

**THE COMPANIES ACT 2006**

**COMPANY LIMITED BY SHARES**

**NEW**

**ARTICLES OF ASSOCIATION**

**of**

**GRABYO LIMITED**

(Adopted by a special resolution passed on 24/9/ 2020)



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**1. Introduction**

- 1.1 The model articles for private companies limited by shares contained or incorporated in Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these articles (the "**Model Articles**") shall apply to the Company, save insofar as they are varied or excluded by, or are inconsistent with, the following Articles.
- 1.2 In these Articles and the Model Articles any reference to any statutory provision shall be deemed to include a reference to each and every statutory amendment, modification, re-enactment and extension thereof for the time being in force.
- 1.3 In these Articles:
- (a) article headings are used for convenience only and shall not affect the construction or interpretation of these Articles;
  - (b) words denoting the singular include the plural and vice versa and reference to one gender includes the other gender and neuter and vice versa;
  - (c) Articles 8(2), 9(4), 10(3), 11(2), 13, 14, 17(2), 17(3), 19, 21, 26(5), 27, 28, 29, 30(5) to (7) (inclusive), 44(4), 51, 52 and 53 of the Model Articles shall not apply to the Company; and
  - (d) reference to the "**holders**" of Shares or a class of Share shall exclude the Company holding Treasury Shares from time to time, unless stated otherwise.

**2. Definitions**

In these Articles the following words and expressions shall have the following meanings:

**"A Ordinary Shares"** means the A ordinary shares of £0.00001 each in the capital of the Company from time to time;

**"A Shareholders"** means the holders of A Ordinary Shares from time to time (but excludes the Company holding Treasury Shares), and **"A Shareholder"** shall mean any one of them;

**"Act"** means the Companies Act 2006 (as amended from time to time);

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

**"Associate"** in relation to any person means:

- (a) any person who is an associate of that person and the question of whether a person is an associate of another is to be determined in accordance with section 435 of the Insolvency Act 1986 and (whether or not an associate as so determined);
- (b) any Member of the same Group;

**"Auditors"** means the auditors of the Company from time to time;

**"Available Profits"** means profits available for distribution within the meaning of part 23 of the Act;

**"B Ordinary Shares"** means the B ordinary shares of £0.00001 each in the capital of the Company from time to time;

**"B Shareholders"** means the holders of B Ordinary Shares from time to time (but excludes the Company holding Treasury Shares), and **"B Shareholder"** shall mean any one of them;

**"Board"** means the board of Directors and any committee of the board constituted for the purpose of taking any action or decision contemplated by these Articles;

**"Business Day"** means a day on which English clearing banks are ordinarily open for the transaction of normal banking business in the City of London (other than a Saturday or Sunday);

**"Civil Partner"** means in relation to a Shareholder, a civil partner (as defined in the Civil Partnership Act 2004) of the Shareholder;

**"Company"** means Grabyo Limited (registration number 08606400);

**"CTA 2010"** means the Corporation Tax Act 2010;

**"Date of Adoption"** means the date on which these Articles were adopted;

**"Director(s)"** means a director or directors of the Company from time to time;

**"Drag Consideration"** has the meaning set out in Article 14.5;

**"electronic address"** has the same meaning as in section 333 of the Act;

**"electronic form"** and **"electronic means"** have the same meaning as in section 1168 of the Act;

**"Eligible Director"** means a Director who would be entitled to vote on a matter had it been proposed as a resolution at a meeting of the Directors;

**"Employee"** means an individual who is employed by or who provides consultancy services to, the Company or any member of the Group;

**"Employees' Share Scheme"** has the meaning given in section 1166 of the Companies Act 2006;

**"Encumbrance"** means any mortgage, charge, security, interest, lien, pledge, assignment by way of security, equity, claim, right of pre-emption, option, covenant, restriction, reservation, lease, trust, order, decree, judgment, title defect (including without limitation any retention of title claim), conflicting claim of ownership or any other encumbrance of any nature whatsoever (whether or not perfected other than liens arising by operation of law);

**"Equity Securities"** has the meaning given in sections 560(1) to (3) inclusive of the Act and for the avoidance of doubt an allotment of Equity Securities includes a transfer of shares which immediately before such transfer were held by the Company as Treasury Shares;

**"Existing Investors"** means (i) the persons whose names and addresses are set out in part 1 of schedule 1 of the Shareholders' Agreement (including, for the avoidance of doubt, any person who is also a New Investor) and (ii) any other person who becomes an "Existing Investor" under the terms of the Shareholders' Agreement;

**"Expert Valuer"** is as determined in accordance with Article 11.2;

**"Fair Value"** is as determined in accordance with Article 11;

**"Family Trusts"** means as regards any particular individual member or deceased or former individual member, trusts (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 individual and/or Privileged Relations of that individual; 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 such person or any voting or other rights attaching thereto are exercisable by or as directed by 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;

**"Financial Year"** means an accounting reference period (as defined by the Act) of the Company;

**"Group"** means the Company and its Subsidiary Undertaking(s) (if any) from time to time;

**"hard copy form"** has the same meaning as in section 1168 of the Act;

**"Holding Company"** means a newly formed holding company, pursuant to which the membership, pro rata shareholdings and classes of shares comprised in such holding company matches that of the Company (excluding Treasury Shares) immediately prior to the transfer of the issued share capital of the Company to such holding company;

**"Investor Majority"** means the holder(s) from time to time of more than two-thirds (66 2/3 per cent) of the aggregate voting rights in the Company held by all Investors;

**"Investor Majority Consent"** means the prior written consent of the Investor Majority;

**"Investors"** means, together, the Existing Investors and the New Investors;

**"ITEPA"** means Income Tax (Earnings and Pensions) Act 2003;

**"Member of the same Group"** means as regards any company, a company which is from time to time a Parent Undertaking or a Subsidiary Undertaking of that company or a Subsidiary Undertaking of any such Parent Undertaking;

**"New Investor Majority"** means the holder(s) from time to time of more than fifty (50) per cent of the aggregate voting rights in the Company held by all New Investors;

**"New Investor Majority Consent"** means the prior written consent of the New Investor Majority;

**"New Investors"** means (i) the persons whose names and addresses are set out in part 2 of schedule 1 of the Shareholders' Agreement (including, for the avoidance of doubt, any person who is also an Existing Investor) and (ii) any other person who becomes a "New Investor" under the terms of the Shareholders' Agreement;

**"New Securities"** means any shares or other securities convertible into, or carrying the right to subscribe for, those shares issued by the Company after the Date of Adoption (other than shares or securities issued as a result of the events set out in Article 7.6) excluding for the avoidance of doubt any Treasury Shares transferred by the Company after the Date of Adoption;

**"Offer"** has the meaning set out in Article 13;

**"Offer Period"** has the meaning set out in Article 13.3;

**"Original Shareholder"** has the meaning set out in Article 9.1;

**"Permitted Transfer"** means a transfer of Shares in accordance with Article 9;

**"Permitted Transferee"** means:

- (a) in relation to a Shareholder who is an individual, any of his Privileged Relations, Trustees or Qualifying Companies;
- (b) in relation to a Shareholder which is an undertaking (as defined in section 1161(1) of the Act) means any Member of the same Group; and
- (c) in relation to Bridford Investments Limited, a company registered in Jersey with company number 131861 and whose registered office is at 47 Esplanade, St Helier, Jersey JE1 0BD ("**Bridford**"):
  - (i) Jörg Mohaupt;
  - (ii) any other legal person (to include co-operatives and partnerships) that, from time to time, directly or indirectly, controls, is controlled by, or is under common control with, Bridford (where "**control**" means the ownership, directly or indirectly, of the majority of the total voting rights of a legal person or having the power to direct the management or elect a majority of members to the board of directors or equivalent decision-making body of such legal person) ("**Bridford Affiliates**"); and
  - (iii) any employees of any Bridford Affiliate for such time as they are employees of a Bridford Affiliate,

and each of (i), (ii) and (iii) above shall be Permitted Transferees of each other;

subject in each case to the prior approval of a majority of the Directors;

