

THE COMPANIES ACT 2006

**ARTICLES OF
ASSOCIATION OF
STARK SOLAR LIMITED
Company Number 10259098**



THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION OF
STARK SOLAR LIMITED
(Company Number 10259098)
(the "Company")

(As amended by special resolution passed on 7 November 2018)

INTRODUCTION

1. INTERPRETATION

1.1 In these Articles, unless the context otherwise requires:

"**Act**" means the Companies Act 2006;

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

"**Adviser**" means Bluefield Partners LLP, the adviser to the Company;

"**Advisory Deed**" means the Advisory Deed dated on or around the Date of Adoption of these Articles and made between, inter alia, the Company and the Adviser;

"**Affiliate**" means, in relation to a Shareholder:

(a) each member of that Shareholder's Group (other than the Shareholder itself);

(b) any general partner, limited partner or other partner in, or trustee, nominee, custodian, operator or manager of, or investment adviser to, that Shareholder or any member of its Group;

(c) any group undertaking of any general partner, trustee, nominee, custodian, operator or manager of, or investment adviser to, that Shareholder or any member of its Group (excluding any portfolio company thereof);

"**Alternate Director**" has the meaning given in Article 10.2;

"**appointer**" has the meaning given in Article 10.2;

"**Articles**" means the company's Articles of association for the time being in force;

"**A Shares**" means the class A shares of £0.01 each in the capital of the Company;

"**A Shareholders**" means the holders of the A Shares;

"**Asset Sale**" means the disposal by the Company of all or substantially all of its undertaking and assets (including, for the avoidance of doubt, the shares in the Subsidiary);

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

"**Bluefield Directors**" means the directors appointed by the Adviser pursuant to the terms of the Advisory Deed;

"**B Shares**" means the class B shares of £0.01 each in the capital of the Company;

"B Shareholders" means the holders of the B Shares;

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

"Buyer" has the meaning given to it in Article 15.2(a);

"Called Securities" has the meaning given to it in Article 16.2(a);

"Called Shareholder" has the meaning given to it in Article 16.1;

"Civil Partner" means in relation to an individual Shareholder, a civil partner as defined in the Civil Partnership Act 2004;

"Company Board" means the Company's board of Directors;

"Conflict" has the meaning given in Article 7.1;

"Controlling Interest" means an interest in shares giving to the holder or holders control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010;

"Corporate Strategy" has the meaning given in the Advisory Deed;

"Co-Sale Notice" has the meaning given in Article 15.2;

"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;

"Distributions" means amounts received (directly or indirectly) by the Ordinary Shareholders, the A Shareholders, or the B Shareholders from the Company and/or the Subsidiaries by way of distributions, share buybacks, Investor Loan repayments, interest payments, other fees or benefits, capital reductions or otherwise (but excluding dividends and, for the avoidance of doubt, fees payable to the Adviser under the Advisory Deed);

"Drag Along Option" has the meaning given in Article 16.1;

"Drag Along Notice" has the meaning given in Article 16.2;

"Drag Completion Date" has the meaning given in Article 16.6;

"Drag Consideration" has the meaning given in Article 16.4;

"Drag Documents" has the meaning given in Article 16.6;

"Drag Purchaser" has the meaning given in Article 16.1;

"eligible Director" means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);

"Exit" means the sale of all the Shares held by the Shareholders;

"Family Trusts" in relation to an individual Shareholder, a trust or settlement set up wholly for the benefit of that individual Shareholder ("**Settler**") and/or the Settler's Privileged Relations;

"Group" means the Company and any Subsidiary Undertaking of the Company (including, any member of the Target Group) from time to time and references to "Group Company" and "member of the Group" shall be construed accordingly;

"Interested Director" has the meaning given in Article 7.1;

"Internal Rate of Return" means as of the date of determination, the cumulative internal rate of return of a Shareholder, which is the annually compounded rate of return which results in the following amount having a net present value equal to zero: (a) the aggregate amount of Distributions to such Shareholder (and its Affiliates) from any Group Company or otherwise in respect of its holding of Company Shares (and its Affiliates' holdings) from time to time on a cumulative basis through such date, in each case, denominated in pounds sterling (where, for the amount of cash received by such Shareholder (or its Affiliates) in a currency other than pounds sterling, the amount of pounds sterling shall be calculated based on the rate of exchange of such currency for pounds sterling published in the Financial Times on the Business Day immediately succeeding receipt of such cash, minus (b) the aggregate capital and contributions made by such Shareholder (and its Affiliates) from time to time on a cumulative basis through such date. In determining the internal rate of return, the rates of return shall be per annum rates and all amounts shall be calculated on an annually compounded basis and on the basis of a 365-day year;

