilitate the holding of shares in the Company by bona fide Employees or by any section of such Employees, the trustees of which shall be such persons as the Board (including the Investor Directors) shall agree.

"E Preference Shares" means the redeemable E preference shares of £0.00001 in the capital of the Company.

"Equity Dividend" has the meaning set out in Article 3.1(b).

"Equity Shares" means the Ordinary Shares and A Ordinary Shares.

"Exit Notice" has the meaning set out in Article 11.2.

"Exit Option" has the meaning set out in Article 11.1.

"Family Trust" means a trust under which:

- (a) no immediate beneficial interest in the shares held by it or the income from such shares is for the time being or may in the future be vested in any person other than:
 - (i) the settlor or a Privileged Relation of such settlor; or
 - (ii) any charity or charities as default beneficiaries (meaning that such charity or charities have no immediate beneficial interest in the shares or the income from them when the trust is created but may become so interested if there are no other beneficiaries from time to time except another charity or charities); and
- (b) no power of control over the voting powers conferred by the shares held by it is for the time being exercisable by or subject to the consent of any person other than the trustee or trustees or the settlor or a Privileged Relation of such settlor.

"Financial Institution" means a bank, building society, industrial provident or friendly society, Fund, pension fund, insurance company or any other person who is an authorised person for the purposes of the Financial Services and Markets Act 2000 or any law with similar intent or effect in any other jurisdiction (or a subsidiary of any such person).

"F Preference Shares" means the redeemable F preference shares of £0.00001 in the capital of the Company.

"Fund" means any undertaking for collective investment, whether structured as a partnership, company, trust or any other type of arrangement or undertaking.

"Further Issue" has the meaning set out in Article 3.8(a).

"G Preference Shares" means the redeemable G preference shares of £0.00001 in the capital of the Company.

"Group" means the Company and its Subsidiaries for the time being and **"Group Company"** means any of them.

"hard copy form" and **"hard copy"** have the meanings set out in Section 1168, CA 2006.

"H Preference Shares" means the redeemable H preference shares of £0.00001 in the capital of the Company.

"Investment Agreement" means the investment agreement entered into on the same date as the date of adoption of these Articles between (1) the Managers (as defined therein) (2) the Company (3) the Investor and (4) the EBT Trustee (as defined therein)

as that agreement may be amended from time to time.

"Investment Fund" means a fund, partnership, company, investment trust, syndicate or other entity whose principal business is to make investments and whose business is managed by an Investment Manager.

"Investment Manager" means a person whose principal business is to make, manage or advise upon investments.

"Investor" has the meaning set out in the Investment Agreement (including any additional or replacement Investor who is joined as an "Investor" in a deed of adherence executed in accordance with the Investment Agreement).

"Investor Affiliate" means, in relation to an Investor or any Investor Affiliate of that Investor:

- (a) any of its Subsidiaries, parent undertakings, or any Subsidiaries of such parent undertakings from time to time;
- (b) any Investment Manager of that Investor or Investor Affiliate and/or any Investment Fund managed by any such Investment Manager from time to time;
- (c) any person, from time to time, in which the Investor and/or Investor Affiliate may have or is proposing to have a direct or indirect economic interest, including without limitation any portfolio company investee;
- (d) any person who controls or which is controlled, managed or advised or promoted by the Investor and/or Investor Affiliate; and/or
- (e) any trustee, manager, beneficiary, shareholder, partner, unitholder or other financier or participant in or of the Investor and/or Investor Affiliate.

"Investor Directors" means the directors of the Group Companies appointed by the Investor under Article 36.1 or Art. 36.2 or the Investment Agreement or their alternate.

"I Preference Shares" means the redeemable I preference shares of £0.00001 in the capital of the Company.

"J Preference Shares" means the redeemable J preference shares of £0.00001 in the capital of the Company.

"Leaver" means an Employee (other than an Investor Director) who ceases to be so for whatever reason (including death or a Subsidiary ceasing to be a member of the Group) and does not continue to be an Employee by reason of his status in relation to any Group Company.

"Leaver's Shares" means in relation to a Leaver, all shares in the capital of the Company held by him or his Privileged Relations or their Family Trusts, or any nominees of them including any shares issued or transferred to the Leaver after the date he ceases to be an Employee whether by virtue of the exercise of any right or option granted or arising by virtue of the holding of the Leaver's Shares or otherwise.

"Listing" means the becoming effective of a listing of any Group Company's securities on a Stock Exchange or the granting of permission for any Group Company's securities to be traded on a Stock Exchange and the listing shall be treated as occurring on the day on which trading in the securities began.

"Loan Agreement" means the credit agreement dated 8 December 2009 between, amongst others, the Company, Ashwell Homes (East Anglia) Limited, certain other subsidiaries of the Company and Bank of Scotland plc (in its various capacities) pursuant to which Bank of Scotland plc (as lender) has agreed to provide the Company and Ashwell Homes (East Anglia) Limited with a secured loan facilities of up to £37,976,200 as may be amended from time to time by agreement between its parties.

"Majority Sellers" has the meaning set out in Article 11.1.

"Majority Sellers' Shares" has the meaning set out in Article 11.1.

"Market Price" means the price which the Valuer states in writing to be in their opinion the market value of the shares concerned on the following assumptions and bases:

- (a) to have regard to the rights and restrictions attached to the shares in respect of income and capital;
- (b) to assume that the sale is on an arms' length basis between a willing seller and a willing purchaser;
- (c) to disregard whether or not the shares represent a minority interest;
- (d) to take no account of whether the shares do or do not carry control of the Company; and
- (e) if the Company is then carrying on business as a going concern, to assume that it will continue to do so in the same manner as immediately prior to the date of the Transfer Notice or deemed Transfer Notice giving rise to the valuation.

"Model Articles" means the model articles for private companies limited by shares set out in Schedule 1 to The Companies (Model Articles) Regulations 2008 (SI 2008/3229).

"Observer" has the meaning set out in Article 37.1.

"Offered Shares" has the meaning set out in Article 8.2.

"Ordinary Shares" means the ordinary shares of £1 each in the capital of the Company.

"Pre-emption Purchasers" has the meaning set out in Article 8.6 and **"Pre-emption Purchaser"** means any one of them.

"Preference Shares" means the A Preference Shares, the B Preference Shares, the C Preference Shares, the D Preference Shares, the E Preference Shares, the F Preference

Shares, the G Preference Shares, the H Preference Shares, the I Preference Shares and the J Preference Shares.

"Preference Dividend" has the meaning set out in Article 3.1(c).

"Pre-New Money Valuation" means the result of multiplying the total number of Equity Shares in issue by the Realisation Price.

"Privileged Relation" means in relation to a member, the spouse, civil partner or widow, widower or surviving civil partner of the member and the member's children and grandchildren (including step and adopted children and their issue and step and adopted children of the member's children).

"Realisation Price" means the value of each Ordinary Share in issue immediately prior to a Listing, determined by reference to the price per share at which Ordinary Shares in the Company are to be offered for sale, placed or otherwise marketed pursuant to such Listing.

"Relevant Securities" means all shares, rights to subscribe for shares or to receive them for no consideration and all securities convertible into shares, but excluding:

- (a) the grant of options to subscribe for Ordinary Shares under a Share Option Scheme and the grant of options to acquire Preference Shares, and the subsequent allotment or transfer of those shares;
- (b) the shares proposed to be issued under the Investment Agreement;
- (c) shares issued in order for the Company to comply with its obligations under the Articles; and
- (d) any shares to be allotted and issued to an Employee Trust; and
- (e) shares issued in consideration of an acquisition by the Company of any company or business, such acquisition having received Shareholder Consent.

"Restricted Shares" means shares restricted in accordance with Article 7.8.

"Roselead" means each of Roselead Holdings Limited, a company registered in England and Wales with company registration number 04077792, Roselead Limited, a company registered in England and Wales with company registration number 03762571 and Roselead (Wattisham) Limited, a company registered in England and Wales with company registration number 05846583.

"Sale" means the sale or other disposal (whether by one transaction or a series of related transactions) of 50% or more of the share capital of the Company (or where the purchaser(s) already hold shares in the capital of the Company, the sale or other disposal of such number of shares such that the purchaser(s) holds 50% or more of the share capital of the Company) or if there is a change in the Controller of a corporate member or a transfer of a Controlling Interest, other than pursuant to Article 6 or clause 10 of the Investment Agreement.

"Sale Price" has the meaning set out in Article 8.3.

"Share Option Scheme" means any share option scheme of the Company for the incentivisation and/or reward of current and/or prospective Employees of the Company and any Group Company approved by Shareholder Consent for the purposes of the Articles.

"Shareholder Consent" means the written consent of the holders of more than 50% of the A Ordinary Shares in issue at the time.

"Stock Exchange" means The London Stock Exchange plc (including the Alternative Investment Market operated by The London Stock Exchange plc), PLUS Markets plc (including the PLUS-listed market and PLUS-quoted market operated by PLUS Markets plc) or any other recognised investment exchange (as defined by Section 285, Financial Services and Markets Act 2000) and their respective share dealing markets.

"Subsidiary" means a subsidiary (as defined in Section 1159, CA 2006) or a subsidiary undertaking (as defined in Section 1163, CA 2006) and **"Subsidiaries"** shall be construed accordingly.

"Third Party Purchaser" has the meaning set out in Article 11.1.

"Total Transfer Condition" has the meaning set out in Article 8.2.

"Transfer Notice" has the meaning set out in Article 8.1.

"transmittee" means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law.

"Valuer" means the auditor of the Company or (if the auditor declines to act for such purpose) an independent accountant nominated by agreement between the Board (acting with Shareholder Consent) and the transferor(s) or, failing agreement within 14 days, nominated by the President for the time being of the Institute of Chartered Accountants in England and Wales.

"Wholly-owned Group" means a body corporate and any holding company of which it is a wholly-owned subsidiary and any other wholly-owned subsidiaries of that holding company (including any wholly-owned subsidiary of the body corporate) with all such terms construed in accordance with the CA 2006.

"working day" has the meaning set out in Section 1173, CA 2006.

