

PRINT OF WRITTEN RESOLUTION

Company Number: 08336378

PRIVATE COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

AND CLASS CONSENT

OF THE ORDINARY SHAREHOLDER OF

of

EUROPEAN GENERATION LIMITED

(the "Company")

Circulation Date: 10 APRIL 2014 (the "Circulation Date")

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In accordance with Chapter 2 of Part 13 and Chapter 9 of Part 17 of the Companies Act 2006 we confirm that resolutions 1 and 2 below were passed as special resolutions:

- 1 That the Articles of Association of the Company be amended by adopting the Articles of Association in the form attached to this resolution (the "New Articles") in place of and in substitution for the existing Articles of Association of the Company.
- 2 THAT the designation of the ordinary share be changed to a "C" ordinary share (the "Redesignation") and that following the Redesignation the class rights of the ordinary share shall be varied so that it has the prescribed rights of a "C" ordinary share with the rights and subject to the restrictions set out in the New Articles.

Signature:

...*[Signature]*...

Director Duly authorised on  
behalf of the company

Date:

.. 10 APRIL 2014

THURSDAY



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COMPANIES HOUSE

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

**ARTICLES OF ASSOCIATION**  
**of**  
**EUROPEAN GENERATION LIMITED**  
**Registered Number 08336378**

Incorporated in England and Wales  
the 19 day of December 2012

Adopted on the            day  
of            2014

**Wragge&Co**

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**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**of**  
**EUROPEAN GENERATION LIMITED**  
**(Registered Number 08336378)**

**1     Constitution**

- 1 1     The regulations contained in Schedule 3 of the Companies (Model Articles) Regulations 2008 ("Model Articles") shall apply to the Company except to the extent that they are excluded by or inconsistent with these Articles
- 1 2     Model Articles 7, 10(2), 11, 13(3), 16, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33(1), 34, 41, 43, 45, 63(6), 80, 82 and 85 do not apply.
- 1 3     The Default Articles shall not apply to the Company

**2     Interpretation**

- 2.1     In these Articles, unless the context otherwise requires, words and expressions shall bear the meaning ascribed to them in Article 22 (Definitions)

**3     Share Capital**

- 3 1     Any shares may be issued on the terms that they are, or at the option of the Company are, liable to be redeemed
- 3 2     Subject to obtaining the prior written consent of the Investor Majority and to the provisions of the CA06 and of every other statute for the time being in force concerning companies and affecting the Company and to the provisions of these Articles and to any direction to the contrary that may be given by ordinary resolution of the Company (with the prior written consent of the Investor Majority), any new Shares to be issued (including any redeemable Shares whether forming part of the existing or any increased capital) shall be at the disposal of the Directors, who may offer, allot, issue, grant options or rights over or otherwise dispose of them to such persons, at such times and for such consideration and upon such terms and conditions and with such preferred, deferred or other special rights or restrictions whether in regard to dividend, voting, return of capital or otherwise as the Board may determine, but so that no Shares shall be issued at a discount
- 3 3     Save to the extent authorised by these Articles, or authorised from time to time by an ordinary resolution of the Company (with prior written consent of the Investor Majority) the Directors shall not exercise any power to allot relevant securities.
- 3.4     In accordance with Section 570 of CA 06, section 561(1) of CA 06 shall be excluded from applying to the allotment of equity securities (as defined in Section 560 of CA 06)
- 3 5     Subject to Articles 3 6 and provided the Investor Majority have given their prior written consent to the allotment of such Shares, all new Shares shall be offered in writing for subscription to the holders of Shares (which for these purposes shall be treated as one class of Share) in the proportion that the aggregate number of such Shares for the time being held respectively by each such member bears to the aggregate number of all Shares for the

time being in issue and such offer shall be made at the same price per Share and by written notice specifying the number of Shares to which the member is entitled and limiting a time (being not less than 5 Business Days nor more than 20 Business Days) within which the offer if not accepted and completed will be deemed to be declined and, after the expiration of such time or on the receipt of a confirmation from the member of the Company to whom such notice is given that he has declined to accept the Shares so offered, the Board shall issue the same on the same terms including the same price as they were initially offered to the members but otherwise to such persons and in such manner as they are directed by an Investor Majority. If owing to the inequality in the number of new Shares to be issued and the number of Shares held by those members of the Company entitled to receive the offer of new Shares, such difficulties shall, in the absence of direction by the Company, be determined by an Investor Majority.

- 3.6 The Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Share or any interest in any fractional part of a Share or (except only as otherwise provided by these Articles or by law) any other rights in respect of any Share except an absolute right to the entirety thereof held by the registered holder. The Company shall however, with the prior written consent of the Investor Majority, be entitled to register trustees as such in respect of any Shares.
- 3.7 Model Article 72(1) shall apply as if the words "either in writing or as the directors may otherwise decide" were deleted from each of the paragraphs (a) to (d) inclusive and replaced in each case by the words "in writing".

#### 4 Capital

- 4.1 On any Liquidation or Exit (or other return of capital by the Company to shareholders other than by way of capitalisation of reserves)
- (a) The Proceeds up to and including the First Hurdle Amount, shall be applied as follows
    - (i) first, in paying to the holders of the Investor Loan Notes, all interest accrued but unpaid in relation to the Investor Loan Notes and calculated in accordance with the Investor Loan Note Instrument, and
    - (ii) second, in paying to the holders of the Investor Loan Notes, the principal amount outstanding in relation to the Investor Loan Notes; and
    - (iii) third, in distributing the balance of the assets to the holders of the A Ordinary Shares
  - (b) The Proceeds in excess of the First Hurdle Amount and up to and including the Second Hurdle Amount (the "First Hurdle Excess") shall be applied (on a pari passu basis) as follows
    - (i) the holders of the A Ordinary Shares, 60% of the First Hurdle Excess, and
    - (ii) subject to Article 4.2, the holders of the B Ordinary Shares and C Ordinary Shares, 40% of the First Hurdle Excess
  - (c) The Proceeds in excess of the Second Hurdle Amount and up to and including the Third Hurdle Amount (the "Second Hurdle Excess"), shall be applied (on a pari passu basis) as follows

- (i) the holders of the A Ordinary Shares, 50% of the Second Hurdle Excess, and
    - (ii) subject to Article 4.2, the holders of the B Ordinary Shares and C Ordinary Shares, 50% of the Second Hurdle Excess.
  - (d) The Proceeds in excess of the Third Hurdle Amount (the "Third Hurdle Excess") shall be applied (on a pari passu basis) as follows
    - (i) the holders of the A Ordinary Shares, 60% of the Third Hurdle Excess,
    - (ii) subject to Article 4 2, the holders of the B Ordinary Shares and C Ordinary Shares, 40% of the Third Hurdle Excess.
- 4 2 Once the total aggregate amount (if any) payable to the holders of the B Ordinary Shares and C Ordinary Shares has been calculated in accordance with Article 4 1 above (and taking into consideration amounts already distributed pursuant to Article 5 3), such amount is to be applied so that the aggregate apportionment of Proceeds (as between the holders of the B Ordinary Shares and C Ordinary Shares) is as follows
- (a) 80% for the holders of the B Ordinary Shares, and
  - (b) 20% for the holder of the C Ordinary Shares
- 4 3 Once the amount of Proceeds each shareholder is entitled to has been calculated in accordance with this Article 4, and in the event such Proceeds includes non-contingent and clearly quantifiable deferred consideration, the amount immediately payable to each shareholder on completion of a Liquidation or Exit shall be reduced pro-rata in direct proportion to the amount that the Proceeds immediately payable bears to the total amount of Proceeds payable (including non-contingent and clearly quantifiable deferred consideration) The remainder of the Proceeds shall then become payable once the non-contingent and clearly quantifiable consideration has actually been paid and duly received

## 5 Ordinary Shares

- 5 1 The A Ordinary Shares, B Ordinary Shares and C Ordinary Shares shall have in all respects identical rights and shall rank pari passu in all respects with each other as if the same constituted one class of shares except, save as set out in Article 4 (Capital), Article 5 3 (Dividends), Article 5 4(b) (Voting), Article 13 2 (Permitted Transfers and Pre-emption) and where otherwise expressly stated in these Articles All references to Shares and/or Ordinary Shares shall be deemed to include a reference to the A Ordinary Shares, B Ordinary Shares and C Ordinary Shares as if they constituted one class of shares
- 5 2 The provisions of Article 6 (Variation of Class Rights) shall not apply to any variation of rights attaching to Shares to the extent that such variation applies to all classes of Share in the same manner and to the same (or substantially the same) extent

### 5.3 Dividends

- (a) Any Proceeds which the Company determines to distribute in any financial year shall be paid in accordance with the order of preference set out in Article 4, more specifically
  - (i) all Proceeds up to any including the First Hurdle Amount which the Company determines to distribute in any financial year shall be paid to the holders of the A Ordinary Shares,
  - (ii) all Proceeds in excess of the First Hurdle Amount and up to and including

the Second Hurdle Amount which the Company determines to distribute shall be paid 60% to the holders of the A Ordinary Shares and 40% to the holders of the B Ordinary Shares and C Ordinary Shares,

- (iii) all Proceeds in excess of the Second Hurdle Amount and up to and including the Third Hurdle Amount which the Company determines to distribute shall be paid 50% to the holders of the A Ordinary Shares and 50% to the holders of the B Ordinary Shares and C Ordinary Shares; and
  - (iv) all Proceeds in excess of the Third Hurdle Amount which the Company determines to distribute shall be paid 60% to the holders of the A Ordinary Shares and 40% to the holders of the B Ordinary Shares and C Ordinary Shares.
- (b) On the declaration of a dividend, once the amount (if any) payable to the holders of the B Ordinary Shares and C Ordinary Shares has been calculated in accordance with Article 5 3 above, such amount is to be applied as follows (as between the holders of the B Ordinary Shares and C Ordinary Shares)
- (i) 80% for the holders of the B Ordinary Shares, and
  - (ii) 20% for the holder of the C Ordinary Shares
- (c) Model Articles 70(5) to 70(7) inclusive shall not apply to the Company

#### 5 4 Voting

- (a) The holders of the Ordinary Shares shall be entitled to receive notice of and to attend and speak at any general meeting of the Company and each holder of 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, on a show of hands, have one vote, and, on a poll, have one vote for each Ordinary Share of which he is the registered holder
- (b) The holders of the B Ordinary Shares shall not be entitled to vote, whether present in person, by proxy or by a duly authorised representative, on a show of hands or on a poll on any resolution relating solely to the appointment or removal of an Investor Director or Chairperson

#### 5.5 Capital

- (a) On a return of capital on liquidation, capital reduction or otherwise, the surplus assets of the Company remaining after the payment of its liabilities shall be applied in accordance with Article 4

## 6 Variation of Class Rights

6.1 Whenever the capital of the Company is divided into different classes of Shares, the special rights attached to any class may (unless otherwise provided by the terms of issue of the Shares of that class) be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding up, with the consent in writing of the holders of at least 75% in aggregate nominal value of the issued Shares of that class, or with the sanction of a resolution passed at a separate meeting of the holders of the Shares of that class by the holders of not less than 75% in aggregate value of Shares of that class who attended and voted at such meeting, but not otherwise. To each such separate meeting, all the provisions of these Articles relating to general meetings of the Company, or to the proceedings at them shall, mutatis mutandis, apply except that

- (a) no member shall be entitled to receive notice of such meeting or to attend it unless he is a holder of Shares of the class in question and no vote shall be given except in respect of a Share of that class,
- (b) the necessary quorum shall for a meeting of the A Ordinary Shareholders be two persons and of the B Ordinary Shareholders shall be two persons and of the C Ordinary Shareholders shall be 1 person, each being a member, a proxy for a member or a duly authorised representative of a member being a corporation, together holding or representing at least one third in nominal amount of the issued Shares of that class,
- (c) if at any adjourned meeting, a quorum as defined above is not present within half an hour of the time appointed for the adjourned meeting, the member or members who is/are present shall be a quorum, and
- (d) the holders of Shares of the class in question shall, on a poll, have one vote in respect of every Share of that class held by them.

6.2 If a Listing is proposed then (conditional upon the Listing becoming effective and with effect prior to the earlier of (i) the Listing becoming effective, and (ii) the acquisition (conditional upon the Listing becoming effective) by a new holding company ("New Holding Company") of the entire issued share capital of the Company, such New Holding Company to adopt new articles of association which are in a form that is typical for a public company whose share capital is admitted to trading on the relevant Stock Exchange), the existing share capital of the Company shall be transferred to a the New Holding Company in consideration for such number of ordinary shares under such new articles such that the proportion of the equity share capital (on an as converted basis) held by each shareholder following completion of such issue equals the proportion of the Proceeds that each shareholder would have received in accordance with Article 4 were the Listing to be a Sale (and assuming the Valuation of the Company immediately prior to the Listing constitutes the Proceeds) The "Valuation" shall be the valuation of the Company at the time of the Listing as resolved by the Board (acting with Investor Consent) at the last practicable meeting of the Board prior to the Listing and shall take into account the value of the exercise subscription proceeds of the exercise of options capable of exercise prior to (and, if relevant, conditional on) the Listing but excluding the value of the proceeds of subscriptions for new shares to be issued to placees or other third parties by the Company (other than on the exercise of options) at the time of the Listing. For the avoidance of doubt, the operation of this Article 6.2 shall not constitute a variation of class rights

## 7 Transfer of Shares

7.1 The Directors shall register any transfer of Shares made in accordance with the provisions of Articles 7.2 or 13 to 19 (*permitted transfers, Investor Majority Direction of Leaver Shares,*



*compulsory transfers, fair price, change of controlling interest, tag-along and drag-along*)  
Save as aforesaid the Directors shall decline to register any transfer of any Shares, whether or not such Shares are fully paid

- 7 2 Subject to such of the restrictions set out in these Articles as may be applicable, any member may transfer all or any of his Shares by instrument of transfer in writing in any usual or common form or in any other form which the Board (acting with Investor Consent) may approve. The instrument of transfer shall be executed by or on behalf of the transferor and (except in the case of fully paid Shares) by or on behalf of the transferee and the transferor shall remain the holder of the Shares and as such a member of the Company until the name of the transferee is entered in the Company's register of members in respect thereof

## 8 General Meetings

- 8 1 No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, the holders of majority of the issued A Ordinary Shares present in person or by proxy or, if a corporation, by a duly authorised representative or proxy shall be a quorum.
- 8 2 If a quorum is not present within half an hour of the time appointed for a general meeting the meeting, if convened on the requisition of members, shall be dissolved. In any other case such meeting shall stand adjourned to the same place 5 Business Days later or to such later day and at such time and place as the Board may determine, and if at the adjourned meeting a quorum is not present the meeting shall stand adjourned to the same place a further 5 Business Days later or to such later day and at such time and place as the Board may determine. If at the second adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the member(s) present shall be a quorum.
- 8 3 A resolution in writing signed by all the members of the Company who would be entitled to receive notice of and to attend and vote at a general meeting at which such resolution was to be proposed, or by their duly appointed attorneys or representatives, shall be as valid and effectual as if it had been passed at a general meeting of the Company duly convened and held. Any such resolution may consist of several documents in the like form each signed by one or more of the members or their duly appointed attorneys or representatives and the signature in the case of a corporation which is a member shall be sufficient if made by a director or the secretary thereof or by its duly appointed attorney(s) or representatives(s)
- 8 4
- (a) A poll may be demanded at any general meeting by the chairman or by any member present in person or by proxy or, if a corporation, by a proxy or a representative duly authorised and entitled to vote on the resolution in question. Model Article 36(2) shall be construed accordingly
  - (b) Model Article 36(3) shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the results of a show of hands declared before the demand was made" as a new paragraph at the end of that article
- 8 5 A resolution not previously approved by the Board may not be moved by any member at a general meeting unless the member intending to move the same shall have left a copy thereof with his name and address at the Office no less than 3 Business Days prior to such meeting
- 8 6 A notice of every general meeting shall be given to every member who has supplied to the Company an address (whether or not within the United Kingdom) for the giving of notices

## 9 Directors

### 9.1 The quorum for the transaction of the business of the Directors:

- (a) may be fixed by the Board but, save as set out below in this Article 9.1 or unless an Investor Majority shall otherwise agree in writing, two of the quorum shall always be Investor Directors, if there are two in office, and
- (b) unless so fixed at any other number (or unless there is only one Director) shall be two, and, unless an Investor Director cannot count in the quorum for any resolution at a meeting to the extent that an effective directors authorisation is sought pursuant to section 175(4)(b) CA06 at such meeting (and in such a situation then only for the period where such an authorisation is being considered and resolved upon) one of whom shall be an Investor Director (if in office)

Any Investor Director may call a directors' meeting by giving notice of the meeting to the directors. Notice of a directors' meeting must be given to each director, but need not be in writing and there shall be no minimum notice requirement in respect of such meeting.

### 9.2 A person who holds office only as an Alternate Director shall, if his appointor is not present (but not otherwise), be counted in the quorum. For the purposes of any meeting (or part of a meeting) held in accordance with this Article 9 to authorise a director's conflict pursuant to section 175(4)(b) CA06, if there is only one eligible director in office other than the conflicted director(s) the quorum for that meeting (or part of a meeting) is one eligible director provided always that where the eligible director is not an Investor Director, the only business which shall be transacted at the meeting shall be the authorisation of such conflict.

