

Company Number 08044729

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTIONS

of

BRENIG CONSTRUCTION LIMITED (Company)

CIRCULATION DATE 19 October 2012

WEDNESDAY



A10 24/10/2012 #160  
COMPANIES HOUSE

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the following resolutions are passed as Ordinary Resolutions and Special Resolutions as proposed (**Resolutions**)

#### ORDINARY RESOLUTION

1 THAT in accordance with Section 551 of the 2006 Act, the Directors be generally and unconditionally authorised to allot shares in the Company up to an aggregate nominal amount of 99 ordinary shares provided that this authority shall, unless renewed, varied or revoked by the Company, expire on the first anniversary of the passing of this resolution save that the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted and the Directors may allot shares in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired

This authority is in substitution for all previous authorities conferred on the Directors in accordance with Section 551 of the 2006 Act

#### SPECIAL RESOLUTIONS

2 THAT, subject to the passing of the resolution 1 and in accordance with Section 570 of the 2006 Act, the Directors be generally empowered to allot equity securities (as defined in section 560 of the 2006 Act) pursuant to the authority conferred by resolution 1 as if section 561(1) of the 2006 Act did not apply to any such allotment, provided that this power shall

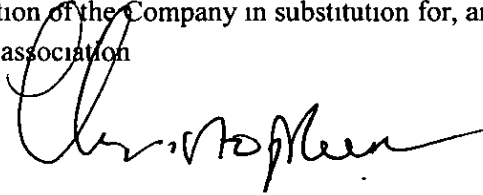
- a) Be limited to the allotment of equity securities up to an aggregate nominal amount of 99 ordinary shares
- b) Expire on the first anniversary of the passing of this resolution (unless renewed, varied or revoked by the Company prior to or on that date) save that the Company

may, before such expiry make an offer or agreement which would or might require equity securities to be allotted after such expiry and that the Directors may allot equity securities in pursuance of any such offer or agreement notwithstanding that the power conferred by this resolution has expired

- 3 THAT subject to the passing of resolutions 1 and 2 above, the draft articles attached to this resolution and, for the purposes of identification, initialled by the Chairperson be adopted as the articles of association of the Company in substitution for, and to the exclusion of, the existing articles of association

Signed by Christopher Lee

Date 19 October 2012



#### NOTES

- 1 Once you have indicated your agreement to the resolutions, you may not revoke your agreement
- 2 Unless, within 28 days from the circulation date, sufficient agreement has been received for the resolutions to pass, they will lapse. If you agree to the resolutions, please ensure that your agreement reaches us before or during this date
- 4 In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members

The Companies Act 2006  
Private Company Limited by shares

Articles of Association of  
Brenig Construction Limited  
(Company No 8044729)  
Adopted by special resolution on 19 October 2012.

A handwritten signature, possibly reading 'A. Q.', is written in black ink.

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**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**BRENIG CONSTRUCTION LIMITED**

**(Adopted by special resolution passed on 19 October 2012)**

## **AGREED TERMS**

### **1. INTERPRETATION**

1.1 In these Articles, the following words have the following meanings

**Act:** the Companies Act 2006,

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

**Appointor:** has the meaning given in article 11.1,

**Articles:** the Company's articles of association for the time being in force,

**Business Day:** any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business,

**Conflict:** has the meaning given in article 9.1,

**Continuing Shareholders:** has the meaning given in article 15.7,

**Eligible Director:** 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),

**Expert:** an independent firm of accountants jointly appointed by the shareholders or, in the absence of agreement between the shareholders on the identity of the expert within five Business Days of a shareholder serving details of a suggested expert on the other, an independent firm of accountants appointed by the President, for the time

being, of the Institute of Chartered Accountants in England and Wales (acting as an expert and not as an arbitrator),

**Fair Value:** means the value of the Sale Shares determined in accordance with article 16 4,

**holding company** and **subsidiary** mean a "holding company" and "subsidiary" as defined in section 1159 of the Act and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c) of the Act, as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee

**Interested Director:** has the meaning given in article 9 1,

**Model Articles:** the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (*SI 2008/3229*) as amended prior to the date of adoption of these Articles,

