

**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**WRITTEN RESOLUTION AND CONSENT TO VARIATION OF CLASS RIGHTS**  
**of**  
**AESICA HOLDCO LIMITED**  
**(the "Company")**

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the Directors of the Company propose that resolution 1 below is passed as a special resolution and resolutions 2 and 3 below are passed as ordinary resolutions (together, the "Resolutions") and the same were passed by the sole shareholder of the Company on *29 January* 2015.

**SPECIAL RESOLUTION**

1. THAT, the articles of association set out in the document attached to these Resolutions be and are hereby adopted as the new articles of association of the Company in substitution for and to the exclusion of the existing articles of association of the Company.

**ORDINARY RESOLUTIONS**

2. THAT, the Company be authorised to sub-divide the 790,000 A Ordinary Shares of £0.10 each in the issued share capital of the Company into 7,900,000 A Ordinary Shares of £0.01 each, such shares having the rights and being subject to the restrictions attaching to the A Ordinary Shares of the Company as set out in the Company's new articles of association, and
- 3 THAT, the issued Preference Shares registered in the name of Consort Medical PLC be and are hereby re-designated as A Ordinary Shares having the rights and being subject to the restrictions attaching to the A Ordinary Shares of the Company as set out in the Company's new articles of association

For the purposes of section 630 of the Companies Act 2006 and otherwise, the sole shareholder of the Company, hereby irrevocably consents to and sanctions the passing of the Resolutions set out above and every variation, modification or abrogation of the rights, privileges and restrictions attaching to each class of shares which will or may be effected thereby

  
.....  
**CONSORT MEDICAL PLC**

Date *29 January*

2015





THE COMPANIES ACT 2006

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PRIVATE COMPANY LIMITED BY SHARES

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NEW

ARTICLES OF ASSOCIATION

-of-

AESICA HOLDCO LIMITED

(Incorporated in England and Wales under Registered no. 7749223)

(Adopted by Special Resolution passed on ~~29 JANUARY~~ 2015)

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## **PRELIMINARY**

### **1. MODEL ARTICLES**

- 1.1** The articles of association of the Company (the "**Articles**") shall comprise the articles contained herein together with the articles contained in Schedule 3 to the Companies (Model Articles) Regulations (SI 2008/3229) (the "**Model Articles**"), save insofar as they are excluded or modified by, or are inconsistent with, the articles contained herein
- 1.2** The whole of Model Articles 5(2), 6(2), 9, 10, 11, 13(3), 14, 16, 19, 20, 21, 23(2), 23(3), 23(4), 25(1), 25(3)(b), 26(3)(a), 28, 30, 32, 33, 34, 36, 37(4), 37(5), 37(7), 37(8), 39, 42, 43(2), 46(2)(a), 50, 63(5), 64, 67(3), 70(5), 70(6), 70(7), 80, 81, 85 and 86 shall not apply to the Company

### **2. DEFINITIONS AND INTERPRETATION**

- 2.1** In these Articles the following expressions shall have the following meanings

**Act** means the Companies Act 2006.

**Accepting Shareholders** shall be as defined in Article 12.4

**Adoption Date** means 11 October 2011

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

**Articles** shall be as defined in Article 1.1

**Assets Sale** means a sale by the Company or any other member of the Group of all or substantially all of the Group's business, assets and undertaking to a single buyer or to one or more buyers as part of a single transaction or series of connected transactions (other than as part of a Solvent Reorganisation).

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

**Available Profits** means profits available for distribution within the meaning of the Act.

**Bad Leaver** shall be as defined in Article 11.5.2.

**Board** means the board of directors of the Company (or any duly authorised committee thereof) from time to time.

**B Ordinary Shares** means the B ordinary shares of £0.10 each in the capital of the Company

**Business Day** means any day other than a Saturday, Sunday or English bank or public holiday

**Company** means Aesica Holdco Limited, a company registered in England and Wales with registered number 7749223

**Company's website** means any website operated or controlled by the Company which contains information about the Company

**C Ordinary Shares** means the C ordinary shares of £0.10 each in the capital of the Company.

**C Share Value** means £0.015542

**Defaulting Shareholder** shall be as defined in Article 9.3

**Director** means a director of the Company from time to time

**Director Interest** shall be as defined in Article 18.3

**Drag Completion Date** shall be as defined in Article 12.5

**Employee Trust** means any trust established to enable or facilitate the holding of Shares by, or for the benefit of, all or most of the bona fide employees of any Group Company

**Equity Shares** means the A Ordinary Shares, B Ordinary Shares, C Ordinary Shares and any other class of equity shares in issue from time to time

**Excluded Notice** means a Sale Notice, a notice to a Defaulting Shareholder under Article 9.3 or a notice to appoint or remove a Director under Article 19

**Exit** means a Sale, Assets Sale, Listing or Winding-Up.

**Fair Price** shall be as defined in Article 11.5.4

**Family Member** means, in relation to a Relevant Employee, his spouse and/or any one or more of his children (including step-children) and further direct lineal descendants

**Family Trust** means, in relation to a Relevant Employee, a trust or settlement set up wholly (save for any long stop charity beneficiaries) for the benefit of that person and/or his Family Members.

**Final Leaving Date** shall be as defined in Article 11.2

**Financial Services Authority** means the Financial Services Authority or any body with responsibility under legislation replacing the FSMA for carrying out regulatory actions.

**FSMA** means the Financial Services and Markets Act 2000

**Fund** means any fund, bank, company, unit trust, investment trust, investment company, limited, general or other partnership, industrial provident or friendly society, any collective investment scheme (as defined by the FSMA), any investment professional (as defined in article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion Order) 2005 (the "FPO")), any high net worth company, unincorporated association or partnership (as defined in article 49(2) of the FPO) or any high value trust (as defined in article 49(6) of the FPO), any pension fund or insurance company or any person who is an authorised person under the FSMA

**Fund Participant** shall be as defined in Article 9.5.

**Garden Leave** shall mean any period during which the Company or any other Group Company shall, in respect of an employee and pursuant to the service contract between the Company or relevant Group Company and that employee cease or have ceased to provide that employee with work following notice of termination being given by the Company or other relevant Group Company pursuant to such service contract.

**Good Leaver** shall be as defined in Article 11.5.1.

**Group** means the Company and any company which is a subsidiary undertaking of the Company from time to time and references to "**Group Company**" and "**members of the Group**" shall be construed accordingly

**in electronic form** means in a form specified by section 1168(3) of the Act and otherwise complying with the requirements of section 1168 of that Act

**Independent Expert** means a partner of at least 10 years' standing at Ernst & Young LLP, KPMG LLP, Deloitte LLP, PricewaterhouseCoopers LLP or, where no such firm is able or willing to act, any other reputable international accountancy firm nominated by the Board (such firm to act as an expert and not as an arbitrator) who shall, in either case, be engaged on terms to be agreed by the Board

**Issue Price** means the price at which the relevant Share is issued, being the aggregate of the amount paid up or credited as paid up in respect of the nominal value thereof and any share premium thereon.