### 9.3 Unless and until otherwise determined by ordinary resolution of the Company or as otherwise determined by an Investor Director, the minimum number of Directors shall be one and there shall be no maximum number. A sole Director shall have all the power and authority vested in "the Directors" pursuant to these Articles.

### 9.4 A Director shall not be required to hold Shares of the Company in order to qualify for office as a Director of the Company, but he shall be entitled to receive notice of and attend and speak at all general meetings of the Company or meetings of any class of members of the Company.

### 9.5 If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the Company in which a director is in any way directly or indirectly interested, that director shall be counted as participating in the decision making process for quorum and voting purposes provided that the relevant interest either

- (a) has been duly declared in accordance with section 177 or section 182 CA06, as the case may require, or
- (b) is not required by the terms of either of those sections to be declared

### 9.6 The provisions of this Article 9.6 and Articles 9.7 to 9.14 shall apply in relation to the exercise of the power of the directors to authorise any matter which would or might otherwise constitute or give rise to a breach of the duty of a director under section 175(1) CA06 to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company.

### 9.7 In this Article, Article 9.6 and Articles 9.8 to 9.14

<b>"authorise"</b>	means to authorise in accordance with section 175(5)(a) CA06 and "authorisation", "authorised" and cognate expressions shall be construed accordingly,
<b>"conflicted director"</b>	means a director in relation to whom there is a conflicting matter,
<b>"conflicting matter"</b>	means a matter or situation which would or might (if not authorised) constitute or give rise to a breach of the duty of a director under section 175(1) CA 06 to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company,
<b>"Relevant Undertaking"</b>	shall mean the Company, a subsidiary undertaking of the Company, any parent undertaking of the Company or a subsidiary undertaking of any such parent undertaking, any undertaking promoted by the Company and any undertaking in which the Company is otherwise interested,
<b>"Relevant Investor Undertaking"</b>	means any company in which an Investor is (or proposes to be) a shareholder or is (or proposes to be) a lender; and

section 252 CA06 shall determine whether a person is connected with a director, and

a general notice to the Board that a director is to be regarded as having an interest of the nature and extent specified in the notice in any 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

- 9 8 The provisions of Articles 9 6, 9 7, this Article and Articles 9.9 to 9 14 apply without prejudice (and subject) to the provisions of section 175(6) CA06 Nothing in these Articles shall invalidate an authorisation.
- 9 9 For the purposes of sections 175 and 180(4) of the CA 06, the members of the Company authorise each conflicting matter of an Investor Director's which arises or may arise as a result of any of the following matters or situations (in each case, existing before, at or after the date of adoption of these Articles)
- (a) as a party to or in any way directly or indirectly interested in or having any duty in respect of any existing or proposed contract or arrangement or transaction with a Relevant Undertaking or a Relevant Investor Undertaking or any other undertaking in which the Company or a Relevant Investor Undertaking is in any way interested,
  - (b) as a director, partner, member or employee or other office holder of any Relevant Undertaking or a Relevant Investor Undertaking or otherwise interested (including without limitation by the holding of shares or loan notes or options to acquire shares or loan notes) in any Relevant Undertaking or a Relevant Investor Undertaking,
  - (c) being remunerated in respect of any office (other than in each case the office of auditor) by any Relevant Undertaking or a Relevant Investor Undertaking,
  - (d) acting in a professional capacity for the Company, any Relevant Undertaking or a Relevant Investor Undertaking (other than in each case as auditor) whether or not he is remunerated for this,

- (e) in relation to any duty he may owe to, or interest he may have as an employee, director, consultant, member or partner of an Investor or a fund manager of an Investor or any duty he may owe to, or interest he may have as member or partner of, or investor in an Investor or any of the funds advised or managed by such fund manager from time to time;
  - (f) in respect of any rights or powers he may have pursuant to the terms of the Investment Agreement or these Articles,
  - (g) an interest which cannot reasonably be regarded as likely to constitute a conflicting matter;
  - (h) an interest or transaction or arrangement giving rise to an interest of which the Investor Director is not aware, or
  - (i) any other interest authorised by ordinary resolution of the Members
- 9 10 Subject to Article 9 11 (and without prejudice to any equitable principle or rule of law which may excuse or release the Investor Director from disclosing information in circumstances where disclosure may otherwise be required under this Article), if an Investor Director, otherwise than by virtue of his position as director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required
- (a) to disclose such information to the Company or to the Board or to any director, officer or employee of the Company, or
  - (b) otherwise to use or apply such confidential information for the purpose of or in connection with the performance of his duties as a director.
- 9.11 Where such duty of confidentiality arises out of a conflicting matter Article 9 10 shall apply only if the conflict arises out of a matter which falls within Article 9 9 above or has been authorised under Article 9 13
- 9 12 A conflicted director seeking authorisation of any conflicting matter shall disclose to the Board the nature and extent of the conflicting matter as soon as is reasonably practicable. The conflicted director shall provide the Board with such details of the conflicting matter as are necessary for the Board to decide how to address the conflicting matter, together with such additional information as may be requested by the Board. This Article 9 12 shall not apply to any conflicting matter of an Investor Director authorised pursuant to Article 9.9.
- 9 13 With Investor Consent, the Board are hereby empowered for the purposes of section 175 of CA06 to authorise any conflicting matter that may arise and, subject to Investor Consent, to amend or vary any such authorisation so given. Any director (including the conflicted director) may, with Investor Consent, propose that a conflicted director's conflicting matter be authorised. Any such proposal and any authorisation given by the directors, shall be effected in the same way as any other matter may be proposed to and resolved on by the Board under the provisions of these Articles, except that.
- (a) the conflicted director and any other interested director shall not count towards the quorum nor vote on any resolution giving that authorisation, and
  - (b) the conflicted director and any other interested director may, if the directors so decide, be excluded from any meeting of the directors while the conflicting matter and the giving of that authorisation are under consideration

9.14 Where the directors authorise a conflicted director's conflicting matter, with Investor Consent

- (a) subject to Article 9 10, the directors may (whether at the time of giving the authorisation or subsequently)
  - (i) require that the conflicted director is excluded from the receipt of information, the participation in discussions and/or the making of decisions (whether at meetings of the directors or otherwise) related to the conflicting matter, and
  - (ii) impose on the conflicted director such other terms or conditions for the purpose of dealing with any actual or potential conflict of interest which may arise from the conflicting matter as they may determine,
- (b) the conflicted director shall conduct himself in accordance with any terms or conditions imposed by the directors in giving that authorisation;
- (c) subject to Article 9 10, the directors may provide that, where the conflicted director obtains (otherwise than through his position as a director) information that is confidential to a third party, the conflicted director will not be obliged to disclose the information to the Company, or to use or apply the information in relation to the Company's affairs, where to do so would amount to a breach of that confidence,
- (d) the terms of the authorisation shall be recorded in writing (but the authorisation shall be effective whether or not the terms are so recorded), and
- (e) the directors may revoke or vary the authorisation at any time but no such action will affect anything done by the conflicted director prior to that action in accordance with the terms of the authorisation

9.15 A conflicted director shall not, by reason of his office or of the resulting fiduciary relationship, be liable to account to the Company for any benefit which he (or a person connected with him) derives from a conflicting matter authorised by the directors or to which any other provisions of Article 9 applies and no transaction or arrangement shall be liable to be avoided on the grounds of any such benefit

9 16 A director who has directly or indirectly an interest or a duty in a matter which is material and which conflicts or may conflict with the interests of the Company may, notwithstanding his interest or duty, vote on the matter and be included for the purposes of a quorum at any meeting at which the matter is considered provided that:

- (a) he has disclosed the nature and extent of his interest or duty giving rise to his conflict of interest, and
- (b) where his conflict of interest is constituted by or arises from a conflicting matter of his, that conflicting matter has been authorised and the director has not been required to be excluded from participation in discussions and/or the making of decisions related to the matter

9 17 If a question arises at a meeting of the directors about whether a director (other than the chairman of the meeting) has an interest which is likely to give rise to a conflict of interest or if he can vote or be counted in the quorum, and the director does not agree to abstain from voting on the issue or not to be counted in the quorum, the question must be referred to the chairman of the meeting. The ruling of the chairman of the meeting about any other director is final and conclusive, unless the nature or extent of the director's interest (so far

as it is known to him) has not been fairly disclosed to the directors. If the question arises regarding the chairman of the meeting, the question shall be decided by a resolution of the directors. The chairman of the meeting cannot vote on the question but can be counted in the quorum. The directors' resolution about the chairman of the meeting is conclusive, unless the nature and extent of the chairman's interest (so far as it is known to him) has not been fairly disclosed to the directors. Model Article 16(5) shall be modified accordingly

- 9 18 The Company may by ordinary resolution ratify any transaction or arrangement which has not been properly authorised by reason of a contravention of these Articles
- 9 19 For the purposes of these Articles:
- (a) an interest or duty is “material” unless it cannot reasonably be regarded as likely to give rise to a conflict of interest, and
  - (b) a “conflict of interest” includes a conflict of interest and duty and a conflict of duties
- 9 20 The Board (acting with Investor Consent) may dispense with the keeping of attendance records for meetings of the Directors or committees of the Directors
- 9 21 The office of a director of the Company, other than that of an Investor Director, shall, subject to the prior receipt of Investor Director Consent as to the relevant matter, be immediately vacated by such a director
- (a) if he has a bankruptcy order made against him or suspends payment of or compounds with his creditors generally;
  - (b) if he becomes of unsound mind or a patient for the purpose of any statute relating to mental health or otherwise incapacitated,
  - (c) if by notice in writing to the Company he resigns his office,
  - (d) if he is prohibited by law from being a director or ceases to be a director by virtue of any provision of the CA06,
  - (e) if he is removed from office by notice in writing signed by all his co-directors and served upon him,
  - (f) if he is removed from office by notice in writing signed by the holders of Shares representing more than 50% of the aggregate Voting Rights, and/or
  - (g) if he shall for more than six consecutive calendar months have been absent without permission of the Directors from meetings of the Directors held during that period and the Directors resolve that his office be vacated
- 9 22 The Board, with the consent of an Investor Director, shall have power at any time to appoint any person to be a Director of the Company either to fill a casual vacancy or as an addition to the existing Directors.
- 9 23 The Board (acting with Investor Consent) may from time to time appoint one or more of their number to an executive office for such period and on such terms and conditions as they shall think fit and, subject to the terms and conditions of any agreement entered into in any particular case, may revoke such appointment. Subject to the terms and conditions of any such agreement the appointment of any Director as aforesaid shall automatically determine if he ceases from any cause to be a Director

9 24 An executive officer appointed pursuant to Article 9 23 above shall receive such remuneration (either by way of salary, commission, participation in profits or pension or otherwise howsoever, whether similar to the foregoing or not) as the Board (acting with Investor Consent) may determine

9 25

(a) Any decision of the Board of Directors must either be a majority decision at a meeting or a decision taken in accordance with Article 9.26

(b) If

(i) the Company has only one Director, and

(ii) no provision of the Articles requires it to have more than one Director,

the general rule does not apply and the Director may, for so long as he remains the sole Director, take decisions without regard to the provisions of Articles 9 25 (a) and 9.26

9 26 A resolution in writing signed by all the eligible Directors (whether or not in the United Kingdom) shall be as valid and effectual as a resolution passed at a meeting of the Directors duly convened and held and may consist of several documents in the like form, each signed by one or more of the Directors

9 27 A meeting of the Directors or of a committee of the Directors may consist of a conference between Directors who are not all in one place, provided that each is able (directly or by telephonic, video or web communication) to speak to each of the others and to be heard by each of the others simultaneously. A Director taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly. Subject to the CA06, all business transacted in such manner by the Directors or a committee of the Directors shall for the purposes of these Articles be deemed to be validly and effectively transacted at a meeting of the Directors or a committee, notwithstanding that fewer than two directors or Alternate Directors are physically present at 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. The word "meeting" in these Articles shall be construed accordingly

9 28 Model Article 13 is modified by the insertion of the word "eligible" between the words "the" and "participating" in 13(1) and between the words "each" and "director" in 13(2)

## 10 Borrowing and other Powers

10.1 The Board (acting with Investor Consent) may exercise all the powers of the Company without limit as to amount to borrow and raise money and to accept money on deposit and to grant any security, mortgage, charge or discharge as they may consider fit for any debt or obligation of the Company or which is binding on the Company in any manner or way in which the Company is empowered so to grant and similarly, as they may consider fit, to enter into any guarantee, contract of indemnity or suretyship in any manner or way in which the Company is empowered so to enter into

## 11 Alternate Directors

11 1 Any Investor Director (other than an Alternate Director) may at any time by writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint

any person to be his alternate director (an "Alternate Director") and may in like manner at any time terminate such appointment. The appointment of an alternate by an Investor Director shall be effective immediately on notice of such appointment being given to the Company and shall not require the approval of the Directors. No director of the Company other than an Investor Director may appoint an alternate director, save with Investor Consent.

- 11.2 The appointment of an Alternate Director shall determine on the happening of any event which, if he were a Director, would cause him to vacate such office, or if his appointor ceases to be a Director.
- 11.3 An Alternate Director shall be entitled to receive notice of all meetings of the Directors and of all meetings of committees of the Directors of which his appointor is a member and shall be entitled to attend and vote as a Director at any such meetings at which his appointor is not personally present and generally at such meetings to perform all the functions of his appointor as a Director in his absence and for the purposes of the proceedings at such meeting the provisions of these Articles shall apply as if he were a Director. If his appointor is temporarily unable to act through ill-health or disability, an Alternate Director's signature to any resolution in writing of the Directors shall be as effective as the signature of his appointor. Every person acting as an Alternate Director shall have one vote for each director for whom he acts as alternate (in addition to his own vote if he is also a Director). An Alternate Director shall not (save as aforesaid) have power to act as a Director or be deemed to be a Director for the purposes of these Articles.
- 11.4 An Alternate Director may be repaid expenses and shall be entitled to be indemnified by the Company to the same extent *mutatis mutandis* as if he were a Director but he shall not be entitled by virtue of such appointment to receive from the Company any remuneration save for such proportion (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.

## **12 Indemnity**

- 12.1 Subject to Article 12.2, a relevant officer of the Company may be indemnified out of the Company's assets against
- (a) any liability incurred by that officer in connection with any negligence, default, breach of duty or breach of trust in relation to the Company;
  - (b) any liability incurred by that officer in connection with the activities of the Company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) CA06), or
  - (c) any other liability incurred by that officer as an officer of the Company, acting in the ordinary course of business of the Company.
- 12.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of CA06 or by any other provision of law.
- 12.3 In this article 12 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.

## **13 Permitted Transfers & Pre-emption Rights**

- 13.1 Other than in accordance with Article 14 (Investor Majority Direction in respect of Leaver Shares), Article 15 (Compulsory Transfers), Article 17 (Change of Controlling Interest),



Article 18 (Tag-Along) and Article 19 (Drag-Along)

- (a) A Shares may only be transferred with the prior written consent of the Investor Majority and provided that such transfer is carried out in accordance with the provisions of Articles 13.2 to 13.11 (inclusive), and
- (b) B Shares and C Shares may only be transferred with the prior written consent of the Investor Majority

Any transferee who is not already a holder of Shares shall be required to enter into a Deed of Adherence as defined in, and pursuant to the provisions of, the Investment Agreement.

- 13.2 Any holder of A Shares who wishes to transfer A Shares and who has received the prior written consent of the Investor Majority in respect of such transfer ("**Selling Shareholder**") shall serve notice on the Company ("**Sale Notice**") stating the number of A Shares he wishes to transfer ("**Sale Shares**"), the proposed transferee (if any) of such Shares and his asking price for each Share ("**Asking Price**")
- 13.3 The Selling Shareholder may state in the Sale Notice that he is only willing to transfer all the Sale Shares (a "**Total Transfer Condition**"), in which case no Sale Shares can be sold unless offers are received for all of them but in the absence of such a statement, the Sale Notice shall be deemed not to contain such a statement
- 13.4 The Sale Notice shall make the Company the agent of the Selling Shareholder for the sale of the Sale Shares on the following terms, which the Company shall notify to the other holders of A Shares within 5 Business Days of receiving the Sale Notice
  - (a) the price for each Sale Share is the Asking Price,
  - (b) the Sale Shares are to be sold free from all liens, charges and encumbrances together with all rights attaching to them; and
  - (c) the Sale Shares shall be offered to the holders of the A Shares other than the Selling Shareholder
- 13.5 Subject to Article 13.6 members to whom Sale Shares are offered pursuant to Article 13.4(c) shall be entitled to apply by notice in writing to the Company for any number of Sale Shares (which number may exceed each member's respective Due Proportion) within 10 Business Days of receiving notification from the Company in accordance with Article 13.4
- 13.6
  - (a) Where members to whom the offer is made pursuant to Article 13.4(c) apply for any of the Sale Shares to which the offer relates within the 10 Business Day period referred to in Article 13.5, the Board of Directors shall allocate those Sale Shares applied for in accordance with the applications, save that if there are applications for more than the number of Sale Shares available, they shall be allocated to applicants in their Due Proportions and any allocation of Sale Shares in excess of an applicant's Due Proportions shall be subject to Investor Consent. If it is not possible to allocate some of the Sale Shares without involving fractions, then such shares shall be allocated amongst the applicants in such manner as the Board of Directors think fit
  - (b) If and to the extent that there are any Sale Shares which are not allocated pursuant to Article 13.6(a) above the Company shall allocate such Shares to such other members holding Shares of the same class as the Shares being offered for sale

(other than the Selling Shareholder) as have stated in writing their respective willingness to purchase more Sale Shares than equals such member's Due Proportion, provided that any allocation in excess of an applicant's Due Proportions shall be subject to Investor Consent. If there are insufficient Sale Shares to meet the demand then the Board of Directors will allocate the Sale Shares pro-rata to each relevant member as nearly as may be in the proportion that the number of Shares held by each relevant member bears to the total number of Shares of the relevant class.