**Sale Shares:** the shares specified or deemed to be specified for sale in a Transfer Notice or Deemed Transfer Notice

**Seller:** the transferor of shares pursuant to a Transfer Notice

**Share:** an ordinary share of £1 in the capital of the Company

**Transfer Notice:** a notice in writing given by any Shareholder to the Company where that shareholder desires, or is required by these Articles, to transfer (or enter into an agreement to transfer) any shares Where such notice is deemed to have been served, it shall be referred to as a **Deemed Transfer Notice**

**Writing or written:** the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise, save that, for the purposes of article 15, article 16, article 17 and article 18, "writing" or "written" shall not include the sending or supply of notices, documents or information in electronic form (other than by fax),

- 1 2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles but excluding any statutory modification of them not in force on the date when these Articles become binding on the Company
- 1 3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles
- 1 4 A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise

1 5 Any phrase introduced by the terms **"including"**, **"include"**, **"in particular"** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms

1 6 Save as expressly provided otherwise in these Articles, any reference to any statutory provision shall be deemed to include a reference to each and every statutory amendment, modification, re-enactment and extension thereof for the time being in force

## **2. ADOPTION OF THE MODEL ARTICLES**

2 1 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles or regulations set out in any statute or in any statutory instrument or other subordinate legislation

2 2 Articles 6(2), 7, 8, 9(1), 11 to 14 (inclusive), 16, 17, 22, 26(5), 27 to 29 (inclusive), 36, 38, 39, 43, 44(2)[, 49] and 50 to 53 (inclusive) of the Model Articles shall not apply to the Company

2 3 Article 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors before the words "properly incur"

2 4 In article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity"

2 5 Articles 31(1)(a) to (c) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide" Article 31(d) of the Model Articles shall be amended by the deletion of the words "either" and "or by such other means as the directors decide"

## **DIRECTORS**

### **3. DIRECTORS' MEETINGS**

3 1 Any decision of the directors must be taken at a meeting of directors in accordance with these Articles or must be a decision taken in accordance with article 4

3 2 Subject as provided in these Articles, the directors may participate in directors' meetings for the despatch of business, adjourn and otherwise regulate their meetings as they think fit

3 3 Meetings of the directors shall take place at least four times each year

3 4 All decisions made at any meeting of the directors or of any committee of the directors shall be made only by resolution and resolutions at any meeting of the directors or committee of the directors shall be decided by a majority of votes

3 5 The provisions of article 7 shall apply equally to meetings of any committee of the directors as to meetings of the directors

#### **4. UNANIMOUS DECISIONS OF DIRECTORS**

4 1 A decision of the directors is taken in accordance with this article when all Eligible Directors indicate to each other by any means that they share a common view on a matter

4 2 Such a decision 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

#### **5. NUMBER OF DIRECTORS**

The number of directors shall be no more than five.

#### **6. CALLING A DIRECTORS' MEETING**

6 1 Any director may call a meeting of directors by giving not less than seven Business Days' notice of the meeting (or such shorter period of notice as agreed in writing by at least four Directors to each director or by authorising the Company secretary (if any) to give such notice

6 2 Notice of any directors' meeting must be accompanied by

- (a) an agenda specifying in reasonable detail the matters to be raised at the meeting, and
- (b) copies of any papers to be discussed at the meeting

6 3 Matters not on the agenda, or business conducted in relation to those matters, may not be raised at a meeting of directors unless all the directors agree in writing



**7. QUORUM FOR DIRECTORS' MEETINGS**

- 7.1 The quorum at any meeting of the directors (including adjourned meetings) shall be three Eligible Directors (or their alternates). No business shall be conducted at any meeting of the directors unless a quorum is participating at the beginning of the meeting and also when that business is voted on. If a quorum is not participating within 30 minutes of the time specified for the relevant meeting in the notice of the meeting then the meeting shall be adjourned for seven Business Days at the same time and place.

**8. CHAIRING OF DIRECTORS' MEETINGS**

The chairman shall not have a casting vote. If the chairman for the time being is unable to attend any meeting of the board of directors, he shall be entitled to appoint another director to act as chairman at the meeting.