**"Privileged Relation"** in relation to a Shareholder who is an individual member or deceased or former member means a spouse, Civil Partner, child or grandchild (including step or adopted or illegitimate child and their issue);

**"Proposed Purchaser"** means a proposed purchaser who is a third-party and at the relevant time has made a bona fide offer on arm's length terms;

**"Proposed Sale Date"** has the meaning given in Article 13.3;

**"Proposed Sale Notice"** has the meaning given in Article 13.3;

**"Proposed Sale Shares"** has the meaning given in Article 13.3;

**"Proposed Seller"** means any person proposing to transfer any shares in the capital of the Company;

**"Proposed Transfer"** has the meaning given in Article 13.1;

**"Qualifying Company"** means a company in which a relevant Shareholder or Trustee(s) holds the entire issued share capital and over which that Shareholder or Trustee(s) exercises control (within the meaning of section 1124 of the CTA 2010);

**"Qualifying Person"** has the meaning given in section 318(3) of the Act;

**"Relevant Interest"** has the meaning set out in Article 23.4;

**"Reorganisation"** means any proposed restructuring of the Group or reorganisation of the share capital of the Company which has been approved by the Board with Investor Majority Consent;

**"Sale Shares"** has the meaning set out in Article 10.2(a);

**"Seller"** has the meaning set out in Article 10.2;

**"Share Option Scheme"** means the Executive Share Option Scheme 2014 and Unapproved Share Option Scheme 2020 of the Company operated in accordance with the applicable scheme rules (as amended, varied and supplemented from time to time);

**"Shareholder"** means any holder of any Shares (but excludes the Company holding Treasury Shares);

**"Shareholders' Agreement"** means the shareholders' agreement dated on or around the Date of Adoption between, amongst others, the Company and the Investors;

**"Shares"** means the shares in the capital of the Company from time to time, unless otherwise specified;

**"Subsidiary Undertaking"** and **"Parent Undertaking"** have the respective meanings set out in sections 1159 and 1162 of the Act;

**"Transfer Notice"** shall have the meaning given in Article 10.2;

**"Transfer Offer Period"** has the meaning set out in Article 10.7(a);

**"Transfer Price"** shall have the meaning given in Article 10.2(c);

**"Treasury Shares"** means shares in the capital of the Company held by the Company as treasury shares from time to time within the meaning set out in section 724(5) of the Act;

**"Trustees"** in relation to a Shareholder means the trustee or the trustees of a Family Trust; and

**"United Kingdom"** means the United Kingdom of Great Britain and Northern Ireland.

### **3. Share capital**

- 3.1 In these Articles, unless the context requires otherwise, references to shares of a particular class shall include shares allotted and/or issued after the Date of Adoption and ranking pari passu in all respects (or in all respects except only as to the date from which those shares rank for dividend) with the shares of the relevant class then in issue.
- 3.2 Except as otherwise provided in these Articles the A Ordinary Shares and the B Ordinary Shares shall rank pari passu in all respects but shall constitute separate classes of shares.
- 3.3 All Shares shall be issued fully paid.
- 3.4 The words "and the directors may determine the terms, conditions and manner of redemption of any such shares" shall be deleted from article 22(2) of the Model Articles.
- 3.5 Save for any requirement to buy-back a Shareholder's Shares in accordance with the terms of the Share Option Scheme, any other Employees' Share Scheme or any option granted under the Share Option Scheme and/or any other Employees' Share Scheme and, otherwise, subject to Investor Majority Consent and the Act, the Company may purchase its own Shares with cash to the extent permitted by section 692(1)(b) of the Act.
- 3.6 In article 25(2) of the Model Articles, the words "payment of a reasonable fee as the directors decide" in paragraph (c) shall be deleted and replaced by the words "payment of the expenses reasonably incurred by the Company in investigating evidence as the directors may determine".
- 3.7 For the avoidance of doubt, the Company shall not exercise any right in respect of any Treasury Shares, including without limitation any right to:
- (a) receive notice of or to attend or vote at any general meeting of the Company;
  - (b) receive or vote on any proposed written resolution; and
  - (c) receive a dividend or other distribution,
- save as otherwise permitted by section 726(4) of the Act.

### **4. Dividends**

- 4.1 In respect of any Financial Year, the Company's Available Profits will be applied as set out in this Article 4.
- 4.2 Any Available Profits which the Company may determine to distribute in respect of any Financial Year; will be distributed among the holders of the Shares (pari passu as if the Shares constituted one class of share) pro rata to their respective holdings of Shares.
- 4.3 Subject to the Act and these Articles, the Board may pay interim dividends if justified by the Available Profits in respect of the relevant period.
- 4.4 Article 31(1) of the Model Articles shall be amended by:
- (a) the replacement of the words "either in writing or as the directors may otherwise decide" at the end of paragraphs (a), (b) and (c) of that article 31(1) with the words "in writing"; and



- (b) the replacement of the words "either in writing or by such other means as the directors decide" from the end of paragraph (d) of that article 31(1) with the words "in writing".

## **5. Votes in general meeting and written resolutions**

- 5.1 The A Ordinary Shares shall confer on each A Shareholder the right to receive notice of and to attend, speak and vote at all general meetings of the Company and to receive and vote on proposed written resolutions of the Company.
- 5.2 The B Ordinary Shares shall not entitle the B Shareholders to receive notice of, to attend, to speak or to vote at any general meeting of the Company nor to receive or vote on, or otherwise constitute an eligible member for the purposes of, proposed written resolutions of the Company.
- 5.3 Where Shares confer a right to vote, on a show of hands each holder of such shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy shall have one vote and on a poll each such holder so present shall have one vote for each Share held by him.

## **6. Consolidation of Shares**

- 6.1 Whenever as a result of a consolidation of Shares any Shareholders would become entitled to fractions of a Share, the Directors may, on behalf of those Shareholders, sell the Shares representing the fractions for the best price reasonably obtainable to any person (including, subject to the provisions of the Act, the Company) and distribute the net proceeds of sale in due proportion among those Shareholders, and the Directors may authorise any person to execute an instrument of transfer of the Shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the Shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- 6.2 When the Company sub-divides or consolidates all or any of its Shares, the Company may, subject to the Act and to these Articles, by ordinary resolution determine that, as between the Shares resulting from the sub-division or consolidation, any of them may have any preference or advantage or be subject to any restriction as compared with the others.

## **7. Allotment of new shares or other securities: pre-emption**

- 7.1 Subject to the remaining provisions of this Article 7, the Directors are generally and unconditionally authorised for the purpose of section 551 of the Act to exercise any power of the Company to:

- (a) allot Shares; or
- (b) grant rights to subscribe for or convert any securities into Shares,

to any persons, at any times and subject to any terms and conditions as the Directors think proper, provided that:

- (1) this authority shall be limited to a maximum number of 10,000,000 A Ordinary Shares and 10,000,000 B Ordinary Shares;
- (2) this authority shall only apply insofar as the Company has not by resolution waived or revoked it;

- (3) this authority may only be exercised for a period of five years commencing upon the Date of Adoption, save that the Directors may make an offer or agreement which would or might require Shares to be allotted or rights granted to subscribe for or convert any security into Shares after the expiry of such authority (and the Directors may allot Shares or grant such rights in pursuance of an offer or agreement as if such authority had not expired),

and this authority is in substitution for all subsisting authorities to the extent unused.

- 7.2 Sections 561(1) and 562(1) to (5) (inclusive) of the Act do not apply to an allotment of Equity Securities made by the Company.

