

**WASTE TO ENERGY TECHNOLOGY LIMITED**

**Company No. 08425527**

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**ARTICLES OF ASSOCIATION**

adopted by a written special resolution passed on  
2021

*4 February*

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**Company number 08425527**  
**THE COMPANIES ACT 2006**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**

of

**WASTE TO ENERGY TECHNOLOGY LIMITED (the "Company")**

**1 INTERPRETATION**

1.1 The following definitions and rules of interpretation apply in these Articles:

<b>"Act"</b>	the Companies Act 2006;
<b>"acting in concert"</b>	has the meaning given to it in the City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended);
<b>"Adoption Date"</b>	the date of adoption of these Articles;
<b>"Articles"</b>	the Company's articles of association for the time being in force;
<b>"Available Profits"</b>	profits available for distribution within the meaning of part 23 of the Act;
<b>"Bad Leaver"</b>	an Employee who ceases, at any time, to be an Employee as a consequence of that person's dismissal as an Employee for cause, where "cause" shall mean: (i) the lawful termination of that person's contract of employment or consultancy without notice or payment in lieu of notice as a consequence of that person's misconduct or as otherwise permitted pursuant to the terms of that person's contract of employment or consultancy; and/or (ii) that person's fair dismissal pursuant to section 98(2) (a) (capability) or 98(2) (b) (conduct) of the Employment Rights Act 1996;
<b>"Board"</b>	the board of Directors of the Company as constituted from time to time;
<b>"Business Day"</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
<b>"Chairman"</b>	has the meaning given to it in article 6.7;
<b>"Company's Lien"</b>	has the meaning given to it in article 27.1;
<b>"connected"</b>	has the meaning given in section 252 of the Act;

<b>"Controlling Interest"</b>	an interest in Shares conferring on the holder or holders control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010;
<b>"Deed of Adherence"</b>	has the meaning given in the Subscription and Shareholders' Agreement;
<b>"Deemed Transfer Notice"</b>	a Transfer Notice which is deemed to have been served by any of the provisions of these Articles, including any such notice deemed to be served under article 21;
<b>"Designated Director"</b>	a director designated by a Major Shareholder;
<b>"Departing Employee"</b>	an Employee who ceases to be a director or employee of, or consultant to, any Group Company and who does not continue as, or become, a director or employee of, or consultant to, any other Group Company;
<b>"Directors"</b>	the directors of the Company from time to time;
<b>"Disposal"</b>	the disposal by the Company of all, or a substantial part of, its business and assets;
<b>"Early Leaver"</b>	an Employee who becomes a Departing Employee for any reason (other than as a Bad Leaver) within 36 months of (but excluding) the Adoption Date save for an Excluded Early Leaver;
<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 the particular matter);
<b>"Employee"</b>	an individual who is, or has been, a director and an employee of, or who does provide or has provided consultancy services to, any Group Company;
<b>"Excluded Early Leaver"</b>	<p>an Employee who becomes a Departing Employee within 36 months of (but excluding) the Adoption Date by reason of:</p> <ul style="list-style-type: none"> <li>(a) death; or</li> <li>(b) permanent incapacity or disability (as determined, if requested by the Investor, by a suitably qualified medical practitioner);</li> </ul>
<b>"Exit"</b>	a Share Sale or a Disposal;
<b>"Fair Value"</b>	has the meaning given in article 20.2;
<b>"Family Trust"</b>	as regards any particular Shareholder who is an individual (or deceased or former Shareholder who is an individual) any trust (whether arising under a settlement, declaration of trust or other instrument by whomsoever or

	wheresoever made, or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the Shares in question is for the time being vested in any person other than the particular Shareholder and/or any of the Privileged Relations of that Shareholder (and so that for this purpose a person shall be considered to be beneficially interested in a Share if such Share or the income thereof is liable to be transferred or paid or applied or appointed to or for the benefit of any such person or any voting or other rights attaching thereto are exercisable by or as directed by any such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons);
<b>"Financial Year"</b>	an accounting reference period (as defined in section 391 of the Act) of the Company;
<b>"First Option"</b>	has the meaning given in the Subscription and Shareholders' Agreement;
<b>"First Option Shares"</b>	has the meaning given in the Subscription and Shareholders' Agreement;
<b>"Group"</b>	the Company and any subsidiaries from time to time and Group Company will mean all or any of them (as the context requires);
<b>"holding company"</b>	has the meaning given in article 1.11;
<b>"Hutchinson Representative"</b>	has the meaning given in the Subscription and Shareholders' Agreement;
<b>"Hutchinson Shareholders"</b>	has the meaning given in the Subscription and Shareholders' Agreement;
<b>"Independent Expert"</b>	an independent firm of accountants jointly appointed by the Company and the Seller or, in the absence of agreement between the Company and the Seller on the identity of the expert within 5 Business Days of the expiry of the 10 Business Day period referred to in article 20.1, an independent firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants of England and Wales (in each case acting as an expert and not as an arbitrator);
<b>"Investor"</b>	has the meaning given in the Subscription and Shareholders' Agreement;
<b>"Investor Consent"</b>	has the meaning given in the Subscription and Shareholders' Agreement;
<b>"Lien Enforcement Notice"</b>	means a notice in writing which complies with the requirements of article 28.2;

<b>"Major Shareholder"</b>	means each of the following: <ul style="list-style-type: none"> <li>(a) the Investor;</li> <li>(b) any other Shareholder that owns not less than twenty percent (20%) of the Ordinary Shares and is the registered holder of such shares; and</li> <li>(c) excluding any Shareholder relying on limb (b) above to act as a Major Shareholder, together the Hutchinson Shareholders, where such Shareholders together own not less than twenty percent (20%) of the Ordinary Shares and are the registered holders of such shares and on the basis that such Shareholders shall constitute a single Major Shareholder where such requirement is satisfied;</li> </ul>
<b>"Major Shareholder Consent"</b>	the prior written (by email where specifically agreed to by the Investor) consent of each Major Shareholder (save as stated otherwise in article 1.13);
<b>"Member of the Same Group"</b>	as regards any company, a company which is from time to time a holding company or a subsidiary of that company or a subsidiary of any such holding company;
<b>"Model Articles"</b>	the model articles for private companies limited by shares contained in Schedule 1 to The Companies (Model Articles) Regulations 2008 (SI 2008/3229), as amended prior to the Adoption Date;
<b>"Ordinary Shares"</b>	the ordinary shares of £1 each in the capital of the Company, or such other Shares which may be reclassified or redesignated as such from time to time after the Adoption Date;
<b>"Original Shareholder"</b>	has the meaning given in article 17.1;
<b>"Permitted Transfer"</b>	a transfer of Shares made in accordance with article 17;
<b>"Permitted Transferee"</b>	in relation to: <ul style="list-style-type: none"> <li>(a) a Shareholder who is an individual, any of his Privileged Relations or the trustee(s) of a Family Trust;</li> <li>(b) a Shareholder which is a company, a Member of the Same Group as that company;</li> <li>(c) the Investor, to (i) a Member of the Same Group as that Investor, or (ii) any nominee of that Investor;</li> </ul>

	<ul style="list-style-type: none"> <li>(d) any Shareholder, the Investor pursuant to the Second Option; and</li> <li>(e) Peter Hutchinson, Paul Neville in connection with PH Transfer;</li> </ul>
<b>"PH Transfer"</b>	has the meaning given in the Subscription and Shareholders' Agreement;
<b>"Privileged Relation"</b>	in relation to a Shareholder who is an individual (or a deceased or former Shareholder who is an individual) means a spouse, civil partner (as defined in the Civil Partnerships Act 2004), child or grandchild (including step or adopted or illegitimate child and their issue);
<b>"Qualifying Person"</b>	shall have the meaning given in section 318 of the Act;
<b>"Relevant Securities"</b>	<p>any Shares or other securities convertible into, or carrying the right to subscribe for Shares, issued by the Company after the Adoption Date, other than:</p> <ul style="list-style-type: none"> <li>(a) any Shares or other securities issued by the Company in order for the Company to comply with its obligations under these Articles and/or the Subscription and Shareholders' Agreement; and</li> <li>(b) any Shares or other securities issued in consideration of the acquisition by the Company of any company or business which has been approved by Major Shareholder Consent;</li> </ul>
<b>"Relevant Shares"</b>	<p>in relation to an Employee means all Shares held by:</p> <ul style="list-style-type: none"> <li>(a) the Employee in question; and</li> <li>(b) any Permitted Transferee of that Employee (other than those Shares held by those persons that the Investor declares itself satisfied were not acquired directly or indirectly from the Employee or by reason of his/her relationship with the Employee),</li> </ul> <p>and including any Shares acquired by any such person after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Transfer Notice;</p>
<b>"Restricted Shares"</b>	has the meaning given in article 21.7;
<b>"Sale Proceeds"</b>	means the consideration payable (including any deferred and/or contingent consideration) whether in cash or otherwise to those Shareholders selling Shares under a Share Sale (less any fees and expenses payable by the selling Shareholders under that Share Sale);