**Leaver** means

- (a) any Shareholder who is on or at any time after the Adoption Date a Relevant Employee and who subsequently ceases, or has ceased, to be a Relevant Employee,

- (b) any Shareholder who is on or at any time after the Adoption Date a Relevant Employee, who remains a Relevant Employee but who becomes or has become a Non-Contributory Employee,
- (c) any Shareholder who is (or is the nominee of) a Family Member of any person who is on or at any time after the Adoption Date a Relevant Employee, who subsequently either ceases to be a Relevant Employee or remains a Relevant Employee but who becomes or has become a Non-Contributory Employee,
- (d) any Shareholder who is (or is the nominee of) the trustee of a Family Trust of any person who is on or at any time after the Adoption Date a Relevant Employee, who subsequently either ceases to be a Relevant Employee or remains a Relevant Employee but who becomes or has become a Non-Contributory Employee in each case in respect of the Shares held on behalf of such person or on behalf of any Family Member of such person;
- (e) any person who holds or becomes entitled to any Shares.
  - (i) following the death of a Shareholder,
  - (ii) following the bankruptcy of a Shareholder (if an individual) or the receivership, administrative receivership, administration, liquidation or other arrangement for the winding-up (whether solvent or insolvent) of a Shareholder (if a company), or
  - (iii) following the exercise of an option after ceasing to be a Relevant Employee or whilst a Relevant Employee after becoming a Non-Contributory Employee, or
- (f) any Shareholder holding Shares as a nominee for any person who is on or at any time after the Adoption Date a Relevant Employee, who subsequently either ceases, or who has ceased, to be a Relevant Employee or who remains a Relevant Employee but who becomes, or has become, a Non-Contributory Employee, in either case in respect of the Shares held on behalf of such person,

provided that, for the purposes of this definition, a person shall be deemed to cease or have ceased, to be a Relevant Employee on the date on which the relevant individual is given notice of termination of his employment or, as the case may be, upon the commencement of any period during which the relevant individual is placed on Garden Leave, (notwithstanding that the relevant individual remains an employee of the Company or any other Group Company) or in the case of a Relevant Employee who has become a Non-Contributory Employee, upon the date on which the Relevant Employee was designated as a Non-Contributory Employee by the Board

**Leaver's Shares** means all of the A Ordinary Shares, B Ordinary Shares and C Ordinary Shares held by a Leaver, or to which he is entitled, on the Leaving Date and any A Ordinary Shares, B Ordinary Shares and C Ordinary Shares acquired by a Leaver after the Leaving Date whether under an employee share scheme or otherwise, or to which he becomes entitled after the Leaving Date

**Leaving Date** means the date on which the relevant person becomes a Leaver

**Listing** means the admission of the whole of any class of the issued share capital of the Company or any New Holding Company to the Official List of the Financial Services Authority and to trading on the London Stock Exchange's market for listed securities or to trading on the Alternative Investment Market of the London Stock Exchange or on any other Recognised Stock Exchange.

**Majority Consent or Majority Direction** means the giving of a written consent or written direction by the Majority Holders

**Majority Holders** means those Shareholders who hold more than 50% in nominal value of the A Ordinary Shares for the time being in issue

**Midco 1** means Aesica M1 Limited, a company incorporated in England and Wales with registered number 7735992

**Midco 2** means Aesica M2 Limited, a company incorporated in England and Wales with registered number 7735988

**New Holding Company** means any new holding company of the Company formed for the purpose of facilitating a Refinancing or a Listing

**Non-Contributory Employee** means an employee who ceases or has ceased for any reason to work for or provide any contribution to a Group Company for a period of more than six consecutive months (excluding any period of Garden Leave or maternity, adoption or paternity leave) and who is designated by the Board as a Non-Contributory Employee

**Offeror** shall be as defined in Article 12.1.

**Offeror Group** means the Offeror and its subsidiary undertakings or, as the case may be, the Offeror, its parent undertaking (whether direct or indirect) and any other subsidiary undertakings of such parent undertaking from time to time.

**Other Shareholders** shall be as defined in Article 12.5

**Permitted Transferee** means, in relation to a Shareholder, the persons to whom such Shareholder is permitted to transfer its Shares under Article 10

**Proposed Buyer** shall be as defined in Article 13.1.



**Proposed Sale** shall be as defined in Article 13.1

**Proposed Sellers** shall be as defined in Article 14.1

**Qualifying Offer** shall be as defined in Article 13.1

**Recognised Stock Exchange** means a recognised investment exchange, recognised overseas investment exchange, designated investment exchange or designated overseas investment exchange, in each case for the purposes of FSMA

**Refinancing** means a refinancing or recapitalisation of the Company, including the repayment or redemption by the release of new funds provided by third parties to the Company or any other Group Company of all or any of the Shares and/or any loan notes or other shares or debt securities issued by the Company or any other Group Company

**Relevant Employee** shall mean:

- (a) an employee of the Company or any other Group Company, or
- (b) a Director or a director of any other Group Company

**Relevant Shares** shall be as defined in Article 9.3

**Relevant Proportion** shall be as defined in Article 13.3.2

**Sale** means the sale of more than 50% in number of the A Ordinary Shares to a single buyer or to one or more buyers as part of a single transaction, or series of connected transactions (other than in or as part of a Solvent Reorganisation or to one or more Permitted Transferees)

**Sale Notice** shall be as defined in Article 11.2.

**Sale Price** shall be as defined in Article 11.5.3

**Security Interest** means any mortgage, charge (whether fixed or floating), lien, option, pledge, assignment, trust arrangement (save for Family Trust arrangement) or other security interest of any kind and any agreement, whether conditional or otherwise, to create any of the foregoing

**Service Agreements** shall be as defined in the Investment Agreement. **Share** means any share in the capital of the Company from time to time. **Shareholder** means any holder of any Share from time to time

**Shareholder Communication** means any notice, resolution, document or information which the Company wishes or is required to communicate with Shareholders or other persons.

**Situational Conflict** shall mean a direct or indirect interest of a Director which conflicts or may potentially conflict with the interests of the Company (other than a Transactional Conflict or in circumstances which cannot reasonably be regarded as likely to give rise to a conflict of interest). For these purposes a conflict of interest shall include a conflict of interest and duty and a conflict of duties

**Solvent Reorganisation** means a solvent reorganisation of the Group by any means, including the acquisition of the Company by a New Holding Company, or any other reorganisation of the Group involving Company's share or debt capital in preparation for an Exit.

**Statutes** means the Act and the Electronic Communications Act 2000 (including any subordinate legislation made under them)

**Tag Offer** shall be as defined in Article 13.2

**Tagging Shareholders** shall be as defined in Article 13.7.

**Tag Shortfall** shall be as defined in Article 13.5

**Transactional Conflict** shall mean a direct or indirect conflict of interest of a Director which arises in relation to an existing or proposed transaction or arrangement with the Company.

**Trustee** means Aesica Trustee Company Limited in its capacity as trustee of the Aesica Pharmaceuticals Limited 2009 Employee Benefit Trust

**website communication** means the publication of a Shareholder Communication on the Company's website in accordance with Part 4 of Schedule 5 of the Act

**Winding-Up** means any winding-up or liquidation of the Company

2.2 Unless the context otherwise requires, words and expressions defined in or having a meaning provided by the Act shall have the same meaning in these Articles. The term "**connected person**" shall have the meaning attributed to it at the date of adoption of these Articles by sections 1122 and 1123 of the Corporation Tax Act 2010 and the words "**connected with**" shall be construed accordingly. The term "**acting in concert**" shall have the meaning attributed to it at the date of adoption of these Articles by the City Code on Takeovers and Mergers

2.3 Unless the context otherwise requires, references in these Articles to

2.3.1 any of the masculine, feminine and neuter genders shall include other genders,

2.3.2 the singular shall include the plural and vice versa;