1.3 In these Articles:

- (a) words in the singular include the plural and vice versa and words in one gender include any other gender;
- (b) a reference to:
 - (i) **"transfer of shares"** or any similar expression shall be deemed to include, in respect of a share in the capital of the Company;

- (A) any sale or other disposition of the legal or equitable interest in a share (including any voting right attached to a share);
 - (B) the creation of any mortgage, charge, pledge or other encumbrance over any legal or equitable interest in a share;
 - (C) any direction by a person entitled to an allotment or issue of shares that a share be allotted or issued to some other person; and
 - (D) any grant of an option to acquire, or agreement to enter into a grant of an option to acquire, any legal or equitable interest in a share;
 - (ii) **"person"** includes any individual, firm, corporation, body corporate, association, partnership, trust, unincorporated association, employee representative body, government or state or agency or department thereof, executors, administrators or successors in title (whether or not having a separate legal personality); and
 - (iii) a document or information being sent or supplied by or to a company (including the Company) shall be construed in accordance with the provisions of Section 1148(3), CA 2006 and any reference to **"sent"** or **"supplied"** (or other similar term) shall be construed in accordance with the provisions of Section 1148(2), CA 2006;
 - (c) the table of contents and headings are for convenience only and do not affect the interpretation of these Articles; and
 - (d) general words shall not be given a restrictive meaning:
 - (i) if they are introduced by the word "other" or "including" or similar words by reason of the fact that they are preceded by words indicating a particular class of act, matter or thing; or
 - (ii) by reason of the fact that they are followed by particular examples intended to be embraced by those general words.
 - (e) Unless the context otherwise requires or unless otherwise defined or stated in these Articles, words or expressions defined in the Model Articles shall have the same meaning in these Articles. Any other words and expressions contained in these Articles and/or in the Model Articles shall have the same meaning as in the CA 2006 as in force when these Articles become binding on the Company.
- 1.4 Save as provided to the contrary in these Articles, any reference in these Articles to the CA 2006 (or a provision of it) shall be deemed to include a reference to any statutory modification, re-enactment or re-statement of it from time to time in force.
2. **Share capital**
- 2.1 The issued share capital of the Company at the date of adoption of these Articles is

£1,176.47 divided into 550 Ordinary Shares, 450 A Ordinary Shares and 17,647,000 J Preference Shares.

- 2.2 Except as otherwise provided in these Articles, the Ordinary Shares and A Ordinary Shares shall rank *pari passu* in all respects, but shall constitute separate classes of shares.
- 2.3 Except as otherwise provided in these Articles, the A Preference Shares, B Preference Shares, C Preference Shares, D Preference Shares, E Preference Shares, F Preference Shares, G Preference Shares, H Preference Shares, I Preference Shares and J Preference Shares shall rank *pari passu* in all respects, but shall constitute separate classes of shares.
- 2.4 Whenever the Company has only one class of shares, unless otherwise authorised by these Articles, the directors shall not (save with Shareholder Consent) exercise any power of the Company pursuant to Section 550, CA 2006 to allot shares or to grant rights to subscribe for, or convert any security into, any shares in the Company.

Articles 3 and 22(1) of the Model Articles are modified accordingly.

- 2.5 Article 22(2) of the Model Articles is modified by the inclusion of the words: ", subject to Shareholder Consent," after the word "directors".

3. **Rights attaching to shares**

3.1 ***Income***

- (a) Save as permitted by Shareholder Consent, no dividend or other distribution (as defined in section 830, CA 2006) may be made, declared or paid by the Company until all of the Preference Shares have been redeemed.

(b) ***Equity Shares***

Without prejudice to Article 3.1(a) and subject to Article 3.1(c), any profits which the Company or Board may determine to distribute shall be distributed in the following order of priority:

- (i) first, to the holders of the A Ordinary Shares pro rata to the number of A Ordinary Shares held by each such holder until each such holder has, on or after the date of adoption of these Articles, received a total amount of £3,566,700 (the "**A Distribution Amount**") by way of distribution(s) pursuant to this Article 3.1(b)(i);
- (ii) second, to the holders of the Ordinary Shares pro rata to the number of Ordinary Shares held by each such holder (the amount distributed to the holders of Ordinary Shares only being, the "**Equity Dividend**").

(c) ***Preference Shares***

Without prejudice to Article 3.1(a), the holders of Preference Shares shall be entitled to receive a cash dividend (the "**Preference Dividend**") equal to 1% of

the aggregate value of the Equity Dividend to be shared amongst the holders of the Preference Shares pro rata to the number of Preference Shares so held.

(d) **Deferred Shares**

The holders of the Deferred Shares shall not be entitled to receive any dividend or other distribution in respect of their Deferred Shares.

3.2 Capital

- (a) Save as determined by unanimous consent of the Shareholders and subject to Article 3.4, on a return of assets on liquidation or capital reduction or otherwise (including upon the redemption of shares of any class or the purchase by the Company of its own shares), the assets of the Company available for distribution amongst its members after payment of its liabilities shall be applied in the following manner and order of priority
- (i) first, to the extent that the A Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b), in paying to the holders of the A Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the A Preference Shares and if there is a shortfall, the proceeds shall be distributed to the holders of the A Preference Shares in proportion to the amounts paid up on the A Preference Shares held by each of them respectively;
 - (ii) second, to the extent that the B Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b), in paying to the holders of the B Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the B Preference Shares and if there is a shortfall, the proceeds shall be distributed to the holders of the B Preference Shares in proportion to the amounts paid up on the B Preference Shares held by each of them respectively;
 - (iii) third, to the extent that the C Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b), in paying to the holders of the C Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the C Preference Shares and if there is a shortfall, the proceeds shall be distributed to the holders of the C Preference Shares in proportion to the amounts paid up on the C Preference Shares held by each of them respectively;
 - (iv) fourth, to the extent that the D Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b), in paying to the holders of the D Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the D Preference Shares and if there is a shortfall, the proceeds shall be distributed to the holders of the

D Preference Shares in proportion to the amounts paid up on the D Preference Shares held by each of them respectively:

- (v) fifth. to the extent that the E Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b). in paying to the holders of the E Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the E Preference Shares and if there is a shortfall. the proceeds shall be distributed to the holders of the E Preference Shares in proportion to the amounts paid up on the E Preference Shares held by each of them respectively:
- (vi) sixth. to the extent that the F Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b). in paying to the holders of the F Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the F Preference Shares and if there is a shortfall. the proceeds shall be distributed to the holders of the F Preference Shares in proportion to the amounts paid up on the F Preference Shares held by each of them respectively:
- (vii) seventh. to the extent that the G Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b). in paying to the holders of the G Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the G Preference Shares and if there is a shortfall. the proceeds shall be distributed to the holders of the G Preference Shares in proportion to the amounts paid up on the G Preference Shares held by each of them respectively:
- (viii) eighth. to the extent that the H Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b). in paying to the holders of the H Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the H Preference Shares and if there is a shortfall. the proceeds shall be distributed to the holders of the H Preference Shares in proportion to the amounts paid up on the H Preference Shares held by each of them respectively:
- (ix) ninth. to the extent that the I Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b). in paying to the holders of the I Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the I Preference Shares and if there is a shortfall. the proceeds shall be distributed to the holders of the I Preference Shares in proportion to the amounts paid up on the I Preference Shares held by each of them respectively:
- (x) tenth. to the extent that the J Preference Shares have not been redeemed pursuant to Articles 3.4(a) and 3.4(b). in paying to the holders of the J

Preference Shares £1 per share together with a sum equal to all unpaid arrears and accruals of the Preference Dividend calculated down to the date of the return of capital on the J Preference Shares and if there is a shortfall, the proceeds shall be distributed to the holders of the J Preference Shares in proportion to the amounts paid up on the J Preference Shares held by each of them respectively; and

- (xi) subject to (xii), eleventh, in paying the balance to the holders of the Ordinary Shares and the holders of the A Ordinary Shares in proportion to the number of shares held by them respectively; and
- (xii) twelfth, in paying £1 to the holder of each Deferred Share after each holder of the Equity Shares has been paid at least £100,000,000.000 per Equity Share held by such shareholder.

3.3 *Exit provisions*

- (a) Upon a Sale, the members who sell their shares in such Sale will be entitled to share in the proceeds of the Sale in the manner provided in Article 3.2.
- (b) Subject to article 3.3(f) below, upon a Disposal, the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) in the order of priority set out in Article 3.2 provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, the members shall take any action required by the Investor (including the declaration of dividends, provision of inter-company loans or the reduction of capital by any Group Company, or actions that may be necessary to put the Company into voluntary liquidation) so that Article 3.2 applies.
- (c) Immediately prior to a Listing the Company shall allot to each holder of A Ordinary Shares such number of fully paid Ordinary Shares such that the proportion which the Equity Shares held by that holder bears to the issued Equity Share capital following the completion of all such issues and the conversion of all A Ordinary Shares shall be equal to the proportion which the proceeds that the holder would have been entitled to receive on a Sale on that date would bear to the valuation of the Company at that date (assuming that the valuation of the Company was equal to the Pre-New Money Valuation).
- (d) The additional Ordinary Shares to be allotted under Article 3.3(c) shall be paid up by the automatic capitalisation of any amount standing to the credit of the share premium account or any other available reserve of the Company as determined by the directors. The capitalisation shall not require any action on the part of the members and the directors shall allot the Ordinary Shares arising on the capitalisation to the members entitled to them in accordance with Article 3.3(c).
- (e) If the Company is not permitted to carry out the capitalisation under the Companies Acts or other applicable law, the holders of the A Ordinary Shares shall be entitled to subscribe in each case for that number of additional Ordinary

Shares as would otherwise have been issued pursuant to Article 3.3(c).

- (f) For the avoidance of doubt, the holder of any Preference Shares shall only be entitled to receive the aggregate sum of £1 per Preference Share in the event of a return of assets on liquidation or capital reduction or otherwise (including upon the redemption of shares of any class or the purchase by the Company of its own shares). If the holder of any Preference Shares receives a payment pursuant to articles 3.3(a) or 3.3(b) in respect of any Preference Shares but such Preference Shares in respect of which the payment was received are not, at the time or immediately following such payment, redeemed by the Company then the Preference Shares to which such payment relates shall automatically convert into Deferred Shares immediately following any such payment pursuant to articles 3.3(a) or 3.3(b).
- (g) If an A Ordinary Shareholder has received the A Distribution Amount and the A Ordinary Shares in respect of such have not been subject to a capital reduction and cancellation within 30 days of the A Ordinary Shareholder's receipt of the A Distribution Amount, then the A Ordinary Shares shall automatically convert into Deferred Shares.

3.4 ***Redemption of Preference Shares***

- (a) Subject to 3.4(c) below, the Company may from time to time (but shall not be obliged to) redeem any class of the Preference Shares in whole or in part. In respect of any partial redemption, the Company may (but shall not be obliged to) redeem only the Preference Shares held by some, and not all, of the holders of that particular class of Preference Shares.
- (b) Subject to the provisions of the Companies Acts and 3.4(c) below, if the board so determines, all of the Preference Shares shall be redeemed immediately following a Disposal or Listing and, if the board so determines, a Sale. The holders of the Preference Shares may elect to have their Preference Shares redeemed by the Company by written notice to the Board immediately prior to or immediately after a Sale.
- (c) Subject to receipt of the relevant share certificates or an indemnity in respect of them in a form reasonably satisfactory to the Board, on the date fixed for any redemption pursuant to Articles 3.4(a) and 3.4(b) above the Preference Shares shall be redeemed in the manner and order (including as between classes of Share and/or, within a class of Share, as between holders of that class of Shares) determined by the unanimous consent of the Shareholders.
- (d) If any share certificate so delivered to the Company includes any Preference Shares not falling to be redeemed on the relevant redemption date a fresh certificate for the Preferences Shares not so redeemed shall immediately be issued to the member concerned.
- (e) If the Company is unable at any time to redeem in accordance with the Companies Acts the number of Preference Shares then due to be redeemed pursuant to this Article, the Company shall:

- (i) redeem on the date fixed for redemption such number of Preference Shares as it is then able to redeem in accordance with the Companies Acts and shall redeem the balance as soon as it is able to do so; and
- (ii) interest shall accrue from day to day on the redemption monies then due and payable in accordance with Article 3.4(a) at a rate of 2% per annum above the base lending rate of Lloyds Banking Group plc from time to time and shall become due (as a charge against the Company) and be paid at the same time as the amount to which it relates is paid.