- 7.3 Unless otherwise agreed with Investor Majority Consent, if the Company proposes to allot any New Securities those New Securities shall not be allotted to any person unless the Company has in the first instance offered them:

- (a) in the case of A Ordinary Shares, to all A Shareholders; and/or  
(b) in the case of B Ordinary Shares, to all A Shareholders and B Shareholders,

on the same terms and at the same price as those New Securities are being offered by the Company on a pari passu and pro rata basis to the number of Shares held by those holders (as nearly as may be without involving fractions). The offer:

- (c) shall be in writing, be open for acceptance from the date of the offer to the date 10 Business Days after the date of the offer (inclusive) and give details of the number and subscription price of the New Securities; and  
(d) may stipulate that any relevant Shareholder who wishes to subscribe for a number of New Securities in excess of the proportion to which each is entitled shall in their acceptance state the number of excess New Securities ("**Excess Securities**") for which they wish to subscribe.

- 7.4 Any New Securities not accepted by relevant Shareholders pursuant to the offer made to them in accordance with Article 7.3 shall be used for satisfying any requests for Excess Securities made pursuant to Article 7.3 and in the event that there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants on a pro rata basis to the number of Shares held by the applicants immediately prior to the offer made to Shareholders in accordance with Article 7.3 (as nearly as may be without involving fractions or increasing the number allotted to any Shareholder beyond that applied for by him) and after that allotment, any Excess Securities remaining shall be offered to any other person as the Directors may determine at the same price and on the same terms as the offer to the Shareholders.

- 7.5 Subject to Articles 7.3 and 7.4 and to the provisions of section 551 of the Act, any New Securities shall be at the disposal of the Board who may allot, grant options over or otherwise dispose of them to any persons at those times and generally on the terms and conditions they think proper.

- 7.6 The provisions of Articles 7.3 to 7.5 (inclusive) shall not apply to:

- (a) the grant of options to subscribe for B Ordinary Shares under any Employees' Share Scheme (including, without limitation, the Share Option Scheme) and the allotment and issue of B Ordinary Shares upon exercise of such options;  
(b) New Securities issued or granted in order for the Company to comply with its obligations under these Articles; and

- (c) New Securities issued in consideration of the acquisition by the Company of any company or business.

7.7 No Shares shall be allotted (nor any Treasury Shares be transferred) to any Employee, Director, prospective Employee or prospective director of the Company, who in the opinion of the Board is subject to taxation in the United Kingdom, unless such person has entered into a joint section 431 ITEPA election with the Company if so required by the Company.

## **8. Transfers of Shares – general**

8.1 In this Article 8 to Article 14 (inclusive), reference to the transfer of a Share includes the transfer or assignment of a beneficial or other interest in that Share or the creation of a trust or Encumbrance over that Share and reference to a Share includes a beneficial or other interest in a Share.

8.2 No Share may be transferred unless the transfer is made in accordance with these Articles.

8.3 If a Shareholder transfers or purports to transfer a Share otherwise than in accordance with these Articles he will be deemed immediately to have served a Transfer Notice in respect of all Shares held by him.

8.4 Any transfer of a Share by way of sale which is required to be made under Articles 10 to 14 (inclusive) will be deemed to include a warranty that the transferor sells with full title guarantee.

8.5 The Directors may refuse to register a transfer if:

- (a) it is a transfer of a Share to a bankrupt, a minor or a person of unsound mind;
- (b) the transfer is to an Employee, Director or prospective Employee or prospective director of the Company, who in the opinion of the Board is subject to taxation in the United Kingdom, and such person has not entered into a joint section 431 ITEPA election with the Company;
- (c) the transfer is not lodged at the registered office or at such other place as the Directors may appoint;
- (d) the transfer is not accompanied by the certificate for the Shares to which it relates (or an indemnity for lost certificate in a form acceptable to the Board) and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer;
- (e) the transfer is in respect of more than one class of Shares; or
- (f) the transfer is in favour of more than four transferees.

If the Directors refuse to register a transfer, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

8.6 The Directors may, as a condition to the registration of any transfer of shares in the Company (whether pursuant to a Permitted Transfer or otherwise), require the transferee to execute and deliver to the Company a deed agreeing to be bound by the terms of the Shareholders' Agreement or any similar document in force between some or all of the Shareholders and the Company in any form as the Directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than

those of the proposed transferor under any such agreement or other document) and if any condition is imposed in accordance with this Article 8.6 the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee.

8.7 To enable the Directors to determine whether or not there has been any disposal of shares in the capital of the Company (or any interest in shares in the capital of the Company) in breach of these Articles the Directors may require any holder or the legal personal representatives of any deceased holder or any person named as transferee in any transfer lodged for registration or any other person who the Directors may reasonably believe to have information relevant to that purpose, to furnish to the Company that information and evidence the Directors may request regarding any matter which they deem relevant to that purpose, including (but not limited to) the names, addresses and interests of all persons respectively having interests in the shares in the capital of the Company from time to time registered in the holder's name. If the information or evidence is not provided to enable the Directors to determine to their reasonable satisfaction that no breach has occurred, or where as a result of the information and evidence the Directors are reasonably satisfied that a breach has occurred, the Directors shall immediately notify the holder of such shares in the capital of the Company in writing of that fact and the following shall occur:

- (a) the relevant shares shall cease to confer upon the holder of them (including any proxy appointed by the holder) any rights:
  - (i) to vote (whether on a show of hands or on a poll and whether exercisable at a general meeting or on a written resolution of the Company or at any separate meeting or written resolution of the class in question); or
  - (ii) to receive dividends or other distributions otherwise attaching to those shares or to any further shares issued in respect of those shares; and
- (b) the holder may be required at any time following receipt of the notice to transfer some or all of its Shares to any person(s) at the price that the Directors may require by notice in writing to that holder,

but the rights referred to in (a) above may be reinstated by the Board and shall in any event be reinstated upon the completion of any transfer referred to in (b) above.

8.8 In any case where the Board requires a Transfer Notice to be given in respect of any Shares, if a Transfer Notice is not duly given within a period of 10 Business Days of demand being made, a Transfer Notice shall be deemed to have been given at the expiration of that period.

8.9 If a Transfer Notice is required to be given by the Board or is deemed to have been given under these Articles, the Transfer Notice, unless otherwise specified in the Articles, will be treated as having specified that:

- (a) the Transfer Price for the Sale Shares will be as agreed between the Board (any Director who is a Seller or with whom the Seller is connected (within the meaning of section 252 of the Act) not voting) and the Seller, or, failing agreement within five Business Days after the date on which the Board becomes aware that a Transfer Notice has been deemed to have been given, will be the Fair Value of the Sale Shares;
- (b) it does not include a Minimum Transfer Condition (as defined in Article 10.2(d)); and
- (c) the Seller wishes to transfer all of the Shares held by it.

8.10 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the Directors, which is executed by or on behalf of:

- (a) the transferor; and
- (b) (if any of the shares is partly or nil paid) the transferee.

## **9. Permitted Transfers**

9.1 A Shareholder (the "**Original Shareholder**") may transfer all or any of his or its Shares to a Permitted Transferee without restriction as to price or otherwise.

9.2 Shares previously transferred as permitted by Article 9.1 may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder without restriction as to price or otherwise.

9.3 Where under the provision of a deceased Shareholder's will or laws as to intestacy, the persons legally or beneficially entitled to any Shares, whether immediately or contingently, are Permitted Transferees of the deceased Shareholder, the legal representative of the deceased Shareholder may transfer any Share to those Permitted Transferees, in each case without restriction as to price or otherwise.

9.4 If a Permitted Transferee who was a Member of the same Group as the Original Shareholder ceases to be a Member of the same Group as the Original Shareholder, the Permitted Transferee must not later than five Business Days after the date on which the Permitted Transferee so ceases, transfer the Shares held by it to the Original Shareholder or a Member of the same Group as the Original Shareholder (which in either case is not in liquidation) without restriction as to price or otherwise failing which it will be deemed to have given a Transfer Notice in respect of those Shares.

9.5 Trustees may (i) transfer Shares to a Qualifying Company or (ii) transfer Shares to the Original Shareholder or to another Permitted Transferee of the Original Shareholder or (iii) transfer Shares to the new or remaining trustees upon a change of Trustees without restrictions as to price or otherwise.