- 2.3.3 a person shall include a reference to any natural person, body corporate, unincorporated association, partnership, firm or trust,
- 2.3.4 save where used in the definition of “**Employee Trust**”, the terms “**employee**” and “**employees**” shall be deemed to include workers, consultants and non-executive directors, and references to “contracts of employment,” “**service agreements**” and to commencement or termination of “**employment**” shall be deemed to include workers’ contracts, contracts for consultancy, letters of appointment and commencement or termination of the same and a reference to “**resignation**” shall mean resignation in any such context;
- 2.3.5 any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified, consolidated, re-enacted or replaced, and
- 2.3.6 any class of Shareholder giving a written direction, written consent or written notice shall, unless these Articles expressly provide otherwise, mean the giving of such a direction, consent or notice by the holders of more than 50% in nominal value of such class of Shares in issue from time to time.
- 2.4 The headings in these Articles are for convenience only and shall not affect their meaning.
- 2.5 In construing these Articles, general words introduced by the word “other” shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and general words introduced by the word “**including**” shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words

### 3. SHARE CAPITAL

- 3.1 The share capital of the Company is £132,300 52, divided into
- 9,596,302 A Ordinary Shares;  
205,000 B Ordinary Shares, and  
158,375 C Ordinary Shares
- 3.2 Pursuant to section 567 of the Act, the provisions of section 561 and section 562 of the Act shall not apply to an allotment of the Company’s equity securities

## **SHARE RIGHTS**

### **4. DIVIDEND RIGHTS**

Subject to the Board recommending payment of the same any Available Profits which the Company may determine to distribute in respect of any financial year shall be distributed amongst the holders of the A Ordinary Shares and B Ordinary Shares (pari passu as if the same constituted one class of share) according to the number of such Shares held by the relevant Shareholder at the relevant time. The C Ordinary Shares shall carry no rights to a dividend.

### **5. RETURN OF CAPITAL RIGHTS**

- 5.1** The rights as regards return of capital attaching to each class of Shares shall be as set out in this Article.
- 5.2** On a return of capital on liquidation or otherwise (except on a redemption or purchase by the Company of any Shares), the surplus assets of the Company remaining after the payment of its liabilities shall be applied in the following order.
  - 5.2.1** in priority to any payments to be made pursuant to Article 5.2.2 and 5.2.3, in paying to each holder of A Ordinary Shares and B Ordinary Shares (pari passu as if the same constituted one class of shares) in respect of each A Ordinary Share and/or B Ordinary Share of which it is the holder, a sum equal to the Issue Price thereof,
  - 5.2.2** in priority to any payments to be made pursuant to Article 5.2.3, the balance of such assets (if any) after all payments to be made in priority shall be distributed amongst the holders of the A Ordinary Shares and B Ordinary Shares (pari passu as if the same constituted one class of Shares) according to the number of such Shares held by the relevant Shareholders at the relevant time until such time as each such Shareholder has received £100,000 for each such Share held by it;
  - 5.2.3** the balance of such assets (if any) after all payments to be made in priority shall be distributed amongst the holders of the Equity Shares (pari passu as if the same constituted one class of Shares) according to the number of such Shares held by the relevant Shareholders at the relevant time

### **6. VOTING RIGHTS**

- 6.1** The voting rights attached to each class of Shares shall be as set out in this Article
  - 6.1.1** on a written resolution, every Shareholder holding one or more A Ordinary Shares or B Ordinary Shares or C Ordinary Shares on the date on which the resolution is circulated as required by the Act shall, subject to

sections 289 and 290 of the Act and these Articles, have one vote for each A Ordinary Share, one vote for each B Ordinary Share and one vote for each C Ordinary Share held by him;

- 6.1.2 on a resolution to be passed at a general meeting of the Company on a show of hands, every qualifying person (as defined in section 318(3) of the Act) present shall, subject to section 323(4) of the Act, have one vote; and
  - 6.1.3 on a resolution to be passed at a general meeting of the Company on a poll, every Shareholder holding one or more A Ordinary Shares or B Ordinary Shares or C Ordinary Shares, who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy, shall have one vote for each A Ordinary Share, one vote for each B Ordinary Share and one vote for each C Ordinary Share of which he is the holder.
- 6.2 Unless otherwise expressly provided by the terms of issue, the rights attaching to any class of shares shall not be deemed to be varied or abrogated by
- 6.2.1 the creation, allotment or issue of further shares or securities convertible into shares, ranking subsequent to, pari passu with, or in priority to them, or the issue of any debt securities by the Company or any other Group Company, or the purchase or redemption by the Company of its own shares in accordance with the Act, or
  - 6.2.2 any alteration to these Articles made conditional upon, or otherwise in connection with, a Sale, a Listing, a Solvent Reorganisation or in accordance with Article 6.2 1.

**7. [INTENTIONALLY LEFT BLANK]**

**8. LIEN AND FORFEITURE**

- 8.1 The lien conferred by Model Article 52(1) shall attach to all Shares of any class, whether fully paid or not, and to all Shares registered in the name of any person indebted or under liability to the Company, whether he be the sole registered holder thereof or one of two or more joint holders. Model Article 52 shall be modified accordingly.
- 8.2 Model Article 60(2)(c) shall be amended by the insertion of the words “subject always to compliance with the provisions of Article 10” at the end of that Model Article
- 8.3 Model Article 61(1) shall be amended by the insertion of the words “(subject to Article 10)” after “If” and immediately prior to the words “a forfeited share”

## SHARE TRANSFERS

### 9. PROHIBITED TRANSFERS

- 9.1 Any person who holds, or becomes entitled to, any Share shall not, without Majority Consent, effect a transfer of such Shares, except in accordance with Article 10 (Permitted Transfers), Article 10 (Leavers), Article 11 (Drag Along, whether as an Accepting Shareholder or Other Shareholder) or Article 12 (Tag Along, whether as a Proposed Seller or a Tagging Shareholder)
- 9.2 The reference in Article 9.1 to the transfer of a Share shall mean the transfer of either or both of the legal and beneficial ownership in such Share and/or the grant of an option to acquire either or both of the legal and beneficial ownership in such Share and the following shall be deemed (but without limitation) to be a transfer of a Share
- 9.2.1 any direction (by way of renunciation or otherwise) by a Shareholder entitled to an allotment or issue of any Share that such Share be allotted or issued to some person other than himself,
- 9.2.2 any sale or other disposition of any legal or equitable interest in a Share (including any voting right attached thereto) and whether or not by the registered holder thereof and whether or not for consideration or otherwise and whether or not effected by an instrument in writing,
- 9.2.3 any grant or creation of any Security Interest over any Share, and
- 9.2.4 any agreement, whether or not subject to any condition, to do any of the things referred to in Articles 9.2.1, 9.2.2 or 9.2.3
- 9.3 For the purpose of ensuring compliance with the Article 9.1, the Company shall immediately on an Majority Direction and may with Majority Consent require any Leaver or other Shareholder to procure that he provides to the Company any information and/or evidence relevant to such purpose and failing such information and/or evidence being provided within 15 Business Days of any request, the Board shall forthwith upon receipt of an Majority Direction, or otherwise with Majority Consent, notify the relevant Leaver or Shareholder (the “Defaulting Shareholder”) that a breach of the transfer provisions of these Articles is deemed to have occurred, whereupon.
- 9.3.1 the Company shall refuse to register any transfer of the Relevant Shares (otherwise than with an Majority Consent);
- 9.3.2 the Relevant Shares shall cease to confer on the holder thereof (or any proxy thereof) any rights
- (a) to vote on any written resolution of the Company or to attend and vote (whether on a show of hands or on a poll) at a general meeting

of the Company or at any separate meeting of the class in question,  
or

- (b) to receive dividends or other distributions (other than the Issue Price of the Relevant Shares upon a return of capital),

otherwise attaching to the Relevant Shares or to any further Shares issued pursuant to the exercise of a right attaching to the Relevant Shares or in pursuance of an offer made to the holder thereof; and

- 9.3.3 if the Defaulting Shareholder is not a Leaver, he shall (upon an Majority Direction) forthwith be treated as a Leaver, or if no such Majority Direction is made, he may be required by the Board at any time following such notice to transfer (or procure the transfer of) some or all of the Relevant Shares to such person(s) at a price determined by the Board with Majority Consent or as directed by an Majority Direction

The rights referred to in Article 9.3.2 may be reinstated by the Board (with Majority Consent) or, if earlier, will be reinstated upon the completion of the transfer of the Leaver's Shares or other transfer as contemplated by Article 9.3.3. The expression "**Relevant Shares**" shall mean the Shares which the Defaulting Shareholder holds or to which he is entitled and any Shares formerly held by him which have been transferred in breach of Article 9.1 or in accordance with Article 10 (Permitted Transfers).

