

**COMPANIES ACT 2006**

**COMMUNITY INTEREST COMPANY LIMITED BY SHARES**

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**ARTICLES OF ASSOCIATION**

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(Adopted on 4<sup>th</sup> September 2020)

of

**VINE ENERGY C.I.C.**

(Company Number 08805798)



**THE COMPANIES ACT 2006**

**COMMUNITY INTEREST COMPANY LIMITED BY SHARES**

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**VINE ENERGY C.I.C.**

(Company Number 08805798)

(the "**Company**")

**1. INTRODUCTION**

- 1.1 The model articles of association for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended at the date of the adoption of these articles (the **Model Articles**) shall apply to the Company save in so far as they are excluded or modified by these Articles.
- 1.2 Notwithstanding that the Company is a private company, certain articles contained in the model articles of association for public companies contained in Schedule 3 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended at the date

of the adoption of these articles (the **Model PLC Articles**) shall apply to the Company, but only where expressly incorporated into these articles.

## 2. **DEFINITIONS**

- 2.1 Where the expressions 'equity share capital', 'equity securities', 'holding company' and 'subsidiary' are used in these Articles they have the meanings given to them by the Act.
- 2.2 Unless the context otherwise requires:
  - 2.2.1 words denoting the singular shall include the plural and vice versa;
  - 2.2.2 words denoting a gender shall include all genders; and
  - 2.2.3 references to persons shall include bodies corporate, corporations and firms.
- 2.3 The 'ejusdem generis' (of the same kind) rule will not apply to the interpretation of these Articles. Accordingly, 'include' and 'including' will be read without limitation.
- 2.4 Without prejudice to any other definitions contained elsewhere in these Articles, the following words and expressions shall in these Articles have the following meanings:

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| <b>"Act"</b>                 | the Companies Act 2006 and every statutory modification or re-enactment thereof for the time being in force, as amended;  |
| <b>"Acceptance Period"</b>   | the period during which an offer made under Article 14.7 is open for acceptance;  |
| <b>"asset-locked body"</b>   | (i) a community interest company or a charity or a Permitted Industrial and Provident Society; or (ii) a body established outside the United Kingdom that is equivalent to any of those;  |
| <b>"Auditors"</b>            | the auditors for the time being of the Company (if any); or (if there are none), such firm of Chartered Accountants as the Directors acting reasonably may nominate;  |
| <b>"Bad Leaver"</b>          | means any person who was, but has ceased to be, an officer or employee of the Company (so that he is no longer either an officer or an employee of the Company) as a result of: <ul style="list-style-type: none"> <li>(a) his voluntary resignation from his office or employment within the period of 36 months following the date of the adoption of these Articles; or</li> <li>(b) his removal from office or dismissal for any act of fraud, gross negligence, misconduct or dishonesty;</li> </ul> |
| <b>"Beneficial Owner"</b>    | a beneficial owner of any Shares held by a nominee;   |
| <b>"Called Shareholders"</b> | as defined in Article 19.1;   |
| <b>"company"</b>             | includes any body corporate;  |
| <b>"Conflict Situation"</b>  | a situation in which a Director has, or can have, a direct or indirect interest that conflicts, or may possibly conflict, with the interests of the Company, including in relation to the exploitation of any property, information or opportunity and regardless of whether the Company could take advantage of the property, information or opportunity itself;   |
| <b>"Connected"</b>           | as defined by Section 993 of the Tax Act; provided however that any determination of fact as to whether two or more persons are acting together shall, in the absence of any ruling by HM Revenue & Customs, be made by the tax advisers appointed by the Investor Director (or, if none is appointed, TPIM) acting as experts and not as arbitrators and whose certificate or certificates from time to time shall be final and binding on the Company and all shareholders of the Company;              |

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| <b>"Deed of Adherence"</b>  | a deed of adherence to the terms of the Investment Agreement in such form as may be reasonably approved by the Investor Director or, if none has been appointed, by the Company and TPIM;  |
| <b>"Director Member"</b>  | a Member who is also an officer of a Group Company;  |
| <b>"Directors"</b>  | the directors for the time being of the Company or (as the context shall require) any of them (each a <b>"Director"</b> ) acting as the board of directors of the Company;   |
| <b>"Drag Along Price"</b>   | as defined in Article 19.1;  |
| <b>"Drag Along Right"</b>   | as defined in Article 19.1;  |
| <b>"EIS Investors"</b>  | as defined in the Investment Agreement and their successors in title;  |
| <b>"EIS Legislation"</b>  | Chapter 5 of the Tax Act and section 416 of ICTA;  |
| <b>"equity share capital",<br/>"subsidiary" and<br/>"holding company"</b> | shall have the meanings set out in Sections 548, 1159 and 1162 of the Act;   |
| <b>"Excess Shares"</b>  | as defined in Article 14.9.1;  |
| <b>"Excluded Person"</b>  | <ul style="list-style-type: none"> <li>(i) any Member (or other person entitled to a share in the manner set out in Article 15.1) whom the Directors are entitled under Article 15.1 or Article 17 to require to give a Transfer Notice (but only throughout such time as the Directors are entitled to require him to give a Transfer Notice);</li> <li>(ii) any Member or other person who has been required to give a Transfer Notice under Article 15.1 or Article 17 (whether or not that requirement has been complied with);</li> </ul> |
| <b>"Group Company"</b>  | the Company, its holding company (if any) and any company which is for the time being a subsidiary of the Company or its holding company;  |
| <b>"Investment Agreement"</b>   | the investment agreement to be entered into on the date hereof between (1) Christopher Lascelles, (2) the EIS Investors, (3) TP Nominees Limited, (4) TPIM and (5) the Company, as amended from time to time;  |
| <b>"Investor Affiliate"</b>   | any such party as is referred to in Article 23.12 provided that it is managed or advised by the same investment manager or investment advisor as an Investor;  |
| <b>"Investor Director"</b>  | persons appointed as directors of the Company pursuant to Article 25.1;  |

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| <b>"Investor Majority"</b>       | Investors holding a majority of the Ordinary Shares from time to time in issue;   |
| <b>"Investors"</b>               | as defined in the Investment Agreement and their successors in title;   |
| <b>"Issue Price"</b>             | in respect of any Share, the aggregate amount paid up (or credited as paid up) in respect of the nominal value thereof and any share premium thereon;   |
| <b>"Listing"</b>                 | <ul style="list-style-type: none"> <li>(i) the admission of all or any of the shares in the capital of the Company (or any part thereof) to the Official List of the UK Listing Authority and the admission of all or any of such shares to trading on the main market of the London Stock Exchange plc; or</li> <li>(ii) the same being admitted to trading on the Alternative Investment Market; or</li> <li>(iii) the same being admitted to trading on any recognised investment exchange as defined by Section 285 of the Financial Services and Markets Act 2000; or</li> <li>(iv) the same being admitted to trading on the New York or American Stock Exchange or the NASDAQ National market in the United States of America; or</li> <li>(v) the same being admitted to trading on such other stock exchange as the Investor Director or, if none has been appointed, the Investors may agree with the Board;</li> </ul> |
| <b>"Mandatory Transfer Date"</b> | <ul style="list-style-type: none"> <li>(i) in respect of a Director Member, the date of cessation of service (under Article 15.2); or</li> <li>(ii) in the case of Christopher Lascelles, the date on which a liability for breach of any of the Warranties is agreed or determined (under Article 15.3);</li> </ul>  |
| <b>"Member"</b>                  | a holder for the time being of issued Shares;   |
| <b>"Model Articles"</b>          | has the meaning given in Article 1.1;   |
| <b>"Model PLC Articles"</b>      | has the meaning given in Article 1.2;   |