**9. DIRECTORS' INTERESTS**

- 9.1 The directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director (the **Interested Director**) breaching his duty under section 175 of the Act to avoid conflicts of interest (**Conflict**).
- 9.2 Any authorisation under this article will be effective only if
- (a) to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine,
  - (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director, and
  - (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.
- 9.3 Any authorisation of a Conflict under this article may (whether at the time of giving the authorisation or subsequently)
- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised,
  - (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict,

- (c) provide that the Interested Director will or will not be an Eligible Director in respect of any future decision of the directors in relation to any resolution related to the Conflict,
- (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit,
- (e) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence, and
- (f) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the directors to the extent they relate to such matters

9 4 Where the directors authorise a Conflict, the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the directors in relation to the Conflict

9 5 The directors may revoke or vary such authorisation at any time but this will not affect anything done by the Interested Director prior to such revocation or variation in accordance with the terms of such authorisation

9 6 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors in accordance with these Articles or by the Company in general meeting (subject in each case to any terms and conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds

9 7 Subject to sections 177(5) and 177(6) of the Act, a director who is in any way, whether directly or indirectly, interested in a proposed transaction or arrangement with the Company shall declare the nature and extent of his interest to the other directors before the Company enters into the transaction or arrangement in accordance with the Act

9 8 Subject to sections 182(5) and 182(6) of the Act, a director who is in any way, whether directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company shall declare the nature and extent of his interest to the other directors as soon as is reasonably practicable in accordance with the Act, unless the interest has already been declared under article 9 7

9 9 Subject, where applicable, to any terms and conditions imposed by the directors in accordance with article 9 3, and provided a director has declared the nature and extent of his interest in accordance with the requirements of the Act, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company

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

#### 10. RECORDS OF DECISIONS TO BE KEPT

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

#### 11. ALTERNATE DIRECTORS

11 1 Any director (other than an alternate director) (in this article, the **Appointor**) may appoint any person (whether or not a director) to be an alternate director to exercise that director's powers, and carry out that director's responsibilities, in relation to the

taking of decisions by the directors, in the absence of the alternate's Appointor. In these Articles, where the context so permits, the term " Director" shall include an alternate director appointed by a Director (as the case may be). A person may be appointed an alternate director by more than one director.

11.2 Any appointment or removal of an alternate director must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the directors.

11.3 The notice must

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

11.4 An alternate director has the same rights, in relation to any decision of the directors, as the alternate's Appointor.

11.5 Except as the Articles specify otherwise, alternate directors

- (a) are deemed for all purposes to be directors,
- (b) are liable for their own acts and omissions,
- (c) are subject to the same restrictions as their Appointors, and
- (d) are not deemed to be agents of or for their Appointors,

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

11.6 A person who is an alternate director but not a director

- (a) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's Appointor is not participating), and
- (b) may participate in a unanimous decision of the directors (but only if his Appointor is an Eligible Director in relation to that decision, and does not himself participate).

11.7 A director who is also an alternate director is entitled, in the absence of his Appointor, to a separate vote on behalf of his Appointor, in addition to his own vote on any decision of the directors (provided that his Appointor is an Eligible Director in relation to that decision).

- 11 8 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as if he were a director but shall not be entitled to receive from the Company any remuneration in his capacity as an alternate director except such part (if any) of the remuneration otherwise payable to the alternate's Appointor as the Appointor may by notice in writing to the Company from time to time direct
- 11 9 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, or
  - (c) when the alternate director's Appointor ceases to be a director for whatever reason

## **SHARES**

### **12. SHARE CAPITAL**

- 12 1 Except as otherwise provided in these Articles, the Shares shall rank *pari passu* in all respects
- 12 2 No variation of the rights attaching to any class of shares shall be effective except with the sanction of a special resolution of the holders of the relevant class of shares Where a special resolution to vary the rights attaching to a class of shares is proposed at a separate general meeting of that class of shares, all the provisions of these Articles as to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be one holder of the relevant class present in person or by proxy or (being a corporation) by a duly authorised representative For the purpose of this article, one holder present in person or by proxy or (being a corporation) by a duly authorised representative may constitute a meeting

### **13. UNISSUED SHARES**

- 13 1 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the company
- 13 2 Unless otherwise agreed by special resolution, if the company proposes to allot any equity securities, those equity securities shall not be allotted to any person unless the Company has first offered them to all shareholders on the date of the offer on the same terms, and at the same price, as those equity securities are being offered to other

persons on a pari passu and pro rata basis to the number of shares held by those holders (as nearly as possible without involving fractions) The offer