- 9.4 Each Shareholder hereby irrevocably appoints each Director as his agent to execute, complete and deliver any form of transfer or other document required to give effect to the provisions of these Articles for and on his behalf, including in respect of any transfer pursuant to Article 11.3, 12.5 or 13.7
- 9.5 Notwithstanding the provisions of Article 9.2 a transfer by any partner, unitholder, shareholder, or other participant in, or operator, manager or custodian of, any Fund (a "**Fund Participant**") (or by any trustee or nominee for any such Fund Participant) of any interest in such Fund to any person who is, or as a result of such transfer becomes, a Fund Participant shall not, and shall not be deemed to be a transfer of Shares for any purpose under these Articles.
- 9.6 Model Article 67(4) shall be amended by the insertion at the end of that Model Article of the words "and, accordingly, shall be subject to the restrictions on transfers of Shares contained in Article 9"

## **10. PERMITTED TRANSFERS**

- 10.1 Notwithstanding the provisions of Article 9 (Prohibited Transfers)

- 10.1.1 any Relevant Employee may, with Majority Consent, transfer his Shares to any of his Family Members over the age of 18 or to the trustees of his Family Trust provided that

- (a) following any such transfer the Relevant Employee continues to hold at least 50% in number of all Shares ever issued to him;
  - (b) the relevant Family Member or trustees (as the case may be) shall
    - (i) undertake to exercise all voting rights attaching to such Shares and to sign all forms of proxy, consents to short notice and other documents relating to such exercise in accordance with the directions of the Relevant Employee,
    - (ii) give the Relevant Employee full, unconditional and irrevocable authority to transfer such Shares on behalf of the Family Member or trustees (as the case may be) or agree to a Listing or Winding-Up in the event of an Exit on behalf of such person(s); and
    - (iii) provide such evidence of identity as the Company may require for anti-money laundering purposes;
- 10.1.2** any Shareholder who is a trustee of a Family Trust may at any time transfer any Share which he holds in that capacity to
- (a) the new or remaining trustees of the Family Trust upon any change of trustees, and
  - (b) the Relevant Employee or any of his Family Members over the age of 18 on their becoming entitled to the same under the terms of the Family Trust,
- provided that the provisions of Article 10.1 1(a) and (b) shall apply to any such transfer;
- 10.1.3** any Shareholder who is a trustee of an Employee Trust may at any time transfer any Share which he holds in that capacity to
- (a) the new or remaining trustees of the Employee Trust upon any change of trustees, and
  - (b) any beneficiary of the Employee Trust, with Majority Consent
- 10.1.4** any Shareholder holding Shares as a result of a transfer made after the date of the adoption of these Articles by a person in relation to whom such Shareholder was a Permitted Transferee under the provisions of this Article may at any time transfer any Share to the person who originally transferred such Shares (or to any other Permitted Transferee of such original transferor), and



10.1.5 any Shareholder may transfer any Shares to any person with Majority Consent

10.2 Subject to Article 10 3, the Company shall be obliged to register any transfer made pursuant to the above provisions.

10.3 Where any Shareholder holding Shares as a result of a transfer made after the date of the adoption of these Articles by a person in relation to whom such Shareholder was a Permitted Transferee pursuant to this Article 10 ceases to be such a Permitted Transferee, such Shareholder shall immediately transfer all such Shares to the person who originally transferred the Shares to them or to any other Permitted Transferee (under the terms of this Article 10) of such original transferor and prior to such transfer occurring the provisions of Article 9 3 (including, for the avoidance of doubt, Article 9 3.2) shall apply

## 11 LEAVERS

11.1 The provisions of this Article shall apply to any Leaver and to any Leaver's Shares

11.2 Subject to Article 11 6, within the period commencing on the relevant Leaving Date and expiring at midnight on the first anniversary of such date (the "**Final Leaving Date**"), the Majority Holders may (on one or more occasions) direct the Company by a Majority Direction immediately to serve a notice on the Leaver (a "**Sale Notice**") notifying him that he is, with immediate effect, deemed to have offered such number and class of his Leaver's Shares to any of the following persons as may be specified in the Majority Direction

11.2.1 in the case of any Leaver's Shares which are A Ordinary Shares, the Majority Holders (*pro rata* to their existing holdings of A Ordinary Shares) or any person set out in Articles 11 2 2 (a) or (b);

11.2.2 in the case of any Leaver's Shares which are B Ordinary Shares or C Ordinary Shares:

(a) any existing employee or future employee of any Group Company or any nominee or other person pending allocation to an existing or future employee of any Group Company, or

(b) an Employee Trust

11.3 On receipt of such Sale Notice, the relevant Leaver shall be obliged forthwith to transfer, at the Sale Price as determined in accordance with Article 11 5, such number of his Leaver's Shares to the person(s) specified in the Sale Notice. Completion of the sale and purchase of the Leaver's Shares in accordance with the Sale Notice shall take place on the date specified in the Sale Notice (or where there is a dispute as to the Fair Price, within five Business Days of the date on which the Fair Price is agreed or determined in accordance with Articles 11 5 4 or

11.6) whereupon the Leaver shall transfer the relevant Leaver's Shares to the person(s) specified in the Sale Notice and deliver the relevant Share certificates against payment of the Sale Price for such Shares

- 11.4** Save in the case of an acquisition of Leaver's Shares by the Company, if the Leaver defaults in transferring any Leaver's Shares pursuant to Article 11.2, the Company may receive the relevant purchase money and may nominate some person to execute an instrument of transfer of such Leaver's Shares in the name and on behalf of the Leaver and thereafter, when such instrument has been duly stamped (if required), the Company shall cause the name of the proposed transferee to be entered in the register of members as the holder of such Leaver's Shares and shall hold the purchase money on trust (without interest) for the Leaver. The receipt of the Company for the purchase money shall be a good discharge to the proposed transferee (who shall not be bound to see to the application thereof) and the validity of any transfer of a Leaver's Shares in accordance with this Article 11.4 shall not be questioned by any person. In the case of an acquisition of Leaver's Shares by the Company, if the Leaver defaults in transferring any Leaver's Shares pursuant to Article 11.2, the Company may nominate some person to execute an instrument of transfer of such Leaver's Shares in the name and on behalf of the Leaver and thereafter, when such instrument has been duly stamped (if required), the Company shall cause such share capital to be cancelled in accordance with the Act and shall hold the purchase money on trust (without interest) for the Leaver.

**11.5** In these Articles:

**11.5.1** a Leaver shall be deemed to be a "Good Leaver" in circumstances where the Relevant Employee

- (a) dies,
- (b) due to illness or injury ceases to be a Relevant Employee or becomes a Non-Contributory Employee, or
- (c) is designated a Good Leaver by Majority Direction

**11.5.2** a Leaver shall be deemed to be a "Bad Leaver" in circumstances where he is not deemed to be a Good Leaver,

**11.5.3** the "Sale Price" shall be.

- (a) in the case of a Good Leaver, for all Shares other than the C Ordinary

Shares, the Fair Price;

- (b) in the case of a Bad Leaver, for all Shares other than the C Ordinary Shares, the lower of the Issue Price and the Fair Price; or

- (c) in all circumstances, for each C Ordinary Share, the C Share Value.