3.5 *Repurchase of Deferred Shares*

Subject to the provisions of the Companies Act, the Company shall be entitled to repurchase the Deferred Shares for a sum of £1 in aggregate payable to each holder of such Deferred Shares (as the case may be) from time to time.

3.6 *Voting*

(a) *Preference Shares*

The holders of the Preference Shares shall be entitled to receive notice of any general meeting and a copy of every written resolution of the Company and to attend either in person (or, being a corporation, by duly authorised representative) or by proxy and speak at any general meeting of the Company but shall not (in that capacity) be entitled to vote (either personally, by authorised representative or by proxy).

(b) *Equity Shares*

The holders of the Equity Shares shall have the right to receive notice of and attend and vote and speak at any general meeting of the Company and shall be entitled to vote on any written resolution of the Company. Save, in each case, as provided otherwise in the CA 2006, each such holder present in person or by proxy or by representative shall be entitled on a show of hands to one vote and on a poll or written resolution to one vote for each Equity Share held by him.

- (c) Notwithstanding Article 3.6(b) above, the majority holder of the A Ordinary Shares shall be entitled to exercise only 23% (or such percentage as shall be notified by the majority holder of the A Ordinary Shares from time to time, provided voting rights shall not exceed those determined in accordance with Article 3.6(b) above) of the total votes able to be cast on any resolution proposed at any general meeting of the Company in respect of a Cotnam Matter.

(d) *Deferred Shares*

The holders of the Deferred Shares shall not have the right to receive notice of any general meeting of the Company nor the right to attend, speak or vote at any such general meeting.

(e) *Bank of Scotland plc voting*

Notwithstanding Article 3.6(b) above, for so long as Bank of Scotland plc holds shares in the Company, the aggregate number of votes attaching to all the shares held by Bank of Scotland plc shall be restricted so that the aggregate number of votes exercised by Bank of Scotland plc (whether for itself or as proxy for any Employee Trust) and any duly appointed Investor Director does not exceed 49.99 per cent of the total votes cast on any resolution proposed at any general meeting of the Company.

3.7 ***Redesignation***

Any Ordinary Shares transferred to a holder of A Ordinary Shares shall (without further authority than is contained in this Article) forthwith on their transfer be deemed to have been re-designated as A Ordinary Shares (on the basis of one A Ordinary Share for every one Ordinary Share) having all the rights, privileges and restrictions attaching to the A Ordinary Shares. Any A Ordinary Shares transferred to a holder of Ordinary Shares shall (without further authority than is contained in this Article) forthwith on their transfer be deemed to have been re-designated as Ordinary Shares (on the basis of one Ordinary Share for every one A Ordinary Share) having all the rights, privileges and restrictions attaching to the Ordinary Shares.

3.8 ***Further issues of shares***

- (a) Subject to Article 4.1 and unless Shareholder Consent to the contrary is given:
 - (i) any Relevant Securities to be granted or allotted by the Company ("**Further Issue**") shall first be offered to the holders of the Equity Shares (excluding Restricted Shares) in the same proportion as nearly as possible as the nominal amount of their existing holding of Equity Shares bears to the total nominal amount of the Equity Shares in issue (excluding Restricted Shares) and such offers shall be open for acceptance for not less than 21 days from the date of despatch;
 - (ii) each such offer shall be conditional upon the holder also subscribing for the same proportion of any debt instrument to be issued in connection with the issue of the Relevant Securities as nearly as possible as the nominal amount of Relevant Securities actually granted or allotted to the member bears to the total nominal amount of Relevant Securities actually granted or allotted under the relevant Further Issue; and
 - (iii) when applying for his allocation, it shall be open to each such holder to specify the number of Relevant Securities in excess of his proportionate entitlement for which he is willing to subscribe.
- (b) If the total number of Relevant Securities applied for pursuant to an offer made under Article 3.8(a) is equal to or less than the number of Relevant Securities available, the Relevant Securities shall be allocated in satisfaction of the applications received.
- (c) If the total number of Relevant Securities applied for pursuant to an offer made under Article 3.8(a) is more than the number of Relevant Securities available,

the Board shall allocate Relevant Securities in accordance with the following formula. This formula shall be applied repeatedly until there are no Relevant Securities remaining to be allocated. Each application of the formula is referred to below as an "iteration".

$$A = \frac{B}{C} \times D$$

A is the number of Relevant Securities to be allocated to the relevant member in the iteration.

B is the number of Equity Shares held by the relevant member.

C is the number of Equity Shares held by all the members to whom the iteration is being applied.

D is the number of Relevant Securities or, after the first iteration, the number of Relevant Securities remaining unallocated by previous iterations.

If in any iteration, a member would be allocated all or more than all of the Relevant Securities for which he applied (including allocations from previous iterations) then any excess will not be allocated to that member, who will cease to take part in any further iterations, and the excess Relevant Securities will be available for allocation in the next iteration.

- (d) The Board shall notify each member who applied for Relevant Securities of the number of Relevant Securities that they have been allocated and the persons to whom they have been allocated. The notification shall include the place and time (being not later than 14 days after the latest date by which applications had to be received) at which the allotment of the Relevant Securities shall be completed provided that where a debt instrument is also to be issued, each member must also subscribe and pay in full for his proportion of such debt instrument at the same time as he subscribes and pays for the Relevant Securities.
- (e) Any Relevant Securities and debt instrument not accepted or subscribed for by the members shall be at the disposal of the directors who may (within a period of 3 months from the end of the last offer period under Article 3.7(a)), subject to Shareholder Consent, allot, grant options over or otherwise dispose of the same to such persons at a price per share and on terms no less favourable than that/those at which the same were offered to the holders of Equity Shares, and otherwise on such terms as they think proper.

- 3.9 If a holder of Ordinary Shares is issued with any Relevant Securities pursuant to article 3.8 above, such Relevant Securities shall (without further authority than is contained in this Article) be Ordinary Shares having all the rights, privileges and restrictions attaching to the Ordinary Shares. If a holder of A Ordinary Shares is issued with any Relevant Securities pursuant to article 3.8 above, such Relevant Securities shall

(without further authority than is contained in this Article) be A Ordinary Shares having all the rights, privileges and restrictions attaching to the A Ordinary Shares.

- 3.10 Pursuant to Section 567, CA 2006, Section 561(1), CA 2006 and Section 562(1) to (5), CA 2006 will not apply to the Company.

3.11 ***Dispute***

In the event of disagreement as to whether any dividend, shares or Relevant Securities shall be due under the provisions of these Articles to the holders of any class of share capital in the Company, or as to the amount of such dividend or number of such shares or Relevant Securities, any such disagreement may with the consent of the majority holder of A Ordinary Shares be referred to the auditor of the Company or, if it should decline to act for this purpose, to an umpire (acting as expert and not as arbitrator) nominated by the parties concerned (or in the event of disagreement as to nomination by the President for the time being of the Institute of Chartered Accountants in England and Wales on application by any such party) whose decision shall be final and binding (save in the case of fraud or manifest error) and the costs of such umpire shall be borne equally by the parties to the dispute or disagreement or as the umpire shall otherwise determine.

4. **Variation of class rights**

- 4.1 Whenever the share capital of the Company is divided into different classes of shares, the rights attached to any class may, whether or not the Company is being wound up, be varied, modified, abrogated or cancelled only with the consent in writing of the holders of 90% of the issued shares of that class.

- 4.2 Without prejudice to the generality of this Article 4, the special rights attached to the Preference Shares and the A Ordinary Shares shall be deemed to be varied by:

- (a) the creation, allotment or issue of any shares or securities by the Company, whether ranking in some or all respects *pari passu* with or in priority to the Preference Shares and the A Ordinary Shares or the grant of any option or other right to require the allotment or issue of them;
- (b) the modification, variation, alteration or abrogation of the rights attached to any of the classes of share capital of the Company;
- (c) the alteration, increase, reduction, consolidation or sub-division or other re-organisation of the Company's share capital or any part of it;
- (d) the passing of any resolution amending the Company's Articles;
- (e) the purchase, redemption or any distribution of capital profits or reserves of the Company in respect of any shares otherwise than in accordance with the provisions of the Articles; and
- (f) the application by way of capitalisation of any sum in or towards paying any debenture or debenture stock (whether secured or unsecured) of the Company.

- 4.3 This Article 4 may only be amended with the consent in writing of the holders of 90% of the issued share capital of the Company.

5. **Share certificates**

- 5.1 The Company must issue each shareholder with one or more certificates in respect of the shares which that shareholder holds and, save as provided otherwise in the Articles, such certificates must be issued free of charge.

Article 24(1) of the Model Articles is modified accordingly.

- 5.2 Article 24(2)(c) of the Model Articles is modified by:

- (a) the deletion of the words: "that the shares are fully paid"; and
- (b) the insertion instead, of the words: "the amount paid up on the shares".

6. **Permitted transfers**

6.1 ***Transfers to Privileged Relations, Family Trusts and nominees***

- (a) Any member may at any time transfer up to 50% (or, with Shareholder Consent such larger percentage as stated in that consent) of the shares in the capital of the Company held by him at the date of adoption of these Articles to a Privileged Relation or the trustees of his Family Trust.
- (b) The trustees of a Family Trust may transfer shares held by them in their capacity as trustees:
 - (i) on a change of trustees, to the new trustees of that Family Trust;
 - (ii) to a person (other than a charity) who has an immediate beneficial interest under the Family Trust; or
 - (iii) to another Family Trust which has the same member as settlor.
- (c) Shares may be transferred by a member to a person to hold such shares as his bare nominee and the nominee may transfer such shares without restriction to the original member or to another bare nominee of such original member but any other transfers by the nominee shall be subject to the same restrictions as though they were transfers by the original member himself.

6.2 ***Transfers by corporate shareholders***

A corporate member may at any time transfer shares to another member of its Wholly-owned Group.

6.3 ***Transfers by a Financial Institution***

Shares held by or on behalf of a Financial Institution (other than as trustee of a Family Trust) may be transferred to another Financial Institution.