<b>"Sale Shares"</b>	has the meaning given in article 19.2(a);
<b>"Second Option"</b>	has the meaning given in the Subscription and Shareholders' Agreement;
<b>"Seller"</b>	has the meaning given in article 19.2;
<b>"Shareholder"</b>	a holder for the time being of any Share or Shares;
<b>"Share Option Scheme"</b>	any share option scheme of the Company which the Investor identifies in writing as being a Share Option Scheme for the purposes of these Articles;
<b>"Shares"</b>	shares (of any class) in the capital of the Company and Share shall be construed accordingly;
<b>"Share Sale"</b>	the sale of (or the grant of a right to acquire or to dispose of) any Shares (in one transaction or as a series of transactions) which would, if completed, result in the buyer of those Shares (or grantee of that right) and persons acting in concert with him together acquiring a Controlling Interest, except where the identities of the shareholders in the buyer and the proportion of shares of the buyer held by each of them following completion of the sale are the same as the identities of the Shareholders and their respective shareholdings in the Company immediately before the sale;
<b>"subsidiary"</b>	has the meaning given in article 1.11;
<b>"Subscription and Shareholders' Agreement"</b>	the subscription and shareholders' agreement dated on or around the Adoption Date between, amongst others, the Company and the Investor (as the same may have been varied, supplemented, adhered to or superseded in accordance with its terms for the time being);
<b>"Termination Date"</b>	<ul style="list-style-type: none"> <li>(a) where employment ceases by virtue of notice given by the employer to the employee, the date on which notice of termination was served;</li> <li>(b) where a contract of employment is terminated by the employer and a payment is made in lieu of notice, the date on which notice of termination was served;</li> <li>(c) where an Employee dies, the date of his death;</li> <li>(d) where the Employee concerned is a director but not an employee, the date on which his service agreement (or other terms of appointment) with the relevant Group Company is terminated; or</li> <li>(e) in any other case, the date on which the employment or holding of office is terminated;</li> </ul>



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| <b>"Transfer Notice"</b>    | has the meaning given in article 19.2;  |
| <b>"Transfer Price"</b>     | has the meaning given in article 20; and  |
| <b>"Writing or written"</b> | the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise, save that, in relation to a Transfer Notice (or Deemed Transfer Notice), "writing" or "written" shall not include the sending or supply of notices, documents or information in electronic form (other than by fax). |
- 1.2 Headings in these Articles shall not affect the interpretation of these Articles.
  - 1.3 Unless the context otherwise requires, words in the singular shall include the plural and the plural shall include the singular.
  - 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
  - 1.5 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles (but excluding any statutory modification of them not in force on the Adoption Date).
  - 1.6 A reference in these Articles to:
    - (a) an **article** is a reference to the relevant numbered article of these Articles; and
    - (b) a **model article** is a reference to the relevant article,
 unless expressly provided otherwise.
  - 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
  - 1.8 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
  - 1.9 Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.
  - 1.10 A reference in these Articles to a holder, or the holder(s), of Shares or any class of Shares as the case may be shall, in each case, be deemed to exclude any member holding Shares in treasury.
  - 1.11 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Act and for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), a company shall be treated as a member of another company even if its shares in that other company are registered in the name of:

- (a) another person (or its nominee), by way of security or in connection with the taking of security; or
- (b) its nominee.

In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Act shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

- 1.12 Where the Hutchinson Shareholders are a Major Shareholder and Major Shareholder Consent is required in these Articles (or where any other consent, approval or direction is requested from or required by a Major Shareholder under these Articles including, but not limited to, the appointment of a Designated Director or where any other right is exercisable by a Major Shareholder under these Articles), the Hutchinson Representative shall alone be authorised and entitled to provide such consent (or approval or direction), or exercise such right, on behalf of all of the Hutchinson Shareholders and on the basis that where such consent (or approval or direction) is so given, or right exercised, by the Hutchinson Representative it shall be binding on all of the Hutchinson Shareholders.
- 1.13 Where no Hutchinson Representative has been appointed in accordance with the terms of the Subscription and Shareholders' Agreement, Major Shareholder Consent shall be deemed to have been given where the consent of each other Major Shareholder (excluding the Hutchinson Shareholders as a Major Shareholder) has been given.

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

- 2.1 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles or regulations set out in any statute or in any statutory instrument or other subordinate legislation.
- 2.2 Model articles 7, 8, 9(1), 11(2) and (3), 12, 13, 14(1) to (4) (inclusive), 16, 18(e), 22, 26(5), 38, 39, 44(2), 49, 50 and 51 to 53 (inclusive) shall not apply to the Company.
- 2.3 Model article 20 shall be amended by the insertion of the words "and the secretary" before the words "properly incur".
- 2.4 In model article 25(2)(c), the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 2.5 Model article 29 shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2)," after the words "the transmittee's name".

## **DIRECTORS**

### **3 NUMBER OF DIRECTORS**

Unless otherwise determined by ordinary resolution or save as otherwise permitted under the terms of the Subscription and Shareholders' Agreement and without prejudice to the Investor's rights under article 6.2 to appoint a simple majority of all of the Directors of the Board, the number of Directors shall not exceed five but shall not be less than two.

## **4 PROCEEDINGS OF DIRECTORS**

- 4.1 Any decision of the Directors must be taken at a meeting of Directors in accordance with these Articles or must be a decision taken in accordance with article 4.2 (subject to article 4.3 and article 4.4). All decisions made at any meeting of the Directors (or any committee of the Directors) shall be made only by resolution and resolutions at any meeting of the Directors (or committee of the Directors) shall be decided by a majority of votes.
- 4.2 A unanimous decision of the Directors is taken when all Eligible Directors indicate to each other by any means that they share a common view on a matter.
- 4.3 A decision taken in accordance with article 4.2 may take the form of a resolution in writing, where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement in writing.
- 4.4 A decision may not be taken in accordance with article 4.2 if the Eligible Directors would not have formed a quorum at a Directors' meeting to vote on the matter in accordance with article 4.6 and article 4.8.
- 4.5 Model articles 5(1) to (3) (inclusive) and 6(2) shall be modified by the insertion of the words "(acting with Major Shareholder Consent)" following each reference to "the directors" in such model articles.
- 4.6 Meetings of the Directors will be held at intervals of not more than 12 weeks and at least 4 Board meetings will be held in each calendar year. Any Director may call a meeting of the Directors, or authorise the company secretary (if any) to give such notice. Reasonable advance notice of each such meeting shall be given to each Director whether or not an Eligible Director in respect of such meeting (except with Major Shareholder Consent, when meetings of the Directors may take place less frequently or on shorter notice).
- 4.7 The quorum for any meeting (or, where specified below, part of a meeting) of the Directors shall be three Eligible Directors, which must include at least one Designated Director as appointed by each Major Shareholder (or their alternates), unless:
- (a) there is no Designated Director appointed on behalf of a particular Major Shareholder for the time being; or
  - (b) a Designated Director has, in respect of any particular meeting (or part of a meeting), otherwise agreed in writing ahead of such meeting; or
  - (c) a Designated Director is not, in respect of any particular meeting (or part of a meeting), an Eligible Director; or
  - (d) in the event that two consecutive meetings having been called in accordance with the Articles and a Designated Director of a Major Shareholder or the Director's alternate fails to attend both such meetings within 30 minutes of the appointed time for commencement, then the second such meeting shall be quorate notwithstanding that such Designated Director is not present,

in which case, subject to article 4.8, the quorum for such meeting (or part of the meeting, as the case may be) shall be any two Eligible Directors. If the necessary quorum is not present within 30 minutes from the time appointed for the meeting, or if, during a meeting, such quorum ceases to be present, the meeting shall stand adjourned to such time and place as the Directors determine.

- 4.8 All Directors shall be entitled to attend any Board meeting by remote means, and the Company shall reasonably cooperate in accommodating such remote access.
- 4.9 For the purposes of any meeting (or part of a meeting) held pursuant to article 8 to authorise a Conflict (as defined in article 8.1), if there is only one Eligible Director in office other than the conflicted Director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.
- 4.10 If the number of Directors in office for the time being is less than two, the Director in office must not take any decision other than a decision to:
- (a) appoint further Directors; or
  - (b) call a general meeting so as to enable the Shareholders to appoint further Directors,
- save with Major Shareholder Consent and in which case that Director may take decisions (with Major Shareholder Consent) without regard to any of the provisions of the Articles relating to directors' decision-making.
- 4.11 Questions arising at any meeting of the Directors shall be decided by a majority of votes. If there is an equality of votes, the Chairman (or other chairman of the meeting) shall not have a second or casting vote.
- 4.12 Where decisions of the Directors are taken by electronic means, such decisions shall be recorded by the Directors in permanent form, so that they may be read with the naked eye.
- 4.13 The Directors (acting with Major Shareholder Consent) may make any rule which they think fit about how they take decisions and about how such rules are to be recorded or communicated to Directors.

## **5 APPOINTMENT AND REMOVAL OF DIRECTORS**

- 5.1 Model article 17(1) shall be modified by the inclusion, at the end of that model article, of the words "provided that the appointment does not cause the number of Directors to exceed the maximum number set out in article 3 of these Articles".
- 5.2 Model article 18 shall be modified by the addition of the following events upon the occurrence of which a person shall cease to be a Director:
- (a) he is convicted of a criminal offence (other than a minor motoring offence) and a majority of the other Directors resolve that he cease to be a Director;
  - (b) save in the case of a Designated Director, a majority of the other Directors resolve that he cease to be a Director; and
  - (c) in the case of an executive Director only, he shall cease to be employed by the Company or other Group Company (as appropriate) and does not continue as an employee of any other Group Company.

## **6 DIRECTORS, CHAIRMAN AND OBSERVERS**

- 6.1 Subject to article 6.2, for so long as a Shareholder is a Major Shareholder, the Major Shareholder shall have the right to appoint and maintain in office one natural person as the Major Shareholder may from time to time direct as a Designated Director (and as a member of each and any committee of the Board) for each twenty percent (20%) of the total outstanding and issued Shares registered in the name of that Major Shareholder (including, in respect of

the Investor, any Shares registered in the name of any of its Permitted Transferees) and to remove any director so appointed and, upon his removal whether by the Major Shareholder or otherwise, to appoint another person to act as a Designated Director. For the avoidance of doubt, the Hutchinson Shareholders together shall only be entitled to appoint one Designated Director for each twenty percent (20%) of the total outstanding and issued Shares registered in the names of the Hutchinson Shareholders.