13.7 On the expiry of 15 Business Days after (and excluding) the Company's despatch of the terms for the sale of the Sale Shares (the "Closing Date")

- (a) the Sale Notice shall become irrevocable,
- (b) a person in Article 13.4(c) in relation to such Shares who has not responded to the offer pursuant to Article 13.5 shall be deemed to have declined it, and
- (c) each application made (and not withdrawn) by any person specified in Article 13.4(c) to acquire Sale Shares shall, subject to allocation by the Directors pursuant to Article 13.6, become an irrevocable offer to purchase the same on the terms contained in Article 13.4(a) and 13.4(b).

13.8 If the Sale Notice did not contain a Total Transfer Condition, within 5 Business Days after the Closing Date the Company shall

- (a) notify the Selling Shareholder of the names and addresses of the persons who are to buy Sale Shares of the number of Sale Shares he is to buy, and the numbers to be bought by each; and
- (b) notify the persons who applied to buy Sale Shares of the number of Sale Shares he is to buy,

and in each case, the Company's notice shall state a place and time, between 5 and 10 Business Days later, on which the sale and purchase of the Sale Shares is to be completed, subject to Article 13.2.

13.9 If the Sale Notice did contain a Total Transfer Condition, no allocation of Sale Shares under Article 13.6 may become unconditional until all of the Sale Shares have been allocated to members holding A Shares. If all the Sale Shares have been so allocated, Article 13.8 shall apply. If all the Sale Shares have not been so allocated, no transfer of any Sale Shares shall take place.

13.10 If having issued a Sale Notice the Selling Shareholder does not transfer Sale Shares, subject to Article 13.2, the Company may authorise any Director to transfer the Sale Shares on the Selling Shareholder's behalf to the buying party concerned against receipt by the Company of the Asking Price per Share. The Company shall hold the Asking Price in trust for the Selling Shareholder without any obligation to pay interest. The Company's receipt of the Asking Price shall be a good discharge to the buying shareholder. The Directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Selling Shareholder shall surrender his share certificate for the Sale Shares to the Company. On surrender, he shall be entitled to the Asking Price for the Sale Shares.

13.11 Nothing contained in these Articles (and in particular in Article 14.4(c)) shall prevent or restrict the holders of the A Shares from transferring any shares held by them on or after an Exit to any person free of any pre-emption rights.

**14     Investor Majority Direction of Leaver Shares**

- 14 1     An Investor Majority will direct within 12 calendar months of service on the Company of a Sale Notice (as defined in Article 15 1) that any Shares to be transferred by the holder of B Ordinary Shares pursuant to Article 15 (Compulsory Transfer) shall be offered to a New Manager or as otherwise directed by the Investor Majority. Such transfer may include a transfer to the Company, but any purchase by the Company shall require the prior written consent of the holders of more than 50% of the Shares then in issue, excluding any shares to which Article 15 6 applies. For the purposes of financing the purchase of its own Shares, subject to the requisite shareholder approval set out in Part 18 Chapter 4 of the CA06 (as amended from time to time), the Company shall be authorised to purchase its own shares with cash pursuant to section 692(1)(b) of the CA06 (as amended from time to time).
- 14 2     The Sale Notice shall make the Company the agent of the Leaver for the sale of the Sale Shares on the following terms
- (a)     the price for each Sale Share is the price calculated pursuant to Article 15, and
  - (b)     the Sale Shares are to be sold free from all liens, charges, security interests and encumbrances together with all rights attaching to them
- 14 3     Any person to whom Shares are offered pursuant to Article 14 1 shall be entitled to apply by notice in writing to the Company for any number of Shares offered to them (up to the maximum number of Shares stated in the offer to them) within 10 Business Days of receiving notification from the Company in accordance with Article 14 1.
- 14 4     Any Sale Shares not accepted pursuant to Article 14 3 may be offered by the Company to such persons as directed by the Investor Majority and such process may be repeated until such time as all Sale Shares have been allocated.
- 14 5     The Directors may not register a transfer of Shares unless such transfer is first approved in writing by an Investor Majority and the proposed transferee has entered into an agreement to be bound by the Investment Agreement in the form required by that agreement.
- 14 6     If, having been deemed to issue a Sale Notice, a Leaver does not transfer Sale Shares as required, the Company may authorise any Director to transfer the Sale Shares on the Leaver's behalf to the buying party concerned against receipt by the Company of the applicable price per Share. The Company shall hold the consideration payable in trust for the Leaver without any obligation to pay interest. The Company's receipt of the consideration shall be a good discharge to the buying shareholder. The Directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Leaver shall surrender his share certificate for the Sale Shares to the Company. On surrender, he shall be entitled to the consideration for the Sale Shares.
- 14 7     Nothing contained in these Articles shall prevent or restrict the holders of the Shares from transferring any shares held by them on or after an Exit to any person free of any pre-emption rights.

**15     Compulsory Transfers**

***Leavers:***

- 15 1     Subject to Article 15 7, a Leaver shall be deemed on the date of cessation of office or the relevant consultancy agreement to have served a separate notice on the Company (a "Sale Notice") in respect of all of the Shares then held by him ("Sale Shares").

- 15.2 Where the Leaver is a Bad Leaver, a deemed service of a Sale Notice pursuant to Article 15.1 shall provide that the price to be paid in respect of each Sale Share the subject of the deemed Sale Notice shall be the lower of
- (a) the Subscription Price, and
  - (b) the Fair Price
- 15.3 Where the Leaver is a Good Leaver who becomes a Good Leaver prior to the Commercial Operations Date, a deemed service of a Sale Notice pursuant to Article 15.1 shall provide that
- (a) the price payable in respect of 50% of the Shares the subject of the deemed Sale Notice shall be the lower of
    - (i) the Subscription Price, and
    - (ii) the Fair Price,
  - (b) the price payable in respect of the remaining 50% of the Shares the subject of the deemed Sale Notice shall be the higher of
    - (i) the Subscription Price, and
    - (ii) the Fair Price
- 15.4 Where the Leaver is a Good Leaver who becomes a Good Leaver on or following the Commercial Operations Date, a deemed service of a Sale Notice pursuant to Article 15.1 shall provide that the price payable in respect of the Shares the subject of the deemed Sale Notice shall be the higher of.
- (a) the Subscription Price, and
  - (b) the Fair Price
- 15.5 In the event that the Investor Majority has elected that a Leaver's Shares are to be purchased by the Company, the Company shall be entitled to purchase, and the Leaver shall be obliged to sell, the Leaver's Shares. At the request of the Company following such sale and purchase, the Leaver shall subscribe the proceeds of such repurchase for loan notes to be issued by the Company or the Subsidiary (as designated by the Company) provided that such loan notes shall rank pari-passu with, and be on terms and conditions no worse than, the highest ranking loan notes then issued by the Company or Subsidiary to a shareholder of the Company (or person connected thereto)
- 15.6 Notwithstanding any other provision of this Article 15, an Investor Majority may, by notice in writing served on the Company and the Leaver prior to the expiry of twelve calendar months from the date on which the relevant person became a Leaver, specify that the price payable in respect of any Leaver's Shares which are the subject of the deemed Sale Notice shall be greater than that which would otherwise apply pursuant to the provision of this Article 15 and, in that case the Investor Majority shall, in its absolute discretion, specify the relevant price payable which is applicable to such deemed Sale Notice
- 15.7 Notwithstanding any other provision herein contained if:
- (a) a holder of Shares becomes a Leaver, or
  - (b) a Leaver retains Shares,

any Shares registered in the name of such person(s) shall not confer the right to receive notice of, attend or vote at any general meeting of the Company or any written resolution of the Company or any written resolution or written consent of that class of Shares and such Shares shall not be counted in determining the total number of votes which may be cast at any such meeting or on any such written resolution or written consent of any members or class of members nor shall the holder of such Shares be entitled to participate in any allotment of equity securities pursuant to Article 3 5

- 15 8 An Investor Majority may, by notice in writing served on the Company and the Leaver, prior to the expiry of 3 calendar months from the date upon which the relevant person became a Leaver, specify that not all of the Leaver's Shares are to be the subject of the deemed Sale Notice and may, by notice in writing served on the Leaver, suspend the operation of the provisions of this Article 15 for all or any part of such 6 month period
- 15 9 For the avoidance of doubt, for the purpose of article 15 and the definition of Leaver, the EIDC Consultancy Agreement shall constitute EIDC Limited a consultant of the Group and the EIDC Shareholder and EIDC Managers shall be deemed and considered to be connected to and associated with EIDC Limited
- 15 10 Notwithstanding the definition of Leaver, should any EIDC Manager other than the EIDC Shareholder, cease to be connected with EIDC Limited such event shall not (in itself) render those EIDC Managers Leavers

***Default in Subscribing for Investor Loan Notes***

- 15 11 A Defaulting Investor shall be deemed to have served a separate notice on the Company (an "Investor Sale Notice") in respect of all of the Shares then held by them ("Investor Sale Shares")
- 15 12 All Investor Sale Shares shall be transferred by the Defaulting Investor to the same persons and in the same proportions as the Subscription Shortfall is paid for The total aggregate consideration in respect of such transfers shall be £1 00 payable by each transferee Within 5 Business Days after the Closing Date the Company shall
- (a) notify the Defaulting Investor of the names and addresses of the persons who have subscribed for the Subscription Shortfall and accordingly the number of Shares to be transferred to each such person, and
  - (b) notify each person who subscribed for Subscription Shortfall the number of Shares to be transferred and the amount of Investor Loan Notes to be assigned to them.
- 15 13 If the Defaulting Investor does not transfer Shares pursuant to Article 15 11, the Company may authorise any Director to transfer the Shares on the Defaulting Investor's behalf to the buying party concerned against receipt by the Company of the consideration. The Company shall hold the consideration in trust for the Defaulting Investor without any obligation to pay interest The Company's receipt of the consideration shall be a good discharge to the buying shareholder The Directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The Defaulting Investor shall surrender his share certificate for Shares to the Company On surrender, he shall be entitled to the consideration for the Shares
- 15 14 Notwithstanding any other provision herein contained if a holder of Shares becomes a Defaulting Investor any Shares registered in the name of such person(s) shall not confer the right to receive notice of, attend or vote at any general meeting of the Company or any written resolution of the Company or any written resolution or written consent of that class of Shares and such Shares shall not be counted in determining the total number of votes

which may be cast at any such meeting or on any such written resolution or written consent of any members or class of members nor shall the holder of such Shares be entitled to participate in any allotment of equity securities pursuant to Article 3 5

## **16 Fair Price**

16 1 “Fair Price” means the price per Share, as at the date of occurrence of the event which triggered the requirement to agree or determine Fair Price, agreed between the selling shareholder and the Directors (acting with Investor Consent) or, in the absence of such agreement, the price as at such date certified in writing by the Valuer as being in its opinion the fair value of the Shares as between a willing seller and a willing buyer (with no discount to reflect the unquoted status of the Shares) provided that the Valuer, in determining the fair value of any of such Shares shall be instructed to

- (a) determine the sum which a willing buyer would offer to a willing seller for all the Shares, and
- (b) divide the resultant figure by the number of issued Shares and outstanding options or rights to acquire Shares (assuming exercise in full),

but so that there shall be no addition or subtraction of any premium or discount arising in relation to the size of the holding the subject of the relevant transfer, or in relation to any restrictions on the transferability of the Shares arising only out of the provisions of these Articles or to the different rights attaching to any class of Shares and provided further that the Valuer shall take into account in relation to determining the appropriate figure for subparagraph (a) above any bona fide offer from any third party on an arm's length basis to purchase any holdings the subject of a Sale Notice.

## **17 Change of Controlling Interest**

17 1 Notwithstanding any other provision of these Articles, no sale or transfer of, or transfer of any interest in, any Shares conferring a right to vote at general meetings of the Company to any person whomsoever, which would result, if made and, if appropriate, registered, in a person (together with persons acting in concert therewith) whether or not then a member of the Company obtaining or increasing a Controlling Interest in the Company, shall be made or registered and no right to subscribe for any Shares which would result, when such Shares are issued, in such a person (other than the Original Investors) obtaining or increasing a Controlling Interest in the Company shall be exercised unless both

- (a) prior to such transfer being completed a General Offer is made to all members by the person or persons proposing to acquire the Controlling Interest (the “Offeror”) to purchase all the Shares in issue and all the unissued Shares for which any person shall then be entitled to subscribe, and
- (b) the relevant offer is approved by an Investor Direction

17 2 It shall be a term of a General Offer and of any agreement to acquire any Shares pursuant thereto that a Controlling Interest is only obtained or increased in consequence of such General Offer or agreement if such General Offer becomes wholly unconditional in respect of each class of Shares. Any General Offer shall be made in writing (stipulated to be open for acceptance for at least 20 Business Days) to all relevant members and shall include an undertaking by the offeror that neither he nor any person acting in concert with him has within the 6 calendar months immediately preceding the making of the General Offer entered into more favourable terms with any member for the purchase of Shares of the same class. Such a General Offer shall be accepted or rejected in writing within the time period stipulated and shall be deemed to have been rejected by a member if he does not

respond within such time period

**18     Tag-Along**

- 18 1     Where the acceptance by members of a General Offer made pursuant to Article 17 would result, when registered, in the Offeror obtaining a Compulsory Purchase Interest, the Company shall forthwith notify all the holders of Shares for the time being accordingly and any such member who did not accept the General Offer may by written notice to the Company served within 45 Business Days of such notification require the Company as agent for such member to serve a notice (in this Article, a “**Compulsory Purchase Notice**”) on the Offeror requiring it to buy such member’s shares at the consideration applicable to such General Offer. The Company shall serve the Compulsory Purchase Notice forthwith upon receipt of any such written notice by such a member.
- 18 2     The Offeror shall complete the purchase of all Shares in respect of which a Compulsory Purchase Notice has been given no later than 15 Business Days from the date of the serving of such Compulsory Purchase Notice on it. The consideration shall be payable in full without any set off, save for bona fide debts properly due and payable to the Company. Any transfer pursuant to a Compulsory Purchase Notice shall not require the proposing transferor to give a Sale Notice. The Directors shall not register any transfer to the Offeror and the Offeror shall not be entitled to exercise or direct the exercise of any rights in respect of any Shares to be transferred to the Offeror until in each case the Offeror has fulfilled all his obligations pursuant to this Article 18. If and for so long as the Offeror fails to comply with the provisions of this Article 18, the Shares held by the Offeror shall confer on the Offeror no right to attend or vote at any general meeting of the Company or at any separate general meeting of the holders of the Shares of that class until the obligations of the Offeror hereunder have been complied with and such Shares shall confer no right to receive notice of, attend or vote at any meeting of the Company unless and until the Offeror has complied with such obligations under this Article.