9.6 No transfer of Shares may be made to Trustees unless the Board is satisfied:

- (a) with the terms of the trust instrument and in particular with the powers of the trustees;
- (b) with the identity of the proposed trustees;
- (c) 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 the Family Trust in question are to be paid by the Company.

9.7 If a company to which a Share has been transferred under Article 9.5, ceases to be a Qualifying Company it must within five Business Days of so ceasing, transfer the Shares held by it to the Trustees or to a Qualifying Company (any may do so without restriction as to price or otherwise) failing which it will be deemed (unless it obtains the approval of the Board) to have given a Transfer Notice in respect of such Shares.

9.8 If a Permitted Transferee who is a spouse or Civil Partner of the Original Shareholder ceases to be a spouse or Civil Partner of the Original Shareholder whether by reason of divorce or otherwise, he must, within 15 Business Days of so ceasing 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 10.2,

failing which he shall be deemed to have given a Transfer Notice.

9.9 On the death (subject to Article 9.3), bankruptcy, liquidation, administration or administrative receivership of a Permitted Transferee (other than a joint holder) his personal representatives or trustee in bankruptcy, or its liquidator, administrator or administrative receiver must within five Business Days after the date of the grant of probate, the making of the bankruptcy order or the appointment of the liquidator, administrator or the administrative receiver execute and deliver to the Company a transfer of the Shares held by the Permitted Transferee without restriction as to price or otherwise. The transfer shall be to the Original Shareholder if still living (and not bankrupt or in liquidation) or, if so directed by the Original Shareholder, to any Permitted Transferee of the Original Shareholder. If the transfer is not executed and delivered within five Business Days of such period or if the Original Shareholder has died or is bankrupt or is in liquidation, administration or administrative receivership, the personal representative or trustee in bankruptcy or liquidator, administrator or administrative receiver will be deemed to have given a Transfer Notice.

9.10 Any Shares may at any time be transferred where there is a sale of the entire issued share capital of the Company to a Holding Company which has been approved by the Board.

#### 10. Transfers of Shares subject to pre-emption rights

10.1 Save where the provisions of Articles 9 and 14 apply, any transfer of Shares by a Shareholder shall, unless otherwise agreed with Investor Majority Consent, be subject to the pre-emption rights contained in this Article 10.

10.2 A Shareholder who wishes to transfer Shares (a "**Seller**") shall, except as otherwise provided in these Articles, before transferring or agreeing to transfer any Shares give notice in writing (a "**Transfer Notice**") to the Company specifying:

- (a) the number and class of Shares which he wishes to transfer (the "**Sale Shares**");
- (b) if he has identified a proposed transferee willing to acquire the Sale Shares, the name of such proposed transferee;
- (c) the price at which he wishes to transfer the Sale Shares or, if applicable, the price which the proposed transferee has agreed to pay for the Sale Shares (the "**Transfer Price**"); and
- (d) whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold (a "**Minimum Transfer Condition**"),

and if no cash price is specified by the Seller, the Transfer Price must be agreed between the Seller and the Board. In addition, if the price is not specified in cash, an equivalent cash value price must be agreed between the Seller and the Board. In both cases, the price will be deemed to be Fair Value of the Sale Shares if no price is agreed within 5 Business Days of the Company receiving the Transfer Notice.

10.3 Except with the written consent of the Board, no Transfer Notice once given or deemed to have been given under these Articles may be withdrawn.

10.4 A Transfer Notice constitutes the Company as the agent of the Seller for the sale of the Sale Shares at the Transfer Price.

10.5 As soon as practicable following the later of:

- (a) receipt of a Transfer Notice; and
- (b) in the case where the Transfer Price has not been agreed, the determination of the Transfer Price under Article 11,

the Board shall offer the Sale Shares for sale to the Shareholders in the manner set out in Article 10.6 and 10.7. Each offer must be in writing and give details of the number and Transfer Price of the Sale Shares offered.

10.6 *Priority for offer of Sale Shares*

- (a) If the Sale Shares are A Ordinary Shares, the Company shall offer them to the A Shareholders on the basis as set out in Article 10.7.
- (b) If the Sale Shares are B Ordinary Shares, the Sale Shares shall be offered to the A Shareholders and the B Shareholders (as if they constituted the same class) on the basis set out in Article 10.7.

10.7 *Transfers: Offer*

- (a) The Board shall offer the Sale Shares to all Shareholders specified in the offer in accordance with Article 10.6 other than the Seller (the "**Continuing Shareholders**") inviting them to apply in writing within the period from the date of the offer to the date 15 Business Days after the offer (inclusive) (the "**Transfer Offer Period**") for the maximum number of Sale Shares they wish to buy.
- (b) If the Sale Shares are subject to a Minimum Transfer Condition then any allocation made under this Article 10.7 will be conditional on the fulfilment of the Minimum Transfer Condition.
- (c) If, at the end of the Transfer Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Board shall allocate the Sale Shares to each Continuing Shareholder in the proportion (fractional entitlements being rounded to the nearest whole number) which his existing holding of Shares bears to the total number of Shares held by those Continuing Shareholders who have applied for Sale Shares but 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.
- (d) If, at the end of the Transfer Offer Period, the number of Sale Shares applied for is less than the number of Sale Shares, the Board shall allocate the Sale Shares to the Continuing Shareholders in accordance with their applications and the balance will be dealt with in accordance with Article 10.8(e).

10.8 *Completion of transfer of Sale Shares*

- (a) If the Transfer Notice includes a Minimum Transfer Condition and the total number of Shares applied for does not meet the Minimum Transfer Condition the Board shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under Article 10.7 stating the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.
- (b) If:

- (i) the Transfer Notice does not include a Minimum Transfer Condition; or
- (ii) the Transfer Notice does include a Minimum Transfer Condition and allocations have been made in respect of all or the minimum required number of the Sale Shares,

the Board shall, when no further offers are required to be made under Article 10.7, give written notice of allocation (an "**Allocation Notice**") to the Seller and each Shareholder to whom Sale Shares have been allocated (an "**Applicant**") specifying the number of Sale Shares allocated to each Applicant and the place and time (being not less than 10 Business Days nor more than 20 Business Days after the date of the Allocation Notice) for completion of the transfer of the Sale Shares.

- (c) Upon service of an Allocation Notice, the Seller must, against payment of the Transfer Price, transfer the Sale Shares in accordance with the requirements specified in it.
- (d) If the Seller fails to comply with the provisions of Article 10.8(c):
  - (i) the chairman of the Company or, failing him, one of the Directors, or some other person nominated by a resolution of the Board, may on behalf of the Seller:
    - (A) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
    - (B) receive the Transfer Price and give a good discharge for it; and
    - (C) (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
  - (ii) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) or otherwise hold the Transfer Price on trust for the Seller until he has delivered to the Company his certificate or certificates for the relevant Shares (or an indemnity for lost certificate in a form acceptable to the Board).
- (e) If an Allocation Notice does not relate to all the Sale Shares then, subject to Article 10.8(f), the Seller may, within eight weeks after service of the Allocation Notice, transfer the unallocated Sale Shares to any person at a price at least equal to the Transfer Price.
- (f) The right of the Seller to transfer Shares under Article 10.8(e) does not apply if the Board is of the opinion on reasonable grounds that:
  - (i) the transferee is a person (or a nominee for a person) who the Board determine in their absolute discretion is a competitor with (or an Associate of a competitor with) the business of the Company or with a Subsidiary Undertaking of the Company;
  - (ii) 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



- (iii) the Seller has failed or refused to provide promptly information available to it or him and reasonably requested by the Board for the purpose of enabling it to form the opinion mentioned above.