- 6.2 With effect from completion of the Second Option in accordance with the Subscription and Shareholders' Agreement, and for so long as the Investor (and/or its Permitted Transferees) continues to hold such number of Shares as represents at least 51% of the entire issued share capital of the Company thereafter, the Investor shall have the right to appoint, remove and maintain in office such number of natural persons as the Investor may from time to time direct (and designate such persons as Designated Directors and as members of each and any committee of the Board) as shall comprise a simple majority of all of the Directors of the Board.
- 6.3 Appointment and removal of a Designated Director shall be by written notice to the Company which shall take effect on delivery at its registered office or at any meeting of the Directors or committee thereof.
- 6.4 A Designated Director shall be entitled to be appointed to any committee of the Directors established from time to time. On the receipt of the request in writing of his appointor(s), the Company shall procure that a Designated Director shall be appointed as a director of any other Group Company, to the extent specified in such request.
- 6.5 Each Major Shareholder shall from time to time have the right to nominate one person to be an observer, who shall be entitled to receive notice of all meetings of directors (and committees of the directors) of each Group Company and copies of all board papers as if he were a director of each such Group Company and to attend, propose resolutions and speak at, but not vote at, any meeting of the directors (and committees of the directors) of each Group Company.
- 6.6 The Company shall reimburse any non-employee Director (and observers) appointed pursuant to these Articles in accordance with its existing policy with the reasonable costs and any out of pocket expenses incurred by such Director in respect of attending meetings of the Company or carrying out authorised business on behalf of the Company.
- 6.7 The Directors may, with Investor Consent, appoint any person as chairman of the board of Directors (**Chairman**) and may, with Investor Consent, remove and replace any such Chairman. If there is no Chairman in office for the time being, or the Chairman is unable to attend any meeting of the Directors, the Directors present at the meeting must appoint another Director present at the meeting to chair the meeting and the appointment of the chairman of the meeting must be the first business of the meeting.

## **7 TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY**

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

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
- (b) shall be an Eligible Director for the purposes of any proposed decision of the Directors (or committee of the Directors) in respect of such existing or proposed transaction or arrangement in which he is interested;

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

## 8 DIRECTORS' CONFLICTS

8.1 The Directors may, in accordance with the requirements set out in this article 8, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director (an **Interested Director**) breaching his duty under section 175 of the Act to avoid conflicts of interest (**Conflict**).

8.2 Any authorisation under this article 8 will be effective only if:

- (a) to the extent permitted by the Act, the matter in question shall have been proposed by any Director for consideration in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine;
- (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director; and
- (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.

8.3 Any authorisation of a Conflict under this article 8 may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
- (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the Directors or otherwise) related to the Conflict;
- (c) subject to Major Shareholder Consent, provide that the Interested Director shall or shall not be an Eligible Director in respect of any future decision of the Directors in relation to any resolution related to the Conflict;
- (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the Directors think fit;

- (e) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a Director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
  - (f) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the Directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.
- 8.4 Where the Directors authorise a Conflict, the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the Directors in relation to the Conflict.
- 8.5 The Directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.
- 8.6 A Director, notwithstanding his office, may be a Director or other officer of, employed by, or otherwise interested (including by the holding of shares) in his appointor(s) (or any Permitted Transferee of such appointor(s)) and no authorisation under article 8.1 shall be necessary in respect of any such interest.
- 8.7 *An Investor Director shall be entitled from time to time to disclose to his appointor(s) (and to any Permitted Transferee of such appointor(s)) such information concerning the business and affairs of the Company as he shall at his discretion see fit.*
- 8.8 A Director is not required, by reason of being a Director (or because of the fiduciary relationship established by reason of being a Director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the Directors in accordance with these Articles or by the Company in general meeting (subject in each case to any terms and conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

## **9 SECRETARY**

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

## **SHARES AND DISTRIBUTIONS**

### **10 SHARE RIGHTS**

- 10.1 Save as expressly set out these Articles, the Ordinary Shares shall rank *pari passu* in all respects (including as to voting, distributions, dividends and on a winding up).

### **11 DIVIDENDS**

- 11.1 Subject to the Subscription and Shareholders' Agreement, any Available Profits which the Company may determine to distribute in respect of any Financial Year will be distributed among the holders of the Ordinary Shares *pro rata* to their respective holdings of Ordinary Shares.
- 11.2 Subject to the Act and the Subscription and Shareholders' Agreement, the Directors may pay interim dividends provided that:

- (a) the Available Profits of the Company justify the payment; and
  - (b) the Company obtains Major Shareholder Consent to any such interim dividend.
- 11.3 Each dividend shall be distributed to the appropriate Shareholders pro rata according to the number of Shares held by them respectively and shall accrue daily (assuming a 365 day year) as well after as before the commencement of a winding up. All dividends are expressed net and shall be paid in cash.

## 12 LIQUIDATION PREFERENCE

On a return of assets on liquidation, capital reduction or otherwise, the assets of the Company remaining after the payment of its liabilities shall be distributed (to the extent that the Company is lawfully able to do so) among the holders of the Ordinary Shares pro rata to their respective holdings of Ordinary Shares.

## 13 EXIT PROVISIONS

- 13.1 On a Share Sale, the Sale Proceeds shall be distributed to the selling Shareholders as set out in article 12. The Directors shall not register any transfer of Shares if the Sale Proceeds are not distributed in that manner (save in respect of any Shares not sold in connection with that Share Sale) provided that, if the Sale Proceeds are not settled in their entirety upon completion of the Share Sale:

- (a) the Directors may register the transfer of the relevant Shares, provided that the Sale Proceeds due on the date of completion of the Share Sale have been distributed as set out in article 12; and
- (b) each Shareholder shall take any reasonable action (to the extent lawful and within its control) required by the Investor to ensure that the balance of the Sale Proceeds are distributed as set out in article 12.

- 13.2 On a Disposal, the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) as set out in article 12, provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, each Shareholder shall (to the extent lawful and within its control) take any reasonable action required by the Investor (including, but without prejudice to the generality of this article 13.2, such action as may be necessary to put the Company into voluntary liquidation so that article 12 applies).

- 13.3 In the event of an Exit approved by the Directors (acting with Investor Consent) (**Proposed Exit**), all Shareholders shall consent to, vote for, raise no objections to and waive any applicable rights in connection with the Proposed Exit. The Shareholders shall be required to take all lawful actions with respect to the Proposed Exit as are reasonably required by the Directors to facilitate the Proposed Exit. If any Shareholder fails to comply with the provisions of this article 13.3:

- (a) the Company shall be constituted the agent of each defaulting Shareholder for taking such actions as are necessary to effect the Proposed Exit;
- (b) the Directors may authorise an officer of the Company or a Shareholder to execute and deliver on behalf of such defaulting Shareholder all or any necessary documents; and
- (c) the Company may receive any purchase money due to the defaulting Shareholder in trust for each of the defaulting Shareholders (without any obligation to pay interest).



## 14 VARIATION OF CLASS RIGHTS

Whenever the share capital of the Company is divided into different classes of Shares, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding up) with the consent in writing of the holders of at least 75% in nominal value of the issued Shares of that class (excluding any holder(s) of Restricted Shares), save that the special rights attached to any Shares may only be varied or abrogated with Major Shareholder Consent.

## 15 PRE-EMPTION RIGHTS ON THE ISSUE OF FURTHER SHARES

15.1 Save to the extent authorised by these Articles or required pursuant to the Subscription and Shareholders' Agreement (including in respect of the exercise of the First Option), the Directors shall not, save with Major Shareholder Consent, exercise any power to allot Shares or to grant rights to subscribe for, or to convert any security into, any Shares.

15.2 Subject to the remaining provisions of this article 15, the Directors are generally and unconditionally authorised, for the purposes of section 551 of the Act, to exercise any power of the Company to:

(a) offer or allot;

(b) grant rights to subscribe for or to convert any security into; and

otherwise deal in, or dispose of,

any Shares (or any options, warrants, conversion rights and all other rights to acquire or subscribe for Shares) to any person, at any time and subject to any terms and conditions as the Directors think proper.

15.3 The authority referred to in article 15.2:

(a) shall be limited to a maximum nominal amount of £229,787 of Ordinary Shares;

(b) may only be utilised in connection with the exercise of the First option;

(c) shall only apply insofar as the Company has not, subject to these Articles, renewed, waived or revoked it by ordinary resolution with Investor Consent; and

(d) may only be exercised for a period of five years from the Adoption Date save that, subject to these Articles, the Directors may make an offer or agreement which would, or might, require any Shares to be allotted after the expiry of such authority (and the Directors may allot Shares in pursuance of an offer or agreement as if such authority had not expired).

15.4 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.

15.5 The remaining provisions of this article 15 shall not apply to the exercise of the First Option and the issue and allotment of the First Option Shares.

15.6 Unless otherwise agreed by special resolution if the Company proposes to allot any Relevant Securities, those Relevant Securities shall not be allotted to any person unless the Company has first offered them to the holders (on the date of the offer) of the Shares (each an **Offeree**) on a pari passu basis (as if they constituted Shares of the same class) and in the respective proportions that the number of Shares held by each such holder bears to the total number of

Shares held by all such holders (as nearly as possible without involving fractions) and on the same terms, and at the same price, as those Relevant Securities are being, or are to be, offered to any other person.

15.7 An offer made under article 15.6 shall:

- (a) be in writing and give details of the number, class and subscription price (including any share premium) of the Relevant Securities being offered;
- (b) remain open for a period of at least 10 Business Days from the date of service of the offer; and
- (c) stipulate that any Offeree who wishes to subscribe for a number of Relevant Securities in excess of the number to which he is entitled under article 15.6 shall, in his acceptance, state the number of excess Relevant Securities (**Excess Securities**) for which he wishes to subscribe.