**19     Drag-Along**

- 19 1     If at any time an Investor Majority wishes to transfer an interest in their Shares, and such interest amounts to more than 50% of the issued Shares in the Company, to any person or persons on a bona-fide arm’s length basis (in this Article, the “**Buyer**”), the Buyer shall have the option, subject to the prior receipt of Investor Consent, by written notice to the Company served within 45 Business Days of such acquisition, to require the Company as agent for the Buyer to serve notices (in this Article, each a “**Compulsory Purchase Notice**”) on all the holders of Shares and all the holders of options or a right to subscribe for or acquire Shares (the “**Called Shareholder(s)**”) requiring them to sell such proportion of their Shares (and any Shares which may result from the exercise of any option or right to subscribe for any Shares after the date of service of a Compulsory Purchase Notice) as equal to the proportion of Shares which the Investor Majority wishes to transfer to the Buyer at a consideration per Share equal to the consideration payable on each Share to be sold by the Investor Majority. The Company shall serve the Compulsory Purchase Notices forthwith and for the period of 15 Business Days from the service of the Compulsory Purchase Notices the Called Shareholders shall not be entitled to transfer their Shares to anyone except the Buyer or a person identified by the Buyer.
- 19 2     The Buyer shall complete the purchase of all Shares in respect of which a Compulsory Purchase Notice has been given at the same time and no later than 15 Business Days from the date of the serving of such Compulsory Purchase Notices. The consideration shall be payable in full without any set off. Any transfer pursuant to a Compulsory Purchase Notice shall not require the proposing transferor to give a Sale Notice. The Directors shall not register any transfer to the Buyer and the Buyer shall not be entitled to exercise or direct the exercise of any rights in respect of any Shares to be transferred to the Buyer until in

each case the Buyer has fulfilled all his obligations pursuant to this Article 19

- 19.3 If in any case a Called Shareholder, on the expiration of 20 Business Days from the service of the Compulsory Purchase Notice, shall have not transferred his Shares (or the required proportion of his Shares) to the Buyer or a person identified by the Buyer against payment of the price therefor, the Directors may authorise some person to execute and deliver on his behalf any necessary transfer in favour of the Buyer or the person identified by the Buyer and shall receive the consideration in respect of such Shares and shall thereupon (subject to the transfer being duly stamped) cause the name of the Buyer (or the person identified by the Buyer) to be entered into the register of members as the holder of the relevant Shares. The Company shall hold the consideration in trust for the Called Shareholder but shall not be bound to earn or pay interest thereon. The issue of a receipt by the Company for the consideration shall be a good receipt for the price for the relevant Shares but the Buyer shall not be discharged from procuring that the Company applies the money in payment to the Called Shareholder which shall be made against delivery by the Called Shareholder of the certificate in respect of the Shares or an indemnity in respect of the same. After the name of the Buyer or the person identified by the Buyer has been entered in the Register of Members pursuant to this Article 19.3, the validity of the proceedings shall not be questioned by any person

## 20 Investor Directors

- 20.1 For so long as any Investor is a member of the Company, the Investors will together have the right, by notice in writing addressed to the Company signed by or on behalf of each of them and delivered to the Office, to appoint up to three persons to the Board and to the board of directors of any member of the Group and remove any such person or persons and appoint a replacement, each to be an Investor Director. Any Investor Director shall, immediately on becoming a Defaulting Investor, be deemed to have served a notice of termination on the Company in respect of his directorship of the Company and of any company in the Group
- 20.2 In addition to their rights under Article 20.1, the Investors will also together have the right from time to time by notice in writing to the Company to appoint a further person as a director of the Board and to the board of directors of any member of the Group ("**the Chairperson**") and the Investors may also remove any such Chairperson and appoint a replacement. The Chairperson shall be a non-executive director of the Board and, if appointed, of the board of directors of any relevant member of the Group
- 20.3 The Investor Majority will also have the right from time to time by notice in writing to appoint an observer to the Company in addition to any Investor Director ("**the Observer**")
- The Company will
- (a) provide the Observer with at least 5 Business Days' notice prior to the holding of all Directors' meetings (or meetings of committees of the Directors) and members' meetings of the Company or any member of the Group together with copies of all appropriate notices, agendas and papers prepared for such meetings or distributed to any of the directors or members of the Company or any member of the Group in respect of such meetings, and
  - (b) allow the Observer to attend all meetings of the Directors (or committees of the Directors) and of members of the Company or any member of the Group and to speak at such meetings.
- 20.4 The Observer shall be entitled to disclose to the Investors and to any bank or other financial institution with an investment in the Company (but not to any other person, firm or company) any such information relating to the Company and its subsidiaries as he from time



to time thinks fit.

- 20 5 For the avoidance of doubt the Observer shall not be a director of the Company or any member of the Group and shall not count in the quorum or be entitled to vote at any meeting he attends
- 20 6 The Investors, any Investor Directors, the Chairperson and any Observer may pass any information received from the Company to.
- (a) any associated company of the Investors,
  - (b) any adviser to, trustee or manager of or investors or prospective investors in any fund advised or managed by the Investors or any associated company of the Investors,
  - (c) the Investors' professional advisers,
  - (d) any lender to the Company, and
  - (e) any person to whom the Investors propose to syndicate any part of its or their investment and that person's professional advisers whose identity has first been disclosed to the Board
- 20 7 Notice of meetings of the Directors shall be served on any Investor Director and any Chairperson who is absent from the United Kingdom at the address notified by him to the Company for this purpose. A Director may waive the requirement that notice be given to him of a Directors meeting either prospectively or retrospectively and Model Article 8(6) shall be modified accordingly.
- 20 8 Each Investor Director and/or Observer and/or the Chairperson shall be entitled to report back to the members appointing him on the affairs of the Company and its subsidiaries and to disclose to such members such information as he shall reasonably consider appropriate including, for the avoidance of doubt, all papers distributed to the Directors.

## **21 Notice**

- 21 1 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 purpose of this article, no account shall be taken of any part of a day that is not a business day.

- 21 2 In proving any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the CA06

## 22 Definitions

- 22 1 In the Articles the following words and expressions shall, unless the context otherwise requires, bear the following meanings

<b>“acting in concert”</b>	shall bear the meaning attributed to it in the Code,
<b>“Alternate Director”</b>	shall have the meaning attributed to it in Article 11.1,
<b>“A Ordinary Shares”</b>	means the A ordinary shares of £0 001 each in the capital of the Company,
<b>“Auditors”</b>	means the auditors of the Company from time to time;
<b>“Bad Leaver”</b>	means a Leaver, where the cessation of office or relevant consultancy agreement is as a result of the relevant member (or a consultant connected to a member): <ul style="list-style-type: none"><li>(a) resigning other than (i) at the written request of the Company (with the prior written consent of the Investor Majority), or (ii) as a result of permanent incapacity due to ill health (save where such ill-health arises as a result of an abuse of drink or drugs), or</li><li>(b) being dismissed in accordance with either (i) the terms of his letter of appointment; or (ii) in accordance with the provisions of clause 12.1 of the Investment Agreement, or</li><li>(c) in the case of a consultant to the Company or person connected to such consultant (including the EIDC Agreement and the EIDC Shareholder) in the event that the relevant consultancy agreement is terminated prior to the expiration of its term either (i) by the consultant where no termination right in favour of the consultant has arisen under the relevant consultancy agreement, or (ii) by the Company where a termination right in favour of the subsidiary has arisen under the relevant consultancy agreement</li></ul> despite one of the circumstances listed above having arisen, an Investor Director may determine in writing that such a Leaver is not to be considered a Bad Leaver,
<b>“Board”</b>	means the board of directors of the Company from time to time or any duly constituted committee of it,

<b>"B Ordinary Shares"</b>	means the B ordinary shares of £0 001 each in the capital of the Company,
<b>"Business Day"</b>	means a day (other than a Saturday, Sunday or public holiday) on which banks in the City of London are generally open for business;
<b>"Buyer"</b>	shall bear the meaning attributed to it in Article 18 1 ( <i>tag-along</i> ) and/or 19.1( <i>drag-along</i> );
<b>"Called Shareholders"</b>	shall bear the meaning attributed thereto in Article 19 1 ( <i>drag-along</i> );
<b>"CA06"</b>	means the Companies Act 2006 and any statutory modification or re-enactment of such Act for the time being in force,
<b>"Chairperson"</b>	shall have the meaning attributed thereto in Article 20 2,
<b>"Code"</b>	means the City Code on Takeovers and Mergers as in force for the time being;
<b>"Commercial Operations Date"</b>	has the meaning set out in the Investment Agreement,
<b>"C Ordinary Shares"</b>	means the C ordinary shares of £1 00 each in the capital of the Company,
<b>"Company"</b>	means European Generation Limited (registered number 08336378),
<b>"Compulsory Purchase Interest"</b>	means an interest in Shares carrying more than 50 1% of Voting Rights,
<b>"Compulsory Purchase Notice"</b>	shall bear the meaning attributed to it in Article 18 1 ( <i>tag-along</i> ) and/or 19 1 ( <i>drag-along</i> ),
<b>"connected"</b>	has, in relation to a person, the meaning given in section 1122 of the Corporation Tax Act 2010,
<b>"Controlling Interest"</b>	means Shares representing not less than 50.1% of Voting Rights,
<b>"Deed of Adherence"</b>	means a deed of adherence pursuant to which the signatory agrees to be bound by the terms of the Investment Agreement in form approved by the Board with the consent of the Investor Director and including a covenant for the re-transfer of such Shares if the grounds upon which such transfer was permitted (if relevant) cease to exist,
<b>"Default Articles"</b>	means the regulations contained in Schedule 1 of the Companies (Model Articles) Regulations 2008,
<b>"Defaulting Investor"</b>	has the meaning given in the Investment Agreement,
<b>"Directors"</b>	means the directors of the Company from time to time;
<b>"Due Proportions"</b>	means in the case of an offer pursuant to Article 13 2 to 13.11 (inclusive) the holders of shares of a particular class of shares,

	the proportion that the number of shares held by a member of that class of shares bears to the total number of shares in issue from time to time,
<b>“EIDC Consultancy Agreement”</b>	means the consultancy agreement entered into on or around the date hereof between the Subsidiary and EIDC Limited,
<b>“EIDC Managers”</b>	means each of Alan Douglas and Peter Bachmann (and for the purposes of these Articles does not include Paul Capell),
<b>“EIDC Shareholder”</b>	means Paul Capell,
<b>“eligible director”</b>	means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of that particular matter),
<b>“equity share capital”</b>	shall have the meaning given to it by Section 548 of the Companies Act 2006,
<b>“Exit”</b>	shall bear the meaning attributed thereto in the Investment Agreement,
<b>“Fair Price”</b>	means the price per share determined in accordance with Article 16 ( <i>fair price</i> ),
<b>“First Hurdle Amount”</b>	means the amount up to and equal to 2.00 times the amount which has from time to time been invested by the Investors in subscribing for Investor Loan Notes and in subscribing for Shares,
<b>“General Offer”</b>	means an offer made in accordance with the provisions of Article 17 ( <i>change of controlling interest</i> ),
<b>“Good Leaver”</b>	means any Leaver other than a Bad Leaver,
<b>“Group”</b>	means the Company and its subsidiaries from time to time and “Group Company” and “member of the Group” shall be construed accordingly,
<b>“Investment Agreement”</b>	means the Investment Agreement entered into by the Company (1) the Original Managers (as defined therein) (2) and the Original Investors (3) on or around the date of adoption of these Articles together with any agreements specified as being supplemental to it by an Investor Majority,
<b>“Investor Consent”</b>	means the prior written consent of the holders of at least 50% in nominal value of the A Ordinary Shares,
<b>“Investor Direction”</b>	means the written instruction or written direction of an Investor Director, acting at the direction of or with the approval or authority of Investor Consent,
<b>“Investor Director”</b>	means a director appointed pursuant to Article 20.1 ( <i>Investor Director</i> ) (or, if there is no Investor Director at the relevant time, the Observer (if any)),

<b>"Investor Loan Notes"</b>	shall bear the meaning attributed to it in the Investment Agreement,
<b>"Investor Loan Note Instrument"</b>	shall bear the meaning attributed to it in the Investment Agreement,
<b>"Investor Majority"</b>	means the holders from time to time of at least 50% in nominal value of the A Ordinary Shares,
<b>"Investors"</b>	shall bear the meaning attributed thereto in the Investment Agreement,
<b>"Investor Security Documents"</b>	shall be the meaning attributed thereto in the Investment Agreement,
<b>"Leaver"</b>	<p>means any holder of Shares who is employed or was (at any time after the date of adoption of these Articles) employed by or is a director of or a consultant to or a person connected to or associated with a consultant to the Company or any other member of the Group from time to time (other than an Investor Director) and who dies or who ceases to be an employee and/or director and/or consultant and/or person connected to or associated with a consultant of the Company or any other member of the Group (whether or not his contract of employment or appointment to office or consultancy agreement is validly terminated) and does not continue (or is not immediately re-employed or re-appointed) as an employee and/or director and/or consultant and/or person connected to or associated with a consultant of the Company or any other member of the Group</p> <p>In this definition and in the definition of "Bad Leaver" and for the purposes of Article 15 (<i>compulsory transfers</i>) any reference to the date of cessation of employment or office or consultancy shall be the date upon which the contract of employment or appointment as director or consultancy agreement of the relevant person terminates or on which such person ceases to be connected to or associated with a consultant to the Company or, if earlier, the date upon which the relevant person gives or is given notice of termination of his contract of employment or of his appointment as director or his consultancy agreement whether or not such notice is valid,</p>
<b>"Liquidation"</b>	means the making of a winding up order by the court or the passing of a resolution by the members that the Company be wound up,
<b>"Listing"</b>	the admission of the entire issued equity share capital of the Company (or a new holding company of the Company) to the Official List of the United Kingdom Listing Authority and to trading on the main market of the London Stock Exchange plc or to trading on any other Stock Exchange and the Listing shall be treated as occurring on the day on which trading in the securities begins,

<b>"member"</b>	means a person (whether an individual or a corporation) who holds Shares,
<b>"Model Articles"</b>	has the meaning given in Article 1 1;
<b>"New Manager(s)"</b>	means such person or persons, approved by an Investor Director, who has or have been or will be recruited as a director or employee or consultant of the Group,
<b>"Offeror"</b>	shall have the meaning given to it in Article 17 1(a),
<b>"Office"</b>	means the registered office of the Company,
<b>"Ordinary Shares"</b>	means A Ordinary Shares of £0 001 each, B Ordinary Shares of £0 001 each and C Ordinary Shares of £0 001 each in the capital of the Company,
<b>"Original Investors"</b>	shall bear the meaning attributed thereto in the Investment Agreement,
<b>"Panel"</b>	means the Panel on Takeovers and Mergers,
<b>"Permitted Transfer"</b>	means a transfer of Shares pursuant to Article 13 ( <i>permitted transfers</i> ),
<b>"Proceeds"</b>	<p>means the aggregate total of (i) the aggregate total amount received by the Investors either by way of the payment of interest or repayment of capital in respect of the Investor Loan Notes or by way of dividends declared and received on the Shares, and (ii) the net aggregate consideration (reduced to take into account advisor fees and other expenses of the shareholders and (with the consent of the Investor Majority) the Group incurred in connection with the Exit) received (whether in one or several instalments) or receivable by the Company and/or any of the shareholders in respect of an Exit and shall, without limitation, include</p> <ol style="list-style-type: none"> <li>i the amount of any non-contingent and clearly quantifiable deferred consideration;</li> <li>ii any consideration given otherwise than in cash, and</li> <li>iii any consideration (in cash or otherwise) received by the Company and/or any of the shareholders which having regard to the substance of the transaction can reasonably be regarded as an addition to the price paid,</li> </ol> <p>and shall take account of any adjustment to the consideration by reference to a locked, completion accounts or equivalent adjustment mechanism, but in each case excluding any element of consideration which is contingent and/or unquantifiable which, for the avoidance of doubt shall include any amounts held in escrow pending expiry of any warranty or indemnity claims period</p>

PROVIDED THAT

- i if the consideration is satisfied wholly or partly by an issue of shares in a company which is listed or quoted on a Stock Exchange, the value attributable to such shares shall be the average of the closing mid prices during the ten days ending on the day immediately prior to the date on which the calculation is made, and
- ii if the consideration is satisfied wholly or partly by an issue of shares in a company which is not listed or quoted on a Stock Exchange, the value attributable to such shares shall be determined by agreement between the Company and an Investor Majority, and

PROVIDED FURTHER THAT in the event of any dispute as to the consideration received or receivable or to the value attributable to any non-cash consideration the matter shall be referred to an expert whose decision shall be final and binding (such expert acting as an expert and not as arbitrator and to be nominated by the parties concerned or in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales and the costs of which shall be paid by the Company)

<b>“Sale”</b>	means the acquisition of 100% of the Voting Rights by any person (or by persons who in relation to each other are acting in concert),
<b>“Sale Shares”</b>	shall bear the meaning attributed to it in Article 15 1,
<b>“Second Hurdle Amount”</b>	means the amount up to and equal to 2 15 times the amount which has from time to time been invested by the Investors in subscribing for Investor Loan Notes and in subscribing for Shares;
<b>“Shares”</b>	means shares in the share capital of the Company,
<b>“Stock Exchange”</b>	any of the Official List of the UK Listing Authority and London Stock Exchange plc’s market for listed securities, the AIM market of London Stock Exchange plc, NASDAQ or any other Recognised Investment Exchange and their respective share dealing markets,
<b>“Subscription Price”</b>	means, in relation to any Share in the Company, the price at which such Share is issued, being the aggregate of the amount paid up or credited as paid up in respect of the nominal value of such Share and any share premium thereon;
<b>“Subscription Shortfall”</b>	has the meaning set out in the Investment Agreement;
<b>“Subsidiary”</b>	means Twinwoods Heat and Power Limited, a private company limited by shares registered in England and Wales with company number 06799288,
<b>“Third Hurdle Amount”</b>	means the amount up to and equal to 3 00 times the amount which has from time to time been invested by the Investors in subscribing for Investor Loan Notes and in subscribing for

Shares,

**“Valuer”**

means an independent firm of chartered accountants nominated by the President of the Institute of Chartered Accountants of England and Wales (or his equivalent from time to time) or such other person or firm as may be agreed between the Investor Majority and the Directors in each case acting as an expert and not as an arbitrator,

**“Voting Rights”**

means the right to receive notice of, attend (in person or by proxy), speak (in person or by proxy) and vote (in person or by proxy) at general meetings of the Company, and

- 22 2 Without prejudice to Article 1, the regulations contained in the Model Articles shall apply to the Company save insofar as they are amended by or are inconsistent with these Articles, and in particular
- (a) In Model Article 52 the words “which is partly paid for any part” shall be omitted and the words “and the Company shall also have a first and paramount lien on all shares standing registered in the name of a single person or in the name of any person jointly with another or others for all monies presently payable by him or any of them or his estate or their estates to the Company” shall be inserted after the words “in respect of it”, and
  - (b) In Model Article 57(1)(b) the words “and all expenses that may have been incurred by the Company by reason of such non-payment” shall be inserted after the words “at the relevant rate”
- 22 3 Words and expressions defined in the CA06 shall, unless the context otherwise requires, bear the same meanings herein



THE COMPANIES ACT 2006  
PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION  
of  
EUROPEAN GENERATION LIMITED  
Registered Number 08336378

Incorporated in England and Wales  
the 19 day of December 2012

Adopted on the 10<sup>th</sup> day  
of APRIL 2014

WE HEREBY CERTIFY THAT THIS IS A TRUE  
AND CORRECT COPY OF THE ORIGINAL  
DATED THIS 22<sup>nd</sup> DAY OF APRIL 2014

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**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**  
**of**  
**EUROPEAN GENERATION LIMITED**  
(Registered Number 08336378)

**1     Constitution**

- 1.1     The regulations contained in Schedule 3 of the Companies (Model Articles) Regulations 2008 ("Model Articles") shall apply to the Company except to the extent that they are excluded by or inconsistent with these Articles
- 1.2     Model Articles 7, 10(2), 11, 13(3), 16, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33(1), 34, 41, 43, 45, 63(6), 80, 82 and 85 do not apply.
- 1.3     The Default Articles shall not apply to the Company.