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| <b>"Offer"</b>                                      | <p>either:</p> <ul style="list-style-type: none"> <li>(i) an offer to purchase all the Shares other than those already held by the Offeror and/or any persons acting in concert with him (as defined in the City Code on Take-overs and Mergers); or</li> <li>(ii) the entering into of one or more agreements which will result in any persons who are acting in concert (as defined above) acquiring all the Shares, which agreements are unconditional or subject only to conditions in the sole control of any or all of the persons who are acting in concert;</li> </ul> <p>in each case being an offer or agreement which is approved in writing by the Investor Director or, if none has been appointed, by an Investor Majority, as being an offer or an agreement to which Articles 18 and 19 do not apply;</p> |
| <b>"Offeror"</b>                                    | as defined in Article 19.1;   |
| <b>"Ordinary Shares"</b>                            | the ordinary shares of 0.1p (one tenth of one penny) each in the capital of the Company and having the rights ascribed thereto as set out in these Articles;  |
| <b>"Ordinary Shareholders"</b>                      | the holders for the time being of the issued Ordinary Shares;   |
| <b>"Permitted Industrial and Provident Society"</b> | an industrial and provident society which has a restriction on the use of its assets in accordance with regulation 4 of the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006 or regulation 4 of the Community Benefit Societies (Restriction on Use of Assets) Regulations (Northern Ireland) 2006;  |
| <b>"Prescribed Price"</b>                           | the price per Sale Share agreed or determined pursuant to Article 14.4 or, determined pursuant to Article 14.5 or as the case may be, the price per Sale Share specified by the Investor Director (or, if none has been appointed, by an Investor Majority);  |
| <b>"Proposing Transferee"</b>                       | as defined in Article 18.1;   |
| <b>"Proposing Transferor"</b>                       | a Member proposing to transfer or dispose of Shares or any interest therein;  |
| <b>"Purchaser"</b>                                  | a Member willing to purchase Shares comprised in a Transfer Notice;   |
| <b>"Regulator"</b>                                  | means the Regulator of Community Interest Companies;  |
| <b>"Regulations"</b>                                | means the Community Interest Company Regulations 2005 (as amended);   |

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| <b>"Relevant Company"</b>     | as defined in Article 28.5;   |
| <b>"Relevant Transaction"</b> | as defined in Article 18.1;   |
| <b>"Sale"</b>                 | completion of the transaction(s) by which an Offer has arisen;  |
| <b>"Sale Shares"</b>          | all Shares comprised in a Transfer Notice;  |
| <b>"Shares"</b>               | shares in the capital of the Company;   |
| <b>"Tax Act"</b>              | the Income Tax Act 2007, as amended;  |
| <b>"TPIM"</b>                 | Triple Point Investment Management LLP, a limited liability partnership in England and Wales under number OC321250;                             |
| <b>"Transfer Notice"</b>      | a written notice served by a Member on the Company, in accordance with Article 14 or deemed to have been served pursuant to Articles 15 and 16; |
| <b>"Vendors"</b>              | as defined in Article 19.1; and   |
| <b>"Warranties"</b>           | as defined in the Investment Agreement.   |

- 2.5 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.
- 2.6 Any reference in these Articles to any provision of any statute or to any other legislative provision shall be deemed to include a reference to any statutory or other legislative modification or re-enactment of that provision from time to time in force.
- 2.7 In these Articles, where the context so permits, words importing the singular number shall include the plural and vice versa; words importing the masculine gender shall include the feminine and neuter and vice versa and words importing persons shall include bodies corporate, unincorporated associations and partnerships.
- 2.8 The headings to each of the Articles are inserted for ease of reference only and shall not affect the construction or interpretation of these Articles.
- 2.9 A reference in these Articles to an "Article" followed by a particular number is a reference to the relevant article of these Articles bearing that number. A reference in these Articles to a "Model Article" followed by a particular number is a reference to the relevant article of the Model Articles bearing that number. A reference in these articles to a "Model PLC Article" followed by a particular number is a reference to the relevant article of the Model PLC Articles bearing that number.
- 2.10 A reference in these Articles to any transfer of any share shall mean the transfer of either or both of the legal and beneficial ownership in such share and/or the grant of



an option to acquire either or both of such legal and beneficial ownership, and the following shall be deemed (but without limitation) to be a transfer of a share:

- 2.11 any direction by way of renunciation, nomination or otherwise by a person entitled to an allotment of shares to the effect that such shares or any of them be allotted to some other person; and
- 2.12 any sale or other disposition of any legal or equitable interest (including without limitation any voting right attached thereto) in any share.
- 2.13 Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms

### **3. COMMUNITY INTEREST COMPANY**

The Company shall be a community interest company.

### **4. ASSET LOCK**

4.1 The Company shall not transfer any of its assets other than for full consideration.

4.2 Provided the conditions in Article 4.3 are satisfied, Article 4.1 shall not apply to:

- 4.2.1 the transfer of assets to any specified asset-locked body, or (with the consent of the Regulator) to any other asset-locked body;
- 4.2.2 the transfer of assets made for the benefit of the community other than by way of a transfer of assets into an asset-locked body;
- 4.2.3 the payment of dividends in respect of shares in the Company;
- 4.2.4 the distribution of assets on a winding up;
- 4.2.5 payments on the redemption or purchase of the Company's own shares;
- 4.2.6 payments on the reduction of share capital; and
- 4.2.7 the extinguishing or reduction of the liability of members in respect of share capital not paid up on the reduction of share capital.

4.3 The conditions are that the transfer of:

- 4.3.1 assets must comply with any restrictions on the transfer of assets for less than full consideration which may be set out elsewhere in the memorandum and articles of the Company; and
- 4.3.2 must not exceed any limits imposed by, or by virtue of, Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004.

4.4 If:

- 4.4.1 the Company is wound up under the Insolvency Act 1986; and
- 4.4.2 all its liabilities have been satisfied

any residual assets shall be given or transferred to an asset-locked body chosen by the Regulator in consultation with the Company.

- 4.5 For the purposes of this Article 4, the following asset-locked body is specified as a potential recipient of the Company's assets under Articles 3.2 and 3.4:

Name: Ferry Farm Community Solar Limited (Registered Society 007188)

## 5. **NOT FOR PROFIT**

The Company is not established or conducted for private gain: any surplus or assets are used principally for the benefit of the community.

## 6. **SHARE CAPITAL**

- 6.1 In these Articles, unless the context requires otherwise, references to Shares shall include Shares of those respective classes created and/or issued on or after the date of adoption of these Articles.

- 6.2 There shall be no maximum amount of shares that may be allotted or issued by the Company.

- 6.3 The liability of the Members is limited.