"Investor Loan" means the loan to be made available by each Ordinary Shareholder to the Company under the Investor Loan Notes;

"Investor Loan Notes" means the loan notes to be issued by the Company pursuant to the Investor Loan Note Instrument;

"Investor Loan Note Instrument" means the instrument constituting the issue of unsecured zero coupon loan notes to the holders of Ordinary Shares;

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

"Member of the Same Group" means as regards (i) 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, or (ii) any limited liability partnership, a limited liability partnership which has in common members who control more than 50% of the voting rights of such partnership, or (iii) a limited partnership, any limited partnership under the control of the general partner;

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

"New Securities" means any Ordinary Shares or other securities convertible into, or carrying the rights to subscribe for, Ordinary Shares (other than shares or securities issued as a result of the events set out in Article 12.7);

"Original Shareholder" has the meaning given in Article 14.1;

"Ordinary Shares" means the ordinary shares of £0.01 each in the capital of the Company;

"Ordinary Shareholders" means the holders of the Ordinary Shares;

"Paid-up Amount" means the total amount paid up (including any amounts by way of premium paid on issue) of each Ordinary Share;

"Permitted Transferee" means a transfer of Shares or Investor Loan Notes in accordance with Article 14;

"Permitted Transferee" means in relation to a Shareholder;

(a) who is an individual, to any of his Privileged Relations, Family Trusts or to the trustees of those Family Trusts;

(b) that is an undertaking (as defined in section 1161(1) of the 2006 Act), to any Member of the same Group or to any Affiliate or to any third party provider of financing to such

Shareholder who has the benefit of a charge or pledge over such Shareholder's Shares;

"Privileged Relation" means the spouse, Civil Partner, widow or widower of a Shareholder and the Shareholder's children and grandchildren (including step and adopted children), and step and adopted children of the Shareholder's children;

"Proceeds of Sale" means the consideration payable (including any deferred consideration) whether in cash or otherwise to those Shareholders selling Shares under a Share Sale;

"Proposed Purchaser" means a proposed purchaser who at the relevant time has made an offer on arm's length terms;

"Sale Agreement" has the meaning given in Article 16.2(e);

"Sellers' Shares" has the meaning given in Article 16.1;

"Selling Shareholders" has the meaning given in Article 16.1;

"Share Sale" means the sale of (or the grant of a right to acquire or to dispose of) any of the Shares (in one transaction or as a series of transactions) which will result in the purchaser of those shares (or grantee of that right) and persons Acting in Concert with him together acquiring a Controlling Interest in the Company, except where following completion of the sale the shareholders and the proportion of shares held by each of them are the same as the shareholders and their shareholdings in the Company immediately prior to the sale;

"Shareholders" means the Ordinary Shareholders, the A Shareholders and the 8 Shareholders;

"Shares" means the Ordinary Shares, the A Shares and the B Shares;

"Subscribers" has the meaning given in Article 12.3;

"Subscription Period" has the meaning given in Article 12.3(a);

"Subsidiary" means SunE Waycock Road Solar Limited a company registered in England and Wales with company registration number 07907294 and SunE Troughton Farm Solar Limited a company registered in England and Wales with company registration number 08567868, each a proposed subsidiary of the Company;

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

"Target Return" means the receipt by, or allocation for distribution or other payment to a Shareholder of amounts from the Company or the Subsidiaries, whether by way of dividends, distributions, share buybacks, redemption of Investor Loan Notes, interest, capital reductions or otherwise, which would constitute an Internal Rate of Return of 8% per annum compounded annually on the total Paid-up Amount paid up by a Shareholder and the amount of the Investor Loan made available by that Shareholder, with such Internal Rate of Return being calculated on a daily basis from the date of allotment of the Shares and the drawdown of the Investor Loans;

"Unconnected Proposed Purchaser" means a Proposed Purchaser who is not connected (as defined in section 252 of the Act) with a Bluefield Director;

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles,

subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.