**2     Interpretation**

- 2.1     In these Articles, unless the context otherwise requires, words and expressions shall bear the meaning ascribed to them in Article 22 (Definitions).

**3     Share Capital**

- 3.1     Any shares may be issued on the terms that they are, or at the option of the Company are, liable to be redeemed.
- 3.2     Subject to obtaining the prior written consent of the Investor Majority and to the provisions of the CA06 and of every other statute for the time being in force concerning companies and affecting the Company and to the provisions of these Articles and to any direction to the contrary that may be given by ordinary resolution of the Company (with the prior written consent of the Investor Majority), any new Shares to be issued (including any redeemable Shares whether forming part of the existing or any increased capital) shall be at the disposal of the Directors, who may offer, allot, issue, grant options or rights over or otherwise dispose of them to such persons, at such times and for such consideration and upon such terms and conditions and with such preferred, deferred or other special rights or restrictions whether in regard to dividend, voting, return of capital or otherwise as the Board may determine, but so that no Shares shall be issued at a discount
- 3.3     Save to the extent authorised by these Articles, or authorised from time to time by an ordinary resolution of the Company (with prior written consent of the Investor Majority) the Directors shall not exercise any power to allot relevant securities
- 3.4     In accordance with Section 570 of CA 06, section 561(1) of CA 06 shall be excluded from applying to the allotment of equity securities (as defined in Section 560 of CA 06).
- 3.5     Subject to Articles 3.6 and provided the Investor Majority have given their prior written consent to the allotment of such Shares, all new Shares shall be offered in writing for subscription to the holders of Shares (which for these purposes shall be treated as one class of Share) in the proportion that the aggregate number of such Shares for the time being held respectively by each such member bears to the aggregate number of all Shares for the

time being in issue and such offer shall be made at the same price per Share and by written notice specifying the number of Shares to which the member is entitled and limiting a time (being not less than 5 Business Days nor more than 20 Business Days) within which the offer if not accepted and completed will be deemed to be declined and, after the expiration of such time or on the receipt of a confirmation from the member of the Company to whom such notice is given that he has declined to accept the Shares so offered, the Board shall issue the same on the same terms including the same price as they were initially offered to the members but otherwise to such persons and in such manner as they are directed by an Investor Majority. If owing to the inequality in the number of new Shares to be issued and the number of Shares held by those members of the Company entitled to receive the offer of new Shares, such difficulties shall, in the absence of direction by the Company, be determined by an Investor Majority.

- 3.6 The Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Share or any interest in any fractional part of a Share or (except only as otherwise provided by these Articles or by law) any other rights in respect of any Share except an absolute right to the entirety thereof held by the registered holder. The Company shall however, with the prior written consent of the Investor Majority, be entitled to register trustees as such in respect of any Shares.

- 3.7 Model Article 72(1) shall apply as if the words "either in writing or as the directors may otherwise decide" were deleted from each of the paragraphs (a) to (d) inclusive and replaced in each case by the words "in writing".

#### 4 Capital

- 4.1 On any Liquidation or Exit (or other return of capital by the Company to shareholders other than by way of capitalisation of reserves):

- (a) The Proceeds up to and including the First Hurdle Amount, shall be applied as follows:
  - (i) first, in paying to the holders of the Investor Loan Notes, all interest accrued but unpaid in relation to the Investor Loan Notes and calculated in accordance with the Investor Loan Note Instrument; and
  - (ii) second, in paying to the holders of the Investor Loan Notes, the principal amount outstanding in relation to the Investor Loan Notes; and
  - (iii) third, in distributing the balance of the assets to the holders of the A Ordinary Shares
- (b) The Proceeds in excess of the First Hurdle Amount and up to and including the Second Hurdle Amount (the "First Hurdle Excess") shall be applied (on a pari passu basis) as follows:
  - (i) the holders of the A Ordinary Shares, 60% of the First Hurdle Excess, and
  - (ii) subject to Article 4.2, the holders of the B Ordinary Shares and C Ordinary Shares, 40% of the First Hurdle Excess
- (c) The Proceeds in excess of the Second Hurdle Amount and up to and including the Third Hurdle Amount (the "Second Hurdle Excess"), shall be applied (on a pari passu basis) as follows

- (i) the holders of the A Ordinary Shares, 50% of the Second Hurdle Excess, and
    - (ii) subject to Article 4.2, the holders of the B Ordinary Shares and C Ordinary Shares, 50% of the Second Hurdle Excess
  - (d) The Proceeds in excess of the Third Hurdle Amount (the "Third Hurdle Excess") shall be applied (on a pari passu basis) as follows
    - (i) the holders of the A Ordinary Shares, 60% of the Third Hurdle Excess,
    - (ii) subject to Article 4.2, the holders of the B Ordinary Shares and C Ordinary Shares, 40% of the Third Hurdle Excess
- 4.2 Once the total aggregate amount (if any) payable to the holders of the B Ordinary Shares and C Ordinary Shares has been calculated in accordance with Article 4.1 above (and taking into consideration amounts already distributed pursuant to Article 5.3), such amount is to be applied so that the aggregate apportionment of Proceeds (as between the holders of the B Ordinary Shares and C Ordinary Shares) is as follows
- (a) 80% for the holders of the B Ordinary Shares, and
  - (b) 20% for the holder of the C Ordinary Shares
- 4.3 Once the amount of Proceeds each shareholder is entitled to has been calculated in accordance with this Article 4, and in the event such Proceeds includes non-contingent and clearly quantifiable deferred consideration, the amount immediately payable to each shareholder on completion of a Liquidation or Exit shall be reduced pro-rata in direct proportion to the amount that the Proceeds immediately payable bears to the total amount of Proceeds payable (including non-contingent and clearly quantifiable deferred consideration). The remainder of the Proceeds shall then become payable once the non-contingent and clearly quantifiable consideration has actually been paid and duly received.
- 5 **Ordinary Shares**
- 5.1 The A Ordinary Shares, B Ordinary Shares and C Ordinary Shares shall have in all respects identical rights and shall rank pari passu in all respects with each other as if the same constituted one class of shares except, save as set out in Article 4 (Capital), Article 5.3 (Dividends), Article 5.4(b) (Voting), Article 13.2 (Permitted Transfers and Pre-emption) and where otherwise expressly stated in these Articles. All references to Shares and/or Ordinary Shares shall be deemed to include a reference to the A Ordinary Shares, B Ordinary Shares and C Ordinary Shares as if they constituted one class of shares.
- 5.2 The provisions of Article 6 (Variation of Class Rights) shall not apply to any variation of rights attaching to Shares to the extent that such variation applies to all classes of Share in the same manner and to the same (or substantially the same) extent.
- 5.3 **Dividends**
- (a) Any Proceeds which the Company determines to distribute in any financial year shall be paid in accordance with the order of preference set out in Article 4, more specifically.
    - (i) all Proceeds up to any including the First Hurdle Amount which the Company determines to distribute in any financial year shall be paid to the holders of the A Ordinary Shares,
    - (ii) all Proceeds in excess of the First Hurdle Amount and up to and including

the Second Hurdle Amount which the Company determines to distribute shall be paid 60% to the holders of the A Ordinary Shares and 40% to the holders of the B Ordinary Shares and C Ordinary Shares;

(iii) all Proceeds in excess of the Second Hurdle Amount and up to and including the Third Hurdle Amount which the Company determines to distribute shall be paid 50% to the holders of the A Ordinary Shares and 50% to the holders of the B Ordinary Shares and C Ordinary Shares; and

(iv) all Proceeds in excess of the Third Hurdle Amount which the Company determines to distribute shall be paid 60% to the holders of the A Ordinary Shares and 40% to the holders of the B Ordinary Shares and C Ordinary Shares

(b) On the declaration of a dividend, once the amount (if any) payable to the holders of the B Ordinary Shares and C Ordinary Shares has been calculated in accordance with Article 5.3 above, such amount is to be applied as follows (as between the holders of the B Ordinary Shares and C Ordinary Shares)

(i) 80% for the holders of the B Ordinary Shares; and

(ii) 20% for the holder of the C Ordinary Shares

(c) Model Articles 70(5) to 70(7) inclusive shall not apply to the Company

#### 5.4 Voting

(a) The holders of the Ordinary Shares shall be entitled to receive notice of and to attend and speak at any general meeting of the Company and each holder of 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, on a show of hands, have one vote, and, on a poll, have one vote for each Ordinary Share of which he is the registered holder.

(b) The holders of the B Ordinary Shares shall not be entitled to vote, whether present in person, by proxy or by a duly authorised representative, on a show of hands or on a poll on any resolution relating solely to the appointment or removal of an Investor Director or Chairperson.

#### 5.5 Capital

(a) On a return of capital on liquidation, capital reduction or otherwise, the surplus assets of the Company remaining after the payment of its liabilities shall be applied in accordance with Article 4

## 6 Variation of Class Rights

- 6 1 Whenever the capital of the Company is divided into different classes of Shares, the special rights attached to any class may (unless otherwise provided by the terms of issue of the Shares of that class) be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding up, with the consent in writing of the holders of at least 75% in aggregate nominal value of the issued Shares of that class, or with the sanction of a resolution passed at a separate meeting of the holders of the Shares of that class by the holders of not less than 75% in aggregate value of Shares of that class who attended and voted at such meeting, but not otherwise. To each such separate meeting, all the provisions of these Articles relating to general meetings of the Company, or to the proceedings at them shall, *mutatis mutandis*, apply except that.
- (a) no member shall be entitled to receive notice of such meeting or to attend it unless he is a holder of Shares of the class in question and no vote shall be given except in respect of a Share of that class,
  - (b) the necessary quorum shall for a meeting of the A Ordinary Shareholders be two persons and of the B Ordinary Shareholders shall be two persons and of the C Ordinary Shareholders shall be 1 person, each being a member, a proxy for a member or a duly authorised representative of a member being a corporation, together holding or representing at least one third in nominal amount of the issued Shares of that class;
  - (c) if at any adjourned meeting, a quorum as defined above is not present within half an hour of the time appointed for the adjourned meeting, the member or members who is/are present shall be a quorum; and
  - (d) the holders of Shares of the class in question shall, on a poll, have one vote in respect of every Share of that class held by them
- 6 2 If a Listing is proposed then (conditional upon the Listing becoming effective and with effect prior to the earlier of. (i) the Listing becoming effective; and (ii) the acquisition (conditional upon the Listing becoming effective) by a new holding company ("New Holding Company") of the entire issued share capital of the Company, such New Holding Company to adopt new articles of association which are in a form that is typical for a public company whose share capital is admitted to trading on the relevant Stock Exchange), the existing share capital of the Company shall be transferred to a the New Holding Company in consideration for such number of ordinary shares under such new articles such that the proportion of the equity share capital (on an as converted basis) held by each shareholder following completion of such issue equals the proportion of the Proceeds that each shareholder would have received in accordance with Article 4 were the Listing to be a Sale (and assuming the Valuation of the Company immediately prior to the Listing constitutes the Proceeds) The "Valuation" shall be the valuation of the Company at the time of the Listing as resolved by the Board (acting with Investor Consent) at the last practicable meeting of the Board prior to the Listing and shall take into account the value of the exercise subscription proceeds of the exercise of options capable of exercise prior to (and, if relevant, conditional on) the Listing but excluding the value of the proceeds of subscriptions for new shares to be issued to placees or other third parties by the Company (other than on the exercise of options) at the time of the Listing. For the avoidance of doubt, the operation of this Article 6 2 shall not constitute a variation of class rights.

## 7 Transfer of Shares

- 7 1 The Directors shall register any transfer of Shares made in accordance with the provisions of Articles 7.2 or 13 to 19 (*permitted transfers, Investor Majority Direction of Leaver Shares*,

*compulsory transfers, fair price, change of controlling interest, tag-along and drag-along*)  
Save as aforesaid the Directors shall decline to register any transfer of any Shares, whether or not such Shares are fully paid.

- 7.2 Subject to such of the restrictions set out in these Articles as may be applicable, any member may transfer all or any of his Shares by instrument of transfer in writing in any usual or common form or in any other form which the Board (acting with Investor Consent) may approve. The instrument of transfer shall be executed by or on behalf of the transferor and (except in the case of fully paid Shares) by or on behalf of the transferee and the transferor shall remain the holder of the Shares and as such a member of the Company until the name of the transferee is entered in the Company's register of members in respect thereof.

## **8 General Meetings**

- 8.1 No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, the holders of majority of the issued A Ordinary Shares present in person or by proxy or, if a corporation, by a duly authorised representative or proxy shall be a quorum.

- 8.2 If a quorum is not present within half an hour of the time appointed for a general meeting the meeting, if convened on the requisition of members, shall be dissolved. In any other case such meeting shall stand adjourned to the same place 5 Business Days later or to such later day and at such time and place as the Board may determine, and if at the adjourned meeting a quorum is not present the meeting shall stand adjourned to the same place a further 5 Business Days later or to such later day and at such time and place as the Board may determine. If at the second adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the member(s) present shall be a quorum.

- 8.3 A resolution in writing signed by all the members of the Company who would be entitled to receive notice of and to attend and vote at a general meeting at which such resolution was to be proposed, or by their duly appointed attorneys or representatives, shall be as valid and effectual as if it had been passed at a general meeting of the Company duly convened and held. Any such resolution may consist of several documents in the like form each signed by one or more of the members or their duly appointed attorneys or representatives and the signature in the case of a corporation which is a member shall be sufficient if made by a director or the secretary thereof or by its duly appointed attorney(s) or representatives(s).

## **8.4**

- (a) A poll may be demanded at any general meeting by the chairman or by any member present in person or by proxy or, if a corporation, by a proxy or a representative duly authorised and entitled to vote on the resolution in question. Model Article 36(2) shall be construed accordingly.
- (b) Model Article 36(3) shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the results of a show of hands declared before the demand was made" as a new paragraph at the end of that article.

- 8.5 A resolution not previously approved by the Board may not be moved by any member at a general meeting unless the member intending to move the same shall have left a copy thereof with his name and address at the Office no less than 3 Business Days prior to such meeting.

- 8.6 A notice of every general meeting shall be given to every member who has supplied to the Company an address (whether or not within the United Kingdom) for the giving of notices.



**9      Directors**

**9 1      The quorum for the transaction of the business of the Directors.**

- (a)      may be fixed by the Board but, save as set out below in this Article 9 1 or unless an Investor Majority shall otherwise agree in writing, two of the quorum shall always be Investor Directors, if there are two in office, and
- (b)      unless so fixed at any other number (or unless there is only one Director) shall be two, and, unless an Investor Director cannot count in the quorum for any resolution at a meeting to the extent that an effective directors authorisation is sought pursuant to section 175(4)(b) CA06 at such meeting (and in such a situation then only for the period where such an authorisation is being considered and resolved upon) one of whom shall be an Investor Director (if in office).

Any Investor Director may call a directors' meeting by giving notice of the meeting to the directors. Notice of a directors' meeting must be given to each director, but need not be in writing and there shall be no minimum notice requirement in respect of such meeting.

**9 2      A person who holds office only as an Alternate Director shall, if his appointor is not present (but not otherwise), be counted in the quorum. For the purposes of any meeting (or part of a meeting) held in accordance with this Article 9 to authorise a director's conflict pursuant to section 175(4)(b) CA06, if there is only one eligible director in office other than the conflicted director(s) the quorum for that meeting (or part of a meeting) is one eligible director provided always that where the eligible director is not an Investor Director, the only business which shall be transacted at the meeting shall be the authorisation of such conflict**

**9 3      Unless and until otherwise determined by ordinary resolution of the Company or as otherwise determined by an Investor Director, the minimum number of Directors shall be one and there shall be no maximum number. A sole Director shall have all the power and authority vested in "the Directors" pursuant to these Articles.**

**9 4      A Director shall not be required to hold Shares of the Company in order to qualify for office as a Director of the Company, but he shall be entitled to receive notice of and attend and speak at all general meetings of the Company or meetings of any class of members of the Company**

**9 5      If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the Company in which a director is in any way directly or indirectly interested, that director shall be counted as participating in the decision making process for quorum and voting purposes provided that the relevant interest either:**

- (a)      has been duly declared in accordance with section 177 or section 182 CA06, as the case may require; or
- (b)      is not required by the terms of either of those sections to be declared.