## 7. **SHARE RIGHTS**

The Shares shall have, and be subject to, the following rights and restrictions:

### 7.1 *Income*

- 7.1.1 The distribution of any profits of the Company shall require the prior approval of the Members by special resolution.
- 7.1.2 The profits of the Company which the Company may, subject to the Act and to the Regulations, so resolve to distribute, shall be distributed amongst the Members *pari passu* and the amount payable shall be calculated by reference and in proportion to the amounts paid up or credited as paid up in relation to the nominal value only of such Shares held by each of them respectively (as a proportion of the aggregate nominal value of all Shares in the Company).
- 7.1.3 No dividend shall be payable on the Shares unless the Investor Director (or, if none has been appointed, by an Investor Majority) consent in writing, such consent not to be unreasonably withheld or delayed.
- 7.1.4 Notwithstanding the foregoing in order to comply with the EIS Legislation no single company which is a Member shall (together with any Connected person) be entitled to receive, if the whole of the income of the Company were in fact distributed among its participators (without regard to any rights which any holder has as a loan creditor or by reason of that holder's possession of, or entitlement to acquire relevant fixed-rate preference Shares), more than 50% of the amount so distributed. For these purposes

the expressions "*participator*" and "*loan creditor*" shall bear the meanings respectively given to them in such legislation.

7.1.5 Model Article 30 to Model Article 35 (inclusive) shall be subject to this Article 7.1 and, in the event of any inconsistency, the provisions of this Article 7.1 shall prevail.

7.1.6 For the avoidance of doubt the payment of dividends shall be considered to be a transfer of assets other than for full consideration and shall not be permitted other than in the circumstances prescribed in Article 4.

## 7.2 Capital

7.2.1 On a return of assets on a liquidation or capital reduction or similar, the assets of the Company remaining after the payment of its liabilities (including the payment to each holder of Shares of the Issue price for such Shares) shall be subject to the provisions of Article 4.

7.2.2 Notwithstanding any of the foregoing in order to comply with the EIS Legislation no single company which is a Member shall (together with any Connected person) be entitled (otherwise than by reason of that holder's possession of, or entitlement to acquire relevant fixed-rate preference Shares) on a return of assets on a liquidation or capital reduction or otherwise (but, for the avoidance of doubt, not on a Sale) to receive more than 50% of the capital available for payment to all Members. For those purposes the expression "*relevant fixed-rate preference Shares*" shall bear the meaning given by such legislation.

## 7.3 Voting

Subject to the special rights or restrictions as to voting attached to any Shares:

7.3.1 on a show of hands every Member who (being an individual) is present in person or (being a corporation) is present by a representative shall have one vote;

7.3.2 on a poll every Member who is present in person or by a proxy or (being a corporation) by a representative shall have one vote for every Share of which he is the holder; and

7.3.3 notwithstanding the foregoing in order to comply with the EIS Legislation no single company which is a Member shall (together with any Connected person) be entitled to exercise more than 50% of the voting rights attaching to the equity share capital of the Company.

## 8. ISSUE OF NEW SHARES

8.1 Subject to Article 8.4, any new Shares from time to time created shall before they are issued to any third party be offered to the Members in proportion to the number of the Shares held by them.

8.2 The offer shall be made by notice in writing and shall specify the number and class of Shares offered and the price per share (which shall be the same price per share) and stating a time (not being less than thirty days or greater than forty-two days) within which the offer, if not accepted, will be deemed to be declined. After the expiration of

such time, or on the receipt of a communication from the person to whom the offer is made that he declines to accept the Shares offered or any of them, the Directors shall offer the Shares declined in like manner *pari passu* and on a pro-rata basis to the Members who have agreed to subscribe for all the Shares offered to them and shall repeat such offer until all of the Shares have been issued or an offer is wholly declined. If the Shares comprised in such further offers are declined or deemed (by the lapse of such offer) to be declined the further offers shall be withdrawn.

- 8.3 The provisions of Articles 8.1 and 8.2 shall not apply to the issue of Shares pursuant to the Investment Agreement and may in any event be disapplied in relation to any class of Shares by special resolution passed by the Members whether in general meeting or otherwise.
- 8.4 Subject to this Article 8 and to the provisions of Sections 549 and 551 of the Act, the Shares shall be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper, provided that no Shares shall be issued at a discount and that:
- 8.4.1 no Shares to which Articles 8.1 and 8.2 applies shall be issued more than three months after the expiry of the period for acceptance of the last offer of such Shares made under Article 8.1 unless the procedure set out in Article 8.2 is repeated in respect of such Shares (and so that the time limit set out in this Article 8.4.1 shall apply equally to any repetition of that procedure); and
- 8.4.2 no Shares shall be issued at a price less than that at which they were offered to the Members in accordance with Article 8.2 and if the Directors are proposing to issue such Shares wholly or partly for a non-cash consideration the cash equivalent of such consideration for the purposes of this subparagraph shall be as reasonably determined by the Auditors who shall act as experts and not as arbitrators and whose determination shall be final and binding on the Company and each of the Members (for the avoidance of doubt, this Article 8.4 shall not apply to the issue of Shares pursuant to the Investment Agreement); and
- 8.4.3 no Shares shall be allotted to any person who is not already a party to the Investment Agreement unless that person has first executed and delivered to the Company a Deed of Adherence.
- 8.5 The provisions of Sections 561(1), 562(1) to (6) and 568(3) of the Act shall not apply to the Company.
- 8.6 Model Article 22 shall be amended by the deletion of the words "*and the directors may determine the terms, conditions and manner of redemption of any such shares*" and

replacing them with the words "*and the terms, conditions and manner of redemption shall be set out in the articles.*"

## **9. VARIATION OF CLASS RIGHTS**

9.1 Whenever the capital of the Company is divided into different classes of Shares the special rights attached to any class may be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding-up:

9.1.1 with the consent in writing of the holders of at least three-fourths of the issued Shares of the class or with the sanction of a special resolution passed at a separate meeting of the holders of that class, but not otherwise, and;

9.1.2 the necessary quorum shall be at least two persons holding or representing by proxy at least one-third in nominal amount of the issued Shares of the class, but so that at any adjourned meeting of such holders at which such a quorum is not present the holder or holders present shall be a quorum; and

9.1.3 the holders of Shares of the class in question shall on a poll have one vote in respect of every share of the class held by them respectively.

## **10. LIEN**

10.1 The Company shall have a first and paramount lien on every share (whether or not fully paid) for all and any indebtedness of any holder thereof to the Company (whether a sole holder or one of two or more joint holders) in respect of the Shares concerned.

10.2 The Company's lien over a Share takes priority over any third party's interest in that Share and 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.

10.3 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.