## **11. Valuation of Shares**

11.1 If no Transfer Price can be agreed between the Seller and the Board in accordance with provisions of Articles 8.9, 10.2 or otherwise then, on the date of failing agreement, the Board shall either:

- (a) appoint an expert valuer in accordance with Article 11.2 (the "**Expert Valuer**") to certify the Fair Value of the Sale Shares; or
- (b) (if the Fair Value has been certified by an Expert Valuer within the preceding 12 weeks) specify that the Fair Value of the Sale Shares will be calculated by dividing any Fair Value so certified by the number of Sale Shares to which it related and multiplying such Fair Value by the number of Sale Shares the subject of the Transfer Notice.

11.2 The Expert Valuer will be either:

- (a) the Auditors; or (if so specified in the relevant Transfer Notice)
- (b) an independent firm of Chartered Accountants to be agreed between the Board and the Seller or failing agreement not later than the date 10 Business Days after the date of service of the Transfer Notice to be nominated by the then President of the Institute of Chartered Accountants in England and Wales on the application of either party and approved by the Company.

11.3 The "**Fair Value**" of the Sale Shares shall be determined by the Expert Valuer on the following assumptions and bases:

- (a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer;
- (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 (excluding any Shares held as Treasury Shares) without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent but taking account of the rights attaching to the Sale Shares; and
- (e) reflect any other factors which the Expert Valuer reasonably believes should be taken into account.

11.4 If any difficulty arises in applying any of these assumptions or bases then the Expert Valuer shall resolve that difficulty in whatever manner they shall in their absolute discretion think fit.

11.5 The Expert Valuer shall be requested to determine the Fair Value within 20 Business Days of their appointment and to notify the Board of their determination.

11.6 The Expert Valuer shall act as experts and not as arbitrators and their determination shall be final and binding on the parties (in the absence of fraud or manifest error).

- 11.7 The Board will give the Expert Valuer access to all accounting records or other relevant documents of the Company subject to them agreeing such confidentiality provisions as the Board may reasonably impose.
- 11.8 The Expert Valuer shall deliver their certificate to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Seller. Unless the Sale Shares are to be sold under a Transfer Notice, which is deemed to have been served, the Seller may by notice in writing to the Company within five Business Days of the service on him of the copy certificate, cancel the Company's authority to sell the Sale Shares.
- 11.9 The cost of obtaining the certificate shall be paid by the Company unless:
- (a) the Seller cancels the Company's authority to sell; or
  - (b) the Transfer Price certified by the Expert Valuer is less than the price (if any) offered by the Directors to the Seller for the Sale Share before Expert Valuer was instructed,

in which case the Seller shall bear the cost.

## **12. Compulsory transfers – general**

- 12.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder shall be deemed to have given a Transfer Notice in respect of that Share at a time determined by the Directors.
- 12.2 If a Share remains registered in the name of a deceased Shareholder for longer than one year after the date of his death, the Directors may require the legal personal representatives of that deceased Shareholder either:
- (a) to effect a Permitted Transfer of such Shares (including for this purpose an election to be registered in respect of the Permitted Transfer); or
  - (b) to show to the satisfaction of the Directors that a Permitted Transfer will be effected before or promptly upon the completion of the administration of the estate of the deceased Shareholder.
- 12.3 If a Shareholder which is a company, either suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it or any material part of its assets (other than as part of a bona fide restructuring or reorganisation), the relevant Shareholder (and all its Permitted Transferees) shall be deemed to have given a Transfer Notice in respect of all the shares held by the relevant Shareholder and its Permitted Transferees save to the extent that, and at a time, the Directors may determine.
- 12.4 If there is a change in control (as control is defined in section 1124 of the CTA 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 and their names and their respective nominees' names save that, in the case of the Permitted Transferee, 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 before being required to serve a Transfer Notice. This Article 12.4 shall not apply to a member that is an Investor.

### 13. Mandatory Offer on a Change of Control

- 13.1 Except in the case of Permitted Transfers and transfers pursuant to Article 12, after going through the pre-emption procedure in Article 10, the provisions of Article 13.2 will apply if one or more Proposed Sellers propose to transfer in one or a series of related transactions any Shares (the "**Proposed Transfer**") which would, if put into effect, result in any Proposed Purchaser (and Associates of his or persons Acting in Concert with him) acquiring more than fifty (50) per cent of all the voting rights in the Company.
- 13.2 A Proposed Seller must, before making a Proposed Transfer procure the making by the Proposed Purchaser of an offer (the "**Offer**") to all other Shareholders to acquire all Shares held by them for a consideration per share the value of which is at least equal to the Specified Price (as defined in Article 13.7).
- 13.3 The Offer must be given by written notice (a "**Proposed Sale Notice**") at least 10 Business Days (the "**Offer Period**") prior to the proposed sale date ("**Proposed Sale Date**"). The Proposed Sale Notice must set out, to the extent not described in any accompanying documents, the identity of the Proposed Purchaser, the purchase price and other terms and conditions of payment, the Proposed Sale Date and the number of Shares proposed to be purchased by the Proposed Purchaser (the "**Proposed Sale Shares**").
- 13.4 If any other holder of Shares is not given the rights accorded him by this Article, the Proposed Sellers will not be entitled to complete their sale and the Company will not register any transfer intended to carry that sale into effect.
- 13.5 If the Offer is accepted by any Shareholder (an "**Accepting Shareholder**") within the Offer Period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Shares held by Accepting Shareholders.
- 13.6 The Proposed Transfer is subject to the pre-emption provisions of Article 10 but the purchase of the Accepting Shareholders' shares shall not be subject to Article 10.
- 13.7 For the purpose of this Article:
- (a) the expression "**transfer**" and "**purchaser**" shall include the renunciation of a renounceable letter of allotment and the renouncee under any such letter of allotment respectively;
  - (b) the expression "**Specified Price**" shall mean in respect of each Share a sum in cash equal to the highest price per Share offered or paid by the Proposed Purchaser:
    - (i) in the Proposed Transfer; or
    - (ii) in any related or previous transaction by the Proposed Purchaser or any person Acting in Concert with the Proposed Purchaser in the 12 months preceding the date of the Proposed Transfer,plus an amount equal to the Relevant Sum, as defined in Article 13.7(c), of any other consideration (in cash or otherwise) paid or payable by the Proposed Purchaser or any other person Acting in Concert with the Proposed Purchaser, which having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Shares (the "**Supplemental Consideration**"); and
  - (c) "**Relevant Sum**" =  $C \div A$

where: A = number of Shares being sold in connection with the relevant Proposed Transfer; and

C = the Supplemental Consideration.

#### 14. Drag-along

14.1 Provided that this Article shall not apply in the case of a Reorganisation, subject to the holders of more than fifty (50) per cent of all the voting rights in the Company (the "**Selling Shareholders**") wishing to transfer all their interest in A Shares (the "**Sellers' Shares**") to a Proposed Purchaser, the Selling Shareholders shall, subject to Article 14.2, have the option (the "**Drag Along Option**") to compel each other holder of Shares (each a "**Called Shareholder**" and together the "**Called Shareholders**") to sell and transfer all their Shares to the Proposed Purchaser or as the Proposed Purchaser shall direct (the "**Drag Purchaser**") in accordance with the provisions of this Article.

14.2 During the period of three (3) years starting on the Date of Adoption the Selling Shareholders shall not be entitled to compel any New Investor to sell and transfer their Shares as provided for in Article 14.1 above if the Drag Consideration at which the Called Shares (as defined below) held by such New Investors would otherwise be transferred is less in value than £59 (fifty-nine pounds sterling) (subject to adjustment from time to time as may be required to reflect any sub-division or consolidation of the Shares) per Called Share, without New Investor Majority Consent.

14.3 The Selling Shareholders may exercise the Drag Along Option by giving a written notice to that effect (a "**Drag Along Notice**") to the Company which the Company shall forthwith copy to the Called Shareholders at any time before the transfer of the Sellers' Shares to the Drag Purchaser. A Drag Along Notice shall specify that:

- (a) the Called Shareholders are required to transfer all their Shares (the "**Called Shares**") under this Article;
- (b) the person to whom they are to be transferred;
- (c) the consideration for which the Called Shares are to be transferred (calculated in accordance with this Article);
- (d) the proposed date of transfer, 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 (the "**Sale Agreement**").