**9 6      The provisions of this Article 9 6 and Articles 9 7 to 9.14 shall apply in relation to the exercise of the power of the directors to authorise any matter which would or might otherwise constitute or give rise to a breach of the duty of a director under section 175(1) CA06 to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company**

**9 7      In this Article, Article 9 6 and Articles 9 8 to 9 14**

<b>"authorise"</b>	means to authorise in accordance with section 175(5)(a) CA06 and "authorisation", "authorised" and cognate expressions shall be construed accordingly;
<b>"conflicted director"</b>	means a director in relation to whom there is a conflicting matter,
<b>"conflicting matter"</b>	means a matter or situation which would or might (if not authorised) constitute or give rise to a breach of the duty of a director under section 175(1) CA 06 to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company,
<b>"Relevant Undertaking"</b>	shall mean the Company, a subsidiary undertaking of the Company, any parent undertaking of the Company or a subsidiary undertaking of any such parent undertaking, any undertaking promoted by the Company and any undertaking in which the Company is otherwise interested,
<b>"Relevant Investor Undertaking"</b>	means any company in which an Investor is (or proposes to be) a shareholder or is (or proposes to be) a lender, and

section 252 CA06 shall determine whether a person is connected with a director, and

a general notice to the Board that a director is to be regarded as having an interest of the nature and extent specified in the notice in any 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

- 9.8 The provisions of Articles 9.6, 9.7, this Article and Articles 9.9 to 9.14 apply without prejudice (and subject) to the provisions of section 175(6) CA06 Nothing in these Articles shall invalidate an authorisation
- 9.9 For the purposes of sections 175 and 180(4) of the CA 06, the members of the Company authorise each conflicting matter of an Investor Director's which arises or may arise as a result of any of the following matters or situations (in each case, existing before, at or after the date of adoption of these Articles):
- (a) as a party to or in any way directly or indirectly interested in or having any duty in respect of any existing or proposed contract or arrangement or transaction with a Relevant Undertaking or a Relevant Investor Undertaking or any other undertaking in which the Company or a Relevant Investor Undertaking is in any way interested,
  - (b) as a director, partner, member or employee or other office holder of any Relevant Undertaking or a Relevant Investor Undertaking or otherwise interested (including without limitation by the holding of shares or loan notes or options to acquire shares or loan notes) in any Relevant Undertaking or a Relevant Investor Undertaking,
  - (c) being remunerated in respect of any office (other than in each case the office of auditor) by any Relevant Undertaking or a Relevant Investor Undertaking;
  - (d) acting in a professional capacity for the Company, any Relevant Undertaking or a Relevant Investor Undertaking (other than in each case as auditor) whether or not he is remunerated for this;

- (e) in relation to any duty he may owe to, or interest he may have as an employee, director, consultant, member or partner of an Investor or a fund manager of an Investor or any duty he may owe to, or interest he may have as member or partner of, or investor in an Investor or any of the funds advised or managed by such fund manager from time to time,
  - (f) in respect of any rights or powers he may have pursuant to the terms of the Investment Agreement or these Articles;
  - (g) an interest which cannot reasonably be regarded as likely to constitute a conflicting matter,
  - (h) an interest or transaction or arrangement giving rise to an interest of which the Investor Director is not aware, or
  - (i) any other interest authorised by ordinary resolution of the Members
- 9.10 Subject to Article 9.11 (and without prejudice to any equitable principle or rule of law which may excuse or release the Investor Director from disclosing information in circumstances where disclosure may otherwise be required under this Article), if an Investor Director, otherwise than by virtue of his position as director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required
- (a) to disclose such information to the Company or to the Board or to any director, officer or employee of the Company, or
  - (b) otherwise to use or apply such confidential information for the purpose of or in connection with the performance of his duties as a director.
- 9.11 Where such duty of confidentiality arises out of a conflicting matter Article 9.10 shall apply only if the conflict arises out of a matter which falls within Article 9.9 above or has been authorised under Article 9.13
- 9.12 A conflicted director seeking authorisation of any conflicting matter shall disclose to the Board the nature and extent of the conflicting matter as soon as is reasonably practicable. The conflicted director shall provide the Board with such details of the conflicting matter as are necessary for the Board to decide how to address the conflicting matter, together with such additional information as may be requested by the Board. This Article 9.12 shall not apply to any conflicting matter of an Investor Director authorised pursuant to Article 9.9
- 9.13 With Investor Consent, the Board are hereby empowered for the purposes of section 175 of CA06 to authorise any conflicting matter that may arise and, subject to Investor Consent, to amend or vary any such authorisation so given. Any director (including the conflicted director) may, with Investor Consent, propose that a conflicted director's conflicting matter be authorised. Any such proposal and any authorisation given by the directors, shall be effected in the same way as any other matter may be proposed to and resolved on by the Board under the provisions of these Articles, except that
- (a) the conflicted director and any other interested director shall not count towards the quorum nor vote on any resolution giving that authorisation, and
  - (b) the conflicted director and any other interested director may, if the directors so decide, be excluded from any meeting of the directors while the conflicting matter and the giving of that authorisation are under consideration.

9.14 Where the directors authorise a conflicted director's conflicting matter, with Investor Consent

- (a) subject to Article 9.10, the directors may (whether at the time of giving the authorisation or subsequently)
  - (i) require that the conflicted director is excluded from the receipt of information, the participation in discussions and/or the making of decisions (whether at meetings of the directors or otherwise) related to the conflicting matter, and
  - (ii) impose on the conflicted director such other terms or conditions for the purpose of dealing with any actual or potential conflict of interest which may arise from the conflicting matter as they may determine,
- (b) the conflicted director shall conduct himself in accordance with any terms or conditions imposed by the directors in giving that authorisation,
- (c) subject to Article 9.10, the directors may provide that, where the conflicted director obtains (otherwise than through his position as a director) information that is confidential to a third party, the conflicted director will not be obliged to disclose the information to the Company, or to use or apply the information in relation to the Company's affairs, where to do so would amount to a breach of that confidence,
- (d) the terms of the authorisation shall be recorded in writing (but the authorisation shall be effective whether or not the terms are so recorded), and
- (e) the directors may revoke or vary the authorisation at any time but no such action will affect anything done by the conflicted director prior to that action in accordance with the terms of the authorisation.

9.15 A conflicted director shall not, by reason of his office or of the resulting fiduciary relationship, be liable to account to the Company for any benefit which he (or a person connected with him) derives from a conflicting matter authorised by the directors or to which any other provisions of Article 9 applies and no transaction or arrangement shall be liable to be avoided on the grounds of any such benefit

9.16 A director who has directly or indirectly an interest or a duty in a matter which is material and which conflicts or may conflict with the interests of the Company may, notwithstanding his interest or duty, vote on the matter and be included for the purposes of a quorum at any meeting at which the matter is considered provided that

- (a) he has disclosed the nature and extent of his interest or duty giving rise to his conflict of interest; and
- (b) where his conflict of interest is constituted by or arises from a conflicting matter of his, that conflicting matter has been authorised and the director has not been required to be excluded from participation in discussions and/or the making of decisions related to the matter.

9.17 If a question arises at a meeting of the directors about whether a director (other than the chairman of the meeting) has an interest which is likely to give rise to a conflict of interest or if he can vote or be counted in the quorum, and the director does not agree to abstain from voting on the issue or not to be counted in the quorum, the question must be referred to the chairman of the meeting. The ruling of the chairman of the meeting about any other director is final and conclusive, unless the nature or extent of the director's interest (so far

as it is known to him) has not been fairly disclosed to the directors. If the question arises regarding the chairman of the meeting, the question shall be decided by a resolution of the directors. The chairman of the meeting cannot vote on the question but can be counted in the quorum. The directors' resolution about the chairman of the meeting is conclusive, unless the nature and extent of the chairman's interest (so far as it is known to him) has not been fairly disclosed to the directors. Model Article 16(5) shall be modified accordingly.

9 18 The Company may by ordinary resolution ratify any transaction or arrangement which has not been properly authorised by reason of a contravention of these Articles

9 19 For the purposes of these Articles

- (a) an interest or duty is "material" unless it cannot reasonably be regarded as likely to give rise to a conflict of interest; and
- (b) a "conflict of interest" includes a conflict of interest and duty and a conflict of duties

9 20 The Board (acting with Investor Consent) may dispense with the keeping of attendance records for meetings of the Directors or committees of the Directors

9 21 The office of a director of the Company, other than that of an Investor Director, shall, subject to the prior receipt of Investor Director Consent as to the relevant matter, be immediately vacated by such a director

- (a) if he has a bankruptcy order made against him or suspends payment of or compounds with his creditors generally,
- (b) if he becomes of unsound mind or a patient for the purpose of any statute relating to mental health or otherwise incapacitated,
- (c) if by notice in writing to the Company he resigns his office;
- (d) if he is prohibited by law from being a director or ceases to be a director by virtue of any provision of the CA06,
- (e) if he is removed from office by notice in writing signed by all his co-directors and served upon him,
- (f) if he is removed from office by notice in writing signed by the holders of Shares representing more than 50% of the aggregate Voting Rights; and/or
- (g) if he shall for more than six consecutive calendar months have been absent without permission of the Directors from meetings of the Directors held during that period and the Directors resolve that his office be vacated

9 22 The Board, with the consent of an Investor Director, shall have power at any time to appoint any person to be a Director of the Company either to fill a casual vacancy or as an addition to the existing Directors

9 23 The Board (acting with Investor Consent) may from time to time appoint one or more of their number to an executive office for such period and on such terms and conditions as they shall think fit and, subject to the terms and conditions of any agreement entered into in any particular case, may revoke such appointment. Subject to the terms and conditions of any such agreement the appointment of any Director as aforesaid shall automatically determine if he ceases from any cause to be a Director

9 24 An executive officer appointed pursuant to Article 9 23 above shall receive such remuneration (either by way of salary, commission, participation in profits or pension or otherwise howsoever, whether similar to the foregoing or not) as the Board (acting with Investor Consent) may determine

9 25

(a) Any decision of the Board of Directors must either be a majority decision at a meeting or a decision taken in accordance with Article 9 26.

(b) If

(i) the Company has only one Director, and

(ii) no provision of the Articles requires it to have more than one Director,

the general rule does not apply and the Director may, for so long as he remains the sole Director, take decisions without regard to the provisions of Articles 9 25 (a) and 9 26

9 26 A resolution in writing signed by all the eligible Directors (whether or not in the United Kingdom) shall be as valid and effectual as a resolution passed at a meeting of the Directors duly convened and held and may consist of several documents in the like form, each signed by one or more of the Directors

9 27 A meeting of the Directors or of a committee of the Directors may consist of a conference between Directors who are not all in one place, provided that each is able (directly or by telephonic, video or web communication) to speak to each of the others and to be heard by each of the others simultaneously. A Director taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly. Subject to the CA06, all business transacted in such manner by the Directors or a committee of the Directors shall for the purposes of these Articles be deemed to be validly and effectively transacted at a meeting of the Directors or a committee, notwithstanding that fewer than two directors or Alternate Directors are physically present at 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. The word "meeting" in these Articles shall be construed accordingly

9.28 Model Article 13 is modified by the insertion of the word "eligible" between the words "the" and "participating" in 13(1) and between the words "each" and "director" in 13(2)

## **10 Borrowing and other Powers**

10 1 The Board (acting with Investor Consent) may exercise all the powers of the Company without limit as to amount to borrow and raise money and to accept money on deposit and to grant any security, mortgage, charge or discharge as they may consider fit for any debt or obligation of the Company or which is binding on the Company in any manner or way in which the Company is empowered so to grant and similarly, as they may consider fit, to enter into any guarantee, contract of indemnity or suretyship in any manner or way in which the Company is empowered so to enter into

## **11 Alternate Directors**

11.1 Any Investor Director (other than an Alternate Director) may at any time by writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint

any person to be his alternate director (an "Alternate Director") and may in like manner at any time terminate such appointment. The appointment of an alternate by an Investor Director shall be effective immediately on notice of such appointment being given to the Company and shall not require the approval of the Directors. No director of the Company other than an Investor Director may appoint an alternate director, save with Investor Consent.

- 11 2 The appointment of an Alternate Director shall determine on the happening of any event which, if he were a Director, would cause him to vacate such office, or if his appointor ceases to be a Director.

- 11 3 An Alternate Director shall be entitled to receive notice of all meetings of the Directors and of all meetings of committees of the Directors of which his appointor is a member and shall be entitled to attend and vote as a Director at any such meetings at which his appointor is not personally present and generally at such meetings to perform all the functions of his appointor as a Director in his absence and for the purposes of the proceedings at such meeting the provisions of these Articles shall apply as if he were a Director. If his appointor is temporarily unable to act through ill-health or disability, an Alternate Director's signature to any resolution in writing of the Directors shall be as effective as the signature of his appointor. Every person acting as an Alternate Director shall have one vote for each director for whom he acts as alternate (in addition to his own vote if he is also a Director). An Alternate Director shall not (save as aforesaid) have power to act as a Director or be deemed to be a Director for the purposes of these Articles.

- 11 4 An Alternate Director may be repaid expenses and shall be entitled to be indemnified by the Company to the same extent mutatis mutandis as if he were a Director but he shall not be entitled by virtue of such appointment to receive from the Company any remuneration save for such proportion (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.

## **12 Indemnity**

- 12 1 Subject to Article 12 2, a relevant officer of the Company may be indemnified out of the Company's assets against

- (a) any liability incurred by that officer in connection with any negligence, default, breach of duty or breach of trust in relation to the Company,
- (b) any liability incurred by that officer in connection with the activities of the Company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) CA06), or
- (c) any other liability incurred by that officer as an officer of the Company, acting in the ordinary course of business of the Company.

- 12 2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of CA06 or by any other provision of law.

- 12 3 In this article 12 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.

## **13 Permitted Transfers & Pre-emption Rights**

- 13 1 Other than in accordance with Article 14 (Investor Majority Direction in respect of Leaver Shares), Article 15 (Compulsory Transfers), Article 17 (Change of Controlling Interest),

Article 18 (Tag-Along) and Article 19 (Drag-Along)

- (a) A Shares may only be transferred with the prior written consent of the Investor Majority and provided that such transfer is carried out in accordance with the provisions of Articles 13.2 to 13.11 (inclusive), and
- (b) B Shares and C Shares may only be transferred with the prior written consent of the Investor Majority.

Any transferee who is not already a holder of Shares shall be required to enter into a Deed of Adherence as defined in, and pursuant to the provisions of, the Investment Agreement

13.2 Any holder of A Shares who wishes to transfer A Shares and who has received the prior written consent of the Investor Majority in respect of such transfer ("Selling Shareholder") shall serve notice on the Company ("Sale Notice") stating the number of A Shares he wishes to transfer ("Sale Shares"), the proposed transferee (if any) of such Shares and his asking price for each Share ("Asking Price")

13.3 The Selling Shareholder may state in the Sale Notice that he is only willing to transfer all the Sale Shares (a "Total Transfer Condition"), in which case no Sale Shares can be sold unless offers are received for all of them but in the absence of such a statement, the Sale Notice shall be deemed not to contain such a statement

13.4 The Sale Notice shall make the Company the agent of the Selling Shareholder for the sale of the Sale Shares on the following terms, which the Company shall notify to the other holders of A Shares within 5 Business Days of receiving the Sale Notice

- (a) the price for each Sale Share is the Asking Price,
- (b) the Sale Shares are to be sold free from all liens, charges and encumbrances together with all rights attaching to them, and
- (c) the Sale Shares shall be offered to the holders of the A Shares other than the Selling Shareholder

13.5 Subject to Article 13.6 members to whom Sale Shares are offered pursuant to Article 13.4(c) shall be entitled to apply by notice in writing to the Company for any number of Sale Shares (which number may exceed each member's respective Due Proportion) within 10 Business Days of receiving notification from the Company in accordance with Article 13.4

13.6

- (a) Where members to whom the offer is made pursuant to Article 13.4(c) apply for any of the Sale Shares to which the offer relates within the 10 Business Day period referred to in Article 13.5, the Board of Directors shall allocate those Sale Shares applied for in accordance with the applications, save that if there are applications for more than the number of Sale Shares available, they shall be allocated to applicants in their Due Proportions and any allocation of Sale Shares in excess of an applicant's Due Proportions shall be subject to Investor Consent. If it is not possible to allocate some of the Sale Shares without involving fractions, then such shares shall be allocated amongst the applicants in such manner as the Board of Directors think fit
- (b) If and to the extent that there are any Sale Shares which are not allocated pursuant to Article 13.6(a) above the Company shall allocate such Shares to such other members holding Shares of the same class as the Shares being offered for sale



(other than the Selling Shareholder) as have stated in writing their respective willingness to purchase more Sale Shares than equals such member's Due Proportion, provided that any allocation in excess of an applicant's Due Proportions shall be subject to Investor Consent. If there are insufficient Sale Shares to meet the demand then the Board of Directors will allocate the Sale Shares pro-rata to each relevant member as nearly as may be in the proportion that the number of Shares held by each relevant member bears to the total number of Shares of the relevant class.