10.4 Model PLC Article 53 shall apply to the Company and shall govern the enforcement of the Company's lien, save that:

10.4.1 in Model PLC Article 53(2)(c), the word "*clear*" shall be inserted between the words "*14*" and "*days*"; and

10.4.2 in Model PLC Article 53(4)(b), the words "*a suitable indemnity*" shall be deleted and replaced by the words "*an indemnity in a form reasonably satisfactory to the Directors*" and the words "*over the shares before the sale for any money payable in respect of the shares*" shall be deleted and replaced by the words "*for any money payable (whether payable immediately or at some time in the future) as existed upon the shares before the sale in*"

*respect of all shares registered in the name of such person (whether as the sole registered holder or as one of several joint holders)".*

**11. REGISTRATION OF TRANSFERS**

- 11.1 The Directors may refuse to register the transfer of a share to a person of whom they do not approve.
- 11.2 They may also refuse to register the transfer unless it is lodged at the registered office of the Company or at such other place as the Directors may appoint and is accompanied by such evidence as the Directors may reasonably require to show the right of the transferor to make the transfer, and by such other information, as they may reasonably require.
- 11.3 If the Directors refuse to register such a transfer, they shall, within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.
- 11.4 The Directors shall not register any transfer of Shares unless a Deed of Adherence duly executed by all relevant parties is laid before the meeting at which the transfer is to be approved, but shall not register any transfer of Shares otherwise.
- 11.5 The provisions of this Article 11 apply in addition to any restrictions on the transfer of a share which maybe set out elsewhere in the memorandum of association of the Company or these Articles.

**12. TRANSFERS PURSUANT TO OFFERS MADE UPON A CHANGE OF CONTROL OR PURSUANT TO DRAG ALONG RIGHTS**

Subject to the provisions of Article 11, any Member may at any time be transferred by any Member pursuant to acceptance of any offer made to that Member under the requirements of Article 18 (*Tag Along*) or as contemplated by Article 19 (*Drag Along*).

**13. PERMITTED TRANSFERS**

- 13.1 Subject to the provisions of Article 11:-

- 13.1.1 the Investors may transfer any Shares to another party who or which is (i) a venture capital trust, venture capitalist, investment trust, investment company, limited partnership or such like entity, (ii) an Investor, (iii) an acquirer of an Investor, (iv) the fund manager/adviser to an Investor, and/or (v) an employee, member or partner of TPIM.
- 13.1.2 any Beneficial Owner may be transferred Shares by the nominee to the Beneficial Owner or to another person shown to the reasonable satisfaction of the Directors to be a nominee for the Beneficial Owner only. Any Shares may be transferred by the Beneficial Owner to a person shown to the reasonable satisfaction of the Directors to be a nominee for the Beneficial Owner only. Where any person to whom any Shares have been transferred as a nominee ceases to hold such Shares as nominee for the Beneficial Owner only he shall forthwith transfer such Shares to the Beneficial Owner or to another person shown to the reasonable satisfaction of the Directors to

be a nominee for the Beneficial Owner only and in default of doing so he shall be deemed to have given a Transfer Notice in respect of all such Shares.

#### **14. PRE-EMPTION RIGHTS**

- 14.1 The right to transfer Shares or any interest therein shall (subject to and without prejudice to the provisions of Articles 12 and 13) be subject to the following restrictions, save that such restrictions shall not apply to any transfer of Shares pursuant to the acceptance of an offer made pursuant to Article 18 or to the proposed sale pursuant to Article 19 of the Shares for the time being in issue where the Vendors (as defined in Article 19) exercise the Drag Along Right pursuant to Article 19.

##### Transfer Notice

- 14.2 Before transferring or disposing of any Shares (or any interest in any Shares) the Proposing Transferor shall serve a notice on the Company specifying the number and class of Shares in question and the proposed price for such Shares ("Transfer Notice"), and the Transfer Notice shall constitute the Company as his agent for the sale of those Shares at the Prescribed Price to any Member or Members. Except as provided in this Article, a Transfer Notice once given or deemed to be given shall not be revocable except with the consent of the Directors.
- 14.3 A Transfer Notice may comprise Shares of more than one class and shall, if the Proposing Transferor has received any offer to purchase any Shares (whether or not an offer capable of becoming legally binding upon acceptance) within the period of three months prior to service of the Transfer Notice, give the name of such offeror, the number and class of Shares concerned and the price offered in respect of each such Share. A Transfer Notice may not be given by an Excluded Person unless required by the Directors under Article 15.1 or Article 17.

##### Prescribed Price

- 14.4 The Directors will endeavour to agree the Prescribed Price with the Proposing Transferor. If the Directors fail to agree the Prescribed Price with the Proposing Transferor within 14 days of receipt of the Transfer Notice by the Company or, as applicable, a Transfer Notice having been deemed to have been served, the Directors shall request the Auditors (acting as experts and not as arbitrators) to determine and certify the Prescribed Price. The Auditors shall be appointed by the Company on such terms and conditions as the Company (acting reasonably) may agree with the Auditors.
- 14.5 The Auditors shall (acting as experts and not arbitrators) within 14 days of such a request certify to the Company the Prescribed Price, being the value of each Sale

Share (or, where appropriate of each Sale Share of each class) calculated on the following basis:

14.5.1 by determining the sum which a willing purchaser would offer to a willing vendor for all the issued Shares;

14.5.2 by dividing the resultant figure between each Sale Share.

14.6 The Auditors' determination and certificate as to the Prescribed Price shall be final and binding.

#### Offer to Members

14.7 Within 21 days following receipt of the Transfer Notice or (where relevant) the date on which the Transfer Notice is deemed to have been given or where the Prescribed Price is certified by the Auditors the date of certification of the Prescribed Price, the Company shall offer the Sale Shares to each Member (other than the Proposing Transferor and any Excluded Person) in accordance with the provisions of Articles 14.8 and 14.9 for purchase at the Prescribed Price. All offers shall be made by notice in writing and state a time (being between 30 and 42 days inclusive following the date of such notice) within which the offer must be accepted or, in default, will be deemed to have been declined. A copy of such offer shall at the same time be sent by the Company to the Proposing Transferor.

14.8 The Company shall offer the Sale Shares to the Members pro rata in proportion to the number of the Shares held by them and, where the share capital of the Company is divided into separate classes, the Shares shall be treated as if they constituted one class of share.

14.9 The Sale Shares shall be offered on the following basis:

14.9.1 any Member to whom the Sale Shares are offered may accept all or some only of the Sale Shares offered to him, and shall be invited to indicate whether, if he accepts all such Sale Shares, he wishes to purchase any Sale Shares which other Members decline to accept ("Excess Shares") and, if so, the maximum number of Excess Shares which he wishes to purchase;

14.9.2 any Excess Shares shall be allocated between the Members who have indicated that they wish to purchase Excess Shares pro rata to the proportion of the voting rights represented by the total number of Shares held by those



Members but so that no Member shall be required or entitled to receive more than the maximum number indicated by him pursuant to Article 14.9.1;

14.9.3 subject to the provisions of this Article and Article 14.8, the Purchasers shall be bound to purchase the Sale Shares properly allocated to them under the provisions of this Article 14.9 at the Prescribed Price.

14.10 Not later than 7 days following the expiration of the Acceptance Period the Company shall give written notice to the Proposing Transferor stating:

14.10.1 if it is the case, that no Member (or any person as is referred to in this Article) has sought to purchase any of the Sale Shares; or otherwise

14.10.2 the number of Sale Shares which Members have sought to purchase, giving the name and address of each Purchaser and the number of Sale Shares to be purchased by him.

#### Revocation

14.11 If within the Acceptance Period, Purchasers have been found for some only of the Sale Shares or if no Purchaser has been found for any of the Sale Shares, the Proposing Transferor may within 7 days of service on him of notice under Article 14.10 revoke his Transfer Notice by written notice to the Company.