(and, in the case of paragraphs (b) to (d) above, whether actually specified or to be determined in accordance with a mechanism described in the Drag Along Notice). No Drag Along Notice or Sale Agreement may require a Called Shareholder to agree to any terms except those specifically provided for in this Article.

14.4 Drag Along Notices shall be irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares by the Selling Shareholders to the Drag Purchaser within 60 Business Days after the date of service of the Drag Along Notice. The Selling Shareholders shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

14.5 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be the same consideration per Share as that which is to be paid by the Drag Purchaser to the Selling Shareholders for each Sellers' Share (the "**Drag Consideration**").

- 14.6 In respect of a transaction that is the subject of a Drag-Along Notice, a Called Shareholder shall not be obliged to give warranties or indemnities (except a warranty as to capacity and the full title guarantee of the Shares held by such Shareholder).
- 14.7 Within three Business Days of the Drag Purchaser serving a Drag Along Notice on the Called Shareholders (or such later date as may be specified in the Drag Along Notice) (the "**Drag Completion Date**"), each Called Shareholder shall deliver:
- (a) duly executed stock transfer form(s) for its Shares in favour of the Drag Purchaser;
  - (b) the relevant share certificate(s) (or a duly executed indemnity for lost certificate in a form acceptable to the Board) to the Company; and
  - (c) duly executed Sale Agreement, if applicable, in the form specified in the Drag Along Notice or as otherwise specified by the Company,
- together, the "**Drag Documents**".
- 14.8 On the Drag Completion Date, the Company shall pay each Called Shareholder, on behalf of the Drag Purchaser, the Drag Consideration to the extent the Drag Purchaser has paid such consideration to the Company. The Company's receipt of the Drag Consideration shall be a good discharge to the Drag Purchaser. The Company shall hold the Drag Consideration in trust for each of the Called Shareholders without any obligation to pay interest.
- 14.9 To the extent that the Drag Purchaser has not, on the Drag Completion Date, paid the Drag Consideration to the Company, the Called Shareholders shall be entitled to the immediate return of the Drag Documents for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this Article 14 in respect of their Shares.
- 14.10 If a Called Shareholder fails to deliver the Drag Documents for its Shares to the Company by the Drag Completion Date, the Company and each Director shall be constituted the agent of such defaulting Called Shareholder for taking such actions and entering into such agreements or documents as are necessary to effect the transfer of the Called Shareholder's Shares and the Directors shall, if requested by the Drag Purchaser, authorise any Director to transfer the Called Shareholder's Shares on the Called Shareholder's behalf to the Drag Purchaser to the extent the Drag Purchaser has, by the Drag Completion Date, paid the Drag Consideration to the Company for the Called Shareholder's Shares offered to him. The Board shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Called Shareholder shall surrender his share certificate for his Shares (or suitable executed indemnity) to the Company. On surrender, he shall be entitled to the Drag Consideration due to him.
- 14.11 Any transfer of Shares to a Drag Purchaser pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the provisions of Article 10.
- 14.12 On any person, following the issue of a Drag Along Notice, becoming a Shareholder pursuant to the exercise of a pre-existing option or warrant to acquire shares in the Company or pursuant to the conversion of any convertible security of the Company (a "**New Shareholder**"), a Drag Along Notice shall be deemed to have been served on the New Shareholder on the same terms as the previous Drag Along Notice who shall then be bound to sell and transfer all Shares so acquired to the Drag Purchaser and the provisions of this Article shall apply with the necessary changes to the New Shareholder except that completion of the sale of the Shares shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder.

## **15. General meetings**

- 15.1 If the Directors are required by the Shareholders under section 303 of the Act to call a general meeting, the Directors shall convene the meeting for a date not later than 28 days after the date on which the Directors became subject to the requirement under section 303 of the Act.
- 15.2 The quorum for general meetings shall be two Qualifying Persons holding in aggregate 50% or more of the A Ordinary Shares then in issue.
- 15.3 If any two or more Shareholders (or Qualifying Persons representing two or more Shareholders) attend the meeting in different locations, the meeting shall be treated as being held at the location specified in the notice of the meeting, save that if no one is present at that location so specified, the meeting shall be deemed to take place where the largest number of Qualifying Persons is assembled or, if no such group can be identified, at the location of the chairman.
- 15.4 If a demand for a poll is withdrawn under article 44(3) of the Model Articles, the demand shall not be taken to have invalidated the result of a show of hands declared before the demand was made and the meeting shall continue as if the demand had not been made.
- 15.5 Polls must be taken in such manner as the chairman directs. A poll demanded on the election of a chairman or on a question of adjournment must be held immediately. A poll demanded on any other question must be held either immediately or at such time and place as the chairman directs not being more than 14 days after the poll is demanded. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded.
- 15.6 No notice need be given of a poll not held immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
- 15.7 If the poll is to be held more than 48 hours after it was demanded the Shareholders shall be entitled to deliver proxy notices in respect of the poll at any time up to 24 hours before the time appointed for taking that poll. In calculating that period, no account shall be taken of any part of a day that is not a working day.

## **16. Proxies**

- 16.1 Paragraph (c) of article 45(1) of the Model Articles shall be deleted and replaced by the words: "is signed by or on behalf of the shareholder appointing the proxy and accompanied by any the authority under which it is signed (or a certified copy of such authority or a copy of such authority in some other way approved by the directors)".
- 16.2 The instrument appointing a proxy and any authority under which it is signed or a certified copy of such authority or a copy in some other way approved by the Directors may:
  - (a) be sent or supplied in hard copy form, or (subject to any conditions and limitations which the Board may specify) in electronic form, to the registered office of the Company or to such other address (including electronic address) as may be specified for this purpose in the notice convening the meeting or in any instrument of proxy or any invitation to appoint a proxy sent or supplied by the Company in relation to the meeting at any time before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote;

- (b) be delivered at the meeting or adjourned meeting at which the person named in the instrument proposes to vote to the chairman or to the company secretary or to any Director; or
- (c) in the case of a poll, be delivered at the meeting at which the poll was demanded to the chairman or to the company secretary or to any Director, or at the time and place at which the poll is held to the Chairman or to the company secretary or to any Director or scrutineer,

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

#### **17. Directors' borrowing powers**

The Directors may where required, exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property and uncalled capital and to issue debentures, debenture stock and other securities as security for any debt, liability of obligation of the Company or of any third party.

#### **18. Alternate Directors**

18.1 Notwithstanding any provision of these Articles to the contrary, any person appointed as a Director (the "**Appointor**") may appoint any Director or any other person as he thinks fit to be his alternate Director to:

- (a) exercise that Director's powers; and
- (b) carry out that Director's responsibilities in relation to the taking of decisions by the Directors in the absence of the alternate's Appointor,

and the appointment of an alternate Director shall not require approval by a resolution of the Directors.

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

18.3 The notice must:

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

18.4 An alternate Director may act as an alternate to more than one Director and has the same rights, in relation to any Directors' meeting (including as to notice) or Directors' written resolution, as the alternate's Appointor.

18.5 Except as these Articles specify otherwise, alternate Directors:

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

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

**18.6 A person who is an alternate Director but not a Director:**

- (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's Appointor is not participating); and
- (b) may sign a Directors' written resolution (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate),

but no alternate may be counted as more than one Director for such purposes.

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

**18.8 An alternate Director is not entitled to receive any remuneration from the company for serving as an alternate Director, except such part of the alternate's Appointor's remuneration as the Appointor may direct by notice in writing made to the Company.**

**18.9 An alternate Director's appointment as an alternate shall terminate:**

- (a) when the alternate's Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
- (b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a Director;
- (c) on the death of the alternate's Appointor; or
- (d) when the alternate's Appointor's appointment as a Director terminates.