**11.5.4** the "Fair Price" shall be such price as the transferor and (with Majority Consent) the Company shall agree within 10 Business Days of the date of the Sale Notice or, failing such agreement, such price as the Auditors (or, if the Auditors are unable or unwilling to act for any reason or the Majority Holders so direct by Majority Direction, an Independent Expert) shall determine pursuant to Article 11.6

**11.6** If the Fair Price falls to be determined by the Auditors (which expression shall, for the purposes of this Article 11.6.1 to 11.6.4, be deemed to include a reference to the Independent Expert if the Fair Price falls to be determined by the Independent Expert in accordance with Article 11.5.4)

**11.6.1** the Company shall immediately instruct the Auditors to determine the Fair Price on the basis which, in their opinion, represents a fair price for the Leaver's Shares at the Leaving Date as between a willing seller and a willing buyer and, in making such determination, the Auditors shall not take account of whether the Leaver's Shares comprise a majority or minority interest in the Company and the fact that their transferability is restricted by these Articles nor shall account be taken of any restriction of the voting rights or other rights pursuant to Article 9.3;

**11.6.2** the Auditors shall certify the Fair Price as soon as possible after being instructed by the Company and, in so certifying, the Auditors shall be deemed to be acting as experts and not as arbitrators and the Arbitration Act 1996 shall not apply,

**11.6.3** the certificate of the Auditors shall, in the absence of manifest error, be final and binding, and

**11.6.4** the Company shall procure that any certificate required hereunder is obtained with due expedition and the cost of obtaining such certificate shall be borne by the Company unless (i) such an arrangement would not be permitted by law or (ii) the Fair Price as determined by the Auditors is less than 110% of that price (if any) which the Company had previously notified to the Leaver as being in its opinion the Fair Price (or, if the price which the Company had previously notified was zero, the Fair Price as determined by the Auditors is less than 10% of the Issue Price of such Shares), in which event the cost shall be borne by the Leaver

**11.7** Where any Shares ("**Further Leaver Shares**") are acquired by a Leaver after the Final Leaving Date, the provisions of this Article 11 shall apply to such Further Leaver Shares on the same terms (including as to price per Share) as applied to the Leaver's Shares save that in respect of the Further Leaver Shares, for the

purposes of Article 11.2, the Final Leaving Date shall be the first anniversary of the date on which those Further Leaver Shares were acquired by the Leaver

## 12. DRAG ALONG

- 12.1 In these Articles a **"Qualifying Offer"** shall mean a bona fide offer in writing on arm's length terms which is made by or on behalf of any person (including, for the avoidance of doubt, a Solvent Reorganisation or an offer by a New Holding Company in connection with a Refinancing) (the **"Offeror"**), which is communicated to any one or more of the Shareholders, and which is for all of the Equity Shares not already owned by the Offeror or persons connected or acting in concert with the Offeror
- 12.2 Subject to Articles 12.3, 12.9 and 12.10, the consideration payable for each A Ordinary Share, each B Ordinary Share and each C Ordinary Share pursuant to the Qualifying Offer shall be of the same amount (provided that the amount paid for each C Ordinary Share shall not exceed the C Share Value), in the same form, paid at the same time and shall otherwise be subject to the same payment terms
- 12.3 In determining whether the consideration payable pursuant to the Qualifying Offer satisfies the requirements of Article 12.2, there shall (unless and to the extent directed otherwise by Majority Direction) be disregarded
- 12.3.1 any consideration in the form of a share, debt instrument or other security in the capital of the Offeror (or any other member of the Offeror Group) or a right to subscribe for or acquire any share, debt instrument or other security in the capital of the Offeror (or any other member of the Offeror Group) provided that the Qualifying Offer comprises alternative consideration for each relevant Share which is of equivalent value to such non-cash consideration; and
- 12.3.2 for the avoidance of doubt, any option, warrant or other right to subscribe for or acquire any share, debt instrument or other security in the capital of the Offeror (or any other member of the Offeror Group) which is in addition to the consideration offered for each Share under the terms of the Qualifying Offer
- 12.4 If the holders of more than 50% in nominal value of the A Ordinary Shares then in issue (the **"Accepting Shareholders"**) have indicated in writing that they wish to accept the Qualifying Offer, then the provisions of this Article 13 shall apply
- 12.5 The Accepting Shareholders may give written notice (a **"Drag Notice"**) to the remaining Shareholders (the **"Other Shareholders"**) of their wish to accept the Qualifying Offer and each of the Other Shareholders shall thereupon become bound to accept the Qualifying Offer and to transfer the legal and beneficial interest in their Shares to the Offeror (or his nominee) with full title guarantee on the date specified by the Accepting Shareholders (the **"Drag Completion Date"**) by delivering to the Company on or before the Drag Completion Date.

**12.5.1** the relevant share certificate(s) (or a suitable indemnity in lieu thereof) in respect of the Shares held by him,

**12.5.2** a duly executed sale agreement or form of acceptance (in a form acceptable to the Accepting Shareholders) pursuant to which the Other Shareholders provide representations and warranties as to title to, and ownership of, the Shares held by them (but not any other representations, warranties or indemnities),

**12.5.3** a form of transfer in respect of those Shares in favour of the Offeror (or its nominee),

and if required by Majority Direction, shall sign, execute and deliver such other documents as may reasonably be required to effect the transfer of any shares, debt instruments or other securities to any other Shareholder

**12.6** If any Other Shareholder shall fail to comply with its obligations under Article 12.5, then any Accepting Shareholder shall be entitled to execute, and shall be entitled to authorise and instruct such person as he thinks fit to execute, the necessary forms of transfer and other documents on the Other Shareholder's behalf and, against receipt by the Company (on trust for such Shareholder) of the consideration payable for the relevant Shares, to deliver such documents to the Offeror (or his nominee) and to register such Offeror (or his nominee) as the holder thereof and, after such registration, the validity of such proceedings shall not be questioned by any person. If the consideration offered to the Other Shareholders includes a right to subscribe for or acquire any share, debt instrument or other security in the capital of the Offeror (or any other member of the Offeror Group) as an alternative (whether in whole or in part) to the consideration payable in cash then the Accepting Shareholders shall elect on behalf of the relevant Other Shareholder(s) to accept the cash alternative provided it is of equivalent value and neither the Board, nor the Company, nor any Accepting Shareholder shall have any liability to the Other Shareholders in relation to such election

**12.7** If the Offeror has also agreed to purchase all or any Loan Notes from the Accepting Shareholders, to the extent that some or all of the Other Shareholders hold Loan Notes the Drag Notice may also require each of the Other Shareholders to transfer the same proportion of the Loan Notes held by them to the Offeror as are being transferred by the Accepting Shareholders at such consideration as is equal to the highest consideration offered for each Loan Note by the Offeror to the Accepting Shareholders. The relevant provisions of this Article 12 shall apply to the Loan Notes held by the Other Shareholders and references to any Other Shareholder's Shares shall be construed accordingly (with such other amendments to the relevant provisions of this Article 12 as are necessary). If there is no such agreement to purchase all or any of the Loan Notes, completion of the Qualifying Offer shall only take place upon the repayment of the Loan Notes by the relevant Group Company in accordance with the terms of the Loan Note Instrument.