#### Transfer

14.12 If the Proposing Transferor is given notice under Article 14.10.2 (and subject to his not revoking his Transfer Notice in accordance with Article 14.11) he shall be bound on payment of the Prescribed Price to transfer the Sale Shares in question to the respective Purchasers. The sales and purchases shall be completed at the registered office of the Company during normal business hours on the first business day after the expiry of 14 days following the date of service of notice by the Company under Article 14.10.

14.13 If a Proposing Transferor fails to transfer any Sale Shares to a Purchaser after becoming bound to do so, the Directors may authorise any person to execute on behalf of and as attorney for the Proposing Transferor any necessary instruments of transfer and shall register the Purchaser as the holder of the relevant Sale Shares. The Company's receipt of the purchase money shall be a good discharge to the Purchaser and the Company shall thereafter hold the purchase money on trust for the Proposing Transferor. After the name of the Purchaser has been entered in the Register of Members in purported exercise of these powers, the validity of the proceedings shall not be questioned by any person.

#### Third Party Sales

14.14 If the Company fails before the end of the Acceptance Period to find a Purchaser or Purchasers for any of the Sale Shares, the Proposing Transferor may (subject to Articles 11 and 14.16) sell all or any of the Sale Shares to any third party/parties.

14.15 If before the end of the Acceptance Period the Company finds a Purchaser or Purchasers for some (but not all) of the Sale Shares and serves notice accordingly under Article 14.10 the Proposing Transferor may (subject to Articles 11 and 14.16) sell all or any of the Sale Shares for which no Purchaser has been found to any third

party/parties unless he revokes his Transfer Notice pursuant to Article 14.11 in which case he may sell all (but not some only) of the Sale Shares to any third party/parties.

#### Restrictions on Sales

- 14.16 The right of the Proposing Transferor to sell Sale Shares pursuant to Article 14.14 or Article 14.15 shall be subject to the following restrictions:
- 14.16.1 Sale Shares may not be sold after the expiry of three months after the date on which notice is given by the Company under Article 14.10;
- 14.16.2 Sale Shares must be sold on a bona fide sale at a price not less than the Prescribed Price and without any deduction, rebate or allowance whatsoever to the Purchaser;
- 14.16.3 the provisions of Article 17 (if applicable); and
- 14.16.4 no Shares may be transferred, or disposed of, pursuant to this Article by any person who is an Excluded Person unless the Directors resolve to approve such transfer or disposal.
- 14.17 The costs of the Auditors shall be borne as the Auditors may direct.
- 14.18 The restrictions imposed by this Article 14 may be waived in relation to any proposed transfer of Shares with the consent of all Members who, but for such waiver, would or might have been entitled to have such Shares offered to them in accordance with Article 14.9.
- 14.19 For the purposes of Article 14.16.2 and calculating whether or not a price to be paid for the Sale Shares is more or less than the Prescribed Price, then the cash value of any non-cash consideration shall be that agreed between the Proposing Transferor and the Company, or if the Proposing Transferor and the Company fail to agree such cash value within 15 business days following the earlier of any request by the Proposing Transferor to so value any non-cash consideration and the submission to the Company of the relevant stock transfer form(s) relating to a transfer of the Sale Shares for non-cash consideration, the cash value shall be the amount certified as such as at the date of the earlier of the request for valuation and the purported transfer of the Sale Shares at the request of the Directors, by the Auditors (acting as experts and not arbitrators). Their certificate shall be final and binding.
- 14.20 If the Auditors are unwilling or unable to act to certify the Prescribed Price in accordance with the provisions of this Article 14 or if the Investor Director (or, if none is appointed, by an Investor Majority) so specify in writing, then the Prescribed Price shall instead be certified by an independent firm of chartered accountants appointed by the Directors with the approval of the Investor Director (or, if none is appointed, by an Investor Majority) and references in this Article 14 to the Auditors shall be deemed to be references to such firm of chartered accountants.

#### **15. MANDATORY TRANSFERS**

- 15.1 A Member who has acquired any Share or a person entitled to any share in consequence of the bankruptcy, receivership or liquidation of a Member shall be bound if required in writing to do so by the Directors not later than 90 days after the Directors receive notice from the person concerned that he has become so entitled, to give a Transfer Notice in respect of all the Shares then registered in the name of the Member

in bankruptcy, receivership, or liquidation, within 2 weeks of receipt of the relevant request.

- 15.2 If any Director Member ceases to be such an officer of the Company or its subsidiaries then he shall be deemed to have given a Transfer Notice as at the Mandatory Transfer Date in respect of all of the Shares registered in his name as at the Mandatory Transfer Date. The Prescribed Price for the Shares in question shall be the price agreed or certified by the Auditors in accordance with Article 14.4 unless the Director Member is also a Bad Leaver, in which case the Prescribed Price shall be the nominal value of such Shares and, subject to Article 15.4, the provisions of Articles 14.5 to 14.7 and 14.12 to 14.19 (inclusive) shall apply, save to the extent of any reference to Article 14.11.
- 15.3 If any person has committed a breach of any of the Warranties or a material breach of any of the other provisions of the Investment Agreement where such breach has had (or is reasonably likely to have) a materially adverse effect on the business of the Company, then he (and any person or company Connected to him and/or any person to whom he has directly or indirectly transferred Shares pursuant to Article 13) shall be deemed to have given a Transfer Notice as at the date of the fact of his breach being agreed by the Investor Director (or, if none is appointed, by an Investor Majority) or determined by a court of competent jurisdiction in respect of all of the Shares registered in his name (and in the name of any person or company connected to him and/or any person to whom he has directly or indirectly transferred Shares pursuant to Article 13) as at that date. The Prescribed Price for the Shares in question shall be the nominal value of such Shares and, subject to Article 15.5, the provisions of Articles 14.5 to 14.7 and 14.12 to 14.19 (inclusive) shall apply, save to the extent of any reference to Article 14.11.
- 15.4 If a Transfer Notice is deemed to have been given pursuant to Articles 15.1 to 15.3 the Shares subject to the deemed Transfer Notice shall then be offered in accordance with the provisions of Article 14.7.
- 15.5 As from the Mandatory Transfer Date (but if Article 15.2 applies, only if the Director Member concerned is a Bad Leaver), the balance of his shareholding (i.e. the Shares then held by him in respect of which he is not deemed to have given a Transfer Notice) shall, notwithstanding any other provision of these Articles, cease to confer on him or any subsequent holder of such Shares the right to attend or to vote at general meetings.

**16. EVIDENCE OF COMPLIANCE**

In any case where the Directors may require a Transfer Notice to be given and it is not duly given within a period of two weeks of notice being given requiring the Transfer Notice to be given, a Transfer Notice in respect of the Shares in question shall be deemed to have been given at the expiration of that period. Any Transfer Notice deemed to have been given or required to be given under any provision of these Articles shall not be capable of revocation and (notwithstanding any of the provisions of these Articles) shall extend not just to the Shares registered in the name of the Member concerned but to any person Connected to him and/or to whom he has directly or indirectly transferred Shares pursuant to Article 13.