- (a) shall be in writing, shall be open for acceptance for a period of 15 Business Days from the date of the offer and shall give details of the number and subscription price of the relevant equity securities, and
- (b) may stipulate that any shareholder who wishes to subscribe for a number of equity securities in excess of the proportion to which he is entitled shall, in his acceptance, state the number of excess equity securities (**Excess Securities**) for which he wishes to subscribe

13 3 Any equity securities not accepted by shareholders pursuant to the offer made to them in accordance with Article 14 2 shall be used for satisfying any requests for Excess Securities made pursuant to Article 14 2 If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants pro rata to the number of shares held by the applicants immediately before the offer was made to shareholders in accordance with Article 14 2 (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any shareholder beyond that applied for by him) After that allotment, any Excess Securities remaining shall be offered to any other person as the directors may determine, at the same price and on the same terms as the offer to the shareholders

13 4 Subject to Articles 14 2 and 14 3 and to section 551 of the Act, any equity securities shall be at the disposal of the directors who may allot, grant options over or otherwise dispose of them to any persons at those times and generally on the terms and conditions they think proper

#### **14. FURTHER ISSUES OF SHARES: AUTHORITY**

14 1 Subject to article 13 and the remaining provisions of this article 14, the directors are generally and unconditionally authorised, for the purpose of section 551 of the Act, to exercise any power of the Company to

- (a) offer or allot,
- (b) grant rights to subscribe for or to convert any security into, or
- (c) otherwise deal in, or dispose of,

any shares in the Company to any person, at any time and subject to any terms and conditions as the directors think proper

14 2 The authority referred to in article 14 1

- (a) shall be limited to a maximum nominal amount of £99 or such other amount as may from time to time be authorised by the Company by ordinary resolution,
- (b) shall only apply insofar as the Company has not, subject to these Articles, renewed, waived or revoked it by ordinary resolution, and
- (c) may only be exercised for a period of five years from the date of adoption of these Articles, save that the directors may make an offer or agreement which would, or might, require shares to be allotted after the expiry of such authority (and the directors may allot shares in pursuance of an offer or agreement as if such authority had not expired)

## 15. SHARE TRANSFERS

- 15 1 In this Article, references to a transfer of a Share include the transfer or assignment of a beneficial or other interest in that Share or the creation of a trust or encumbrance over that Share and reference to a Share includes a beneficial or other interest in a Share
- 15 2 Except where the provisions of Article 16, Article 17 or Article 18 apply, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights in this Article
- 15 3 A Seller shall, before transferring or agreeing to transfer any Shares, give a Transfer Notice to the Company specifying
- (a) the number of Sale Shares,
  - (b) if the Seller wishes to sell the Sale Shares to a third party, the name of the proposed transferee,
  - (c) the price (in cash) per share at which he wishes to transfer the Sale Shares (which will be deemed to be Fair Value of the Sale Shares if no cash price is agreed between the Seller and the Board calculated in accordance with Article 16 4 (**Transfer Price**)), and
  - (d) whether the Transfer Notice is conditional on all, or a specific number of, the Sale Shares being sold to Shareholders (**Minimum Transfer Condition**)
- 15 4 Once given (or deemed to have been given) under these Articles, a Transfer Notice may not be withdrawn
- 15 5 A Transfer Notice appoints the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price
- 15 6 As soon as practicable following the receipt of a Transfer Notice, the Board shall offer the Sale Shares for sale to the Shareholders in the manner set out in article 15 7

Each offer shall be in writing and give details of the number and Transfer Price of the Sale Shares offered

- 15 7 The Board shall offer the Sale Shares to all shareholders other than the Seller (**Continuing Shareholders**), inviting them to apply in writing within 28 days of the date of the offer (**First Offer Period**) for the maximum number of Sale Shares they wish to buy

If the Sale Shares are subject to a Minimum Transfer Condition, any allocation made under this article 15 7 and article 15 8 shall be conditional on the fulfilment of the Minimum Transfer Condition

If, at the end of the First Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Board shall allocate the Sale Shares to each Continuing Shareholder who has applied for Sale Shares in the proportion which his existing holding of Shares bears to the total number of Shares held by those Continuing Shareholders who have applied for Sale Shares. Fractional entitlements shall be rounded to the nearest whole number. No allocation shall be made to a Continuing Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy

If, at the end of the First Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Board shall allocate the Sale Shares to the Continuing Shareholders in accordance with their applications. The balance (**Initial Surplus Shares**) shall be dealt with in accordance with article 15 8

- 15 8 At the end of the First Offer Period, the Board shall offer the Initial Surplus Shares to all the Continuing Shareholders, inviting them to apply in writing within 28 days of the date of the offer (**Second Offer Period**) for the maximum number of Initial Surplus Shares they wish to buy

If, at the end of the Second Offer Period, the number of Initial Surplus Shares applied for exceeds the number of Initial Surplus Shares, the Board shall allocate the remaining Initial Surplus Shares to each Continuing Shareholder who has applied for Initial Surplus Shares in the proportion that his existing holding of Shares (including any Sale Shares) bears to the total number of Shares (including any Sale Shares) held by those Continuing Shareholders who have applied for Initial Surplus Shares during the Second Offer Period. Fractional entitlements shall be rounded to the nearest whole number. No allocation shall be made to a Continuing Shareholder of more than the maximum number of Initial Surplus Shares which he has stated he is willing to buy

If, at the end of the Second Offer Period, the number of Initial Surplus Shares applied for is less than the number of Initial Surplus Shares, the Board shall allocate the



Initial Surplus Shares to the Continuing Shareholders in accordance with their applications. The balance (**Second Surplus Shares**) shall be dealt with in accordance with article 15.11.

- 15.9 If the Transfer Notice includes a Minimum Transfer Condition and the total number of Sale Shares applied for is less than the number of Sale Shares specified in the Minimum Transfer Condition, the Board shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under article 15.7 and article 15.8, stating that the Minimum Transfer Condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

If

- (a) the Transfer Notice includes a Minimum Transfer Condition and such Minimum Transfer Condition has been satisfied, or the Transfer Notice does not include a Minimum Transfer Condition, and
- (b) allocations under article 15.7 and, if necessary, article 15.8 have been made in respect of some or all of the Sale Shares,

the Board shall give written notice of allocation (**Allocation Notice**) to the Seller and each Continuing Shareholder to whom Sale Shares have been allocated (**Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant, the amount payable by each Applicant for the number of Sale Shares allocated to him (**Consideration**) and the place and time for completion of the transfer of the Sale Shares (which shall be not more than 20 Business Days after the date of the Allocation Notice).

- 15.10 On the service of an Allocation Notice, the Seller shall, against payment of the Consideration, transfer the Sale Shares allocated in accordance with the requirements specified in the Allocation Notice.

If the Seller fails to comply with the requirements of the Allocation Notice

- (a) the Chairman of the Company (or, failing him, one of the other Directors, or some other person nominated by a resolution of the Board) may, on behalf of the Seller
  - (i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants,
  - (ii) receive the Consideration and give a good discharge for it, and
  - (iii) (subject to the transfers being duly stamped) enter the Applicants in the register of Shareholders as the holders of the Shares purchased by them, and

- (b) the Company shall pay the Consideration into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered his certificate for the relevant Shares (or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate, together with such other evidence (if any) as the Board may reasonably require to prove good title to those Shares) to the Company
- 15 11 If an Allocation Notice does not relate to all of the Sale Shares or the Transfer Notice lapses pursuant to article 15 9 then, subject to articles 15 12 and 15 3 and within twelve weeks following service of the Allocation Notice or the date of the lapse of the Transfer Notice (as the case may be), the Seller may transfer the Second Surplus Shares or the Sale Shares (in the case of a lapsed offer) (as the case may be) to any person at a price at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this article 15 11 shall continue to be subject to any Minimum Transfer Condition
- 15 12 If an Allocation Notice does not relate to all Sale Shares in the case of Sale Shares offered pursuant to an Obligatory Transfer Event, the Company, if permitted by the Companies Act 2006, may buy back these Sale Shares offered pursuant to an Obligatory Transfer Event
- 15 13 The Seller's right to transfer Shares under article 15 11 does not apply if the Board reasonably considers that
  - (a) the transferee is a person (or a nominee for a person) who is a competitor with (or an Associate of a competitor with) the business of the Company, or
  - (b) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee, or
  - (c) the Seller has failed or refused to provide promptly information available to the Seller and reasonably requested by the Board to enable it to form the opinion mentioned above
- 15 14 The restrictions imposed by this Article may be waived in relation to any proposed transfer of Shares with the consent of Shareholders who, but for the waiver, would or might have been entitled to have such Shares offered to them in accordance with this Article
- 15 15 At or before completion of the Sale Shares the Company shall repay any loans made by the Seller to the Company and the Seller shall repay any loans made by the Company to the Seller (together with any interest accrued thereon) and the parties shall use their best endeavours to procure the Seller is released from any guarantees, security arrangements and other obligations that it has given in respect of the Company and its business