12.8 If any Shares are allotted by the Company (whether pursuant to the exercise of pre-existing options or warrants or otherwise) at any time after a Drag Notice is given ("**Further Shares**"), the Accepting Shareholders (whose composition shall be determined without taking into account the holders of any Further Shares which are A Ordinary Shares) shall be entitled to give written notice to the holders of the Further Shares whereupon such holders shall become bound to accept the Qualifying Offer and to transfer their Further Shares to the Offeror (or his nominee) with full title guarantee on the date specified in such notice and for the same consideration payable pursuant to the Qualifying Offer (subject to Articles 12.2 and 12.3). The provisions of Article 12.6 and, to the extent directed by Majority Direction, Articles 12.9 and 12.10 shall apply mutatis mutandis to any transfer of Shares carried out under this Article 12.8

12.9 Each Other Shareholder shall pay its pro-rata share (calculated by reference to the number of Equity Shares held by each Shareholder), as a deduction from the gross pre-tax proceeds to be received pursuant to the Qualifying Offer, without prejudice to any other deductions lawfully required to be made of the costs reasonably incurred by the Accepting Shareholders in connection with the Qualifying Offer and the transfer of Shares pursuant thereto to the extent that it can reasonably be demonstrated that such costs were incurred on behalf of the Accepting Shareholders and the Other Shareholders provided that any such deduction shall only be made to the extent of the cash proceeds received by any Other Shareholder after deduction of any relevant tax, and if such proceeds are insufficient to pay such pro-rata share of costs, any shortfall shall be borne by the Accepting Shareholders.

12.10 The provisions of Article 7 shall apply to any Sale under this Article 12

### 13. TAGALONG

13.1 If at any time one or more Shareholders (the "**Proposed Sellers**") propose to transfer to any person, in one or a series of related transactions (other than as part of a Solvent Reorganisation), such number of A Ordinary Shares which would, if registered, constitute a Sale (or would constitute a Sale if previous sales of A Ordinary Shares in the twelve months prior to such date were taken into account) (a "**Proposed Sale**"), the Proposed Sellers shall give written notice to the other holders of Shares of any Proposed Sale at least 20 Business Days prior to the proposed date of completion thereof. Such notice shall set out, to the extent not described in any accompanying documents, the identity of the proposed buyer (the "**Proposed Buyer**"), the sale price and other terms and conditions of payment, the proposed date of sale and the number of A Ordinary Shares to be acquired by the Proposed Buyer

13.2 The Proposed Sale may not be completed unless the Proposed Buyer has unconditionally (other than in respect of anti-trust clearances) offered to buy the Relevant Proportion of the issued Equity Shares held by each Shareholder (other than the Proposed Sellers and the Proposed Buyer or persons connected with or

acting in concert with them) (such offer being a **"Tag Offer"**) on the following terms.

**13.2.1** the consideration paid for each Equity Share (other than each C Ordinary Share) shall be equal to the highest amount offered for each A Ordinary Share pursuant to the Proposed Sale or paid by the Proposed Buyer or any person connected therewith or acting in concert therewith for an A Ordinary Share in the twelve months ending on the date of the written notice given pursuant to Article 13.1,

**13.2.2** the consideration paid for each C Ordinary Share shall be the lower of (i) the amount payable under Article 13.2.1; and (ii) the C Share Value; and

**13.2.3** subject to Article 13.3, the consideration shall be in the same form as that offered for the A Ordinary Shares pursuant to the Proposed Sale, shall be paid at the same time and shall be subject to the same payment terms as apply to the Proposed Sale

**13.3** For the purposes of Article 13.2

**13.3.1** "consideration" shall (unless and to the extent otherwise directed by a Majority Direction):

- (a) exclude any consideration in the form of any share, debt instrument or other security in the capital of the Proposed Buyer or any member of the same group of companies as the Proposed Buyer (the **"Buyer Group"**) provided that, if such form of consideration is to be excluded, an alternative consideration for each Equity Share is offered which is of equivalent value to such consideration, and
- (b) for the avoidance of doubt, exclude any right or opportunity offered to a Shareholder to subscribe for or acquire any share, debt instrument or other security in the capital of any member of the Buyer Group which is in addition to the consideration offered for each Share pursuant to the Proposed Sale, and

**13.3.2** **"Relevant Proportion"** shall mean the same proportion of the Equity Shares held by each Shareholder (other than the Proposed Sellers and the Proposed Buyer or persons connected with or acting in concert with them) as the proportion of A Ordinary Shares to be sold by the Proposed Sellers in the Proposed Sale plus any shares sold by them to the Proposed Buyer (including persons acting in concert with him or any connected persons) in the twelve months ending on the date of the notice referred to in Article 13.1 bears to the total number of A Ordinary Shares held by the Proposed Sellers prior to the transfer including those sold by them to the Proposed Buyer as described above

- 13.4 A Tag Offer shall be made in writing and shall remain open for acceptance for not less than 21 days.
- 13.5 If the total number of Equity Shares in respect of which the Tag Offer is accepted is less than the total number of Equity Shares which were subject to the Tag Offer (the difference between the total number of Equity Shares in respect of which acceptances were received by the Proposed Buyer and the total number of Equity Shares which were subject to the Tag Offer being the "**Tag Shortfall**"), the Proposed Sellers shall be entitled (but not obliged) to transfer up to such number of Equity Shares as equals the Tag Shortfall in addition to the A Ordinary Shares proposed to be sold by the Proposed Sellers pursuant to the Proposed Sale.
- 13.6 If the Proposed Buyer has also agreed to purchase Loan Notes from the Proposed Sellers pursuant to the Proposed Sale, to the extent that some or all of the Shareholders (other than the Proposed Sellers and the Proposed Buyer or persons connected with or acting in concert with them) hold Loan Notes, the Proposed Buyer must also offer to acquire (at such consideration per Loan Note as is equal to the highest consideration per Loan Note (as applicable) offered to the Proposed Sellers pursuant to the Proposed Sale or paid by the Proposed Buyer or any person connected therewith or acting in concert therewith in the twelve months ending on the date of the notice referred to in Article 13.1) the same proportion of the Loan Notes held by such Shareholders as the proportion of Loan Notes to be transferred by the Proposed Sellers including any Loan Notes sold by the Proposed Sellers to the Proposed Buyer (including persons acting in concert with him or any connected person thereof) in the twelve months ending on the date of this notice referred to in Article 13.1 bears to the total number of Loan Notes held by the Proposed Sellers prior to the transfer including any Loan Notes sold by the Proposed Sellers to the Proposed Buyer (including persons acting in concert with him or any connected person thereof) in the twelve months ending on the date of this notice referred to in Article 13.1. The relevant provisions of this Article 13 shall apply to the Loan Notes held by such Shareholders and references to any Equity Shares held by such persons shall be construed accordingly.
- 13.7 Each Shareholder who accepts a Tag Offer (a "**Tagging Shareholder**") shall pay its pro-rata share (calculated by reference to the number of Equity Shares held by the Tagging Shareholder(s)), as a deduction from the gross pre-tax proceeds to be received pursuant to Article 13.2, without prejudice to any other deductions lawfully required to be made, of the costs reasonably incurred by the Proposed Sellers in connection with the Proposed Sale and the transfer of Shares pursuant thereto to the extent that it can reasonably be demonstrated that such costs were incurred on behalf of all the Tagging Shareholders provided that any such deduction shall only be made to the extent of the cash proceeds received by any Tagging Shareholder after deduction for any relevant tax, and if such proceeds are insufficient to pay such share of costs, such shortfall should be borne by the Proposed Sellers.



- 13.8** The provisions of this Article 13 shall not apply to any Proposed Sale which is a Permitted Transfer under Article 10 or to any transfer of Shares in accordance with Article 11 or pursuant to a Qualifying Offer under Article 12.