6.4 *Transfers with consent*

Subject to the provisions of article 10, a transfer of shares may be made to any person with Shareholder Consent.

6.5 *Transfers to and from an Employee Trust*

Any member may at any time transfer shares to the trustees of an Employee Trust and the trustees of an Employee Trust may transfer any shares:

- (a) upon change of trustees, to the new or remaining trustee or trustees for the time being of an Employee Trust; and
- (b) with Shareholder Consent (such consent not to be unreasonably withheld), to any beneficiaries of an Employee Trust under the terms of an Employee Trust.

7. *Mandatory transfers*

7.1 *Transfer if trust ceases to be a Family Trust*

If any trust whose trustees hold shares in the capital of the Company ceases to be a Family Trust or there cease to be any beneficiaries of the Family Trust other than a charity or charities, then the trustees shall without delay notify the Company that such event has occurred and they shall be deemed to have served the Company with a Transfer Notice in respect of all such shares on the date on which the trust ceased to be a Family Trust or the date there ceased to be any beneficiaries other than a charity or charities (as appropriate) and such shares may not otherwise be transferred.

7.2 *Transfer if shares cease to be held by a Privileged Relation*

If a Privileged Relation holding shares transferred to him under Article 6.1 ceases to be a Privileged Relation of the original member who held them, the Privileged Relation then holding the shares shall without delay notify the Company that this event has occurred and shall be deemed to have served the Company with a Transfer Notice in respect of all such shares as at the date on which he ceased to be a Privileged Relation and such shares may not otherwise be transferred.

7.3 *Transfer on change of control of corporate member*

- (a) If a corporate member holding shares transferred to it under Article 6.2 ceases to be a member of the same Wholly-owned Group as the original corporate member who held them, the corporate member then holding those shares shall without delay notify the Company that this event has occurred and shall be deemed to have served the Company with a Transfer Notice in respect of all such shares as at the date on which it ceased to be a member of the relevant Wholly-owned Group and such shares may not otherwise be transferred.
- (b) If there is a change in the Controller (or, if more than one, any of them) of a corporate member other than an Investor, or any holding company of a corporate member other than an Investor, then that member shall notify the Company that such event has occurred and shall be deemed to have served the

Company with a Transfer Notice in respect of all shares then held by it as at the date on which the change in Controller occurred and such shares may not otherwise be transferred.

7.4 *Transfer on death or bankruptcy of member*

A person entitled to a share or shares in consequence of the death of a member (save where such member becomes a Leaver) or the bankruptcy of a member shall be bound at any time, if and when required in writing by the directors so to do, to give a Transfer Notice in respect of such share(s), and if such person fails to give a Transfer Notice, he shall be deemed to have served the Company with a Transfer Notice in respect of all such share(s) on the date of death or bankruptcy (as appropriate).

7.5 *Transfer by Leaver*

Unless Shareholder Consent to the contrary is given, if an Employee becomes a Leaver:

- (a) the Leaver shall, in respect of all of his shares (including any shares issued or transferred to the Leaver after the Cessation Date whether by virtue of the exercise of any right or option granted or arising by virtue of the holding of the Leaver's Shares or otherwise), and each person holding any Leaver's Shares shall, in respect of those Leaver's Shares be deemed to have served a Transfer Notice on the Cessation Date (or, where appropriate, the date of issue or transfer of such shares, if later);
- (b) any existing Transfer Notice relating to the Leaver's Shares or any of them in force at the Cessation Date shall immediately be cancelled (unless the transferee(s) are bound to pay for such shares and the transferor(s) are bound to transfer them in accordance with Article 8.7) and no further Transfer Notice shall be issued or be deemed to be issued in respect of the Leaver's Shares except pursuant to this Article 7.5; and
- (c) no Leaver's Shares shall be transferred pursuant to Article 6 until the Leaver can no longer be bound to transfer them under this Article 7.5 or Article 8.

7.6 *Price of Leaver's Shares*

The price for the Leaver's Shares shall be the price agreed by the Leaver and the Board (with Shareholder Consent) save that if agreement is not reached within 14 days of the Cessation Date the Leaver or the Board may refer determination of the price to a Valuer in accordance with the following provisions:

- (a) if the Leaver ceases to be an Employee as a result of his death, long term illness or permanent disablement; his retirement at normal retirement age; wrongful dismissal or redundancy or for any reason with Shareholder Consent the price payable for the Leaver's Shares shall be Market Price; and
- (b) if the Leaver ceases to be an Employee for any other reason, the price payable for the Leaver's Shares shall be the aggregate sum of £1.

7.7 *Deemed Transfer Notice*

Save where these Articles expressly provide otherwise, if in any case under the provisions of these Articles:

- (a) the directors require a Transfer Notice to be given in respect of any shares; or
- (b) a person has become bound to give a Transfer Notice in respect of any shares.

and such a Transfer Notice is not duly given within a period of 14 days of demand being made or within the period allowed thereafter respectively a Transfer Notice shall be deemed to have been given at the expiration of the said period.

7.8 ***Disenfranchisement of Shares***

- (a) Unless Shareholder Consent to the contrary is given, any Leaver's Shares on the Cessation Date (and any shares issued to a Leaver after such date by virtue of the exercise of any right or option granted or arising by virtue of his or its holding of the Leaver's Shares or otherwise) will cease to confer the right to be entitled to receive notice of, attend and speak at any general meeting of the Company, or any meeting of the holders of any class of shares, with effect from the Cessation Date (or, where appropriate, the date of issue of such shares, if later). Such rights will be restored immediately upon a sale of the entire issued share capital of the Company, a Listing or the Company registering a valid transfer of such shares pursuant to these Articles.
- (b) After 1 January 2010 the votes attaching to any Leaver's Shares on the Cessation Date (and any shares issued to a Leaver after such date by virtue of the exercise of any right or option granted or arising by virtue of his or its holding of the Leaver's Shares or otherwise) shall be deemed to be cast at any general meeting of the Company or any meeting of the holders of any class of shares or for the purposes of a written resolution of any shareholders or any class of shareholders as the majority of the Board shall direct.

7.9 ***Deferred Shares***

The Deferred Shares shall not be transferable.

8. **Pre-emption procedure**

- 8.1 Except as permitted in these Articles, any member who desires to transfer (or enter into an agreement to transfer) any interest in his shares must first offer them to the other members of the same class in accordance with this Article 8. The offer may be in respect of all or part only of the shares held by the proposing transferor and shall be made by the proposing transferor by notice in writing to the Company (a "**Transfer Notice**").
- 8.2 The Transfer Notice shall specify the number and class of shares offered (the "**Offered Shares**") and the name and address of the proposed transferee(s) (if any). Save where it is required or deemed to be given under Article 7, the Transfer Notice may contain a provision that, unless all the Offered Shares are sold under this Article, none shall be sold ("**Total Transfer Condition**"). The Transfer Notice shall constitute the directors as the agent of the proposing transferor for the sale of the Offered Shares at the Sale

Price. Upon receipt, the Company shall send the Investor a copy of the Transfer Notice (or if appropriate, notify the Investor that a Transfer Notice is deemed to have been given). Save for as set out in Article 9.3, a Transfer Notice may not be varied or revoked other than with Shareholder Consent.

8.3 The Sale Price shall be:

- (a) in the case of a deemed Transfer Notice in respect of Leaver's Shares, the price determined in accordance with Article 7.6.
- (b) in the case of a deemed Transfer Notice (other than in respect of Leaver's Shares), the Market Price as at the date of the deemed Transfer Notice as agreed between the transferor and the Board (with Shareholder Consent) save that if agreement is not reached within 14 days of the day on which the Transfer Notice is deemed to be given, either the transferor or the Board may refer the matter to a Valuer; and
- (c) in all other cases, the price specified in the Transfer Notice by the proposing transferor or, if none is specified, the Market Price as at the date of the Transfer Notice as agreed between the transferor and the Board (with Shareholder Consent) save that if agreement is not reached within 14 days of the day on which the Transfer Notice is given, either the transferor or the Board may refer the matter to a Valuer.

8.4 As soon as practicable after determination of the Sale Price, any Offered Shares to the extent they are Leaver's Shares will be offered to the Company, which may:

- (a) direct that all or some of such shares be transferred to one or more Board Invitees; and/or
- (b) accept the offer in respect of some or all of the shares itself provided the purchase is permitted by the Companies Acts and prior Shareholder Consent is obtained.

Any Offered Shares declined by the Company or not accepted by a Board Invitee within 21 days of the offer to it being made will immediately be offered to the members as set out below.

8.5 As soon as practicable after the determination of the Sale Price (and provided the Transfer Notice has not been withdrawn in accordance with Article 9.3), or if Article 8.4 applies, as soon as practicable after the shares are available to be offered to the members, the directors shall give notice to all the members (other than the proposing transferor) of the number and description of the Offered Shares (excluding any which have been taken up by the Company or a Board Invitee under Article 8.4), the Sale Price and whether or not the Offered Shares are subject to a Total Transfer Condition. The notice shall invite each of the members to state in writing to the Company within 21 days of such notice being given whether he is willing to purchase any of the remaining Offered Shares, and if so the maximum number. The directors shall at the same time give a copy of the notice to the proposing transferor.

- 8.6 On the expiration of the 21 day period the directors shall allocate the remaining Offered Shares to or amongst the members who have accepted the invitation ("**Pre-emption Purchasers**") and such allocation shall be made so far as practicable as follows:
- (a) if the Offered Shares are A Ordinary Shares they shall be allocated in the following order amongst the following persons to the extent they are Pre-emption Purchasers:
 - (i) firstly to the holders of A Ordinary Shares;
 - (ii) secondly, to the extent the Offered Shares have not already been allocated to the holders of A Ordinary Shares, to the holders of Ordinary Shares;
 - (b) if the Offered Shares are Ordinary Shares they shall be allocated in the following order amongst the following persons to the extent they are Pre-emption Purchasers:
 - (i) first to the holders of Ordinary Shares;
 - (ii) secondly, to the extent the Offered Shares have not already been allocated to the holders of Ordinary Shares, to the holders of A Ordinary Shares;
 - (c) each allocation between the holders of any class shall in the case of competition be made pro rata to the nominal amount of shares of that class held by them (excluding Restricted Shares, so that if all the shares held by a Pre-emption Purchaser are Restricted Shares, that Pre-emption Purchaser shall not be entitled to an allocation) but shall not exceed the maximum which such holders have expressed a willingness to purchase; and
 - (d) if the Transfer Notice contains a valid Total Transfer Condition, no allocation will be made unless all the Offered Shares are allocated.
- 8.7 On the allocation being made, the directors shall give details of the allocation in writing to the proposing transferor and each Pre-emption Purchaser and, on the seventh day after such details are given, the Pre-emption Purchasers to whom the allocation has been made shall be bound to pay the Sale Price for, and to accept a transfer of, the Offered Shares allocated to them respectively and the proposing transferor shall be bound, on payment of the Sale Price, to transfer the Offered Shares to the respective Pre-emption Purchasers to whom the allocation has been made.
- 8.8 If the proposing transferor after becoming bound to transfer any or all of the Offered Shares fails to do so, the Company may receive the Sale Price and the directors may appoint a person to execute instruments of transfer of the Offered Shares in favour of the Pre-emption Purchasers to whom the allocation has been made and shall cause the names of those Pre-emption Purchasers to be entered in the register of members of the Company as the holders of the Offered Shares and shall hold the Sale Price on trust for the proposing transferor. The receipt of the Company shall be a good discharge to those Pre-emption Purchasers and, after their names have been entered in the register

of members of the Company under this provision, the validity of the transactions shall not be questioned by any person.