## 16. OBLIGATORY TRANSFERS

16 1 If any of the following events (**Obligatory Transfer Events**) happen to a shareholder (in this article, the **Seller**), it shall serve a Transfer Notice on the Company as soon as possible, which shall include details of the Obligatory Transfer Event

- (a) a petition is presented, or an order is made, for the party's bankruptcy,
- (b) an application to the court is made under section 253 of the Insolvency Act 1986 where the party intends to make a proposal to his creditors for a voluntary arrangement,
- (c) the party makes an individual voluntary arrangement with his creditors on agreed terms pursuant to section 263A of the Insolvency Act 1986,
- (d) the party convenes a meeting of his creditors or takes any other steps with a view to making an arrangement or composition in satisfaction of his creditors generally,
- (e) the party is unable to pay his debts as they fall due within the meaning of section 268 of the Insolvency Act 1986,
- (f) any encumbrancer takes possession of, or a receiver is appointed over or in relation to, all or any material part of the party's assets,
- (g) the happening in relation to a party of any event analogous to any of the above in any jurisdiction in which he is resident, carries on business or has assets,
- (h) the party dies,
- (i) the party ceases to be a director and/or employee of the Company in circumstances where article 16 1 (l) do not apply
- (j) the party has a disqualification order made against him under the Company Directors Disqualification Act 1986,
- (k) the court has made an order or appointed a deputy under section 16 of the Mental Capacity Act 2005, or
- (l) the party is dismissed as a director and/or employee of the Company for gross misconduct

If the shareholder that has suffered the Obligatory Transfer Event fails to serve a Transfer Notice, it shall be regarded as giving a Deemed Transfer Notice in relation to all its shares in the Company on the date on which the Company becomes aware of the Obligatory Transfer Event

16 2 As soon as practicable after service, or deemed service, of the Transfer Notice, the shareholders shall appoint an Expert to determine the Fair Value of the Seller's shares in the Company

16 3 The Board shall offer the Seller's Shares to the Continuing Shareholders in accordance with Article 16 7 at the lesser of par value and Fair Value for any Obligatory Transfer Event set out in article 16 1 (a) to (g) inclusive and articles 16 1 (j) to (l) inclusive and for the Obligatory Transfer Event set out in article 16 1 9 (h) and (i) at the Fair Value

16 4 In this article the Fair Value of the shares to be sold in the Company shall be the value that the Expert certifies to be the fair market value in his opinion based on the following assumptions

- (a) the value of the shares in question is that proportion of the fair market value of the entire issued share capital of the Company that the Seller's shares bear to the then total issued share capital of the Company (with no premium or discount for the size of the Seller's shareholding or for the rights or restrictions applying to the shares),
- (b) the sale is between a willing buyer and a willing seller on the open market,
- (c) the sale is taking place on the date that the Obligatory Transfer Event occurred,
- (d) if the Company is then carrying on its business as a going concern, on the assumption that it shall continue to do so,
- (e) the shares are sold free of all encumbrances, and
- (f) to take account of any other factors that the Expert reasonably believes should be taken into account

If any problem arises in applying any of the assumptions set out in this article 16 4, the Expert shall resolve the problem in whatever manner he shall, in his absolute discretion, think fit

16 5 The Expert shall be requested to determine the Fair Value within 20 Business Days of his appointment and to notify the shareholders in writing of his determination

16 6 Subject to any confidentiality provisions, the Expert may have access to all accounting records and other relevant documents of the Company

16 7 The Expert's determination shall be final and binding on the shareholders (in the absence of fraud or manifest error)

16 8 If the Seller fails to complete the transfer of shares as required under this article, the Company