## **SHAREHOLDER MEETINGS**

### **14. PROCEEDINGS OF SHAREHOLDERS**

- 14.1** No business shall be transacted at any general meeting unless a quorum of Shareholders is present at the time when the meeting proceeds to business and, subject to Article 14.2, for its duration. Two persons entitled to vote upon the business to be transacted, each being a Shareholder or a proxy for a Shareholder or a duly authorised representative of a Shareholder which is a corporation, shall be a quorum.

- 14.2** If within half an hour from the time appointed for the meeting a quorum is not present, or if during a meeting a quorum ceases to be present for a period exceeding 10 minutes, the meeting shall stand adjourned to the same day in the next week, at the same time and place, or to such other time and place as the Shareholders present may decide and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Shareholder or Shareholders present shall constitute a quorum.

- 14.3** A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of, the show of hands, a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded at any general meeting by the chairman, or by any Shareholder present in person or by proxy and entitled to vote or by a duly authorised representative of a corporation which is a Shareholder entitled to vote.

- 14.4** An instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notari ally or in some other way approved by the Board must be delivered to the registered office of the Company:

**14.4.1** in the case of a general meeting or an adjourned meeting, not less than 48 hours before the time appointed for the holding of the meeting or to the place of the meeting at any time before the time appointed for the holding of the meeting, and

**14.4.2** subject to Article 14.5, in the case of a proxy notice given in relation to a poll, before the end of the meeting at which the poll was demanded.

In calculating when a proxy notice is to be delivered, no account is to be taken of any part of a day that is not a Business Day. A notice revoking the appointment of a proxy must be given in accordance with the Act.

- 14.5** When a poll has been demanded it shall be taken immediately following the demand.

- 14.6 The provisions of these Articles relating to general meetings of the Company or to the proceedings thereat shall, with the necessary changes being made, apply to every separate meeting of the holders of any class of Share, except that the necessary quorum shall be two persons holding or representing by proxy at least one third in nominal amount of the issued shares of that class (but so that if at any adjourned meeting of such holders a quorum as above defined is not present then the provisions of Article 14 2 shall apply).
- 14.7 Directors may attend and speak at general meetings, whether or not they are members

## **DIRECTORS**

### **15. NUMBER OF DIRECTORS**

The number of Directors (excluding alternate directors) shall not be less than two in number

### **16. ALTERNATE DIRECTORS**

- 16.1 A Director (other than an alternate director) may appoint any other Director or any other person whomsoever, to be an alternate director and may remove from office an alternate director so appointed.
- 16.2 A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum
- 16.3 Any Director who is appointed an alternate director shall be entitled to vote at a meeting of the Board on behalf of the Director so appointing him in addition to being entitled to vote in his own capacity as a Director and shall also be considered as two Directors for the purpose of making a quorum of Directors unless he is the only individual present

### **17. PROCEEDINGS OF DIRECTORS**

#### **General**

- 17.1 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Subject to Article 18 2 any two Directors shall constitute a quorum and a quorum of Directors must be present throughout all meetings of the Board, save that if the number of Directors is less than the number fixed as the quorum, the continuing Director or Directors may act only for the purpose of appointing another Director or Directors in accordance with Article 19.1 2 or of calling a general meeting.
- 17.2 Any Director or alternate director may validly participate in a meeting of the Board through the medium of conference telephone or similar form of communication equipment provided that all persons participating in the meeting

are able to hear and speak to each other throughout such meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. Subject to the Act, all business transacted in such manner by the Board or a committee of the Board shall for the purpose of these Articles be deemed to be validly and effectively transacted at a meeting of the Board or a committee of the Board notwithstanding that a quorum of Directors is not physically present in the same place. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chairman of the meeting then is.

## **18. DIRECTORS' INTERESTS**

### **Directors' conflicts of interest - Situational Conflicts**

- 18.1** If a situation arises or exists in which a Director has or could have a Situational Conflict, without prejudice to the provision of Article 18.3, the Director concerned, or any other Director, may propose to the Board that such Situational Conflict be authorised, such proposal to be made in writing and delivered to the other Directors or made orally at a meeting of the Board, in each case setting out particulars of the Situational Conflict in question. Subject to the Act, the Directors may authorise such Situational Conflict and the continuing performance by the relevant Director of his duties as a Director of the Company on such terms as they may think fit.
- 18.2** The relevant Director shall not be counted in the quorum at the relevant meeting of the Directors to authorise such Situational Conflict nor be entitled to vote on the resolution authorising it.
- 18.3** Subject to compliance by him with his duties as a Director under Part X of the Act (other than the duty in section 175(1) of the Act which is the subject of this Article 18.3), a Director (including the chairman of the Company (if any) and any non-executive Director) may, at any time—
- 18.3.1** be employed by, or hold Shares or other securities (whether directly or indirectly) in the Company,
  - 18.3.2** be a director or other officer of, employed by or hold shares or other securities (whether directly or indirectly) in, or otherwise be interested, whether directly or indirectly, in
    - (a) any other Group Company; or
    - (c) any other entity in which a Group Company also holds shares or other securities or is otherwise interested, whether directly or indirectly,

(in each case a "Director Interest") and notwithstanding his office or the existence of an actual or potential conflict between any Director Interest and the interests of the Company, which would fall within the ambit of that section 175(1), the relevant Director

**18.3.3** shall be entitled to attend any meeting or part of a meeting of the Directors or a committee of the Directors at which any matter which may be relevant to the Director Interest may be discussed, and to vote on any resolution of the Directors or a committee thereof relating to such matter, and any board papers relating to such matter shall be provided to the relevant Director at the same time as the other Directors (save that a Director may not vote on any resolution in respect of matters relating to his employment with the Company or other Group Company);

**18.3.4** shall not be obliged to account to the Company for any remuneration or other benefits received by him in consequence of any Director Interest, and

**18.3.5** will not be obliged to disclose to the Company or use for the benefit of the Company any confidential information received by him by virtue of his Director Interest and otherwise than by virtue of his position as a Director, if to do so would breach any duty of confidentiality to any other Group Company or third party

**18.4** No contract entered into shall be liable to be avoided by virtue of

**18.4.1** any Director having an interest of the type referred to in Article 18 1 where the relevant Situational Conflict has been approved as provided by that Article; or

**18.4.2** any Director having a Director Interest which falls within Article 18 3

#### **Directors' conflicts of interest - Transactional Conflicts**

**18.5** The provisions of Articles 18 1 to 18.3 shall not apply to Transactional Conflicts but the following provisions of this Article 18 5 and Articles 18 6 to 18 8 shall so apply Any Director may be interested in an existing or proposed transaction or arrangement with the Company provided that he complies with the Act and (if applicable) Articles 18.6 and 18 7

**18.6** Subject to the provisions of the Act, and provided that he has disclosed to the other Directors the nature and extent of any material interest of his, a Director, notwithstanding his office

**18.6.1** may be a party to, or otherwise interested in, any existing or proposed transaction or arrangement with the Company or in which the Company is otherwise interested;

**18.6.2** may be a director or other officer of, or employed by, or a party to any existing or proposed transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested, and

**18.6.3** shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

**18.7** For the purposes of Article 18.6:

**18.7.1** a general notice to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any existing or proposed transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified, and

**18.7.2** an interest in which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his

**18.8** Without prejudice to the obligation of each Director to declare an interest in accordance with the Act, a Director may vote at a meeting of the Board or of a committee of the Board on any resolution concerning a matter in which he has an interest, whether direct or indirect, which relates to a transaction or arrangement with the Company, or in relation to which he has a duty. Having so declared any such interest or duty he may have, the Director shall be counted in the quorum present when any such resolution is under consideration and if he votes on such resolution his vote shall be counted

## **19. APPOINTMENT AND REMOVAL OF DIRECTORS**

**19.1** Any person who is willing to act as a director and is permitted by law to do so may be appointed as a director of the Company either

**19.1.1** by ordinary resolution of the members, or

**19.1.2** by a resolution of the Board

## **20. RETIREMENT BY ROTATION**

The Directors shall not be liable to retire by rotation

## MISCELLANEOUS

### 21. THE SEAL

In addition to its powers under section 44 of the Act, the Company may have a seal and the Directors shall provide for the safe custody of any such seal. If there is a seal, the Directors shall determine who may sign any instrument to which the seal is affixed and *unless otherwise so determined it shall be signed by at least one authorised person in the presence of a witness who attests his signature.* For the purposes of this article, an authorised person is any Director, the Company Secretary (if any) or any person authorised by the Directors for the purpose of signing documents to which the seal is applied.