15.8 If, on the expiry of an offer made in accordance with article 15.6, the total number of Relevant Securities applied for is less than the total number of Relevant Securities so offered, the Directors shall allot the Relevant Securities to the Offerees in accordance with their applications, subject to a maximum of each Offeree's proportionate entitlement.

15.9 Any Relevant Securities not accepted by Offerees pursuant to an offer made in accordance with article 15.6 shall be used to satisfy any requests for Excess Securities made pursuant to article 15.7(c). If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants in the respective proportions that the number of Shares held by each such applicant bears to the total number of such Shares held by all applicants (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any Shareholder beyond that applied for by him). After those allotments, any Excess Securities shall, subject to article 15.10, be offered to any other person(s) as the Directors may, with Major Shareholder Consent, determine, at the same price and on the same terms as the offer to the Shareholders.

15.10 No Shares shall be allotted to any current or prospective employee or director of any Group Company unless such person shall first have entered into a joint election with the relevant Group Company under section 431 of the Income Tax (Earnings and Pensions) Act 2003.

## 16 TRANSFERS OF SHARES: GENERAL

16.1 In these Articles, reference to the transfer of a Share includes the transfer, assignment or other disposal of a beneficial or other interest in that Share, or the creation of a trust or encumbrance over that Share, and reference to a Share includes a beneficial or other interest in a Share.

16.2 No Share shall be transferred, and the Directors shall refuse to register a transfer of any Share, unless it is made in accordance with these Articles and/or the Subscription and Shareholders' Agreement. Subject to article 16.5, the Directors shall register any duly stamped transfer made in accordance with these Articles, unless they suspect that the proposed transfer may be fraudulent.

16.3 If a Shareholder transfers (or purports to transfer) a Share other than in accordance with these Articles, he shall, save with Investor Consent to the contrary, be deemed to have immediately served a Transfer Notice in respect of all Shares held by him.

- 16.4 Any transfer of a Share by way of sale which is made under article 18, article 19, article 21, article 22 or article 23 shall be deemed to include a warranty that the transferor sells the Share with full title guarantee.
- 16.5 The Directors shall, as a condition to the registration of any transfer of Shares, require the transferee to execute and deliver to the Company a Deed of Adherence (where the transferee is not already a party to the Subscription and Shareholders' Agreement). The transfer may not be registered unless and until the Deed of Adherence has been executed and delivered to the Company's registered office by the transferee.
- 16.6 To enable the Directors to determine whether or not there has been any transfer (or purported transfer) of Shares the Directors may, and shall if so requested by the Investor, require:
- (a) any holder (or the legal representatives of a deceased holder); or
  - (b) any person named as a transferee in a transfer lodged for registration; or
  - (c) such other person as the Directors or the Investor may reasonably believe to have information relevant to that purpose,
- to provide the Company with any information and evidence that the Directors think fit regarding any matter which they deem relevant to that purpose.
- 16.7 If any such information or evidence referred to in article 16.6 is not provided to enable the Directors to determine to their reasonable satisfaction that no breach has occurred, or that as a result of the information and evidence provided the Directors are reasonably satisfied that a breach has occurred, the Directors shall immediately notify the holder of such Shares of that fact in writing and, if the holder fails to remedy that situation to the reasonable satisfaction of the Directors (including an Investor Director) within 5 Business Days of receipt of such written notice, then, unless otherwise directed in writing by the Investor:
- (a) the relevant Shares shall cease to confer on the holder of them any rights:
    - i. to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise), including in respect of any resolution of any class of Shares;
    - ii. to receive dividends or other distributions otherwise attaching to those Shares; or
    - iii. to participate in any future issue of Shares issued in respect of those Shares; and
  - (b) the Directors may (with Investor Consent), by notice in writing to the relevant holder, determine that a Transfer Notice shall be deemed to have been given in respect of some or all of his Shares with effect from the date of service of the notice (or such later date as may be specified in such notice).

The Directors may (with Investor Consent) reinstate the rights referred to in article (a) at any time and, in any event, such rights shall be reinstated in respect of any Shares transferred pursuant to article 16.7(b) on completion of such transfer.

- 16.8 Unless expressly provided otherwise in these Articles, if a Transfer Notice is deemed to have been given under these Articles (including under article 21), the Deemed Transfer Notice shall be treated as having specified that:

- (a) it does not contain a Minimum Transfer Condition; and
  - (b) the Seller wishes to transfer all the Shares held by him (including any Shares acquired after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Transfer Notice).
- 16.9 Any Transfer Notice (but not an Offer Notice (as defined in article 22) or a Drag Along Notice (as defined in article 23) or an Investor Offer Notice (as defined in article 18)) served in respect of the transfer of any Share which has not completed before the date of service of a Deemed Transfer Notice shall (save with Investor Consent to the contrary) automatically be revoked by the service of a Deemed Transfer Notice.

## **17 PERMITTED TRANSFERS OF SHARES**

17.1 A Shareholder (the **Original Shareholder**) may transfer all or any of his or its Shares to a Permitted Transferee.

17.2 Where Shares are held by the trustee(s) of a Family Trust, the trustee(s) may transfer Shares to:

- (a) the Original Shareholder;
- (b) any Privileged Relation(s) of the Original Shareholder;
- (c) subject to article 17.3, the trustee(s) of another Family Trust of which the Original Shareholder is the Settlor; or
- (d) subject to article 17.3, to the new (or remaining) trustee(s) upon a change of trustee(s) of a Family Trust,

without any price or other restriction.

17.3 A transfer of Shares may only be made to the trustee(s) of a Family Trust if the Board is satisfied:

- (a) with the terms of the trust instrument and, in particular, with the powers of the trustee(s);
- (b) with the identity of the proposed trustee(s);
- (c) that the proposed transfer will not result in 50% or more of the aggregate of the Company's equity share capital being held by trustees of that and any other trusts; and
- (d) that no costs incurred in connection with the setting up or administration of that Family Trust are to be paid by the Company.

17.4 If the Original Shareholder is a company, and a Permitted Transfer has been made, the Permitted Transferee shall, within 20 Business Days of ceasing to be a Member of the Same Group as the Original Shareholder, transfer the Shares held by it to:

- (a) the Original Shareholder; or
- (b) a Member of the Same Group as the Original Shareholder,

(which in either case is not in liquidation), without any price or other restriction. If the Permitted Transferee fails to make a transfer in accordance with this article 17.4, a Transfer Notice shall

be deemed to have been given in respect of such Shares on the expiry of the period set out in this article 17.4.

17.5 If the Original Shareholder is an individual and a Permitted Transfer has been made to a Privileged Relation of the Original Shareholder, the Permitted Transferee (or the transmittee(s) of any such person), shall within 20 Business Days of ceasing to be a Privileged Relation of the Original Shareholder (whether by reason of death, divorce or otherwise) either:

- (a) execute and deliver to the Company a transfer of the Shares held by him to the Original Shareholder (or to any Permitted Transferee of the Original Shareholder) for such consideration as may be agreed between them; or
- (b) give a Transfer Notice to the Company in accordance with article 19,

failing which a Transfer Notice shall be deemed to have been given in respect of such Shares on the expiry of the period set out in this article 17.5. This article 17.5 shall not apply to a transmittee of a Permitted Transferee if that transmittee is also a Permitted Transferee of the Original Shareholder, to the extent that such transmittee is legally or beneficially entitled to those Shares.

17.6 Notwithstanding any other provision of this article 17, a transfer of any Shares approved by the Directors (acting with Major Shareholder Consent) may be made without any price or other restriction and any such transfer shall be registered by the Directors.

## 18 OVERARCHING INVESTOR RIGHT OF FIRST REFUSAL

18.1 Notwithstanding any other provision of these Articles (but except where the provisions of article 17 apply) before any Shares (save for those Shares held by the Investor) are offered and/or transferred (as the case may be) to any other person (including, but not limited to, a Shareholder (not including the Investor), the Company, a Buyer (as defined in article 22), a Proposed Buyer (as defined in article 23) or any other person) and whether pursuant to a Transfer Notice, Deemed Transfer Notice or otherwise, those Shares (the **Investor Offered Shares**) shall first be offered (but only after the relevant prices referred to in article 18.3 below are agreed, determined or otherwise known) to the Investor in accordance with this article 18 (an **Investor Offer Notice**).

18.2 Where the provisions of article 18.1 apply the Company shall be the agent of the relevant Shareholder (the **Transferring Shareholder**) in respect of the proposed sale to the Investor of the Investor Offered Shares.

18.3 Unless otherwise agreed between the Investor and the Transferring Shareholder, the price per Investor Offered Share shall be the lower of:

- (a) the price per share calculated in accordance with the Schedule to these Articles (the **Investor Offer Price**); and
- (b) any other price per share offered by a third party (including, but not limited to, the Offer Price or price offered by a Buyer under article 22 or a Proposed Buyer under article 23),

(the **Investor Price**).

18.4 If there is any dispute or disagreement in relation to the agreement, calculation or determination of the Investor Price (including in relation to the calculation of the Investor Offer Price in accordance with the Schedule) it shall be referred to the Independent Expert and the provisions

of articles 20.2 to 20.8 (inclusive) shall apply mutatis mutandis to the determination of the Investor Price.