8.9 If, following the expiry of the 21 day period referred to in Article 8.5, any of the Offered Shares have not been allocated under that Article, the proposed transferor may at any time within a period of 90 days after the expiry of the 21 day period transfer the Offered Shares not allocated to any person and at any price (being not less than the Sale Price) provided that:

- (a) the transferee is a person (or nominee for a person) approved by Shareholder Consent who the Investor Directors determine in their absolute discretion is not a competitor with, or associated with a competitor with, the business of any Group Company;
- (b) if the Transfer Notice contained a Total Transfer Condition, he shall not be entitled to transfer any of the Offered Shares unless in aggregate all the Offered Shares are so transferred;
- (c) the directors may require to be satisfied that those shares are being transferred under a bona fide sale for the consideration stated in the transfer without any deduction, rebate or allowance to the proposed purchaser and, if not so satisfied, may refuse to register the instrument of transfer (without prejudice, however, to the directors' absolute discretion to refuse to approve or register any transfer of shares in the circumstances described in Article 12); and
- (d) the transferor has not failed or refused to provide promptly information available to him and reasonably requested by the directors for the purpose of enabling them to form the opinions mentioned above.

9. **Valuation**

9.1 Any Valuer appointed under these Articles shall be considered to be acting as an expert and not as an arbitrator and its decision shall be final and binding on the parties (in the absence of fraud or manifest error).

9.2 The Board will give the Valuer 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.

9.3 The Valuer shall be requested to reach its determination within 21 days of its appointment and to notify the Board of its determination. The Board shall deliver a copy of the determination to the relevant transferor(s) (or their agent) as soon as reasonably practicable after receipt. Save where the valuation relates to a Transfer Notice which is required or deemed to be given under Article 7, the transferor may revoke the Transfer Notice by written notice to the Company within 7 days of the service on him (or his agent) of the Valuer's determination.

9.4 The fees, expenses and any other charges of the Valuer in respect of a valuation shall be borne by the relevant transferor.

10. **Tag along and Co-Sale**

Tag along

- 10.1 Except as permitted by Article 6 or required by Article 7, no sale or transfer of any interest in any shares in the capital of the Company may be made or validly registered if, as a result of such sale or transfer and registration, a Controlling Interest in the Company would be obtained or increased by a person or persons acting in concert unless such persons are bona fide arms' length purchasers and have made an Approved Offer.
- 10.2 Any transfer of shares pursuant to an Approved Offer shall not be subject to the restrictions on transfer contained in these Articles.
- 10.3 For the avoidance of doubt, the proceeds of any sale pursuant to an Approved Offer shall be distributed to the selling shareholders in accordance with Article 3.2.

Co-Sale

- 10.4 Except as permitted by Article 6 or required by Article 7, each shareholder to whom this Article 10.4 applies and who proposes to sell shares in the capital of the Company (a "**Selling Shareholder**") shall not sell or otherwise dispose of any such shares (or any interest in them), unless the following procedures of this Article have been observed.
 - (a) The Selling Shareholder shall give to all other shareholders not less than 10 days' notice in advance of the proposed sale (a "**Co-sale Notice**"). The Co-sale Notice shall specify:
 - (i) the identity of the proposed purchaser (the "**Buyer**");
 - (ii) the price per share which the Buyer is proposing to pay;
 - (iii) the manner in which the consideration is to be paid;
 - (iv) the number and class of shares in the capital of the Company which the Selling Shareholder proposes to sell; and
 - (v) the total number of shares in the capital of the Company held by the Selling Shareholder, his/her Privileged Relations and Family Trusts and any Shareholder in relation to whom the Selling Shareholder is a Privileged Relation or Family Trust.
 - (b) Each shareholder shall be entitled, within 10 days after receipt of the Co-sale Notice, to notify the Selling Shareholder that they wish to sell a certain number of shares held by them in the same class as that specified in the Co-sale Notice at the proposed sale price, by sending a counter-notice which shall specify the number and class of shares in the capital of the Company which such shareholder wishes to sell. The maximum number of shares in each class which a holder of Shares can sell of that class under this procedure shall be calculated as follows:

$$\frac{X}{Y} \times Z$$

where

X is the number of shares of the relevant class held by the shareholder,

Y is the total number of shares of the relevant class; and

Z is the number of shares belonging to the relevant class that the Selling Shareholder proposes to sell.

Any shareholder who does not send a counter-notice within such 10 day period shall be deemed to have specified that they wish to sell no shares.

- (c) Following the expiry of 10 days from the date the shareholders receive the Co-sale Notice, the Selling Shareholder shall be entitled to sell to the Buyer on the terms notified to the shareholders a number of shares not exceeding the number specified in the Co-sale Notice less any shares which the holders of shares have indicated they wish to sell, provided that at the same time the Buyer (or another person) purchases from the shareholders the number of shares they have respectively indicated they wish to sell on terms no less favourable than those obtained by the Selling Shareholders from the Buyer. Sales made in accordance with this sub paragraph (c) shall be free of all rights of pre-emption under these Articles.
 - (d) No sale by a Selling Shareholder shall be made pursuant to any Co-sale Notice more than three months after service of that Co-sale Notice.
- 10.5 For the avoidance of doubt, the proceeds of any sale pursuant to article 10.4 shall be distributed to the Selling Shareholders in accordance with Article 3.2.

11. Drag along

- 11.1 If the holders of 50% or more of the A Ordinary Shares in issue for the time being (the "**Majority Sellers**") wish to transfer all their interest in any Shares (the "**Majority Sellers' Shares**") to a bona fide purchaser or purchasers acting in concert (the "**Third Party Purchaser**") who has made an Approved Offer, the Majority Sellers shall have the option (the "**Exit Option**") to require:

- (a) all the other holders of Equity Shares; and
- (b) any holders of any options or other rights to acquire or convert an interest into Equity Shares (which is fully and unconditionally exercisable) to exercise them.

(together the "**Called Shareholders**") to sell and transfer all their Equity Shares, including those allotted pursuant to such exercise or conversion (the "**Called Shares**") to the Third Party Purchaser or as the Third Party Purchaser shall direct in accordance with the provisions of Articles 11.2 to 11.8 below.

- 11.2 The Majority Sellers may exercise the Exit Option by giving a written notice to that effect (an "**Exit Notice**") at any time before the transfer of the Majority Sellers' Shares to the Third Party Purchaser. An Exit Notice shall specify that the Called Shareholders are required to transfer all their Called Shares pursuant to 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.
- 11.3 Exit Notices shall be irrevocable but shall lapse if for any reason there is not a sale of the Majority Sellers' Shares by the Majority Sellers to the Third Party Purchaser within 21 days after the date of service of the Exit Notice. The Majority Sellers shall be entitled to serve further Exit Notices following the lapse of any particular Exit Notice.
- 11.4 The Called Shares shall be acquired on the same terms and conditions (including time of payment and form of consideration) for which the Majority Sellers shall have agreed to sell provided that the Investor and their permitted transferees under Article 6:
- (a) will receive cash or marketable securities as consideration for the transfer of their Equity Shares; and
 - (b) will not be required to provide the Third Party Purchaser with any representations, warranties or indemnities (save as to title and capacity) or give any restrictive covenants or undertakings.
- 11.5 Completion of the sale of the Called Shares shall take place on the same date as the date proposed for completion of the sale of the Majority Sellers' Shares.
- 11.6 The restrictions in Article 7 and 8 shall not arise on any transfer of shares to a Third Party Purchaser (or as they may direct) pursuant to a sale in respect of which an Exit Notice has been duly served in accordance with Article 11.2.
- 11.7 If any Called Shareholder fails to complete the sale of his Called Shares in accordance with this Article 11, he shall be deemed to have irrevocably appointed any person nominated for the purpose by the Majority Sellers to be his agent and attorney to execute all necessary transfer(s), power(s) of attorney relating to the rights attached to his Called Shares and indemnities for missing share certificate(s) on his behalf and, against receipt by the Company of the purchase monies or any other consideration payable for the Called Shares (held on trust for the relevant Called Shareholder), to deliver such transfer(s), power(s) and indemnities to the Third Party Purchaser (or as they may direct). The directors shall (subject only to stamping of the transfers, if required) immediately register the Third Party Purchaser (or as they may direct) as the holder of the Called Shares. After the Third Party Purchaser (or their nominee) has been registered as the holder, the validity of such proceedings shall not be questioned by any person. It shall be no impediment to registration of shares under this sub-article that no share certificate has been produced.
- 11.8 Upon any person, following the issue of an Exit Notice which has not lapsed, exercising a pre-existing option to acquire shares, whether or not such person is registered as a member of the Company, an Exit Notice shall be deemed to have been served upon such person on the same terms as the previous Exit Notice who shall

thereupon be bound to sell and transfer all such shares acquired by him to the Third Party Purchaser or as the Third Party Purchaser may direct and the provisions of this Article 11 shall apply mutatis mutandis to such person save that completion of the sale of such shares shall take place immediately upon the Exit Notice being deemed served on such person.

- 11.9 For the avoidance of doubt, the proceeds of any sale pursuant to this Article 11 shall be distributed in accordance with Article 3.2.

12. Registration

- 12.1 The directors shall refuse to register:

- (a) a purported transfer of any share not made under or permitted by Articles 6 to 11;
- (b) a purported transfer of any share on a Sale where the proceeds of such Sale are not distributed in accordance with Article 3.2; and/or
- (c) an allottee or transferee of shares or a person entitled to shares by transmission (unless he is already a party to the Investment Agreement, the transfer is pursuant to an Approved Offer or Shareholder Consent is given) until he has executed a Deed of Adherence under which he undertakes to adhere to and be bound by the provisions of the Investment Agreement as if he were an original party to it and an original copy of this Deed of Adherence has been delivered to the Company.

- 12.2 The directors may in their absolute discretion refuse to register a transfer of any share, whether or not it is a fully paid share and whether or not the Company has a lien on such share (save that (in the absence of fraud) the directors shall have no such discretion in respect of and shall register a transfer of shares made under or permitted by Articles 6 to 11).