**19. Number of Directors**

Unless and until the Company shall otherwise determine by ordinary resolution, the number of Directors shall be not less than two.

**20. Appointment of Directors**

**20.1 Any person who is willing to act as a Director, and who is permitted by law to do so, may be appointed to be a Director by ordinary resolution, or by a decision of the Directors.**

**20.2 In any case where, as a result of death or bankruptcy, the Company has no Shareholders (ignoring for these purposes the Company as holder of any Treasury Shares) and no Directors, the transmittee(s) of the last Shareholder to have died or to have had a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a natural person who is willing to do so to be a Director and any such appointment shall be as effective as if made by the Company in general meeting pursuant to these Articles. For the purposes of this Article 20.2, where two or more Shareholders die in circumstances rendering it uncertain who was the last to die, a younger Shareholder is deemed to have survived an older Shareholder.**



## **21. Disqualification of Directors**

In addition to that provided in article 18 of the Model Articles, the office of a Director shall also be vacated if he is convicted of a criminal offence (other than a minor motoring offence) and the Directors resolve that his office be vacated.

## **22. Proceedings of Directors**

22.1 Save as set out in Article 22.2, the quorum for Directors' meetings shall be two Directors. If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or at such time and place as determined by the Directors present at such meeting. If a quorum is not present at any such adjourned meeting within half an hour from the time appointed, then the meeting shall proceed.

22.2 The quorum for transaction of business of the Directors shall be one eligible Director, if at any meeting of the Directors, to the extent called to consider and vote on any matter in relation to which a Director is not entitled to or does not vote or whose vote is not counted by virtue of:

- (a) the provisions of Article 23; or
- (b) the exercise by a Director, pursuant to Article 23.7, of the right not to attend and vote; or
- (c) section 175(6)(b) of the Act;

there is only one eligible Director willing to take a decision on any matter

22.3 In the event that a meeting of the Directors is attended by a Director who is acting as alternate for one or more other Directors, the Director or Directors for whom he is the alternate shall be counted in the quorum despite their absence, and if on that basis there is a quorum the meeting may be held despite the fact (if it is the case) that only one Director is physically present.

22.4 If all the Directors participating in a meeting of the Directors are not physically in the same place, the meeting shall be deemed to take place where the largest group of participators in number is assembled. In the absence of a majority the location of the chairman shall be deemed to be the place of the meeting.

22.5 Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company at any time before or after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

22.6 Provided (if these Articles so require) that he has declared to the Directors, in accordance with the provisions of these Articles, the nature and extent of his interest (and subject to any restrictions on voting or counting in a quorum imposed by the Directors in authorising a Relevant Interest), a Director may vote at a meeting of the Directors or of a committee of the Directors on any resolution concerning a matter in which he has an interest, whether a direct or an indirect interest, or in relation to which he has a duty and shall also be counted in reckoning whether a quorum is present at such a meeting.

22.7 Questions arising at any meeting of the Directors shall be decided by a majority of votes. In the case of any equality of votes, the chairman shall not have a second or casting vote.

22.8 A decision of the Directors 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 (including confirmation given by electronic means). Reference in article 7(1) of the Model Articles to article 8 of the Model Articles shall be deemed to include a reference to this article also.

## **23. Directors' interests**

### *Specific interests of a Director*

23.1 Subject to the provisions of the Act and provided (if these Articles so require) that he has declared to the Directors in accordance with the provisions of these Articles, the nature and extent of his interest, a Director may (save as to the extent not permitted by law from time to time), notwithstanding his office, have an interest of the following kind:

- (a) where a Director (or a person connected with him) is party to or in any way directly or indirectly interested in, or has any duty in respect of, any existing or proposed contract, arrangement or transaction with the Company or any other undertaking in which the Company is in any way interested;
- (b) where a Director (or a person connected with him) is a director, employee or other officer of, or a party to any contract, arrangement or transaction with, or in any way interested in, any body corporate promoted by the Company or in which the Company is in any way interested;
- (c) where a Director (or a person connected with him) is a shareholder in the Company or a shareholder in, employee, director, member or other officer of, or consultant to, a Parent Undertaking of, or a Subsidiary Undertaking of a Parent Undertaking of, the Company;
- (d) where a Director (or a person connected with him) holds and is remunerated in respect of any office or place of profit (other than the office of auditor) in respect of the Company or body corporate in which the Company is in any way interested;
- (e) where a Director is given a guarantee, or is to be given a guarantee, in respect of an obligation incurred by or on behalf of the Company or any body corporate in which the Company is in any way interested;
- (f) where a Director (or a person connected with him or of which he is a member or employee) acts (or any body corporate promoted by the Company or in which the Company is in any way interested of which he is a director, employee or other officer may act) in a professional capacity for the Company or any body corporate promoted by the Company or in which the Company is in any way interested (other than as auditor) whether or not he or it is remunerated for this;
- (g) an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest; or
- (h) any other interest authorised by ordinary resolution.

*Interests of which a Director is not aware*

- 23.2 For the purposes of this Article 23, an interest of which a Director is not aware and of which it is unreasonable to expect him to be aware shall not be treated as an interest of his.

*Accountability of any benefit and validity of a contract*

- 23.3 In any situation permitted by this Article 23 (save as otherwise agreed by him) a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from that situation and no such contract, arrangement or transaction shall be avoided on the grounds of any such interest or benefit.

*Terms and conditions of Board authorisation*

- 23.4 Any authority given in accordance with section 175(5)(a) of the Act in respect of a Director ("**Interested Director**") who has proposed that the Directors authorise his interest ("**Relevant Interest**") pursuant to that section may, for the avoidance of doubt:

- (a) be given on such terms and subject to such conditions or limitations as may be imposed by the authorising Directors as they see fit from time to time, including, without limitation:
  - (i) restricting the Interested Director from voting on any resolution put to a meeting of the Directors or of a committee of the Directors in relation to the Relevant Interest;
  - (ii) restricting the Interested Director from being counted in the quorum at a meeting of the Directors or of a committee of the Directors where such Relevant Interest is to be discussed; or
  - (iii) restricting the application of the provisions in Articles 23.5 and 23.6, so far as is permitted by law, in respect of such Interested Director; and
- (b) be withdrawn, or varied at any time by the Directors entitled to authorise the Relevant Interest as they see fit from time to time,

and an Interested Director must act in accordance with any such terms, conditions or limitations imposed by the authorising Directors pursuant to section 175(5)(a) of the Act and this Article 23.

*Director's duty of confidentiality to a person other than the Company*

- 23.5 Subject to Article 23.6 (and without prejudice to any equitable principle or rule of law which may excuse or release the Director from disclosing information, in circumstances where disclosure may otherwise be required under this Article 23), if a Director, otherwise than by virtue of his position as director, receives information in respect of which he owes a duty of confidentiality to a person other than the Company, he shall not be required:

- (a) to disclose such information to the Company or to any Director, or to any officer or employee of the Company; or
- (b) otherwise to use or apply such confidential information for the purpose of or in connection with the performance of his duties as a Director.

- 23.6 Where such duty of confidentiality arises out of a situation in which a Director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the

interests of the Company, Article 23.5 shall apply only if the conflict arises out of a matter which falls within Article 23.1 or has been authorised under section 175(5)(a) of the Act.

*Additional steps to be taken by a Director to manage a conflict of interest*

- 23.7 Where a Director has an interest which can reasonably be regarded as likely to give rise to a conflict of interest, the Director shall take such additional steps as may be necessary or desirable for the purpose of managing such conflict of interest, including compliance with any procedures laid down from time to time by the Directors for the purpose of managing conflicts of interest generally and/or any specific procedures approved by the Directors for the purpose of or in connection with the situation or matter in question, including without limitation:
- (a) absenting himself from any discussions, whether in meetings of the Directors or otherwise, at which the relevant situation or matter falls to be considered; and
  - (b) excluding himself from documents or information made available to the Directors generally in relation to such situation or matter and/or arranging for such documents or information to be reviewed by a professional adviser to ascertain the extent to which it might be appropriate for him to have access to such documents or information.