- 18.5 For the purposes of this article 18 only the Independent Expert shall be the auditors for the time being of the Company or, if no auditor is appointed at the relevant time or if there is and they decline the instruction, an independent firm of accountants jointly appointed by the Investor and the Transferring Shareholder or, in the absence of agreement between the Investor and the Transferring Shareholder on the identity of the expert within 5 Business Days of the expiry of the Agreement Period (as defined in the Schedule), an independent firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants of England and Wales (in each case acting as an expert and not as an arbitrator).
- 18.6 Once given, an Investor Offer Notice may only be withdrawn with Investor Consent.
- 18.7 As soon as practicable following the agreement, calculation or determination of the Investor Price, the Directors shall (unless the Investor Offer Notice is withdrawn in accordance with article 18.6) offer the Investor Offered Shares for sale to the Investor. Such offer shall be in writing and shall give details of the number and Investor Price of the Investor Offered Shares offered.
- 18.8 The Investor shall confirm in writing, within 10 Business Days after the date of the offer detailed in article 18.7 (the **Investor Offer Period**), whether or not it agrees to buy all or any of the Investor Offered Shares (an **Investor Acceptance Notice**).
- 18.9 If the Investor:
- (a) indicates, in the Investor Acceptance Notice, that it is unwilling to buy any Investor Offered Shares or all of the Investor Offered Shares where a Minimum Transfer Condition applied to the Investor Offer Notice; or
  - (b) fails to deliver an Investor Acceptance Notice before the expiry of the Investor Offer Period,

the Board shall notify the Transferring Shareholder that the relevant Investor Offer Notice has lapsed with immediate effect.

- 18.10 Where an Investor Offer Notice:
- (a) lapses; or
  - (b) does not relate to all of the Investor Offered Shares (where there is no Minimum Transfer Condition),

the provisions in articles 19, 22 and 23 shall then apply to the relevant Investor Offered Shares (or remaining Investor Offered Shares in the case of article 18.10(b) above) and on the basis that the Investor shall be entitled to participate in any such process (including the pre-emption rights under article 19) as a Shareholder and notwithstanding that the Investor elected not to buy all of the Investor Offered Shares pursuant to this article 18. Where an Investor Offer Notice contained a Minimum Transfer Condition, any subsequent proposed transfer shall continue to be subject to such Minimum Transfer Condition. If such Investor Offered Shares (or remaining Investor Offered Shares in the case of article 18.10(b) above) are not transferred in accordance with the provisions of articles 19, 22 or 23 within the 40 Business Day period following the date of the Investor Acceptance Notice, then the provisions of this article 18 shall apply to any proposed future transfer of such Shares.

- 18.11 If the Investor indicates, in the Investor Acceptance Notice, that it is willing to buy some of the Investor Offered Shares (where there is no Minimum Transfer Condition) or all of the Investor Offered Shares then the Investor Acceptance Notice shall specify the place and time for completion of the transfer of the relevant Investor Offered Shares (which shall be at least 10 Business Days, but not more than 20 Business Days, after the date of the Investor Acceptance Notice).
- 18.12 On the date specified for completion in the Investor Acceptance Notice, the Transferring Shareholder shall, against payment from the Investor of the Investor Price, transfer the relevant Investor Offered Shares to the Investor, in accordance with any requirements specified in the Investor Acceptance Notice.
- 18.13 If the Transferring Shareholder fails to comply with article 18.12:
- (a) the Chairman (or, failing him, any other Director or some other person nominated by a resolution of the Directors) shall, as agent on behalf of the Transferring Shareholder:
    - i. complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Investor Offered Shares to the Investor;
    - ii. receive the Investor Price and give a good discharge for it (and the Investor shall be obliged to see to the distribution of the Investor Price); and
    - iii. (subject to the transfer being duly stamped) enter the Investor in the register of Shareholders as the holders of the Shares purchased by it; and
  - (b) the Company shall pay the Investor Price into a separate bank account in the Company's name on trust (but without interest) for the Transferring Shareholder until he has delivered his certificate(s) for the relevant Investor Offered Shares (or an indemnity, in a form reasonably satisfactory to the Directors, in respect of any lost certificate, together with such other evidence (if any) as the Board may reasonably require to prove good title to those Shares) to the Company.
- 18.14 No Share shall be transferred, and the Directors shall refuse to register a transfer of any Share, if there has been a breach of this article 18 arising in connection with such transfer.
- 18.15 Except for a transfer to a Permitted Transferee, the Investor may not transfer any Share transferred to it in accordance with this article 18 within two years of the date of transfer.

## 19 PRE-EMPTION RIGHTS ON THE TRANSFER OF SHARES

- 19.1 Notwithstanding any other provision of these Articles (but except where the provisions of article 17, article 18 or article 21.4 apply), any transfer of Shares by a Shareholder shall be subject to the pre-emption rights in this article 19.
- 19.2 A Shareholder who wishes to transfer Shares (a **Seller**) shall, before transferring or agreeing to transfer any Shares, give notice in writing (a **Transfer Notice**) to the Company specifying:
- (a) subject to article 16.8(b), the number of Shares he wishes to transfer (**Sale Shares**);
  - (b) the name of the proposed transferee, if any;
  - (c) subject to article 21.5, the price per Sale Share (in cash), if any, at which he wishes to transfer the Sale Shares (the **Proposed Sale Price**); and

- (d) subject to article 16.8(a), whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold (a **Minimum Transfer Condition**).
- 19.3 Once given, a Transfer Notice may only be withdrawn with Investor Consent.
- 19.4 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price.
- 19.5 As soon as practicable following the later of:
  - (a) receipt of a Transfer Notice (or in the case of a Deemed Transfer Notice, the date such notice is deemed to be served); and
  - (b) the determination of the Transfer Price,the Directors shall (unless the Transfer Notice is withdrawn in accordance with article 19.3) offer the Sale Shares for sale in the manner set out in the remaining provisions of this article 18 at the Transfer Price. Each offer shall be in writing and shall give details of the number and Transfer Price of the Sale Shares offered.
- 19.6 The Directors shall offer the Sale Shares to the Shareholders (other than the Seller), inviting them to apply in writing within the period from the date of the offer to the date 10 Business Days after the offer (both dates inclusive) (the **First Offer Period**) for the maximum number of Sale Shares they wish to buy.
- 19.7 If:
  - (a) at the end of the First Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Directors shall allocate the Sale Shares to each Shareholder who has applied for Sale Shares in the proportion which his existing holding of Shares bears to the total number of Shares of the class being offered held by all Shareholders (other than the Seller). Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Sale Shares being allocated, in which case, the allocation of any such fractional entitlements shall be determined by the Directors (acting with Major Shareholder Consent)). No allocation shall be made to a Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy;
  - (b) not all Sale Shares are allocated following allocations in accordance with article 19.7(a), but there are applications for Sale Shares that have not been satisfied, the Directors shall allocate the remaining Sale Shares to such applicants in accordance with the procedure set out in article 19.7(a). The procedure set out in this article 19.7(b) shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and
  - (c) at the end of the First Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Directors shall allocate the Sale Shares to the Shareholders in accordance with their applications. The balance (the **Surplus Shares**) shall, subject to article 19.8, be dealt with in accordance with article 19.12.
- 19.8 Where the Transfer Notice contains a Minimum Transfer Condition:
  - (a) any allocation made under article 19.7 shall be conditional on the fulfilment of the Minimum Transfer Condition; and



- (b) if the total number of Sale Shares applied for under article 19.7 is less than the number of Sale Shares, the Board shall notify the Seller and all those Shareholders to whom Sale Shares have been conditionally allocated stating that the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

19.9 Where either:

- (a) the Transfer Notice does not contain a Minimum Transfer Condition; or
- (b) allocations have been made in respect of all the Sale Shares,

the Directors shall, when no further offers or allocations are required to be made under article 19.7 give notice in writing of the allocations of Sale Shares (an **Allocation Notice**) to the Seller and each Shareholder to whom Sale Shares have been allocated (each an **Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant and the place and time for completion of the transfer of the Sale Shares (which shall be at least 10 Business Days, but not more than 20 Business Days, after the date of the Allocation Notice).

19.10 On the date specified for completion in the Allocation Notice, the Seller shall, against payment from an Applicant, transfer the Sale Shares allocated to such Applicant, in accordance with any requirements specified in the Allocation Notice.

19.11 If the Seller fails to comply with article 19.10:

- (a) the Chairman (or, failing him, any other Director or some other person nominated by a resolution of the Directors) shall, as agent on behalf of the Seller:
  - i. complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
  - ii. receive the Transfer Price and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Transfer Price); and
  - iii. (subject to the transfer being duly stamped) enter the Applicants in the register of Shareholders as the holders of the Shares purchased by them; and
- (b) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered his certificate(s) for the relevant Shares (or an indemnity, in a form reasonably satisfactory to the Directors, in respect of any lost certificate, together with such other evidence (if any) as the Board may reasonably require to prove good title to those Shares) to the Company.

19.12 Where a Transfer Notice lapses pursuant to article 19.8(b) or an Allocation Notice does not relate to all the Sale Shares, then, subject to article 19.13, the Seller may, at any time during the 20 Business Days following the date of lapse of the Transfer Notice, or the date of service of the Allocation Notice as the case may be, transfer the Sale Shares (in the case of a lapsed offer) or the Surplus Shares to any person at a price at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this article 19.12 shall continue to be subject to any Minimum Transfer Condition.

19.13 The Seller's right to transfer Shares under article 19.12 does not apply if the Directors reasonably consider that:

- (a) the transferee is a person (or a nominee for a person) whom the Investor determines to be a competitor (or a Member of the Same Group as a competitor) of the business of any Group Company;
- (b) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or
- (c) the Seller has failed or refused to promptly provide information available to him and reasonably requested to enable it to form the opinion referred to in article 19.13(b).