**17. EVIDENCE OF AUTHORISATION**

For the purpose of ensuring that a transfer of Shares is duly authorised under these Articles or that no circumstances have arisen requiring a Transfer Notice to be given, the Directors may require any Member or the personal representatives or trustee in

bankruptcy, receiver or liquidator of any Member or any person named as transferee in any instrument of transfer lodged for registration to provide to the Company such information as the Directors reasonably think fit regarding any matter which they consider relevant. If such information is not provided to the reasonable satisfaction of the Directors within a reasonable time after request, the Directors shall be entitled to refuse to register the transfer in question or (in case no transfer is in question) to require by notice in writing that a Transfer Notice be given in respect of the Shares concerned. If the information discloses (in the reasonable opinion of the Directors) that a Transfer Notice ought to have been given in respect of any Shares the Directors may by notice in writing require that a Transfer Notice be given in respect of the Shares concerned.

## **18. TAG ALONG**

18.1 Notwithstanding the provisions of Article 14 no sale or transfer of the legal or beneficial interest in any Shares ("the Relevant Transaction") (other than one made pursuant to Article 12) may be made or validly registered if as a result of such sale or transfer a Relevant Interest is obtained by a person (or persons acting in concert) where such person(s) did not have a Relevant Interest immediately prior to the Relevant Transaction, unless the Proposing Transferor shall have procured (and, to the extent that it is accepted, completes) a written offer complying with the provisions of Article 18.3 to have been made by the proposed transferee (or any person or persons acting in concert with it) ("the Proposing Transferee") to the holders of all the other issued Shares to acquire their entire holding of Shares.

18.2 For the purpose of this Article 18:

18.2.1 the expression "a Relevant Interest" shall mean an interest in 50% or more of the Shares in issue for the time being;

18.2.2 the expressions "transfer" and "transferee" shall include respectively the renunciation of a renounceable letter of allotment and the renouncee under any such letter of allotment; and

18.2.3 the expression "acting in concert" shall bear the meaning ascribed to it in the City Code on Take-overs and Mergers (as amended from time to time).

18.3 The offer referred to in Article 18.1 above shall be on terms that:

18.3.1 it will be open for acceptance in England and Wales for a period of at least 28 days following the making of the offer;

18.3.2 each Member to whom it is made shall be entitled to receive for each of the Shares held by him a sum per share equal to the Specified Price (as defined in Article 18.4 below);

18.3.3 the purchase of any Shares in respect of which such offer is accepted shall be completed at the same time as the Relevant Transaction;

and otherwise on the same terms for all Members (and for this purpose any offer which provides for any warranties or indemnities (other than warranties as to title and

capacity) or restrictive covenants from some, but not all, Members shall be deemed to comply with this Article 18.3).

18.4 The expression "the Specified Price" shall mean:

18.4.1 a price per share which shall be determined by valuing the entire issued share capital of the Company ("the Sale Value") by reference to the aggregate of:

18.4.1.1 the amount offered or paid or payable by the Proposing Transferee or Transferees or his or their nominees respectively for each of the Shares comprised in the Relevant Interest to the holder or holders thereof or, if higher, the highest amount paid or payable for an Equity Share in any related or previous transaction within the 12 months preceding the offer by the same purchaser or any person acting in concert with the Proposing Transferee; and

18.4.1.2 an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holder or holders of the Shares comprised in the Relevant Interest 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 Relevant Interest (and, for the avoidance of doubt and without prejudice to the generality of the foregoing, any additional consideration which is linked to future profits, turnover or some other measure of the future performance of the Company shall be regarded as consideration which is an addition to the price paid or payable for the Relevant Interest); and

18.4.2 by distributing the resultant figure amongst the Members in proportion to the number of Shares held by each of them.

18.5 Any disagreement as to the calculation of the Specified Price which each Member is entitled to receive in respect of each share held by him for the purposes of this Article shall be referred to the Auditors (acting as experts and not arbitrators) whose decision shall be final and binding (in the absence of manifest error) and the costs of the Auditors shall be borne by the relevant Member.

## 19. **DRAG ALONG**

19.1 If:

19.1.1 one or more Members holding between them not less than 75% of the Shares for the time being in issue ("the Vendors"); or

19.1.2 no Sale or Listing of the Company has taken place by the third anniversary of the adoption of these Articles,

and the Vendors propose to sell the legal or beneficial interest in their entire holdings of Shares to a person with whom none of them is Connected or one or more such persons acting in concert at arm's length ("the Offeror") then the Vendors shall have the right to require the holders of all other issued Shares in the Company ("the Called Shareholders") to sell and transfer their entire holdings of Shares to the Offeror (or as

the Offeror shall direct) in accordance with this Article 19 ("the Drag Along Right") at a price ("the Drag Along Price") to be determined on the basis set out in Article 18.4 and otherwise on the terms specified in Articles 19.2 to 19.8 (as if the Vendors' proposed sale was a Relevant Transaction),

- 19.2 The Drag Along Right shall be exercised by the Vendors serving written notice to that effect ("a Drag Along Notice") on the Called Shareholders at any time before the transfer of the Vendors' Shares to the Offeror.
- 19.3 A Drag Along Notice shall specify the identity of the Offeror, the Drag Along Price and that the Called Shareholders are, or will in accordance with this Article 19 be required to sell and transfer all their Shares to the Offeror on or about the date specified in the Drag Along Notice (which shall be not less than 7 days after the date of the Drag Along Notice or (if no such date is specified in the Drag Along Notice) on or about such date as the Vendors may subsequently specify by notice in writing to the Called Shareholders (which shall be not less than 7 days after the date of the Drag Along Notice).
- 19.4 A Drag Along Notice once given shall be irrevocable but shall lapse (and the obligations thereunder shall lapse) in the event that for any reason the Vendors do not transfer their entire holdings of Shares to the Offeror or the Offeror's nominee not later than the date specified as the date for completion of the sale and purchase of Shares pursuant to exercise of the Drag Along Right.
- 19.5 Subject to Article 19.4, each of the Called Shareholders shall be bound to sell his entire holding of Shares and to transfer such Shares in accordance with the provisions of the Drag Along Notice.
- 19.6 If any Called Shareholder fails to complete the sale of any of his Shares pursuant to the Drag Along Notice or otherwise fails to take any action required of him under the terms of the Drag Along Right, the Directors (or any of them) may authorise any person to undertake on his behalf any action required under the terms of the Drag Along Right. In particular (but without limitation) the Directors shall have the same rights as given to them under Article 14.13.
- 19.7 Upon any person (following the giving of a Drag Along Notice) becoming a Member pursuant to the exercise of a pre-existing option to subscribe for or otherwise acquire Shares in the Company ("a New Member"), a Drag Along Notice shall be deemed to have been given to the New Member forthwith on the same terms as the previous Drag Along Notice and the New Member shall thereupon be bound to sell and transfer all such Shares acquired by him to the Offeror or as the Offeror may direct and the provisions of this Article shall apply mutatis mutandis to the New Member save that

completion of the sale of such Shares shall take place forthwith upon the Drag Along Notice being deemed to have been given to the New Member.

- 19.8 If the Vendors exercise the Drag Along Right, it shall not be necessary for them first to have given Transfer Notices pursuant to Article 14 nor to have complied with the provisions of Article 18.

## **20. PROCEEDINGS AT GENERAL MEETINGS**

- 20.1 Save as herein otherwise provided at any general meeting, two Members present in person or by proxy (or, being a corporation, by representative) shall be a quorum.

- 20.2 If a quorum is not present within half an hour from the time appointed for a general meeting or ceases to be present the general meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors may determine.