13.7 On the expiry of 15 Business Days after (and excluding) the Company's despatch of the terms for the sale of the Sale Shares (the "Closing Date")

- (a) the Sale Notice shall become irrevocable,
- (b) a person in Article 13.4(c) in relation to such Shares who has not responded to the offer pursuant to Article 13.5 shall be deemed to have declined it, and
- (c) each application made (and not withdrawn) by any person specified in Article 13.4(c) to acquire Sale Shares shall, subject to allocation by the Directors pursuant to Article 13.6, become an irrevocable offer to purchase the same on the terms contained in Article 13.4(a) and 13.4(b).

13.8 If the Sale Notice did not contain a Total Transfer Condition, within 5 Business Days after the Closing Date the Company shall

- (a) notify the Selling Shareholder of the names and addresses of the persons who are to buy Sale Shares of the number of Sale Shares he is to buy, and the numbers to be bought by each, and
- (b) notify the persons who applied to buy Sale Shares of the number of Sale Shares he is to buy,

and in each case, the Company's notice shall state a place and time, between 5 and 10 Business Days later, on which the sale and purchase of the Sale Shares is to be completed, subject to Article 13.2.

13.9 If the Sale Notice did contain a Total Transfer Condition, no allocation of Sale Shares under Article 13.6 may become unconditional until all of the Sale Shares have been allocated to members holding A Shares. If all the Sale Shares have been so allocated, Article 13.8 shall apply. If all the Sale Shares have not been so allocated, no transfer of any Sale Shares shall take place.

13.10 If having issued a Sale Notice the Selling Shareholder does not transfer Sale Shares, subject to Article 13.2, the Company may authorise any Director to transfer the Sale Shares on the Selling Shareholder's behalf to the buying party concerned against receipt by the Company of the Asking Price per Share. The Company shall hold the Asking Price in trust for the Selling Shareholder without any obligation to pay interest. The Company's receipt of the Asking Price shall be a good discharge to the buying shareholder. The Directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Selling Shareholder shall surrender his share certificate for the Sale Shares to the Company. On surrender, he shall be entitled to the Asking Price for the Sale Shares.

13.11 Nothing contained in these Articles (and in particular in Article 14.4(c)) shall prevent or restrict the holders of the A Shares from transferring any shares held by them on or after an Exit to any person free of any pre-emption rights.

#### **14 Investor Majority Direction of Leaver Shares**

- 14.1 An Investor Majority will direct within 12 calendar months of service on the Company of a Sale Notice (as defined in Article 15.1) that any Shares to be transferred by the holder of B Ordinary Shares pursuant to Article 15 (Compulsory Transfer) shall be offered to a New Manager or as otherwise directed by the Investor Majority. Such transfer may include a transfer to the Company, but any purchase by the Company shall require the prior written consent of the holders of more than 50% of the Shares then in issue, excluding any shares to which Article 15.6 applies. For the purposes of financing the purchase of its own Shares, subject to the requisite shareholder approval set out in Part 18 Chapter 4 of the CA06 (as amended from time to time), the Company shall be authorised to purchase its own shares with cash pursuant to section 692(1)(b) of the CA06 (as amended from time to time).
- 14.2 The Sale Notice shall make the Company the agent of the Leaver for the sale of the Sale Shares on the following terms:
- (a) the price for each Sale Share is the price calculated pursuant to Article 15, and
  - (b) the Sale Shares are to be sold free from all liens, charges, security interests and encumbrances together with all rights attaching to them
- 14.3 Any person to whom Shares are offered pursuant to Article 14.1 shall be entitled to apply by notice in writing to the Company for any number of Shares offered to them (up to the maximum number of Shares stated in the offer to them) within 10 Business Days of receiving notification from the Company in accordance with Article 14.1.
- 14.4 Any Sale Shares not accepted pursuant to Article 14.3 may be offered by the Company to such persons as directed by the Investor Majority and such process may be repeated until such time as all Sale Shares have been allocated
- 14.5 The Directors may not register a transfer of Shares unless such transfer is first approved in writing by an Investor Majority and the proposed transferee has entered into an agreement to be bound by the Investment Agreement in the form required by that agreement.
- 14.6 If, having been deemed to issue a Sale Notice, a Leaver does not transfer Sale Shares as required, the Company may authorise any Director to transfer the Sale Shares on the Leaver's behalf to the buying party concerned against receipt by the Company of the applicable price per Share. The Company shall hold the consideration payable in trust for the Leaver without any obligation to pay interest. The Company's receipt of the consideration shall be a good discharge to the buying shareholder. The Directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Leaver shall surrender his share certificate for the Sale Shares to the Company. On surrender, he shall be entitled to the consideration for the Sale Shares.
- 14.7 Nothing contained in these Articles shall prevent or restrict the holders of the Shares from transferring any shares held by them on or after an Exit to any person free of any pre-emption rights.

#### **15 Compulsory Transfers**

##### ***Leavers:***

- 15.1 Subject to Article 15.7, a Leaver shall be deemed on the date of cessation of office or the relevant consultancy agreement to have served a separate notice on the Company (a "Sale Notice") in respect of all of the Shares then held by him ("Sale Shares")

- 15.2 Where the Leaver is a Bad Leaver, a deemed service of a Sale Notice pursuant to Article 15.1 shall provide that the price to be paid in respect of each Sale Share the subject of the deemed Sale Notice shall be the lower of:
- (a) the Subscription Price, and
  - (b) the Fair Price
- 15.3 Where the Leaver is a Good Leaver who becomes a Good Leaver prior to the Commercial Operations Date, a deemed service of a Sale Notice pursuant to Article 15.1 shall provide that:
- (a) the price payable in respect of 50% of the Shares the subject of the deemed Sale Notice shall be the lower of
    - (i) the Subscription Price, and
    - (ii) the Fair Price;
  - (b) the price payable in respect of the remaining 50% of the Shares the subject of the deemed Sale Notice shall be the higher of
    - (i) the Subscription Price, and
    - (ii) the Fair Price
- 15.4 Where the Leaver is a Good Leaver who becomes a Good Leaver on or following the Commercial Operations Date, a deemed service of a Sale Notice pursuant to Article 15.1 shall provide that the price payable in respect of the Shares the subject of the deemed Sale Notice shall be the higher of
- (a) the Subscription Price, and
  - (b) the Fair Price
- 15.5 In the event that the Investor Majority has elected that a Leaver's Shares are to be purchased by the Company, the Company shall be entitled to purchase, and the Leaver shall be obliged to sell, the Leaver's Shares. At the request of the Company following such sale and purchase, the Leaver shall subscribe the proceeds of such repurchase for loan notes to be issued by the Company or the Subsidiary (as designated by the Company) provided that such loan notes shall rank pari-passu with, and be on terms and conditions no worse than, the highest ranking loan notes then issued by the Company or Subsidiary to a shareholder of the Company (or person connected thereto)
- 15.6 Notwithstanding any other provision of this Article 15, an Investor Majority may, by notice in writing served on the Company and the Leaver prior to the expiry of twelve calendar months from the date on which the relevant person became a Leaver, specify that the price payable in respect of any Leaver's Shares which are the subject of the deemed Sale Notice shall be greater than that which would otherwise apply pursuant to the provision of this Article 15 and, in that case the Investor Majority shall, in its absolute discretion, specify the relevant price payable which is applicable to such deemed Sale Notice.
- 15.7 Notwithstanding any other provision herein contained if
- (a) a holder of Shares becomes a Leaver, or
  - (b) a Leaver retains Shares,

any Shares registered in the name of such person(s) shall not confer the right to receive notice of, attend or vote at any general meeting of the Company or any written resolution of the Company or any written resolution or written consent of that class of Shares and such Shares shall not be counted in determining the total number of votes which may be cast at any such meeting or on any such written resolution or written consent of any members or class of members nor shall the holder of such Shares be entitled to participate in any allotment of equity securities pursuant to Article 3.5

- 15.8 An Investor Majority may, by notice in writing served on the Company and the Leaver, prior to the expiry of 3 calendar months from the date upon which the relevant person became a Leaver, specify that not all of the Leaver's Shares are to be the subject of the deemed Sale Notice and may, by notice in writing served on the Leaver, suspend the operation of the provisions of this Article 15 for all or any part of such 6 month period
- 15.9 For the avoidance of doubt, for the purpose of article 15 and the definition of Leaver, the EIDC Consultancy Agreement shall constitute EIDC Limited a consultant of the Group and the EIDC Shareholder and EIDC Managers shall be deemed and considered to be connected to and associated with EIDC Limited
- 15.10 Notwithstanding the definition of Leaver, should any EIDC Manager other than the EIDC Shareholder, cease to be connected with EIDC Limited such event shall not (in itself) render those EIDC Managers Leavers

***Default in Subscribing for Investor Loan Notes.***

- 15.11 A Defaulting Investor shall be deemed to have served a separate notice on the Company (an "Investor Sale Notice") in respect of all of the Shares then held by them ("Investor Sale Shares")
- 15.12 All Investor Sale Shares shall be transferred by the Defaulting Investor to the same persons and in the same proportions as the Subscription Shortfall is paid for. The total aggregate consideration in respect of such transfers shall be £1.00 payable by each transferee. Within 5 Business Days after the Closing Date the Company shall.
- (a) notify the Defaulting Investor of the names and addresses of the persons who have subscribed for the Subscription Shortfall and accordingly the number of Shares to be transferred to each such person; and
  - (b) notify each person who subscribed for Subscription Shortfall the number of Shares to be transferred and the amount of Investor Loan Notes to be assigned to them.
- 15.13 If the Defaulting Investor does not transfer Shares pursuant to Article 15.11, the Company may authorise any Director to transfer the Shares on the Defaulting Investor's behalf to the buying party concerned against receipt by the Company of the consideration. The Company shall hold the consideration in trust for the Defaulting Investor without any obligation to pay interest. The Company's receipt of the consideration shall be a good discharge to the buying shareholder. The Directors shall then authorise registration of the transfer once appropriate stamp duty has been paid. The Defaulting Investor shall surrender his share certificate for Shares to the Company. On surrender, he shall be entitled to the consideration for the Shares
- 15.14 Notwithstanding any other provision herein contained if a holder of Shares becomes a Defaulting Investor any Shares registered in the name of such person(s) shall not confer the right to receive notice of, attend or vote at any general meeting of the Company or any written resolution of the Company or any written resolution or written consent of that class of Shares and such Shares shall not be counted in determining the total number of votes

which may be cast at any such meeting or on any such written resolution or written consent of any members or class of members nor shall the holder of such Shares be entitled to participate in any allotment of equity securities pursuant to Article 3.5

## **16 Fair Price**

16.1 "Fair Price" means the price per Share, as at the date of occurrence of the event which triggered the requirement to agree or determine Fair Price, agreed between the selling shareholder and the Directors (acting with Investor Consent) or, in the absence of such agreement, the price as at such date certified in writing by the Valuer as being in its opinion the fair value of the Shares as between a willing seller and a willing buyer (with no discount to reflect the unquoted status of the Shares) provided that the Valuer, in determining the fair value of any of such Shares shall be instructed to:

- (a) determine the sum which a willing buyer would offer to a willing seller for all the Shares; and
- (b) divide the resultant figure by the number of issued Shares and outstanding options or rights to acquire Shares (assuming exercise in full),

but so that there shall be no addition or subtraction of any premium or discount arising in relation to the size of the holding the subject of the relevant transfer, or in relation to any restrictions on the transferability of the Shares arising only out of the provisions of these Articles or to the different rights attaching to any class of Shares and provided further that the Valuer shall take into account in relation to determining the appropriate figure for subparagraph (a) above any bona fide offer from any third party on an arm's length basis to purchase any holdings the subject of a Sale Notice.

## **17 Change of Controlling Interest**

17.1 Notwithstanding any other provision of these Articles, no sale or transfer of, or transfer of any interest in, any Shares conferring a right to vote at general meetings of the Company to any person whomsoever, which would result, if made and, if appropriate, registered, in a person (together with persons acting in concert therewith) whether or not then a member of the Company obtaining or increasing a Controlling Interest in the Company, shall be made or registered and no right to subscribe for any Shares which would result, when such Shares are issued, in such a person (other than the Original Investors) obtaining or increasing a Controlling Interest in the Company shall be exercised unless both.

- (a) prior to such transfer being completed a General Offer is made to all members by the person or persons proposing to acquire the Controlling Interest (the "Offeror") to purchase all the Shares in issue and all the unissued Shares for which any person shall then be entitled to subscribe, and
- (b) the relevant offer is approved by an Investor Direction.

17.2 It shall be a term of a General Offer and of any agreement to acquire any Shares pursuant thereto that a Controlling Interest is only obtained or increased in consequence of such General Offer or agreement if such General Offer becomes wholly unconditional in respect of each class of Shares. Any General Offer shall be made in writing (stipulated to be open for acceptance for at least 20 Business Days) to all relevant members and shall include an undertaking by the offeror that neither he nor any person acting in concert with him has within the 6 calendar months immediately preceding the making of the General Offer entered into more favourable terms with any member for the purchase of Shares of the same class. Such a General Offer shall be accepted or rejected in writing within the time period stipulated and shall be deemed to have been rejected by a member if he does not

respond within such time period

**18     Tag-Along**

18.1 Where the acceptance by members of a General Offer made pursuant to Article 17 would result, when registered, in the Offeror obtaining a Compulsory Purchase Interest, the Company shall forthwith notify all the holders of Shares for the time being accordingly and any such member who did not accept the General Offer may by written notice to the Company served within 45 Business Days of such notification require the Company as agent for such member to serve a notice (in this Article, a "Compulsory Purchase Notice") on the Offeror requiring it to buy such member's shares at the consideration applicable to such General Offer. The Company shall serve the Compulsory Purchase Notice forthwith upon receipt of any such written notice by such a member.

18.2 The Offeror shall complete the purchase of all Shares in respect of which a Compulsory Purchase Notice has been given no later than 15 Business Days from the date of the serving of such Compulsory Purchase Notice on it. The consideration shall be payable in full without any set off, save for bona fide debts properly due and payable to the Company. Any transfer pursuant to a Compulsory Purchase Notice shall not require the proposing transferor to give a Sale Notice. The Directors shall not register any transfer to the Offeror and the Offeror shall not be entitled to exercise or direct the exercise of any rights in respect of any Shares to be transferred to the Offeror until in each case the Offeror has fulfilled all his obligations pursuant to this Article 18. If and for so long as the Offeror fails to comply with the provisions of this Article 18, the Shares held by the Offeror shall confer on the Offeror no right to attend or vote at any general meeting of the Company or at any separate general meeting of the holders of the Shares of that class until the obligations of the Offeror hereunder have been complied with and such Shares shall confer no right to receive notice of, attend or vote at any meeting of the Company unless and until the Offeror has complied with such obligations under this Article

**19     Drag-Along**

19.1 If at any time an Investor Majority wishes to transfer an interest in their Shares, and such interest amounts to more than 50% of the issued Shares in the Company, to any person or persons on a bona-fide arm's length basis (in this Article, the "Buyer"), the Buyer shall have the option, subject to the prior receipt of Investor Consent, by written notice to the Company served within 45 Business Days of such acquisition, to require the Company as agent for the Buyer to serve notices (in this Article, each a "Compulsory Purchase Notice") on all the holders of Shares and all the holders of options or a right to subscribe for or acquire Shares (the "Called Shareholder(s)") requiring them to sell such proportion of their Shares (and any Shares which may result from the exercise of any option or right to subscribe for any Shares after the date of service of a Compulsory Purchase Notice) as equal to the proportion of Shares which the Investor Majority wishes to transfer to the Buyer at a consideration per Share equal to the consideration payable on each Share to be sold by the Investor Majority. The Company shall serve the Compulsory Purchase Notices forthwith and for the period of 15 Business Days from the service of the Compulsory Purchase Notices the Called Shareholders shall not be entitled to transfer their Shares to anyone except the Buyer or a person identified by the Buyer.