- (a) is irrevocably authorised to appoint any person as agent to transfer the shares on the Seller's behalf and to do anything else that the Buyer may reasonably require to complete the sale, and

- (b) may receive the purchase price in trust for the Seller, giving a receipt that shall discharge the Buyer

**17. DRAG ALONG**

- 17.1 Except in the case of transfers pursuant to Article 16 and after going through the pre-emption procedure set out in Article 15, if the holders of not less than 73% of the Shares in issue for the time being (**Selling Shareholders**) wish to transfer all of their interest in the Shares (**Sellers' Shares**) to a bona fide purchaser on arm's length terms (**Proposed Buyer**), the Selling Shareholders may require all other Shareholders (**Called Shareholders**) to sell and transfer all their shares to the Proposed Buyer (or as the Proposed Buyer directs) in accordance with the provisions of this Article (**Drag Along Option**)
- 17.2 The Selling Shareholders may exercise the Drag Along Option by giving written notice to that effect (**Drag Along Notice**) at any time before the transfer of the Sellers' Shares to the Proposed Buyer. The Drag Along Notice shall specify
  - (a) that the Called Shareholders are required to transfer all their Shares (**Called Shares**) pursuant to this article 17,
  - (b) the person to whom the Called Shares are to be transferred,
  - (c) the consideration payable for the Called Shares which shall, for each Called Share, be an amount equal to the price per share offered by the Proposed Buyer for the Sellers' Shares, and
  - (d) the proposed date of the transfer
- 17.3 Once issued, a Drag Along Notice shall be irrevocable. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not sold the Sellers' Shares to the Proposed Buyer within 30 Business Days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 17.4 No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in this article 17
- 17.5 Completion of the sale of the Called Shares shall take place on the Completion Date. Completion Date means the date proposed for completion of the sale of the Sellers' Shares unless
  - (a) all of the Called Shareholders and the Selling Shareholders agree otherwise in which case the Completion Date shall be the date agreed in writing by all of the Called Shareholders and the Selling Shareholders, or

- (b) that date is less than 20 Business Days after the date on which the Drag Along Notice is served, in which case the Completion Date shall be the 21<sup>st</sup> Business Day after service of the Drag Along Notice

17 6 Within 20 Business Days of the Selling Shareholders serving a Drag Along Notice on the Called Shareholders, the Called Shareholders shall deliver stock transfer forms for the Called Shares, together with the relevant share certificates (or a suitable indemnity for any lost share certificates) to the Company. On the Completion Date, the Company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts they are due for their shares pursuant to article 17 2(c) to the extent that the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the price shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders pursuant to article 17 2(c) in trust for the Called Shareholders without any obligation to pay interest.

17 7 To the extent that the Proposed Buyer has not, on the Completion Date, put the Company in funds to pay the consideration due pursuant to article 17 2(c), the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificates (or suitable indemnity) for the relevant Called Shares and the Called Shareholders shall have no further rights or obligations under this article 17 in respect of their Shares.

17 8 If any Called Shareholder does not, on completion of the sale of the Called Shares, execute transfer(s) in respect of all of the Called Shares held by it, the defaulting Called Shareholder shall be deemed to have irrevocably appointed any person nominated for the purpose by the Selling Shareholders to be his agent and attorney to execute all necessary transfer(s) on his behalf, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares, to deliver such transfer(s) to the Proposed Buyer (or as they may direct) as the holder thereof. After the Proposed Buyer (or its nominee) has been registered as the holder, the validity of such proceedings shall not be questioned by any such person. Failure to produce a share certificate shall not impede the registration of shares under this article 18.

## 18. TAG ALONG

18 1 Except in the case of transfers pursuant to Article 16, and after going through the pre-emption procedure set out in Article 15, the provisions of article 18 2 to article 18 6 shall apply if, in one or a series of related transactions, one or more Sellers propose to transfer any of the Shares (**Proposed Transfer**) which would, if carried out, result in any person (**Buyer**), and any person Acting in Concert with the Buyer, acquiring not less than 73% of the Shares in issue from time to time in the Company.