- 20.3 If at any adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting shall be dissolved, unless the meeting was adjourned for 13 days or more and due notice in such regard was given to the Members within 5 days of the adjournment whereupon the quorum at any such adjourned meeting shall be any two Members present in person or by proxy (or, being a corporation, by representative). Model Article 41(5) shall be varied accordingly.

- 20.4 In the case of any equality of votes at a general meeting, whether on a show of hands or on a poll, the chairman of the meeting shall not be entitled to a second or casting vote.

- 20.5 A person who is not a Member shall not have any right to vote at a general meeting of the Company but this is without prejudice to any right to vote on a resolution affecting the rights attached to a class of the Company's debentures.

## **21. ALTERNATE DIRECTORS**

- 21.1 Any Director (other than an alternate director) (the "appointor") may appoint as an alternate any other Director, or any other person approved by resolution of the Directors, to exercise that Director's powers, and carry out that Director's responsibilities, in relation to the taking of decisions by the Directors, in the absence of the alternate's appointor.

- 21.2 A person may act as an alternate director for one or more Directors.

- 21.3 Any appointment or removal of an alternate director must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the Directors. The notice must identify the proposed alternate, and 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.

- 21.4 An alternate director has the same rights, in relation to any Directors' meeting or Directors' written resolution, as the alternate's appointor. No meeting of the Directors will be invalid because notice thereof or of any business to be transacted at that meeting was not given to any alternate director if his appointor attends such meeting.

- 21.5 Except as the Articles specify otherwise, alternate directors are deemed for all purposes to be Directors, are liable for their own acts and omissions, are subject to the

same restrictions as their appointors and are not deemed to be agents of or for their appointors.

21.6 A person who is an alternate director but not a Director 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 may sign a written resolution (but only if it is not signed or to be signed by that person's appointor). No alternate may be counted as more than one Director for such purposes.

21.7 An alternate director shall cease to be an alternate director immediately upon:

21.7.1 the alternate director's appointor ceasing to be a Director;

21.7.2 the alternate director's appointor revoking his or her appointment;

21.7.3 the happening of any event which, if the alternate director were a Director, would cause him or her to be required to vacate such office.

21.8 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.

21.9 The Company may pay any reasonable expenses which alternate directors properly incur and Model Article 20 shall be amended by the addition of the words "(including alternate directors)" immediately following the words "reasonable expenses which the directors.

## 22. **APPOINTMENT AND RETIREMENT OF DIRECTORS**

22.1 The number of Directors shall not be less than two.

22.2 Model Article 17(1) shall not apply to the Company. Any person who is willing to act as a Director of the Company, and is permitted by law to do so, may, subject to approval by the Investor Director:

22.2.1 be appointed to be a Director by ordinary resolution; or

22.2.2 be appointed to be a Director by a decision of the Directors ;

either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with these Articles as the maximum number of directors.

## 23. **PROCEEDINGS OF THE DIRECTORS**

23.1 Model Article 5(1) shall be amended by the insertion of the words "as they resolve to do, subject to approval by the Investor Director" in place of the words "as they think fit" and Model Article 5(1)(c) shall be amended by the insertion of the words "(including collaterally with or to the exclusion of their own powers)" at the end of that Model Article.

23.2 Model Article 9(1) shall be amended by the insertion of the words "(which, for the avoidance of doubt, shall include any Investor Director)" after the words "Any director may call a directors' meeting."

23.3 Subject to Article 23.8 the quorum necessary for the transaction of business of the Directors shall be two, one of whom shall be the Investor Director (or his alternate) if



at the time of the meeting an Investor Director has been appointed. Model Article 11(2) shall not apply to the Company.

- 23.4 Reasonable notice must be given of Directors' meetings. Model Article 9(3) shall be amended accordingly. Directors may waive their entitlement to notice of a Directors' meeting at any time and in Model Article 9(4)) the words "not more than 7 days after the date on which the meeting is held" shall be deleted and replaced with the words "at any time".
- 23.5 At any meeting of the Directors each Director (or his alternate director) present at the meeting shall be entitled to one vote. In all proceedings of Directors each Director must not have more than one vote
- 23.6 Questions arising at a Directors' meeting shall be decided by a majority of votes. In the case of an equality of votes at any meeting of the Directors the chairman of such meeting shall be entitled to a casting vote.
- 23.7 Model Article 8 shall not apply to the company. A decision of the Directors is taken in accordance with Model Article 8 (as referred to in Model Article 7(1)) when a resolution in writing is signed by each Director or to which each Director has otherwise indicated agreement in writing (and such resolution may consist of several documents in the like form each signed by one or more Directors). The Directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every decision taken by a sole director in accordance with this Article 23.7.
- 23.8 Subject to the provisions of the Act, and to Article 9 and provided that he has disclosed to the Directors the nature and extent of any interest of his, a Director notwithstanding his office:
- 23.8.1 may be a party to or otherwise interested in any transaction or arrangement with the Company or in which the Company is in any way interested;
  - 23.8.2 may be a director or other officer of or employed by or be a party to any transaction or arrangement with or otherwise interested in any body corporate promoted by the Company or in which the Company is in any way interested;
  - 23.8.3 may or any firm or company of which he is a member or director may act in a professional capacity for the Company or any body corporate in which the Company is in any way interested;
  - 23.8.4 shall not by reason of his office be accountable to the Company for any benefit which he derives from such office, service or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and
  - 23.8.5 shall be entitled to vote on any resolution and (whether or not he shall vote) be counted in the quorum on any matter referred to in any of Articles 23.8.1 to 23.8.4 (inclusive) or on any resolution which in any way concerns or relates to a matter in which he has, directly or indirectly, any kind of interest

whatsoever and if he shall vote on any resolution as aforesaid his vote shall be counted.

23.9 For the purposes of Article 23.8:

23.9.1 a general notice to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any 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;

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

23.9.3 an interest of a person who is Connected with a Director shall be treated as an interest of the Director and in relation to an alternate Director an interest of his appointor shall be treated as an interest of the alternate Director without prejudice to any interest which the alternate Director has otherwise.

23.10 Model Article 14 shall not apply to the Company. Save as otherwise specified in these Articles or the Act and subject to any limitations, conditions or terms attaching to any authorisation given by the Directors for the purposes of section 175(4)(b) of the Act, a Director may vote on, and be counted in the quorum in relation to, any resolution relating to a matter in which he has, or can have:

23.10.1 a direct or indirect interest or duty which conflicts, or possibly may conflict, with the interests of the Company; and

23.10.2 a conflict of interest arising in relation to an existing or a proposed transaction or arrangement with the Company.

23.11 If a Conflict Situation arises, the Directors may authorise it for the purposes of Section 175(4)(b) of the Act by a resolution of the Directors made in accordance with that section and these Articles. At the time of the authorisation, or at any time afterwards, the Directors may impose any limitations or conditions or grant the authority subject to such terms as (in each case) they consider appropriate and reasonable in all circumstances. Any authorisation may be revoked or varied at any time at the discretion of the Directors.