Article 26(5) of the Model Articles is modified accordingly.

- 12.3 For the purposes of ensuring that a transfer of shares is duly authorised or that no circumstances have arisen whereby a Transfer Notice is required to be given the directors may and shall at the written request of the Investor and at the Company's expense request any member or past member or the personal representative or trustee in bankruptcy, administrative receiver or liquidator or administrator of any member or any person named as transferee in any instrument of transfer lodged for registration to furnish to the Company such information and evidence as the directors may reasonably think fit regarding any matter which they may deem relevant to such purpose.

- 12.4 Failing such information or evidence being furnished to the reasonable satisfaction of the directors within 14 days after such request or if such information or evidence discloses that the transfer was made in breach of these Articles (including that a Transfer Notice ought to have been given in respect of any shares):

- (a) the directors shall be entitled to refuse to register the transfer in question:

- (b) the relevant shares shall cease to confer upon the holder of them (or any proxy) any rights:
 - (i) to vote on a show of hands or poll at a general meeting of the Company or at any meeting of the class of shares in question or on any written resolution of the Company or the class of shares in question (provided that such rights shall not cease if as a result of such cessation the Company shall become a Subsidiary of the Investors); or
 - (ii) to receive dividends or other distributions otherwise attaching to the shares or to receive any further shares issued in respect of those shares; and
- (c) the directors may by notice in writing require that a Transfer Notice be given forthwith in respect of all the shares concerned.

12.5 Any transfer of a share by way of sale which is required to be made under these Articles will be deemed to include a warranty that the transferor sells with full title guarantee.

12.6 No share shall be issued or transferred to any undischarged bankrupt or a person who lacks mental capacity.

13. Transmission of Shares

13.1 The directors may at any time give notice requiring a transmittee to elect either to be registered himself in respect of the share or to transfer the share to a person nominated by him and if such notice is not complied with within 60 days of such notice, the directors may (subject to Shareholder Consent), thereafter, withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.

14. Quorum for general meetings

14.1 No business, other than the appointment of the chairman of the meeting, is to be transacted at a general meeting unless the persons attending it constitute a quorum when the meeting proceeds to business (and nothing in these Articles shall prevent any other business being transacted at such general meeting if the persons attending it do not constitute a quorum from time to time thereafter throughout the meeting).

Article 38 of the Model Articles is modified accordingly.

15. General meetings

15.1 Whenever the Company has only one member, the member present (being an individual) in person or by proxy, or (being a corporation) by a duly authorised representative or by proxy shall be a quorum. Whenever the Company has two or more members, two persons entitled to vote upon the business to be transacted each being a member (being an individual) present in person or by proxy, or (being a corporation) present by a duly authorised representative or by proxy (at least one of whom must be a holder of A Ordinary Shares or a proxy for or a duly authorised representative of such

a holder) shall be a quorum.

- 15.2 If within half an hour from the time appointed for a general meeting convened upon the requisition of members, a quorum is not present, the meeting shall be dissolved. In any other case, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the chairman (or, in default, the Board) may determine. If a quorum is not present at any such adjourned meeting within half an hour from the time appointed for that meeting (or if, during the meeting, a quorum ceases to be present), the meeting shall be dissolved.

Article 41(1) of the Model Articles shall be modified accordingly.

16. General meeting on members' requisition

- 16.1 In addition to any relevant provisions of the CA 2006, the directors shall forthwith proceed to convene a general meeting of the Company on the requisition of holders of not less than 5% by nominal value of the A Ordinary Shares in issue at the date of deposit of the requisition, such meeting to be convened for such date as is specified in the requisition or as soon thereafter as the CA 2006 permits.
- 16.2 The requisition must state the general nature of the business to be dealt with at the meeting (and may include the text of a resolution that may properly be moved (as such is determined pursuant to the provisions of the CA 2006) and is intended to be moved at the meeting), and must be authenticated (in accordance with the provisions of the CA 2006) by the requisitionists and deposited at the registered office of the Company (or such other address (including electronic address) as may be specified for the purpose) in hard copy form or electronic form, and may consist of several documents in like form each signed by one or more requisitionists.
- 16.3 If the directors do not within 7 days from the date of the deposit of the requisition proceed to convene a meeting in accordance with this Article, the requisitionists, or any of them representing more than one half of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of 3 months from the date on which the directors became subject to the requirement to call a meeting.
- 16.4 A meeting convened under this Article by requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors and if the requests received by the Company identify a resolution intended to be moved at the meeting, the notice of the meeting must include notice of the resolution.
- 16.5 Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors to convene a meeting in accordance with this Article shall be repaid to the requisitionists by the Company, and any sum so repaid shall be retained by the Company out of any sums due or to become due from the Company by way of fees or other remuneration in respect of their services to such of the directors as were in default.

17. Voting: general

- 17.1 No shareholder shall, unless the directors otherwise decide, be entitled to vote (either in person or by proxy) at a general meeting, at any adjournment of it or on any poll called at or in relation to it in respect of any share held by him or to exercise any right as a shareholder unless all calls or other sums presently payable by him in respect of that share in the Company have been paid to the Company.

18. Errors and disputes

- 18.1 Article 43(2) of the Model Articles is modified by the addition, at the end of that article, of the words:

"and conclusive".

19. Proxies

- 19.1 The appointment of a proxy shall:

- (a) be made in writing under the hand of the appointor or of his attorney duly authorised in writing (or if the appointor is a corporation under its common seal or under the hand of some officer or attorney duly authorised on its behalf) and shall be in any common form or in such other form as the Board may approve;
- (b) be deemed (subject to any contrary direction contained in the same) to confer authority to demand or join in demanding a poll and to vote (whether on a show of hands or a poll) on any resolution or amendment of a resolution put to the meeting for which it is given, as the proxy thinks fit and to confer the right to speak at the meeting to which it relates (including any adjournment of it);
- (c) be valid as well for any adjournment of the meeting as for the meeting to which it relates; and
- (d) where it is stated to apply to more than one meeting, be valid for all such meetings as well as for any adjournment of any such meetings.

- 19.2 The appointment of a proxy and the power of attorney or other authority (if any) under which it is signed (or a copy of such authority certified notarially or in some other way approved by the Board) shall be sent or supplied in hard copy form, or (subject to any conditions and limitations which the Board may specify) in electronic form:

- (a) to the registered office of the Company; or
- (b) to such other address (including electronic address) as is specified in the notice convening the meeting or in any instrument of proxy or any invitation to appoint a proxy sent or supplied by the Company in relation to the meeting; or
- (c) as the Board shall otherwise direct.

to be received before the time for the holding of the meeting or adjourned meeting to which it relates or, in the case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the poll.

Any instrument of proxy not so sent or supplied or received shall be invalid unless the Board at any time prior to the meeting or the chairman of the meeting at the meeting, in their or his absolute discretion, accept as valid an instrument of proxy where there has not been compliance with the provisions of this Article and such proxy shall thereupon be valid notwithstanding such default.

- 19.3 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- 19.4 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

Article 46 of the Model Articles is modified accordingly.

20. Revocation of proxy notices

20.1 The validity of:

- (a) a vote given or poll demanded in accordance with the terms of an appointment of a proxy; or
- (b) anything done by a proxy acting as duly appointed chairman of a meeting; or
- (c) any decision determining whether a proxy counts in a quorum at a meeting.

shall not be affected notwithstanding the death or mental disorder of the appointor or the revocation of the appointment of the proxy (or of the authority under which the appointment of the proxy was executed) or the transfer of the share in respect of which the appointment of the proxy is given, unless notice in writing of such death, mental disorder, revocation or transfer shall have been:

- (d) sent or supplied to the Company or any other person as the Company may require in the notice of the meeting, any instrument of proxy sent out by the Company in relation to the meeting or in any invitation to appoint a proxy issued by the Company in relation to the meeting, in any manner permitted for the sending or supplying of appointments of proxy pursuant to these Articles; and
- (e) received at the registered office of the Company (or such other address (including electronic address) as has been designated for the sending or supplying of appointments of proxy), before the time for the holding of the meeting or adjourned meeting to which it relates or, in the case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the poll.

21. Votes of proxies

- 21.1 The Company shall be under no obligation to ensure or otherwise verify that any vote(s) cast by a proxy are done so in accordance with any such instructions given by the member by whom such proxy is appointed. In the event that a vote cast by such proxy is not done so in accordance with the instructions of the member by whom such proxy is appointed, such vote shall not be deemed to be invalid.
- 21.2 On a vote on a resolution on a show of hands, where a proxy is appointed by more than one member (provided that, where some only of those members by whom the proxy is appointed instruct the proxy to vote in a particular way, those members all instruct such proxy to vote in the same way on a resolution (either "for" or "against")) such proxy shall be entitled to cast a second vote the other way in relation to any discretionary vote(s) given to him by other members by whom such proxy is appointed.
- 22. **Directors may delegate**
 - 22.1 Articles 5(1), 5(2) and 5(3) of the Model Articles are modified by the insertion of the words: "acting with Shareholder Consent" after each reference to "directors";
 - 22.2 Article 5(1)(a) of the Model Articles is further modified by the inclusion, after the words "as they think fit", of the words "(including whether any such delegation shall be made either collaterally with or to the exclusion of the powers otherwise conferred on the directors under these Articles)".
- 23. **Committees**
 - 23.1 Article 6(2) of the Model Articles is modified by the insertion of the words: "acting with Shareholder Consent" after the word "directors".
- 24. **Directors to take decisions collectively**
 - 24.1 Any decision of the directors must be taken at a meeting of directors in accordance with these Articles or must be a unanimous decision taken in accordance with Article 25.1.
 - 24.2 Save as otherwise provided in these Articles, all decisions made at any meeting of the directors shall be decided by a majority of votes.
- 25. **Unanimous decisions**
 - 25.1 A unanimous decision of the directors is taken when all eligible directors indicate to each other by any means that they share a common view on a matter.
 - 25.2 A decision taken in accordance with Article 25.1 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.
 - 25.3 A decision may not be taken in accordance with this Article 25 if the eligible directors would not have formed a quorum (in accordance with Article 28.1) at a board meeting to vote on the matter.

Article 8 of the Model Articles shall not apply to the Company.

26. Calling a directors' meeting

26.1 Notice of a Board meeting must be given to each director and must be in writing.

Article 9(3) of the Model Articles is modified accordingly.

26.2 Except with the prior consent of the Investor Director, at least 7 days' notice of each Board meeting shall be given in accordance with these Articles.

27. Participation in directors' meetings

27.1 Article 10(1)(b) of the Model Articles is modified by the addition, after the word "communicate", of the words:

"orally, including by means of telephone, video conference or other audio or audio-visual link or any other form of telecommunication".

27.2 Article 10(2) of the Model Articles is modified by the addition, at the end of that article, of the words:

", provided that all persons participating in the meeting can hear each other."