- 18 2 Before making a Proposed Transfer, a Seller shall procure that the Buyer makes an offer (**Offer**) to the other Shareholders to purchase all of the Shares held by them, for a consideration in cash per Share that is at least equal to the highest price per Share offered or paid by the Buyer, or any person Acting in Concert with the Buyer, in the Proposed Transfer or in any related previous transaction in the 3 months preceding the date of the Proposed Transfer (**Specified Price**)
- 18 3 The Offer shall be given by written notice (**Offer Notice**), at least 20 Business Days (**Offer Period**) before the proposed sale date (**Sale Date**) To the extent not described in any accompanying documents, the Offer Notice shall set out
- (a) the identity of the Buyer,
  - (b) the purchase price and other terms and conditions of payment,
  - (c) the Sale Date, and
  - (d) the number of Shares proposed to be purchased by the Buyer (**Offer Shares**)
- 18 4 If the Buyer fails to make the Offer to all of the holders of Shares in the Company in accordance with article 18 2 and article 18 3, the Seller shall not be entitled to complete the Proposed Transfer and the Company shall not register any transfer of Shares effected in accordance with the Proposed Transfer
- 18 5 If the Offer is accepted by any Shareholder (**Accepting Shareholder**) within the Offer Period, the completion of the Proposed Transfer shall be conditional on completion of the purchase of all the Offer Shares held by Accepting Shareholders
- 18 6 The Proposed Transfer is subject to the pre-emption provisions of Article 16, but the purchase of Offer Shares from Accepting Shareholders shall not be subject to those provisions

## **DECISION MAKING BY SHAREHOLDERS**

### **19. QUORUM FOR GENERAL MEETINGS**

- 19 1 The quorum at any general meeting of the Company, or adjourned general meeting, shall be three shareholders present in person or by proxy
- 19 2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on

## **20. CHAIRING GENERAL MEETINGS**

The chairman of the board of directors shall chair general meetings. If the chairman is unable to attend any general meeting, the shareholders present at the meeting shall appoint another director to act as chairman at the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

## **21. VOTING**

21.1 At a general meeting, on a show of hands every shareholder who is present in person or by proxy shall have one vote, unless the proxy is himself a shareholder entitled to vote, on a poll every shareholder present in person or by proxy shall have one vote for each share of which he is the holder, and on a vote on a written resolution every shareholder has one vote for each share of which he is the holder.

21.2 Any resolution proposed as a written resolution in relation to any of the matters listed in article 21.1 shall be proposed in a form that provides shareholders with the ability to cast their votes against as well as in favour of such resolution.

## **22. POLL VOTES**

22.1 A poll may be demanded at any general meeting by a qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.

22.2 Article 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that article.

## **23. PROXIES**

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

23.2 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid" as a new paragraph at the end of that article.

## **ADMINISTRATIVE ARRANGEMENTS**



**24 MEANS OF COMMUNICATION TO BE USED**

24 1 Subject to article 24 2, any notice, document or other information shall be deemed served on, or delivered to, the intended recipient

- (a) if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted or five Business Days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider,
- (b) if properly addressed and delivered by hand, when it was given or left at the appropriate address,
- (c) if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied, and
- (d) if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website

For the purposes of this article, no account shall be taken of any part of a day that is not a working day

24 2 Any notice, document or other information served on, or delivered to, an intended recipient under article 15, article 16, article 17 or article 18 (as the case may be) may not be served or delivered in electronic form (other than by fax), or by means of a website

24 3 In proving that any notice, document or information was properly addressed, it shall be sufficient to show that the notice, document or information was addressed to an address permitted for the purpose by the Act

**25. INDEMNITY AND INSURANCE**

25 1 Subject to article 25 2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled

- (a) each relevant officer of the Company shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer
  - (i) in the actual or purported execution and/or discharge of his duties, or in relation to them, and

(ii) in relation to the Company's activities as a trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's affairs, and

(b) the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 25 1(a) and otherwise may take action to enable any such relevant officer to avoid incurring such expenditure

25 2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law

25 3 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss

25 4 In this article

(a) a "relevant officer " means any director or other officer or former director or other officer of the Company but excluding in each case any person engaged by the Company as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor, and

(b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company or any pension fund or employees' share scheme of the Company

## **26. SEED ENTERPRISE INVESTMENT SCHEME STATUS**

The holders of Shares from time to time and the Company will not do or permit any act or omission which will result in the loss of Seed Enterprise Investment Scheme status for the Company