23.12 It is recognised that an Investor Director:

23.12.1 may be an employee, consultant, director, member or other officer of an Investor or of an Investor Affiliate;

23.12.2 may be taken to have, through previous or existing dealings, a commercial relationship with an Investor or with an Investor Affiliate;

23.12.3 may be a director or other officer of, or be employed by, or otherwise involved in the business of other entities in which an Investor or an Investor Affiliate has or may have an interest from time to time; and

23.12.4 shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such other directorship, membership,

office, employment, relationship or his involvement with an Investor, with an Investor Affiliate or with any entity referred to in Article 23.12.3

and he shall not be in breach of the duties he owes to the Company as a result of any Conflict Situation which arises from the relationships contemplated by this Article, including (without limitation) in relation to proposals for financing or otherwise promoting the business of (whether in competition with the Company or not) any such other entity.

23.13 In the circumstances contemplated by Article 23.11 and notwithstanding any other provision of these Articles, each Director affected shall:

23.13.1 be entitled to receive any papers or other documents in relation to, or concerning, matters to which the Conflict Situation relates;

23.13.2 not be excluded from those parts of meetings of the Directors or meetings of a committee of the Directors at which matters to which the Conflict Situation relates are discussed;

23.13.3 be entitled to vote (and form a part of the quorum) at any such meeting.

23.14 Any information which a Director obtains, other than in his capacity as a Director of the Company, which is confidential in relation to an entity referred to in Article 23.12 need not be disclosed or used for the benefit of the Company where such disclosure or use would constitute a breach of confidence.

23.15 Any Director including an alternate Director may participate in a meeting of the Directors or a committee of the Directors of which he is a member by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the Act, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.

24. No alteration of these Articles invalidates anything which the Directors have done which would have been valid had that alteration not been made.

## 25. **THE INVESTOR DIRECTOR**

25.1 Notwithstanding any other provisions of these Articles, for so long as the Investors hold any Shares or Shares in the capital of the Company they shall have the right to appoint one person as a Director of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place.

25.2 An Investor Director shall not be required to hold any Shares.

25.3 Any appointment or removal of an Investor Director shall be by notice in writing to the Company signed by all of the Investors which will take effect on delivery at the registered office of the Company or at any meeting of the board of Directors.

25.4 On any resolution to remove the Investor Director the Shares held by the Investors who appointed such director shall together carry at least one vote in excess of 75% of the votes exercisable in respect of that resolution at the general meeting at which such resolution is to be proposed and if any such director is removed pursuant to Section

168 of the Act the Investors who appointed such director may reappoint him or any other person as an Investor Director, after reasonable consultation with the Investors.

- 25.5 Notwithstanding any other provisions of these Articles, for so long as the Investors or any of them hold any Shares in the Company, they shall have the right to appoint one or two persons as an observer at board meetings of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place.
- 25.6 Such observer shall be entitled to receive the same information concerning the business and affairs of the Company, as the directors of the Company receive, and at the same time, but shall not be entitled to vote at meetings of the directors and shall not be counted towards the quorum.
- 25.7 Any appointment or removal of such observer shall be by notice in writing to the Company signed by all of the Investors which will take effect on delivery at the registered office of the Company or at any meeting of the board of Directors.
- 25.8 The Investors may appoint one Investor Director and one observer but shall not be entitled to appoint more than two persons either as an Investor Director and/or such observer(s) in aggregate at any one time.

## **26. DIRECTORS' BORROWING POWERS**

- 26.1 Subject as hereinafter provided, and as set out in the Investment Agreement, the Directors may exercise all the powers of the Company (whether express or implied) of borrowing or securing the payment of money, of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts, and of mortgaging or charging the undertaking, property, assets and uncalled capital of the Company and (subject to Sections 549 and 551 of the Act) of issuing debentures.
- 26.2 Except with the prior sanction of the Investor Director or, if none has been appointed, an Investor Majority no mortgage or charge shall be created on any part of the undertaking, property, assets or uncalled capital of the Company or any subsidiary of the Company except for the purpose of securing money borrowed from bankers together with interest thereon and costs and expenses relating thereto.

## **27. NOTICES**

- 27.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
- 27.1.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five business days

was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);

- 27.1.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;
- 27.1.3 if properly addressed and sent or supplied by electronic means, 24 hours after the document or information was sent or supplied; and
- 27.1.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this Article, no account shall be taken of any part of a day that is not a business day.

- 27.2 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.
- 27.3 Where a notice is sent by facsimile a transmission report showing that the facsimile was transmitted in full to the correct number shall be conclusive evidence that the notice was given and the notice shall be deemed to have been given at the time of transmission.
- 27.4 Where notice is given by email, if it can be shown that the notice sent was properly addressed with the electronic address supplied by the intended recipient, unless the giver of that notice received notice either that such method of communication has failed or of the intended recipient's non-receipt.

## **28. INDEMNITY AND INSURANCE**

- 28.1 Subject to the Act and so far as may be permitted by law, but without prejudice to any indemnity to which a Director may otherwise be entitled, every Director or other officer or auditor of the Company shall be entitled to be indemnified out of the assets of the Company against any and all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto or in relation to the Relevant Company's activities as trustee of an occupational pension scheme (as defined in Section 235(6) of the Act) including in each case without limitation any liability incurred by him in defending any proceedings, whether civil, regulatory 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 relief is granted to him by the court, from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company. Model Article 52 (save for Model Articles 52(2) and 53) shall not apply to the Company.
- 28.2 In addition to Article 28.1 and in accordance with the Act the Company may pay the defence costs of every Director of the Company in relation to Proceedings brought against him by third parties and deal with the outcome of such Proceedings in the

following ways subject to such exclusions as the board of Directors may from time to time determine:

- 28.2.1 If judgment is given in the Director's favour, the Director will not be required to repay the defence costs to the Company; and
- 28.2.2 If judgment is given against the Director in the Proceedings the payments made in advance by the Company will be considered a loan to the Director and will be repayable by the Director subject to the following provisions:
  - 28.2.2.1 in civil proceedings the Company may, at its discretion, waive the loan in relation to defence costs. In addition, the Company may indemnify the Director against any liabilities incurred; and
  - 28.2.2.2 in regulatory proceedings the Company may at its discretion, waive the loan in relation to defence costs.
- 28.3 The provisions contained in Articles 28.1 and 28.2 will continue to apply even after the Director ceases to be a Director of the Company unless the Director's employment is terminated in accordance with the summary termination provisions in his Director's Employment Contract or letter of appointment.
- 28.4 Without prejudice to Article 28.1, the Directors may effect and maintain insurance for or for the benefit of any persons who are or were at any time Directors, officers or employees of any Relevant Company or who are or were at any time trustees of any pension fund or employees' share scheme in which employees of any Relevant Company are or were at any time interested including without limitation insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution of their duties and/or in the actual or purported exercise of their powers and/or otherwise in relation to their duties, powers or offices in relation to any Relevant Company or any such pension fund or employees' share scheme.
- 28.5 "Relevant Company" means the Company, any holding company or parent undertaking (as defined in section 1159 and section 1162 of the Act) from time to time of the Company or in which the Company or any such holding company or parent undertaking or any of the predecessors of the Company or of any such holding company or parent undertaking has or had at any time any interest, whether direct or indirect, or which is or was at any time in any way allied to or associated with the Company or any subsidiary or subsidiary undertaking (as defined in section 1159 and section 1162 of the Act) of the Company or of such other company or undertaking.