19.2 The Buyer shall complete the purchase of all Shares in respect of which a Compulsory Purchase Notice has been given at the same time and no later than 15 Business Days from the date of the serving of such Compulsory Purchase Notices. The consideration shall be payable in full without any set off. Any transfer pursuant to a Compulsory Purchase Notice shall not require the proposing transferor to give a Sale Notice. The Directors shall not register any transfer to the Buyer and the Buyer shall not be entitled to exercise or direct the exercise of any rights in respect of any Shares to be transferred to the Buyer until in

each case the Buyer has fulfilled all his obligations pursuant to this Article 19

- 19 3 If in any case a Called Shareholder, on the expiration of 20 Business Days from the service of the Compulsory Purchase Notice, shall have not transferred his Shares (or the required proportion of his Shares) to the Buyer or a person identified by the Buyer against payment of the price therefor, the Directors may authorise some person to execute and deliver on his behalf any necessary transfer in favour of the Buyer or the person identified by the Buyer and shall receive the consideration in respect of such Shares and shall thereupon (subject to the transfer being duly stamped) cause the name of the Buyer (or the person identified by the Buyer) to be entered into the register of members as the holder of the relevant Shares. The Company shall hold the consideration in trust for the Called Shareholder but shall not be bound to earn or pay interest thereon. The issue of a receipt by the Company for the consideration shall be a good receipt for the price for the relevant Shares but the Buyer shall not be discharged from procuring that the Company applies the money in payment to the Called Shareholder which shall be made against delivery by the Called Shareholder of the certificate in respect of the Shares or an indemnity in respect of the same. After the name of the Buyer or the person identified by the Buyer has been entered in the Register of Members pursuant to this Article 19 3, the validity of the proceedings shall not be questioned by any person

## 20 Investor Directors

- 20 1 For so long as any Investor is a member of the Company, the Investors will together have the right, by notice in writing addressed to the Company signed by or on behalf of each of them and delivered to the Office, to appoint up to three persons to the Board and to the board of directors of any member of the Group and remove any such person or persons and appoint a replacement, each to be an Investor Director. Any Investor Director shall, immediately on becoming a Defaulting Investor, be deemed to have served a notice of termination on the Company in respect of his directorship of the Company and of any company in the Group
- 20 2 In addition to their rights under Article 20 1, the Investors will also together have the right from time to time by notice in writing to the Company to appoint a further person as a director of the Board and to the board of directors of any member of the Group ("the Chairperson") and the Investors may also remove any such Chairperson and appoint a replacement. The Chairperson shall be a non-executive director of the Board and, if appointed, of the board of directors of any relevant member of the Group.
- 20 3 The Investor Majority will also have the right from time to time by notice in writing to appoint an observer to the Company in addition to any Investor Director ("the Observer"). The Company will
- (a) provide the Observer with at least 5 Business Days' notice prior to the holding of all Directors' meetings (or meetings of committees of the Directors) and members' meetings of the Company or any member of the Group together with copies of all appropriate notices, agendas and papers prepared for such meetings or distributed to any of the directors or members of the Company or any member of the Group in respect of such meetings, and
  - (b) allow the Observer to attend all meetings of the Directors (or committees of the Directors) and of members of the Company or any member of the Group and to speak at such meetings
- 20 4 The Observer shall be entitled to disclose to the Investors and to any bank or other financial institution with an investment in the Company (but not to any other person, firm or company) any such information relating to the Company and its subsidiaries as he from time

to time thinks fit

- 20.5 For the avoidance of doubt the Observer shall not be a director of the Company or any member of the Group and shall not count in the quorum or be entitled to vote at any meeting he attends.
- 20.6 The Investors, any Investor Directors, the Chairperson and any Observer may pass any information received from the Company to
- (a) any associated company of the Investors;
  - (b) any adviser to, trustee or manager of or investors or prospective investors in any fund advised or managed by the Investors or any associated company of the Investors,
  - (c) the Investors' professional advisers,
  - (d) any lender to the Company, and
  - (e) any person to whom the Investors propose to syndicate any part of its or their investment and that person's professional advisers whose identity has first been disclosed to the Board.
- 20.7 Notice of meetings of the Directors shall be served on any Investor Director and any Chairperson who is absent from the United Kingdom at the address notified by him to the Company for this purpose. A Director may waive the requirement that notice be given to him of a Directors meeting either prospectively or retrospectively and Model Article 8(6) shall be modified accordingly.
- 20.8 Each Investor Director and/or Observer and/or the Chairperson shall be entitled to report back to the members appointing him on the affairs of the Company and its subsidiaries and to disclose to such members such information as he shall reasonably consider appropriate including, for the avoidance of doubt, all papers distributed to the Directors.

## **21 Notice**

- 21.1 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 purpose of this article, no account shall be taken of any part of a day that is not a business day

- 21.2 In proving any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the CA06

## 22 Definitions

- 22.1 In the Articles the following words and expressions shall, unless the context otherwise requires, bear the following meanings

"acting in concert"	shall bear the meaning attributed to it in the Code,
"Alternate Director"	shall have the meaning attributed to it in Article 11.1;
"A Ordinary Shares"	means the A ordinary shares of £0.001 each in the capital of the Company,
"Auditors"	means the auditors of the Company from time to time,
"Bad Leaver"	means a Leaver, where the cessation of office or relevant consultancy agreement is as a result of the relevant member (or a consultant connected to a member)

22.1.1

- (a) resigning other than (i) at the written request of the Company (with the prior written consent of the Investor Majority), or (ii) as a result of permanent incapacity due to ill health (save where such ill-health arises as a result of an abuse of drink or drugs), or
- (b) being dismissed in accordance with either (i) the terms of his letter of appointment, or (ii) in accordance with the provisions of clause 12.1 of the Investment Agreement, or
- (c) in the case of a consultant to the Company or person connected to such consultant (including the EIDC Agreement and the EIDC Shareholder) in the event that the relevant consultancy agreement is terminated prior to the expiration of its term either (i) by the consultant where no termination right in favour of the consultant has arisen under the relevant consultancy agreement; or (ii) by the Company where a termination right in favour of the subsidiary has arisen under the relevant consultancy agreement

despite one of the circumstances listed above having arisen, an Investor Director may determine in writing that such a Leaver is not to be considered a Bad Leaver,

"Board"	means the board of directors of the Company from time to time or any duly constituted committee of it,
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<b>"B Ordinary Shares"</b>	means the B ordinary shares of £0.001 each in the capital of the Company,
<b>"Business Day"</b>	means a day (other than a Saturday, Sunday or public holiday) on which banks in the City of London are generally open for business,
<b>"Buyer"</b>	shall bear the meaning attributed to it in Article 18.1 ( <i>tag-along</i> ) and/or 19.1 ( <i>drag-along</i> );
<b>"Called Shareholders"</b>	shall bear the meaning attributed thereto in Article 19.1 ( <i>drag-along</i> ),
<b>"CA06"</b>	means the Companies Act 2006 and any statutory modification or re-enactment of such Act for the time being in force,
<b>"Chairperson"</b>	shall have the meaning attributed thereto in Article 20.2,
<b>"Code"</b>	means the City Code on Takeovers and Mergers as in force for the time being;
<b>"Commercial Operations Date"</b>	has the meaning set out in the Investment Agreement,
<b>"C Ordinary Shares"</b>	means the C ordinary shares of £1.00 each in the capital of the Company,
<b>"Company"</b>	means European Generation Limited (registered number 08336378),
<b>"Compulsory Purchase Interest"</b>	means an interest in Shares carrying more than 50.1% of Voting Rights;
<b>"Compulsory Purchase Notice"</b>	shall bear the meaning attributed to it in Article 18.1 ( <i>tag-along</i> ) and/or 19.1 ( <i>drag-along</i> );
<b>"connected"</b>	has, in relation to a person, the meaning given in section 1122 of the Corporation Tax Act 2010,
<b>"Controlling Interest"</b>	means Shares representing not less than 50.1% of Voting Rights,
<b>"Deed of Adherence"</b>	means a deed of adherence pursuant to which the signatory agrees to be bound by the terms of the Investment Agreement in form approved by the Board with the consent of the Investor Director and including a covenant for the re-transfer of such Shares if the grounds upon which such transfer was permitted (if relevant) cease to exist;
<b>"Default Articles"</b>	means the regulations contained in Schedule 1 of the Companies (Model Articles) Regulations 2008;
<b>"Defaulting Investor"</b>	has the meaning given in the Investment Agreement,
<b>"Directors"</b>	means the directors of the Company from time to time,
<b>"Due Proportions"</b>	means in the case of an offer pursuant to Article 13.2 to 13.11 (inclusive) the holders of shares of a particular class of shares,

	the proportion that the number of shares held by a member of that class of shares bears to the total number of shares in issue from time to time;
<b>"EIDC Consultancy Agreement"</b>	means the consultancy agreement entered into on or around the date hereof between the Subsidiary and EIDC Limited,
<b>"EIDC Managers"</b>	means each of Alan Douglas and Peter Bachmann (and for the purposes of these Articles does not include Paul Capell);
<b>"EIDC Shareholder"</b>	means Paul Capell;
<b>"eligible director"</b>	means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of that particular matter);
<b>"equity share capital"</b>	shall have the meaning given to it by Section 548 of the Companies Act 2006;
<b>"Exit"</b>	shall bear the meaning attributed thereto in the Investment Agreement,
<b>"Fair Price"</b>	means the price per share determined in accordance with Article 16 ( <i>fair price</i> ),
<b>"First Hurdle Amount"</b>	means the amount up to and equal to 2.00 times the amount which has from time to time been invested by the Investors in subscribing for Investor Loan Notes and in subscribing for Shares,
<b>"General Offer"</b>	means an offer made in accordance with the provisions of Article 17 ( <i>change of controlling interest</i> ),
<b>"Good Leaver"</b>	means any Leaver other than a Bad Leaver,
<b>"Group"</b>	means the Company and its subsidiaries from time to time and "Group Company" and "member of the Group" shall be construed accordingly,
<b>"Investment Agreement"</b>	means the Investment Agreement entered into by the Company (1) the Original Managers (as defined therein) (2) and the Original Investors (3) on or around the date of adoption of these Articles together with any agreements specified as being supplemental to it by an Investor Majority,
<b>"Investor Consent"</b>	means the prior written consent of the holders of at least 50% in nominal value of the A Ordinary Shares,
<b>"Investor Direction"</b>	means the written instruction or written direction of an Investor Director, acting at the direction of or with the approval or authority of Investor Consent,
<b>"Investor Director"</b>	means a director appointed pursuant to Article 20.1 ( <i>Investor Director</i> ) (or, if there is no Investor Director at the relevant time, the Observer (if any)),

<b>"Investor Loan Notes"</b>	shall bear the meaning attributed to it in the Investment Agreement,
<b>"Investor Loan Note Instrument"</b>	shall bear the meaning attributed to it in the Investment Agreement,
<b>"Investor Majority"</b>	means the holders from time to time of at least 50% in nominal value of the A Ordinary Shares,
<b>"Investors"</b>	shall bear the meaning attributed thereto in the Investment Agreement,
<b>"Investor Security Documents"</b>	shall be the meaning attributed thereto in the Investment Agreement,
<b>"Leaver"</b>	<p>means any holder of Shares who is employed or was (at any time after the date of adoption of these Articles) employed by or is a director of or a consultant to or a person connected to or associated with a consultant to the Company or any other member of the Group from time to time (other than an Investor Director) and who dies or who ceases to be an employee and/or director and/or consultant and/or person connected to or associated with a consultant of the Company or any other member of the Group (whether or not his contract of employment or appointment to office or consultancy agreement is validly terminated) and does not continue (or is not immediately re-employed or re-appointed) as an employee and/or director and/or consultant and/or person connected to or associated with a consultant of the Company or any other member of the Group</p> <p>In this definition and in the definition of "Bad Leaver" and for the purposes of Article 15 (<i>compulsory transfers</i>) any reference to the date of cessation of employment or office or consultancy shall be the date upon which the contract of employment or appointment as director or consultancy agreement of the relevant person terminates or on which such person ceases to be connected to or associated with a consultant to the Company or, if earlier, the date upon which the relevant person gives or is given notice of termination of his contract of employment or of his appointment as director or his consultancy agreement whether or not such notice is valid,</p>
<b>"Liquidation"</b>	means the making of a winding up order by the court or the passing of a resolution by the members that the Company be wound up,
<b>"Listing"</b>	the admission of the entire issued equity share capital of the Company (or a new holding company of the Company) to the Official List of the United Kingdom Listing Authority and to trading on the main market of the London Stock Exchange plc or to trading on any other Stock Exchange and the Listing shall be treated as occurring on the day on which trading in the securities begins,

<b>"member"</b>	means a person (whether an individual or a corporation) who holds Shares,
<b>"Model Articles"</b>	has the meaning given in Article 1.1,
<b>"New Manager(s)"</b>	means such person or persons, approved by an Investor Director, who has or have been or will be recruited as a director or employee or consultant of the Group
<b>"Offeror"</b>	shall have the meaning given to it in Article 17.1(a),
<b>"Office"</b>	means the registered office of the Company,
<b>"Ordinary Shares"</b>	means A Ordinary Shares of £0.001 each, B Ordinary Shares of £0.001 each and C Ordinary Shares of £0.001 each in the capital of the Company,
<b>"Original Investors"</b>	shall bear the meaning attributed thereto in the Investment Agreement,
<b>"Panel"</b>	means the Panel on Takeovers and Mergers;
<b>"Permitted Transfer"</b>	means a transfer of Shares pursuant to Article 13 ( <i>permitted transfers</i> ),
<b>"Proceeds"</b>	<p>means the aggregate total of: (i) the aggregate total amount received by the Investors either by way of the payment of interest or repayment of capital in respect of the Investor Loan Notes or by way of dividends declared and received on the Shares, and (ii) the net aggregate consideration (reduced to take into account advisor fees and other expenses of the shareholders and (with the consent of the Investor Majority) the Group incurred in connection with the Exit) received (whether in one or several instalments) or receivable by the Company and/or any of the shareholders in respect of an Exit and shall, without limitation, include</p> <ol style="list-style-type: none"> <li>i the amount of any non-contingent and clearly quantifiable deferred consideration,</li> <li>ii any consideration given otherwise than in cash, and</li> <li>iii any consideration (in cash or otherwise) received by the Company and/or any of the shareholders which having regard to the substance of the transaction can reasonably be regarded as an addition to the price paid,</li> </ol> <p>and shall take account of any adjustment to the consideration by reference to a locked, completion accounts or equivalent adjustment mechanism, but in each case excluding any element of consideration which is contingent and/or unquantifiable which, for the avoidance of doubt shall include any amounts held in escrow pending expiry of any warranty or indemnity claims period</p>

PROVIDED THAT

- i if the consideration is satisfied wholly or partly by an issue of shares in a company which is listed or quoted on a Stock Exchange, the value attributable to such shares shall be the average of the closing mid prices during the ten days ending on the day immediately prior to the date on which the calculation is made; and
- ii if the consideration is satisfied wholly or partly by an issue of shares in a company which is not listed or quoted on a Stock Exchange, the value attributable to such shares shall be determined by agreement between the Company and an Investor Majority, and

PROVIDED FURTHER THAT in the event of any dispute as to the consideration received or receivable or to the value attributable to any non cash consideration the matter shall be referred to an expert whose decision shall be final and binding (such expert acting as an expert and not as arbitrator and to be nominated by the parties concerned or in the event of disagreement as to nomination, appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales and the costs of which shall be paid by the Company)

<b>"Sale"</b>	means the acquisition of 100% of the Voting Rights by any person (or by persons who in relation to each other are acting in concert),
<b>"Sale Shares"</b>	shall bear the meaning attributed to it in Article 15 1,
<b>"Second Hurdle Amount"</b>	means the amount up to and equal to 2.15 times the amount which has from time to time been invested by the Investors in subscribing for Investor Loan Notes and in subscribing for Shares,
<b>"Shares"</b>	means shares in the share capital of the Company,
<b>"Stock Exchange"</b>	any of the Official List of the UK Listing Authority and London Stock Exchange plc's market for listed securities, the AIM market of London Stock Exchange plc, NASDAQ or any other Recognised Investment Exchange and their respective share dealing markets;
<b>"Subscription Price"</b>	means, in relation to any Share in the Company, the price at which such Share is issued, being the aggregate of the amount paid up or credited as paid up in respect of the nominal value of such Share and any share premium thereon,
<b>"Subscription Shortfall"</b>	has the meaning set out in the Investment Agreement,
<b>"Subsidiary"</b>	means Twinwoods Heat and Power Limited, a private company limited by shares registered in England and Wales with company number 06799288;
<b>"Third Hurdle Amount"</b>	means the amount up to and equal to 3.00 times the amount which has from time to time been invested by the Investors in subscribing for Investor Loan Notes and in subscribing for

Shares.

**“Valuer”**

means an independent firm of chartered accountants nominated by the President of the Institute of Chartered Accountants of England and Wales (or his equivalent from time to time) or such other person or firm as may be agreed between the Investor Majority and the Directors in each case acting as an expert and not as an arbitrator;

**“Voting Rights”**

means the right to receive notice of, attend (in person or by proxy), speak (in person or by proxy) and vote (in person or by proxy) at general meetings of the Company, and

22 2 Without prejudice to Article 1, the regulations contained in the Model Articles shall apply to the Company save insofar as they are amended by or are inconsistent with these Articles, and in particular

(a) In Model Article 52 the words “which is partly paid for any part” shall be omitted and the words “and the Company shall also have a first and paramount lien on all shares standing registered in the name of a single person or in the name of any person jointly with another or others for all monies presently payable by him or any of them or his estate or their estates to the Company” shall be inserted after the words “in respect of it”, and

(b) In Model Article 57(1)(b) the words “and all expenses that may have been incurred by the Company by reason of such non-payment” shall be inserted after the words “at the relevant rate”.

22 3 Words and expressions defined in the CA06 shall, unless the context otherwise requires, bear the same meanings herein