## 20 VALUATION

- 20.1 The Transfer Price for each Sale Share the subject of a Transfer Notice (or Deemed Transfer Notice) shall, save where expressly provided otherwise in these Articles, be the price per Sale Share (in cash) agreed between the Directors (any Director with whom the Seller is connected not voting), acting with Investor Consent, and the Seller or, in default of agreement within 10 Business Days of the date of service of the Transfer Notice (or, in the case of a Deemed Transfer Notice, the date on which the board of Directors first has actual knowledge of the facts giving rise to such deemed service), the Fair Value of each Sale Share.
- 20.2 The Fair Value shall be the price per Sale Share determined by the Independent Expert on the following bases and assumptions:
- (a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer as at the date the Transfer Notice was served (or deemed served);
  - (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - (c) that the Sale Shares are capable of being transferred without restriction;
  - (d) valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent; and
  - (e) reflecting any other factors which the Independent Expert reasonably believes should be taken into account.
- 20.3 If any difficulty arises in applying any of these assumptions or bases then the Independent Expert shall resolve that difficulty in whatever manner it shall in its absolute discretion think fit.
- 20.4 The Directors will give the Independent Expert access to all accounting records or other relevant documents of the Group, subject to it agreeing such confidentiality provisions as the Directors may reasonably impose.
- 20.5 The parties are entitled to make submissions to the Independent Expert including oral submissions and shall provide (or procure that others provide) the Independent Expert with such assistance and documents as the Independent Expert may reasonably require for the purpose of reaching a decision.
- 20.6 The Independent Expert shall act as expert and not as arbitrator and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 20.7 The Independent Expert shall be requested to determine the Fair Value within 15 Business Days of its appointment and to deliver its certificate to the Company. Forthwith upon receipt, the Company shall deliver a copy of the certificate to the Seller.

20.8 The cost of obtaining the Independent Expert's certificate shall be borne by the parties equally or in such other proportions as the Independent Expert directs unless:

- (a) the Seller withdraws the relevant Transfer Notice in accordance with article 19.3; or
- (b) in respect of a Deemed Transfer Notice, the Fair Value is less than the price per Sale Share offered to the Seller by the Directors before the appointment of the Independent Expert,

in which case the Seller shall bear the cost.

## 21 COMPULSORY TRANSFERS

21.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder (or equivalent procedure in any jurisdiction outside England and Wales) or death of a Shareholder shall be deemed to have given a Transfer Notice in respect of that Share at such time as the Directors (acting with Investor Consent) may determine.

21.2 If a Shareholder which is a body corporate either suffers or resolves to appoint a liquidator, administrator or administrative receiver over it, or any material part of its assets (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or suffers or takes any equivalent action in any jurisdiction outside England and Wales, that Shareholder shall be deemed to have given a Transfer Notice in respect of all Shares held by it at such time as the Directors (acting with Investor Consent) may determine. This article 21.2 shall not apply to the Investor.

21.3 If there is a change in control (as 'control' is defined in section 1124 of the Corporation Tax Act 2010) of any Shareholder which is a company, it shall be bound at any time, if and when required in writing by the Directors to do so, to give (or procure the giving in the case of a nominee) a Transfer Notice in respect of all the Shares registered in its name (or the name of its nominee(s)) save that, where that Shareholder acquired Shares as a Permitted Transferee of an Original Shareholder, it shall first be permitted to transfer those Shares back to the Original Shareholder from whom it received its Shares or to any other Permitted Transferee of that Original Shareholder before being required to serve a Transfer Notice. This article 21.3 shall not apply to the Investor.

21.4 Notwithstanding any other provisions of these Articles, if an Employee becomes a Bad Leaver or an Early Leaver a Transfer Notice shall, if the Investor so directs within 40 Business Days after the relevant Termination Date, be deemed to have been served on the relevant Termination Date in respect of all Relevant Shares (a **Compulsory Employee Transfer**) and any Transfer Notice served in respect of any of such Relevant Shares before the date such Employee becomes a Bad Leaver or Early Leaver (as applicable) shall automatically lapse. The provisions of articles 19.3 to 19.11 (inclusive), but not article 19.12, shall apply mutatis mutandis to a Compulsory Employee Transfer save that the Relevant Shares shall only be offered to the Investor and not any other Shareholder. If the Investor elects not to purchase any or all of such Relevant Shares, the Relevant Shares or any remaining Relevant Shares (as the case may be) shall be subject to the remaining provisions of these Articles (including the pre-emption rights under article 19).

21.5 Notwithstanding any other provisions of these Articles, the Transfer Price in respect of a Compulsory Employee Transfer shall be the Investor Offer Price (as detailed in article 18.3(a)). If there is any dispute or disagreement in relation to the calculation of the Investor Offer Price in accordance with the Schedule it shall be referred to the Independent Expert and the provisions of articles 20.2 to 20.8 (inclusive) shall apply mutatis mutandis to the determination of the Investor Offer Price.

21.6 Notwithstanding the provisions of article 21.5, the Investor may, by notice in writing served on the Company and the relevant Seller(s), direct that some higher (but not lower) Transfer Price shall apply to any or all Sale Shares which would otherwise be subject to article 21.5.

21.7 Forthwith upon a Transfer Notice being deemed to be served under this article 21 the Shares subject to the relevant Deemed Transfer Notice (**Restricted Shares**) shall cease to confer on the holder of them any rights:

- (a) to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise), including in respect of any resolution of any class of Shares;
- (b) to receive dividends or other distributions otherwise attaching to those Shares; or
- (c) to participate in any future issue of Shares issued in respect of those Shares.

The Directors may (with Investor Consent) reinstate the rights referred to in article 21.7 at any time and, in any event, such rights shall be reinstated in respect of any Shares subsequently transferred pursuant to these Articles.

## 22 MANDATORY OFFER ON CHANGE OF CONTROL

22.1 In the event that a proposed transfer of Shares (other than a transfer of Shares made pursuant to article 17, article 18, article 21, article 26.2 or the Second Option, but after the operation of the pre-emption procedure set out in article 18), whether made as one or as a series of transactions (a **Proposed Transfer**) would, if completed, result in any person (other than an existing Shareholder, including the Investor) (the **Buyer**), together with any person acting in concert with the Buyer, acquiring a Controlling Interest, the remaining provisions of this article 22 shall apply.

22.2 The Company shall procure that, prior to the completion of the Proposed Transfer, the Buyer shall make an offer (the **Offer**) to each Shareholder (each an **Offeree**) on the date of the Offer (other than any holder(s) of Restricted Shares), to buy all of the Shares held by such Offerees on the date of the Offer for a consideration in cash per Share (the **Offer Price**) which is equal to the highest price per Share offered, paid or to be paid by the Buyer, or any person acting in concert with the Buyer, for any Shares in connection with the Proposed Transfer.

22.3 The Offer shall be made by notice in writing (an **Offer Notice**) addressed to each Offeree on the date of the Offer at least 10 Business Days (the **Offer Period**) before the date fixed for completion of the Proposed Transfer (the **Sale Date**). To the extent not described in any accompanying documents, the Offer Notice shall specify:

- (a) the identity of the Buyer (and any person(s) acting in concert with the Buyer);
- (b) the Offer Price and any other terms and conditions of the Offer;
- (c) the Sale Date; and
- (d) the number of Equity Shares which would be held by the Buyer (and persons acting in concert with the Buyer) on completion of the Proposed Transfer.

22.4 The completion of the Proposed Transfer shall be conditional in all respects on:

- (a) the making of an Offer in accordance with this article 22; and
- (b) the completion of the transfer of any Shares by any Offeree (each an **Accepting Offeree**) who accepts the Offer (in whole or in part) within the Offer Period,

and the Directors shall refuse to register any Proposed Transfer made in breach of this article 22.4.

- 22.5 The Proposed Transfer is, but the purchase of Shares from Accepting Offerees pursuant to an Offer made under this article 22 shall not be, subject to the pre-emption provisions of articles 18 and 18.

## **23 DRAG ALONG**

- 23.1 Subject to any rights of pre-emption or first refusal of the Shareholders under these articles (including those under articles 18 and 19) if the Directors (with Major Shareholder Consent) or if the holders of more than 60 per cent of the Shares by number (which must include Shares held by the Investor and/or its Permitted Transferees) (the **Selling Shareholders**) approve in principle a transfer of Shares (**Sellers' Shares**) to a bona fide purchaser on arm's length terms (**Proposed Buyer**), the Selling Shareholders shall have the option (**Drag Along Option**) to require all the holders of Shares on the date of the request (**Called Shareholders**) to sell and transfer all their interest in Shares with full title guarantee to the Proposed Buyer (or as the Proposed Buyer may direct) in accordance with the provisions of this article 23.

- 23.2 The Selling Shareholders may exercise the Drag Along Option by giving notice in writing to that effect (a **Drag Along Notice**), at any time before the completion of a proposed transaction, to the Proposed Buyer and each Called Shareholder. A Drag Along Notice shall specify:

- (a) that the Called Shareholders are required to transfer all their Shares (**Called Shares**) pursuant to this article 23;
- (b) the identity of the Proposed Buyer (and, if relevant, the transferee(s) nominated by the Proposed Buyer);
- (c) the consideration payable for the Called Shares calculated in accordance with article 23.4;
- (d) the proposed date of completion of transfer of the Called Shares; and
- (e) the form of any sale agreement or form of acceptance or any other document of similar effect that the Called Shareholders are required to sign in connection with such sale.

- 23.3 Once given, a Drag Along Notice may not be revoked save with the prior consent of the Directors, acting with Investor Consent. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not completed the transfer of all the Sellers' Shares to the Proposed Buyer (or as the Proposed Buyer may direct) within 40 Business Days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

- 23.4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be that to which they would be entitled if the total consideration proposed to be paid by the Proposed Buyer were distributed to the holders of the Called Shares and the Sellers' Shares in accordance with the provisions of article 12.