28. Quorum for directors' meetings

28.1 The quorum necessary for the transaction of business of the directors shall be 2 eligible directors one of whom shall be an Investor Director if at the time of the meeting an Investor Director has been appointed unless all the Investor Directors have waived their right to attend in writing, save that:

(a) where there is a sole director, the quorum shall be one;

(b) if within half an hour from the time appointed for a meeting of the Board the majority of directors present at the meeting are Investor Directors the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the chairman (or, in default, the Board) may determine. If at any such adjourned meeting within half an hour from the time appointed for that meeting, a majority of directors present at the meeting are Investor Directors the meeting shall be deemed to be validly held;

(c) if within half an hour from the time appointed for a meeting of the Board the directors present at the meeting do not include an Investor Director the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the chairman (or, in default, the Board) may determine. If at any such adjourned meeting within half an hour from the time appointed for that meeting, the directors present at the meeting do not include an Investor Director the meeting shall be deemed to be validly held; and

(d) where the business to be transacted at the meeting is authorisation of a Conflict Situation of an Investor Director pursuant to Section 175(4), CA 2006 and Article 31.1, the Investor Director's presence shall not be required to constitute a quorum.

Article 11(2) of the Model Articles shall not apply to the Company.

29. **Casting vote**

- 29.1 If, at a meeting of the directors, the numbers of votes for and against a proposal are equal, the chairman or other director appointed to chair the meeting pursuant to these Articles shall not have a casting vote.

Article 13 of the Model Articles is modified accordingly.

30. **Directors may vote and count for quorum**

- 30.1 Subject to Section 175(6), CA 2006 and Article 28.1, and save as otherwise provided in these Articles, a director, provided that he has disclosed his interest, may vote at any meeting of the directors or a committee of the directors of which he is a member on any resolution, and a director may participate in the transaction of the business of the directors and count in the quorum at any such meeting of the directors or a committee of the directors of which he is a member notwithstanding that it concerns or relates in any way to a matter in which he has directly or indirectly any kind of interest or duty. This Article does not affect any obligation of a director to disclose any such interest whether pursuant to Section 177, CA 2006, Section 182, CA 2006 or otherwise.

Article 14 of the Model Articles shall not apply to the Company.

31. **Conflicts of interest**

- 31.1 Subject to and in accordance with the CA 2006:

- (a) the directors may authorise any matter or situation arising on or after 1 October 2008 in which a director (the "**Conflicted Director**") has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company (including, without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the Company could take advantage of it) and for this purpose a conflict of interest includes a conflict of interest and duty and a conflict of duties (the "**Conflict Situation**");
- (b) any authorisation given in accordance with this Article 31.1 may be made on such terms and subject to such conditions and/or limitations as the directors may, in their absolute discretion, determine (including, without limitation, excluding the Conflicted Director and any other interested director from certain Board meetings, withholding from him or them certain Board or other papers and/or denying him or them access to certain confidential Company information) and such terms, conditions and/or limitations may be imposed at the time of or after the authorisation and may be subsequently varied or terminated; and
- (c) in considering any request for authorisation in respect of a Conflict Situation, the directors shall be entitled to exclude the Conflicted Director from any meeting or other discussion (whether oral or written) concerning the authorisation of such Conflict Situation and they shall also be entitled to withhold from such Conflicted Director any Board or other papers concerning

the authorisation of such Conflict Situation.

provided that, in the case of a director who is not an Investor Director, the provisions of this Article 31.1 shall be subject to Shareholder Consent.

31.2 If any Conflict Situation is authorised or otherwise permitted under these Articles, the Conflicted Director (for as long as he reasonably believes such Conflict Situation subsists):

- (a) shall not be required to disclose to the Company (including the Board or any committee of it) any confidential information relating to such Conflict Situation which he obtains or has obtained otherwise than in his capacity as a director of the Company, if to make such disclosure would give rise to a breach of duty or breach of obligation of confidence owed by him to another person;
- (b) shall be entitled to attend or absent himself from all or any meetings of the Board (or any committee of it) at which anything relating to such Conflict Situation will or may be discussed; and
- (c) shall be entitled to make such arrangements as he thinks fit to receive or not receive documents or information (including, without limitation, Board papers (or those of any committee of it)) relating to any such Conflict Situation and/or for such documents or information to be received and read by a professional adviser on his behalf,

and in so doing, such Conflicted Director shall not be in breach of any general duty he owes to the Company pursuant to Sections 171 to 177 (inclusive), CA 2006 and the provisions of this Article 31.2 shall be without prejudice to any equitable principle or rule of law which may excuse the Conflicted Director from disclosing information or attending meetings or receiving documents or information, in circumstances where such disclosure, attendance or receipt would otherwise be required under these Articles.

31.3 Provided permitted by the CA 2006, and provided that he has disclosed to the other directors the nature and extent of his interest pursuant to Section 177 or Section 182, CA 2006 or otherwise in accordance with these Articles (as the case may be), a director (including the Investor Director), notwithstanding his office:

- (a) may be a party to, or otherwise directly or indirectly interested in any contract, arrangement, transaction or proposal with the Company or in which the Company is otherwise interested and may hold any other office or place of profit under the Company (except that of auditor or of auditor of a subsidiary of the Company) in addition to the office of director and may act by himself or through his firm in a professional capacity for the Company and in any such case on such terms as to remuneration and otherwise as the directors may arrange either in addition to or in lieu of any remuneration provided for by any other article;
- (b) may be a member, director or other officer of, or employed by, or hold any other office or position with, or be directly or indirectly interested in any contract, arrangement, transaction or proposal with or a party to or otherwise

directly or indirectly interested in, any Group Company (and in the case of the Investor Director only, in the Investor and/or in any Investor Affiliate of that Investor):

- (c) shall not, by reason of his office, be liable to account to the Company for any dividend, profit, remuneration, superannuation payment or other benefit which he derives from:
 - (i) any matter, office, employment or position which relates to a Conflict Situation authorised in accordance with Article 31.1; or
 - (ii) any office, employment, contract, arrangement, transaction or proposal or other interest permitted pursuant to paragraphs (a) and (b) of this Article 31.3.

and no contract, arrangement, transaction or proposal shall be avoided on the grounds of any director having any such interest or receiving any such dividend, profit, remuneration, superannuation, payment or other benefit authorised in accordance with Article 31.1 or permitted pursuant to paragraphs (a) or (b) of this Article 31.3 and the receipt of any such dividend, profit, remuneration, superannuation, payment or other benefit so authorised or permitted shall not constitute a breach of the duty not to accept benefits from third parties as set out in Section 176, CA 2006.

- 31.4 For the avoidance of doubt, a director may be or become subject to one or more Conflict Situations as a result of any matter referred to in Article 31.3(b) without requiring authorisation under the provisions of Article 31.1 provided he has declared, as soon as reasonably practicable, the nature and extent of his interest in the conflict situation (save in respect of a Conflict Situation of an Investor Director which is permitted under Article 31.3(b) where such Investor Director shall not be required to make any such declaration). The provisions of Section 177(2), Section 177(3), Section 177(5), Section 177(6), Section 184 and Section 185, CA 2006 shall be applied (with any necessary modifications) in respect of any declaration required pursuant to this Article.
- 31.5 For the purposes of this Article 31, an interest of a person who is, for any purpose of CA 2006 (excluding any statutory modification thereof not in force when this Article becomes binding on the Company), connected with a director shall be treated as an interest of the director and, in relation to an alternate director, an interest of his appointor shall be treated as an interest of the alternate director without prejudice to any interest which the alternate director has otherwise.

32. Records of decisions to be kept

Article 15 of the Model Articles is modified by the inclusion of the following new sentence at the end of that Article: "Notwithstanding any other provision of these Articles, where the Company only has one director, the provisions of this Article shall apply to any decision taken by such director, howsoever taken by him."

33. Directors' discretion to make further rules

Article 16 of the Model Articles shall be modified by the inclusion of the words: "and subject to Shareholder Consent" after the words "Subject to the articles.".

34. Number of directors

34.1 The number of directors (other than alternate directors) shall not be less than 2 nor more than 8.

34.2 Article 17(1) of the Model Articles is modified by the inclusion of the words: "provided that the appointment does not cause the number of directors to exceed the maximum number set out in Article 34.1".

35. Termination of director's appointment

35.1 In addition to the circumstances set out in article 18 of the Model Articles, the Board may (subject to Shareholder Consent) by majority decision of all the directors remove from office any director appointed under Article 17 (1) of the Model Articles unless his appointment has been approved by resolution of the shareholders.

36. The Investor Directors and Chairman

36.1 The majority holder of the A Ordinary Shares shall be entitled to appoint up to two persons as a director or directors of the Company, one of whom may be appointed as chairman, and shall similarly be entitled to remove from office any person so appointed and (subject to such removal) to appoint another person in his place.

36.2 Upon request by the Investors, the Company shall procure that an Investor Director be appointed as a director of any Subsidiary. The Company shall procure that such Investor Director is not removed from his office as director of the relevant Subsidiary other than at the request of the Investors.

36.3 Any appointment or removal of an Investor Director pursuant to Article 36.1 or 36.2 or chairman pursuant to Article 36.1 shall be by signed instrument in writing served on the Company on behalf of the Investor and shall take effect on and from the date on which such instrument is lodged or deposited at the registered office of the Company or sent or supplied to such other address (including electronic address) designated for the purpose.

36.4 Subject to Section 168, CA 2006, on any resolution to remove an Investor Director or chairman of the Board, upon election in writing to the Company by the Investors, the shares held by the Investor, as appropriate, shall together carry at least one vote in excess of 75% of the votes exercisable in respect of that resolution at the general meeting at which such resolution is to be proposed or in respect of the total voting rights of members eligible to vote on that resolution if proposed as a written resolution.

36.5 An Investor Director (and any alternate director appointed by him) shall be entitled to consider the interests of and make such disclosure to the Investor in relation to the business and affairs of the Group as he may in his absolute discretion determine.

37. Observer

- 37.1 The Investor shall be entitled to appoint one representative to attend and be present at all Board meetings or meetings of a committee of the Board as an observer (each an **"Observer"**) and to remove from that position any person so appointed and (subject to such removal) to appoint another person in his place.
- 37.2 Any appointment or removal of an Observer shall be by signed instrument in writing served on the Company on behalf of the Investor and shall take effect on and from the date on which such instrument is lodged or deposited at the registered office of the Company or sent or supplied to such other address (including electronic address) designated for the purpose.
- 37.3 An Observer may speak at all Board meetings or meetings of a committee of the Board but shall have no vote and no authority to bind the Company in any way.
- 37.4 The Observer shall be entitled to make such disclosure to the Investor in relation to the business and affairs of the Group as he may in his absolute discretion determine.