### 22. INDEMNITY AND INSURANCE

**22.1** Subject to, and on such terms as may be permitted by the Act, the Company may.

**22.1.1** indemnify, out of the assets of the Company, any director of the Company or any associated company against all losses and liabilities which he may sustain or incur in the performance of the duties of his office or otherwise in relation thereto;

**22.1.2** provide a Director with funds to meet expenditure incurred or to be incurred by him:

- (a) at any time in defending any civil or criminal proceedings brought or threatened against him; or
- (b) in defending himself in an investigation by a regulatory authority or against action proposed to be taken by a regulatory authority,

in either case in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the Company or an associated company and the Company shall be permitted to take or omit to take any action or enter into any arrangement which would otherwise be prohibited under the Act to enable a Director to avoid incurring such expenditure;

**22.1.3** provide a director of any holding company of the Company with funds to meet expenditure incurred or to be incurred by him in:

- (a) defending any civil or criminal proceedings brought or threatened against him, or
- (b) defending himself in an investigation by a regulatory authority or against action proposed to be taken by a regulatory authority,

in either case in connection with any alleged negligence, default, breach of duty or breach of trust by him in relation to the Company or an associated

company and the Company shall be permitted to take or omit to take any action or enter into any arrangement which would otherwise be prohibited under the Act to enable such director to avoid incurring such expenditure, and

**22.1.4** purchase and maintain insurance for any Director or any director of any associated company against any liability attaching to any such person in connection with any negligence, default, breach of duty or breach of trust by him in relation to the Company or any such associated company.

**22.2** For the purpose of Article 22.1 above, a company will be "associated" with another if one is a subsidiary of the other or both are subsidiaries of the same body corporate as such terms are defined in the Act

## **23. NOTICES**

**23.1** Subject to the specific terms of these Articles, any notice to be given to or by any person pursuant to these Articles (other than a notice calling a meeting of the Board or a committee thereof) shall be in writing.

**23.2** Any Shareholder Communication may be served by the Company on, or supplied by the Company to, a Shareholder or other person personally or by sending it by first-class post in a pre-paid envelope addressed to such Shareholder or other person at his postal address (as appearing in the Company's register of members in the case of Shareholders) or (except in the case of Excluded Notices and share certificates) by sending or supplying it in electronic form or by website communication in accordance with Articles 24.4 or 24.5. Excluded Notices shall be sent to or served upon the relevant person as required by these Articles in hard copy and delivered personally or sent by first-class post in a pre-paid envelope and shall not be sent in electronic form

**23.3** In the case of a Shareholder Communication (including an Excluded Notice) sent by post, proof that an envelope containing the communication was properly addressed, pre-paid and posted shall be conclusive evidence that it was sent and it shall be deemed to be given or received at the expiration of 48 hours after the envelope containing it was posted. In calculating the period of hours for the purposes of this Article, no account shall be taken of Sundays or Bank Holidays

**23.4** Subject to the provisions of the Statutes, any Shareholder Communication (except an Excluded Notice or a share certificate) will be validly sent or supplied by the Company to a person if sent or supplied in electronic form provided that person has agreed (generally or specifically) (or, if the person is a company and is deemed by the Statutes to have agreed) that the communication may be sent or supplied in that form and

**23.4.1** the Shareholder Communication is sent in electronic form to such address as may for the time being be notified by the relevant person to the Company (generally or specifically) for that purpose or, if that relevant

person is a company, to such address as may be deemed by a provision of the Statutes to have been so specified, and

**23.4.2** that person has not revoked the agreement.

**23.5** Subject to the provisions of the Statutes, any Shareholder Communication (except an Excluded Notice or a share certificate) will be validly sent or supplied by the Company to a person if it is made available by means of a website communication where that person has agreed, or is deemed by the Statutes to have agreed (generally or specifically) that the communication may be sent or supplied to him in that manner and

**23.5.1** that person has not revoked the agreement;

**23.5.2** the person is notified in a manner for the time being agreed for the purpose between the person and the Company of

- (a) the presence of the Shareholder Communication on the Company's website,
- (b) the address of that website, and
- (c) the place on that website where the Shareholder Communication may be accessed and how it may be accessed, and

**23.5.3** the Shareholder Communication continues to be published on the Company's website throughout the period specified in the Act, provided that if it is published on the website for part but not all of such period, the Shareholder Communication will be treated as published throughout that period if the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the Company to prevent or avoid

**23.6** When any Shareholder Communication is sent by the Company in electronic form, it shall be deemed to have been given on the same day as it was sent to the address supplied by the Shareholder, and in the case of the provision of a Shareholder Communication by website communication, it shall be deemed to have been received when it 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 it was available on the website pursuant to Article 24.2

**23.7** Where in accordance with these Articles a Shareholder or other person is entitled or required to give or send to the Company a notice in writing (other than an Excluded Notice), the Company may, in its absolute discretion, (or shall, if it is deemed to have so agreed by any provision of the Statutes) permit such notices (or specified classes thereof) to be sent to the Company in such electronic form and at such address as may from time to time be specified (or be deemed by the Statutes to be agreed) by the Company (generally or specifically) for the purpose,



subject to any conditions or restrictions that the Board may from time to time prescribe (including as to authentication of the identity of the person giving or sending such notice to the Company),

**23.8** A Shareholder who has not supplied to the Company either a postal or an electronic address for the service of notices shall not be entitled to receive notices from the Company. If, on three consecutive occasions, a notice to a Shareholder has been returned undelivered, such Shareholder shall not thereafter be entitled to receive notices from the Company until he shall have communicated with the Company and supplied in writing to the office a new postal or electronic address for the service of notices. For these purposes, a notice shall be treated as returned undelivered if the notice is sent by post and is returned to the Company (or its agents) or, if sent in electronic form, if the Company (or its agents) receive(s) notification that the notice was not delivered to the address to which it was sent

**23.9** In the case of joint holders of a Share, all Shareholder Communications shall be sent or supplied to the joint holder who is named first in the register, and a Shareholder Communication so sent or supplied shall be deemed sent or supplied to all joint holders. Any provision of this Article 24 which refers to anything agreed, notified or specified by a member shall be deemed to have been validly agreed, notified or specified, notwithstanding any provisions of the Statutes, if agreed, notified or specified by only one and not all of the joint holders of any Shares held in joint names

#### **24. WINDING UP**

If the Company is wound up, the liquidator may, with Majority Consent and any other sanction required by the Act, divide among the Shareholders in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and determine how the division shall be carried out as between the Shareholders or different classes of Shareholders. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the Shareholders as he determines (with Majority Consent and any other sanction required by the Act), but no Shareholder shall be compelled to accept any assets upon which there is a liability.