- 23.5 No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in this article 23 save that a Called Shareholder shall be obliged to undertake to transfer his Shares with full title guarantee (and provide an indemnity for lost certificate in a form acceptable to the Board if so necessary) and to give other customary and reasonable warranties and indemnities in relation to the Company and/or covenants in relation to anti-competitive behaviour.

- 23.6 Completion of the sale and purchase of the Called Shares shall take place on the same date as, and conditional upon the completion of, the sale and purchase of the Sellers' Shares unless:
- (a) all of the Called Shareholders and the Selling Shareholders otherwise agree; or
  - (b) that date is less than 10 Business Days after the date of service of the Drag Along Notice, in which case completion of the sale and purchase of the Called Shares shall take place 20 Business Days after the date of service of the Drag Along Notice.
- 23.7 Within 10 Business Days of the Selling Shareholders serving a Drag Along Notice on the Called Shareholders, the Called Shareholders shall deliver stock transfer forms for their Shares in favour of the Proposed Buyer (or as the Proposed Buyer may direct), together with the share certificate(s) in respect of those Shares (or a suitable indemnity in respect thereof) to the Company. On the expiration of that 10 Business Day period the Company shall pay the Called Shareholders, on behalf of the Proposed Buyer, the amounts they are respectively due pursuant to article 23.4 to the extent the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the amounts due pursuant to article 23.4 shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders pursuant to article 23.4 in trust for the Called Shareholders without any obligation to pay interest.
- 23.8 To the extent that the Proposed Buyer has not, on the expiration of the 10 Business Day period, put the Company in funds to pay the amounts due pursuant to article 23.4, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificate(s) (or suitable indemnity) for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this article 23 in respect of their Shares.
- 23.9 If any Called Shareholder fails to deliver to the Company a duly executed stock transfer form (or forms) in respect of the Called Shares held by him (together with the share certificate(s) in respect of those Called Shares (or a suitable indemnity in respect thereof)) the defaulting Called Shareholder shall be deemed to have appointed any person nominated for the purpose by the Selling Shareholders to be his agent to execute and deliver all necessary transfers on his behalf, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares. After the Proposed Buyer (or person(s) nominated by the Proposed Buyer) has been registered as the holder of any such Called Shares, the validity of such proceedings shall not be questioned by any person. Failure to produce a share certificate shall not impede the registration of any transfer of Shares under this article 23.
- 23.10 Upon any person, following the issue of a Drag Along Notice, becoming a Shareholder (or increasing an existing shareholding) including, without limitation, pursuant to the exercise of any option, warrant or other right to acquire or subscribe for, or to convert any security into, Shares, whether or not pursuant to a Share Option Scheme (a **New Shareholder**), a Drag Along Notice shall be deemed to have been served upon the New Shareholder, on the same terms as the previous Drag Along Notice, who shall then be bound to sell and transfer all such Shares acquired by him to the Proposed Buyer (or as the Proposed Buyer may direct) and the provisions of this article 23 shall apply mutatis mutandis to the New Shareholder, save that completion of the sale of such Shares shall take place forthwith upon the later of the Drag Along Notice being deemed served on the New Shareholder and the date of completion of the sale of the Called Shares. References in this article **Error! Reference source not found.** to a person becoming a Shareholder (or increasing an existing shareholding) shall include the Company, in respect of the acquisition of any of its own Shares.
- 23.11 Any Transfer Notice or Deemed Transfer Notice served in respect of the transfer of any Share which has not completed before the date of service of a Drag Along Notice shall automatically be revoked by the service of a Drag Along Notice.

## **DECISION-MAKING BY SHAREHOLDERS**

### **24 GENERAL MEETINGS**

- 24.1 No business other than, subject to article 24.4, the appointment of the chairman of the meeting is to be transacted at a general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.
- 24.2 No business shall be transacted at a general meeting unless a quorum is present. Subject to article 24.3, the quorum for a general meeting shall be three Qualifying Persons which shall include each Major Shareholder.
- 24.3 If, and for so long as, the Company has only one member or two members, one Qualifying Person or two Qualifying Persons (respectively) shall be a quorum at any general meeting of the Company.
- 24.4 The Chairman, who shall be appointed by the holders of a majority of the Shares, shall chair general meetings. If there is no Chairman in office for the time being, or the Chairman is unable to attend any general meeting, the Directors present (or, if no Directors are present, the meeting) must appoint another Director present at the meeting (or, if no Directors are present, a Shareholder) to chair the meeting and the appointment of the chairman of the meeting must be the first business of the meeting.

### **25 VOTING**

- 25.1 Subject to any other provisions in these Articles concerning voting rights, each Share in the Company shall carry the right to receive notice of and to attend, speak and vote at all general meetings of the Company.
- 25.2 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 25.3 Model article 44(3) shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that model article.
- 25.4 Model article 45(1) shall be amended by:
- (a) the deletion of model article 45(1)(d) and its replacement with the words "is delivered to the company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate"; and
  - (b) the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the Directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that model article.

### **26 PURCHASE OF OWN SHARES**

- 26.1 Save with Investor Consent, the Company may not purchase its own shares.
- 26.2 Subject to the remaining provisions of this article 26, on a purchase of Shares in accordance with Chapter 4 of Part 18 of the Act, the Company may:
- (a) hold the Shares (or any of them) in treasury;

- (b) deal with any of the Shares, at any time, in accordance with section 727; or
  - (c) cancel any of the Shares, at any time, in accordance with section 729 of the Act.
- 26.3 The provisions of articles 15.4 to 15.10 (inclusive) shall apply to a sale or transfer of Shares held in treasury pursuant to article 26.2(b) save that, for the purposes of this article 26.3:
- (a) reference in article 15 to an allotment shall include the sale or transfer of Shares; and
  - (b) reference in the definition of "Relevant Securities" to Shares "issued after the Adoption Date" shall include Shares to be sold or transferred by the Company,

that immediately before the sale or transfer were, in each case, held by the Company as treasury shares

## **27 COMPANY'S LIEN OVER SHARES**

27.1 The Company has a lien (the **Company's Lien**) over every Share which is registered in the name of a person indebted or under any liability to the Company, whether he is the sole registered holder of the Share or one of several joint holders, for all monies payable by him (either alone or jointly with any other person) to the Company, whether payable immediately or at some time in the future.

27.2 The Company's Lien over a share:

- (a) takes priority over any third party's interest in that Share; and
- (b) extends to any dividend or other money payable by the Company in respect of that Share and (if the lien is enforced and the Share is sold by the Company) the proceeds of sale of that Share.

The Directors may at any time decide that a Share which is or would otherwise be subject to the Company's Lien shall not be subject to it, either wholly or in part.

## **28 ENFORCEMENT OF THE COMPANY'S LIEN**

28.1 Subject to the provisions of this article 28, if:

- (a) a Lien Enforcement Notice has been given in respect of a Share; and
- (b) the person to whom the notice was given has failed to comply with it,

the Company may sell that Share in such manner as the Directors decide.

28.2 A Lien Enforcement Notice:

- (a) may only be given in respect of a Share which is subject to the Company's Lien and in respect of a sum payable to the Company for which the due date for payment has passed;
- (b) must specify the Share concerned;
- (c) must require payment of the sum within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);



- (d) must be addressed either to the holder of the Share or to a transmittee of that holder; and
- (e) must state the Company's intention to sell the Share if the notice is not complied with.

**28.3 Where Shares are sold under this article 28:**

- (a) the Directors may authorise any person to execute an instrument of transfer of the Shares to the purchaser or to a person nominated by the purchaser; and
- (b) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.

**28.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the Company's Lien) must be applied:**

- (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the Lien Enforcement Notice; and
- (b) second, to the person entitled to the Shares at the date of the sale, but only after the certificate for the Shares sold has been surrendered to the Company for cancellation, or an indemnity in a form reasonably satisfactory to the Directors has been given for any lost certificates, and subject to a lien equivalent to the Company's Lien over the Shares before the sale for any money payable by that person (or his estate or any joint holder of the shares) after the date of the Lien Enforcement Notice.

A statutory declaration by a Director or the company secretary that the declarant is a Director or the company secretary and that a Share has been sold to satisfy the Company's Lien on a specified date:

- (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share; and
- (b) subject to compliance with any other formalities of transfer required by the Articles or by law, constitutes a good title to the Share.

## **ADMINISTRATIVE ARRANGEMENTS**

### **29 MEANS OF COMMUNICATION TO BE USED**

**29.1 Subject to article 29.3, any notice, document or other information shall be deemed served on, or delivered to, the intended recipient if sent both by email and any other method set out below:**

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
- (b) if sent by fax, at the time of transmission; or
- (c) if sent by pre-paid first class post, recorded delivery or special delivery to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or
- (d) if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the fifth Business Day after posting; or

- (e) if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
- (f) if sent or supplied by email, one hour after the notice, document or information was sent or supplied (but only in circumstances where the receipt of such notice, document or information has been specifically acknowledged by the recipient); or
- (g) 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; and
- (h) if deemed receipt under the previous paragraphs of this article 29.1 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 on the day when business next starts in the place of deemed receipt. For the purposes of this article, all references to time are to local time in the place of deemed receipt.

29.2 To prove service, it is sufficient to prove that:

- (a) if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or
- (b) if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or
- (c) if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted; or
- (d) if sent by email, the notice was properly addressed and sent to the email address of the recipient.

29.3 A Transfer Notice (or Deemed Transfer Notice) may not be served or delivered in electronic form (other than by fax), or by means of a website.

29.4 In proving that any notice, document or information was properly addressed, it will suffice to show that the notice, document or information was addressed to an address permitted for the purpose by the Act.