*Requirement of a Director is to declare an interest*

- 23.8 Subject to section 182 of the Act, a Director shall declare the nature and extent of any interest permitted by Article 23.1 at a meeting of the Directors, or by general notice in accordance with section 184 (notice in writing) or section 185 (general notice) of the Act or in such other manner as the Directors may determine, except that no declaration of interest shall be required by a Director in relation to an interest:
- (a) falling under Article 23.1(g);
  - (b) if, or to the extent that, the other Directors are already aware of such interest (and for this purpose the other Directors are treated as aware of anything of which they ought reasonably to be aware); or
  - (c) if, or to the extent that, it concerns the terms of his service contract (as defined by section 227 of the Act) that have been or are to be considered by a meeting of the Directors, or by a committee of Directors appointed for the purpose under these Articles.

*Shareholder approval*

- 23.9 Subject to section 239 of the Act, the Company may by ordinary resolution ratify any contract, transaction or arrangement, or other proposal, not properly authorised by reason of a contravention of any provisions of this Article 23.
- 23.10 For the purposes of this Article 23:
- (a) a conflict of interest includes a conflict of interest and duty and a conflict of duties;
  - (b) the provisions of section 252 of the Act shall determine whether a person is connected with a Director;
  - (c) a general notice to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall

be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified.

## **24. Notices**

24.1 Subject to the requirements set out in the Act, any notice given or document sent or supplied to or by any person under these Articles, or otherwise sent by the Company under the Act, may be given, sent or supplied:

- (a) in hard copy form;
- (b) in electronic form; or
- (c) (by the Company) by means of a website (other than notices calling a meeting of Directors),

or partly by one of these means and partly by another of these means, and notices shall be given and documents supplied in accordance with the procedures set out in the Act, except to the extent that a contrary provision is set out in this Article 24.

### *Notices in hard copy form*

24.2 Any notice or other document in hard copy form given or supplied under these Articles may be delivered or sent by recorded post (courier if overseas):

- (a) to the Company or any other company at its registered office; or
- (b) to the address notified to or by the Company for that purpose; or
- (c) in the case of an intended recipient who is a member or his legal personal representative or trustee in bankruptcy, to such member's address as shown in the Company's register of members; or
- (d) in the case of an intended recipient who is a Director or alternate, to his address as shown in the register of Directors; or
- (e) to any other address to which any provision of the Companies Acts (as defined in the Act) authorises the document or information to be sent or supplied; or
- (f) where the Company is the sender, if the Company is unable to obtain an address falling within one of the addresses referred to in (a) to (e) above, to the intended recipient's last address known to the Company.

24.3 Any notice or other document in hard copy form given or supplied under these Articles shall be deemed to have been served and be effective:

- (a) if delivered by hand or courier, at the time of delivery (subject to a receipt being obtained);
- (b) if sent by recorded post and unless proof of earlier delivery is obtained, 48 hours after the time it was posted.

### *Notices in electronic form*

24.4 Subject to the provisions of the Act, any notice or other document in electronic form given or supplied under these Articles may:

- (a) if sent by fax or email (provided that a fax number or an address for email has been notified to or by the Company for that purpose), be sent by the relevant form of communication to that address; or
- (b) be sent by such other electronic means (as defined in section 1168 of the Act) and to such address(es) as the Company may specify:
  - (i) on its website from time to time; or
  - (ii) by notice (in hard copy or electronic form) to all members of the Company from time to time.

24.5 Any notice or other document in electronic form given or supplied under these Articles shall be deemed to have been served and be effective (provided that no notice of delivery failure was received by the sender):

- (a) if sent by facsimile or email (where a fax number or an address for email has been notified to or by the Company for that purpose), on receipt or 48 hours after the time it was sent, whichever occurs first;
- (b) if delivered in an electronic form, at the time of delivery; and
- (c) if sent by any other electronic means as referred to in Article 24.4(b), at the time such delivery is deemed to occur under the Act.

*Notice by means of a website*

24.6 Subject to the provisions of the Act, any notice or other document or information to be given, sent or supplied by the Company to Shareholders under these Articles may be given, sent or supplied by the Company by making it available on the Company's website.

*General*

24.7 In the case of joint holders of a share all notices shall be given to the joint holder whose name stands first in the register of members of the Company in respect of the joint holding (the "**Primary Holder**"). Notice so given shall constitute notice to all the joint holders.

24.8 Anything agreed or specified by the Primary Holder in relation to the service, sending or supply of notices, documents or other information shall be treated as the agreement or specification of all the joint holders in their capacity as such (whether for the purposes of the Act or otherwise).

## **25. Indemnities and insurance**

25.1 Subject to the provisions of and so far as may be permitted by, the Act:

- (a) every Director or other officer of the Company (excluding the Auditors) shall be entitled to be indemnified by the Company (and the Company shall also be able to indemnify directors of any associated company (as defined in section 256 of the Act)) out of the Company's assets against all liabilities incurred by him in the actual or purported execution or discharge of his duties or the exercise or purported exercise of his powers or otherwise in relation to or in connection with his duties, powers or office, provided that no director of the Company or any associated company is indemnified by the Company against:

- (i) any liability incurred by the Director to the Company or any associated company; or
- (ii) any liability incurred by the Director to pay a fine imposed in criminal proceedings or a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirements of a regulatory nature; or
- (iii) any liability incurred by the Director:
  - (A) in defending any criminal proceedings in which he is convicted;
  - (B) in defending civil proceedings brought by the Company or any associated company in which final judgment (within the meaning set out in section 234 of the Act) is given against him; or
  - (C) in connection with any application under sections 661(3) or 661(4) or 1157 of the Act (as the case may be) for which the court refuses to grant him relief,

save that, in respect of a provision indemnifying a director of a company (whether or not the Company) that is a trustee of an occupational pension scheme (as that term is used in section 235 of the Act) against liability incurred in connection with that company's activities as trustee of the scheme, the Company shall also be able to indemnify any such director without the restrictions in Articles 25.1(a)(i), 25.1(a)(iii)(B) and 25.1(a)(iii)(C) applying;

- (b) the Directors may exercise all the powers of the Company to purchase and maintain insurance for any such Director or other officer against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company, or any associated company including (if he is a director of a company which is a trustee of an occupational pension scheme) in connection with that company's activities as trustee of an occupational pension scheme.

25.2 The Company shall (at the cost of the Company) effect and maintain for each Director policies of insurance insuring each Director against risks in relation to his office as each Director may reasonably specify including without limitation, any liability which by virtue of any rule of law may attach to him in respect of any negligence, default of duty or breach of trust of which he may be guilty in relation to the Company.

## 26. Data Protection

Each of the Shareholders and Directors consent to the processing of their personal data by the Company, the Shareholders and Directors (each a "**Recipient**") for the purpose of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information among themselves. A Recipient may process the personal data either electronically or manually. The personal data which may be processed under this Article shall include any information which may have a bearing on the *prudence or commercial merits of investing or disposing of any shares (or other investment or security)* in the Company. Other than as required by law, court order or other regulatory authority, that personal data may not be disclosed by a Recipient or any other person except to a Member of the same Group ("**Recipient Group Companies**") and to employees, directors and professional advisers of that Recipient or the Recipient Group Companies and funds managed by any of the Recipient Group Companies. Each of the Shareholders and Directors consent to the transfer of relevant personal data to persons acting on behalf of the Recipient and to the offices of any Recipient both within

and outside the European Economic Area for the purposes stated above, where it is necessary or desirable to do so.

**27. Secretary**

Subject to the provisions of the Act, the Directors may appoint a secretary for such term, at such remuneration and upon such conditions as they may think fit, and any secretary so appointed may be removed by them.