38. **Directors' remuneration and expenses**

- 38.1 Article 19(2) of the Model Articles is modified by the addition, after the second reference to the word "directors", of the words "acting with Shareholder Consent".
- 38.2 The Company may pay any reasonable expenses which the directors and the company secretary (if any) properly incur in connection with their attendance at (or returning from):

- (a) meetings of directors or committees of directors;
- (b) general meetings; or
- (c) separate meetings of the holders of any class of shares or of debentures of the company,

or otherwise in connection with the business of the Company, the exercise of their powers and the discharge of their duties and responsibilities in relation to the Company.

Article 20 of the Model Articles is modified accordingly.

39. **Appointment and removal of alternates**

- 39.1 Subject to Shareholder Consent, any director (other than an alternate director) (the **"appointor"**) may appoint as an alternate any other director, or any other person approved by resolution of the directors, who is willing to act 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. A person (whether or not otherwise a director) may be appointed as an alternate by more than one appointor.

- 39.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the directors.
- 39.3 The notice must identify the proposed alternate and, 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.
- 39.4 The appointment of an alternate director who is not otherwise a director shall be valid notwithstanding that he is approved by a resolution of the directors after his appointment as alternate director. Where an alternate director who is not otherwise a director attends a meeting of the directors and no objection is raised at the meeting to his presence then he shall be deemed to have been approved by a resolution of the directors.

40. Rights and responsibilities of alternate directors

- 40.1 Except as these Articles specify otherwise, an alternate director has the same rights in relation to any directors' meeting, directors' written resolution or any other directors' decision-making as the alternate's appointor, including, but not limited to, the right to receive notice of all meetings of directors and all meetings of committees of directors of which his appointor is a member.
- 40.2 Except as these Articles specify otherwise, alternate directors:
 - (a) are deemed for all purposes to be directors;
 - (b) are liable for their own acts and omissions;
 - (c) are subject to the same restrictions as their appointors; and
 - (d) are not deemed to be agents of or for their appointors.
- 40.3 A person who is an alternate director but not otherwise a director:
 - (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating); and
 - (b) may participate in a unanimous decision of the directors (but only if that person's appointor is an eligible director in respect of such decisions and only if that person's appointor does not participate).

provided that (notwithstanding any other provision of these Articles) such person shall not be counted as more than one director for the purposes of paragraphs (a) and (b) above.

- 40.4 A director who is also an alternate for one or more directors is entitled, in the absence of the relevant appointor, to a separate vote on behalf of each appointor in addition to his own vote on any decision of the directors (provided the relevant appointor is an eligible director in relation to that decision) but shall not count as more than one director for the purposes of determining whether a quorum is present.

- 40.5 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company. Notwithstanding any other provision of these Articles, an alternate director shall not be entitled to vote on any resolution relating to the remuneration of an alternate director (whether himself or others).

41. Termination of alternate directorship

- 41.1 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 ceases to be a director for any reason.

42. Secretary

Subject to prior Shareholder Consent, the directors may appoint any person who is willing to act as the secretary of the Company on such terms (including, but not limited to, term of office and remuneration) and subject to such conditions as they may think fit and from time to time remove such person and, if the directors determine, appoint a replacement secretary of the Company, in each case by a decision of the directors.

43. Borrowing powers

The directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part of it, and to issue debentures, debenture stocks and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

44. Company communications with members

- 44.1 Subject to the provisions of the Companies Acts, any document or information required or authorised to be sent or supplied by the Company to any member or any other person pursuant to these Articles, the Companies Acts or any other rules or regulations to which the Company may be subject, may be sent or supplied in hard copy form, in electronic form, by means of a website or in any other way in which documents or information may be sent or supplied by the Company pursuant to the Companies Acts.
- 44.2 Subject to these Articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked in writing to be sent or supplied with such notices or documents for the time being.

- 44.3 The provisions of CA 2006 which apply to sending or supplying a document or information required or authorised to be sent or supplied by the Companies Acts by making it available on a website shall, mutatis mutandis, apply to the sending or supplying of any document or information required or authorised to be sent by these Articles or any other rules or regulations to which the Company may be subject, by making it available on a website.

The Company may send or supply any document or information to a member either personally, or by post in a prepaid envelope addressed to the member at its registered address (being a corporation) or, (being an individual) his address for service, or by leaving it at that address or any other address for the time being notified to the Company by the member for the purpose, or by sending or supplying it using electronic means to an electronic address for the time being notified to the Company by the member for the purpose, or by any other means authorised in writing by the member concerned.

- 44.4 A member whose registered address is not within the United Kingdom and who gives the Company an address within the United Kingdom to which documents or information may be sent or supplied to him or gives an electronic address to which documents or information may be sent or supplied using electronic means, shall be entitled to have documents or information sent or supplied to him at that address, but otherwise no such member shall be entitled to receive any document or information from the Company.
- 44.5 In the case of joint holders of a share, if the Company sends or supplies any document or information to one of the joint holders, it shall be deemed to have properly sent or supplied such document or information to all the joint holders.
- 44.6 If, on at least 2 consecutive occasions, the Company has attempted to send any document or information by electronic means to an address specified (or deemed specified) for the purpose and a delivery failure (or other similar) notification has been received by the Company, the Company thereafter shall, send documents or information in hard copy form or electronic form (but not by electronic means) to such member at his registered address or address for service within the United Kingdom (whether by hand, by post or by leaving it or them at such address), in which case the provisions of Article 44.7 shall apply.
- 44.7 If on 3 consecutive occasions documents or information have been sent or supplied to any member at his registered address or address for the service of such documents or information in the United Kingdom but have been returned undelivered, such member shall not thereafter be entitled to receive any documents or information from the Company until he shall have communicated with the Company and supplied in writing a new registered address or address within the United Kingdom for the service of documents or information or an electronic address to which documents or information may be sent or supplied using electronic means.
- 44.8 Any member present, in person or by proxy at any meeting of the Company or of the holders of any class of shares of the Company, shall be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was called.

- 44.9 Any document or information, addressed to a member (or other person to whom such document or information is required or authorised to be sent pursuant to these Articles, the Companies Acts or otherwise) at his registered address or address for service or electronic address, as the case may be shall:
- (a) if hand delivered or left at a registered address or other address for service, be deemed to have been served or delivered on the day on which it was so delivered or left;
 - (b) if sent or supplied by post (whether in hard copy form or in electronic form), be deemed to have been received at the expiration of 48 hours after the envelope was posted in the case of an address in the United Kingdom and 96 hours after posting for any other address;
 - (c) if sent or supplied by electronic means (other than by means of website), be deemed to have been received (if sent or supplied between the hours of 9 a.m. and 3 p.m. on a working day) 2 hours after it was sent, or (if sent or supplied at any other time) at 10 a.m. on the next following working day; and
 - (d) if sent or supplied by means of a website, be deemed to have been received 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.

If the deemed time of service is not during normal business hours in the country of receipt, the document or information shall be deemed to have been received at, or in the case of documents or information sent by electronic means, 2 hours after the opening of business on the next working day of that country.

- 44.10 In calculating a period of hours for the purpose of Article 44.9, no account shall be taken of any part of a day that is not a working day.
- 44.11 A director may agree with the Company that documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than those set out in Article 44.9.
- 44.12 Subject to Article 44.8, in proving such service or delivery it shall be sufficient to prove that the envelope containing the document or information was properly addressed and put into the post in a prepaid envelope or, in the case of a document or information sent or supplied by electronic means, that it was sent or supplied in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators entitled "Electronic Communications with Shareholders 2007" (as such guidance is amended or updated from time to time).
- 44.13 The Company shall not be held responsible for any failure in transmission beyond its reasonable control and the provisions of Articles 44.8 to 44.11 (inclusive) shall apply regardless of any document or information being returned undelivered and regardless of any delivery failure notification or "out of office" or other similar response and any such "out of office" or other similar response shall not be considered to be a delivery failure.

44.14 This Article 44 is subject to the provisions of the Investment Agreement.

Article 48 of the Model Articles shall not apply to the Company.

45. Indemnity, Funds and Insurance

45.1 Subject to and to the fullest extent permitted by the Companies Acts (but without prejudice to any indemnity to which the person concerned may otherwise be entitled):

- (a) any person who is or was at any time a director of the Company or any associated company (which shall, for the purposes of this Article 45 have the meaning given in Section 256, CA 2006) shall be indemnified out of the assets of the Company against all or any part of any costs, charges, losses, expenses and liabilities incurred by him in the actual or purported execution or discharge of his duties or in the actual or purported exercise of his powers in relation to the affairs of the Company or any associated company, or incurred by him in connection with the Company's activities as trustee of any occupational pension scheme (which shall, for the purposes of this Article 45 have the meaning given in Section 235(6), CA 2006); and
- (b) any person who is or was at any time a director of the Company or any holding company (as such is defined in Section 1159 and Schedule 6, CA 2006) shall be provided with funds to meet any expenditure incurred or to be incurred by him as provided in Sections 205 and 206, CA 2006 (or to enable him to avoid incurring any such expenditure).

45.2 Subject to the provisions of the Companies Acts, the Company may (as the directors shall, in their absolute discretion, determine) purchase and maintain, at the expense of the Company, insurance for any person who is or was at any time a director, secretary or other officer (other than any person engaged as auditor) of the Company or any associated company in respect of all or any part of any costs, charges, losses, expenses and liabilities incurred by him in the actual or purported execution or discharge of his duties or in the actual or purported exercise of his powers in relation to the affairs of the Company, or incurred by him in connection with the Company's activities as trustee of any occupational pension scheme.

45.3 Articles 52 and 53 of the Model Articles shall not apply to the Company.

46. Relationship with Loan Agreement

46.1 The provisions of Article 3 of these Articles and articles 30 to 35 (inclusive and amended) of the Model Articles are subject to the following provisions of this Article 46.

46.2 Notwithstanding any other provision of these Articles, no payment shall be made or agreed to be made by the Company in respect of any shares or share capital (whether by way of dividend, distribution, purchase or redemption, or by way of reduction or return of share capital) if such payment is prohibited or restricted by the terms of the Loan Agreement and any payment made in breach of the terms of the Loan Agreement will be held by the recipient on trust for Bank of Scotland plc.

- 46.3 No dividend, distribution or other amount payable in respect of shares in the capital of the Company (whether made pursuant to the provisions of these Articles or otherwise) will constitute a debt of the Company unless permitted to be paid and paid strictly in accordance with the provisions of the Loan Agreement.
- 46.4 This Article shall not restrict or prevent the accrual of interest at a specified rate on any scheduled dividend payments or on any scheduled repayments which are not paid by the Company by virtue of the provisions of the Loan Agreement.

47. **Resolutions**

A written resolution proposed in accordance with the provisions of Chapter 2 of Part 13 of the CA 2006 shall lapse if it is not passed before the period of 14 days beginning with the circulation date (as such is construed pursuant to Section 290, CA 2006).