## **30 INDEMNITY AND INSURANCE**

30.1 Subject to article 30.2, but without prejudice to any indemnity to which a Relevant Officer is otherwise entitled:

- (a) each Relevant Officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a Relevant Officer:
  - i. in the actual or purported execution and/or discharge of his duties, or in relation thereto; and
  - ii. in relation to the Company's (or other Group Company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted, or the proceedings are otherwise disposed of without any finding or admission of any material

breach of duty on his part, or in connection with any application in which the court grants him, in his capacity as a Relevant Officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or other Group Company's) affairs; and

- (b) the Company may provide any Relevant Officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 30.1 and otherwise may take any action to enable such Relevant Officer to avoid incurring such expenditure.

30.2 This article 30 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.

30.3 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any Relevant Officer in respect of any Relevant Loss.

30.4 In this article 30:

- (a) **Relevant Loss** means any loss or liability which has been or may be incurred by a Relevant Officer in connection with that Relevant Officer's duties or powers in relation to the Company (or other Group Company) or any pension fund or employees' share scheme of the Company (or other Group Company); and
- (b) **Relevant Officer** means any director or other officer or former director or other officer of any Group Company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act) , but excluding in each case any person engaged by a Group Company as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor.

## Schedule

### Investor Offer Price

For the purposes of this Schedule, the following additional definitions shall apply:

**"Bespoke Accounts"** the financial statements of the Company (or, if the context requires, the financial statements of each Group Company and the consolidated financial statements of the Group) for 12 month period immediately prior to the Effective Time;

**"Cash"** means the aggregate amount of all:

- (a) unrestricted cash in hand and (without double counting) presented (but uncleared) cheques made payable to the Group, and electronic transfers and credit and debit card transfers to the Group which have been initiated but have not yet cleared, in each case which do not yet stand in cleared funds to the credit of an account of the Group with a bank or other financial institution; and
- (b) cash standing to the credit of any account with a bank or other financial institution,

in each case to which the Group is beneficially entitled as at the Effective Time but excluding cash in transit paid by the Group and cheques issued on or before the Effective Time by the Group which are to be cleared, calculated in accordance with the accounting principles, policies, standards, practices, evaluation rules and estimation techniques specified in this Schedule;

**"Current Assets"** means the aggregate value of the current operating assets of the Group as at the Effective Time (including, but not limited to, stocks, trade debtors, prepayments and accrued income) and which for the avoidance of doubt shall not include the Cash, calculated in accordance with the accounting principles, policies, standards, practices, evaluation rules and estimation techniques specified in this Schedule;

**"Current Liabilities"** means the aggregate value of the current operating liabilities of the Group as at the Effective Time (including, but not limited to, payments in advance to the Group, trade creditors, accruals, deferred income, corporation tax, other Taxation (as defined in the Subscription and Shareholders' Agreement) and social security) and which for the avoidance of doubt shall not include any liability accounted for, and specifically included, in Debt, calculated in accordance with the accounting principles, policies, standards, practices, evaluation rules and estimation techniques specified in this Schedule;

## **"Debt"**

the aggregate amount of the Group's borrowings and other financial indebtedness in the nature of borrowing, including (without double counting):

- (a) borrowings from any bank, financial institution or other entity;
- (b) indebtedness arising under any bond, note, loan stock, debenture, commercial paper or similar instrument;
- (c) obligations under any conditional sale, title retention, forward sale or purchase or any similar agreement or arrangement creating obligations with respect to the deferred purchase price of property (other than customary trade credit given in the ordinary course of trading);
- (d) indebtedness under any hire purchase agreement or finance lease (whether for land, machinery, equipment or otherwise) which is a current liability under accounting standards FRS 102;
- (e) any indebtedness for monies borrowed or raised under any other transaction that has the commercial effect of borrowing;
- (f) any indebtedness for monies borrowed from any Shareholder or any person connected with a Shareholder;
- (g) all unpaid accrued interest on any borrowings or indebtedness referred to in the paragraphs above, together with any prepayment premiums or other penalties, or mandatory fees, expenses or breakage costs arising (or which would arise) in connection with the repayment of any such borrowings or indebtedness;
- (h) corporation tax payable on profits;
- (i) deferred tax liability;
- (j) cash backed deferred income; and
- (k) overpayments from customers;

in each case as at the Effective Time, calculated in accordance with the accounting principles, policies, standards, practices, evaluation rules and estimation techniques specified in this Schedule;

## **"EBITDA"**

the earnings before interest, tax, depreciation and amortisation of the Group, but excluding any non-ordinary course transactions (including, but not limited to, sales of assets and

one off licence fees), for the 12 month period immediately prior to the Effective Time as set out in the Bespoke Accounts;

**"EBITDA Certificate"**

the certificate stating the EBITDA to be prepared and agreed or determined in accordance with this Schedule and these Articles

**"Effective Time"**

the close of business on the Business Day immediately preceding the date of the Investor Offer Notice;

**"Investor Offer Price"**

a price per Investor Offered Share, in pounds sterling, equal to:

$$((y \times z) + A - B) / C$$

where:

y = the EBITDA stated in the EBITDA Certificate;

z = 5;

A = an amount equal to the aggregate of Cash plus Current Assets;

B = an amount equal to the aggregate of Debt and Current Liabilities; and

C = the total number of Shares in the capital of the Company as at the date of the Investor Offer Notice;

**"Relevant Accounts"**

the statutory accounts of the Company for the last Financial Year immediately prior to the date of the Investor Offer;

**1 Bespoke Accounts and EBITDA Certificate**

**1.1 The Bespoke Accounts shall be prepared:**

- (a) in accordance with the specific accounting policies set out in paragraph 1.2 below;
- (b) in accordance with generally accepted accounting principles, policies and practices in the United Kingdom in force as at the date to which the Bespoke Accounts are prepared; and
- (c) on a basis consistent with the accounting principles, policies, bases and practices used in the preparation of the Relevant Accounts.

In the event of conflict between the provisions of this paragraph 1.1, paragraph 1.1(a) shall prevail over paragraphs 1.1(b) and 1.1(c) and paragraph 1.1(b) shall prevail over paragraph 1.1(c).

**1.2 The following specific policies will be applied in the preparation of the Bespoke Accounts:**

- (a) the Bespoke Accounts shall be prepared as if the Effective Time is a full financial period end with full cut-off procedures applied in relation to income, expenditure, assets, liabilities, accruals, prepayments, payroll, PAYE, NIC and VAT.

- 1.3 Within twenty Business Days of the date of the Investor Offer, the Company, the Transferring Shareholder and the Investor shall use their respective reasonable endeavours to procure that the Company prepares a draft of the Bespoke Accounts and the EBITDA Certificate which shall state the amount of EBITDA for the relevant period (the "**Draft EBITDA Certificate**") and delivers copies to each of the Investor and the Transferring Shareholder (together with copies of all working papers and all other information supporting the calculation of EBITDA reasonably requested by the Investor and Transferring Shareholder). It is agreed and acknowledged that the auditors or the accountants (as applicable) of the Company for the time being shall, as long as they are engaged by the Company, be given responsibility for the preparation of the Bespoke Accounts and the Draft EBITDA Certificate.
- 1.4 The Investor and Transferring Shareholder may review the draft Bespoke Accounts and Draft EBITDA Certificate in order to satisfy themselves that they have been prepared in accordance with the provisions of this Schedule and, within ten Business Days of receipt of such draft Bespoke Accounts and Draft EBITDA Certificate (for the purposes of this Schedule only, the "**Response Period**"), shall notify the other in writing of any respect in which they are not satisfied that such draft Bespoke Accounts and Draft EBITDA Certificate are correct including the reason why it considers it is not correct and its proposed adjustment to such draft Bespoke Accounts and Draft EBITDA Certificate.
- 1.5 If neither the Investor nor Transferring Shareholder serve a notification on the other in accordance with paragraph 1.4 within the Response Period, the draft Bespoke Accounts and Draft EBITDA Certificate shall be deemed to be agreed and the relevant Draft EBITDA Certificate shall constitute the EBITDA Certificate for the relevant period and shall be final and binding as between the Investor and Transferring Shareholder.
- 1.6 If either the Investor or Transferring Shareholder does serve a notification on the other in accordance with paragraph 1.4 within the Response Period, they shall, within the period expiring ten Business Days after the expiry of the Response Period (for the purposes of this Schedule only, the "**Agreement Period**"), endeavour to resolve such matters and agree any adjustments to the draft Bespoke Accounts and Draft EBITDA Certificate and, in the event that agreement is reached, the relevant Draft EBITDA Certificate as so adjusted shall constitute the EBITDA Certificate for the relevant period and shall be final and binding as between the Investor and Transferring Shareholder.
- 1.7 If such matters are not resolved within the Agreement Period, the draft Bespoke Accounts and Draft EBITDA Certificate and/or the calculation of the Investor Offer Price and any dispute or disagreement in respect thereof shall be referred to the Independent Expert in accordance with the provisions of article 18.4.
- 1.8 The Investor and Transferring Shareholder shall, and shall procure that the Company shall, retain and provide the Investor and Transferring Shareholder and their respective professional advisers with copies of all relevant papers and all information and explanations as are reasonably required for the proper preparation and agreement of the Bespoke Accounts and the Draft EBITDA Certificate.
- 1.9 The Company will pay all costs and expenses in connection with the preparation and agreement of the Bespoke Accounts and the EBITDA Certificate.
- 1.10 For the avoidance of doubt, if at any time the Company has any subsidiaries:
- (a) the EBITDA shall be the consolidated EBITDA of the Group; and
  - (b) the Bespoke Accounts shall mean each Group Company's financial statements and the consolidated financial statements of the Group.