- 1.3 Headings in these Articles are used for convenience only and shall not *affect* the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an "**Article**" is a reference to the relevant Article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
 - 1.5.1 any subordinate legislation from time to time made under it; and
 - 1.5.2 any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.6 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles.
- 1.8 Articles 8, 9(1), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17, 44(2), 52 and 53 of the Model Articles shall not apply to the company.
- 1.9 Article 7 of the Model Articles shall be amended by:
 - 1.9.1 the insertion in Article 7(2)(a) of the words "for the time being" after the words "has one Director"; and
 - 1.9.2 the insertion in Article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the Director may".
- 1.10 Article 20 of the Model Articles shall be amended by the insertion of the words "and any secretary" before the words "properly incur".
- 1.11 In Article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 1.12 Article 27(3) of the Model Articles shall be amended by the insertion of the words ", subject to Article 10.2," after the word "But".
- 1.13 Article 29 of the Model Articles shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under Model Article 28(2)," after the words "the transmittee's name".
- 1.14 Articles 31(1)(a) to (c) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide" and Article 31(1)(d) of the Model Articles shall be amended by the deletion of the words "either" and "or by such other means as the directors decide".

DIRECTORS

2. DECISION MAKING BY DIRECTORS

- 2.1 A decision of the Directors is taken in accordance with this Article when a majority in number of eligible Directors indicate to each other by any means that they share a common view on a matter.
- 2.2 Such a decision may take the form of a resolution in writing, where each eligible Director has signed one or more copies of it, or to which each eligible Director has otherwise indicated agreement in writing.
- 2.3 A decision may not be taken in accordance with this Article if the eligible Directors would not have formed a quorum at such a meeting.

3. CALLING A DIRECTORS' MEETING

Any Director may call a Directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

4. QUORUM FOR DIRECTORS' MEETINGS

The quorum for the transaction of business at a meeting of Directors shall be governed by the Advisory Deed.

5. CASTING VOTE

- 5.1 If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairman or other Director chairing the meeting has a casting vote.
- 5.2 Article 5.1 shall not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the Articles, the chairman or other Director is not an eligible Director for the purposes of that meeting (or part of a meeting).

6. TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY

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

6.1.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;

6.1.2 shall be an eligible Director for the purposes of any proposed decision of the Directors (or committee of Directors) in respect of such contract or proposed contract in which he is interested;

6.1.3 shall be entitled to vote at a meeting of Directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested;

6.1.4 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director;

6.1.5 may be a Director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and

6.1.6 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the

Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor- shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

7. DIRECTORS' CONFLICTS OF INTEREST

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

7.2 Any authorisation under this Article 7 will be effective only if:

7.2.1 to the extent permitted by the Act, the authorisation in question shall have been proposed by any Director for consideration in the same way that any other authorisation may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine;

7.2.2 any requirement as to the quorum for consideration of the relevant authorisation is met without counting the Interested Director; and

7.2.3 the authorisation was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.

7.3 Any authorisation of a Conflict under this Article 7 may (whether at the time of giving the authorisation or subsequently):

7.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;

7.3.2 provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the Directors or otherwise) related to the Conflict;

7.3.3 provide that the Interested Director shall or shall not be an eligible Director in respect of any future decision of the Directors in relation to any resolution related to the Conflict;

7.3.4 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the Directors think fit;

7.3.5 provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a Director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and

7.3.6 permit the interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the Directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.

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

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

7.6 In authorising a Conflict the Directors may decide (whether at the time of giving the authorisation or subsequently) that if a Director has obtained any information through his involvement in the Conflict otherwise than as a Director of the Company and in respect of which he owes a duty of confidentiality to another person, the Director is under no obligation to:

7.6.1 disclose such information to the Directors or to any Director or other officer or employee of the company; or

7.6.2 use or apply any such information in performing his duties as a Director, where to do so would amount to a breach of that confidence.

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

7.8 In addition to the provisions of this Article 7, 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 arising from any duty he may owe to, or interest he may have as an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or direct or indirect investor (including without limitation by virtue of a carried interest, remuneration or incentive arrangements or the holding of securities) in:

7.8.1 A holder of Shares;

7.8.2 the Adviser;

7.8.3 any of the funds advised or managed by a the Adviser; or

7.8.4 another body corporate or firm in which the Adviser or any fund advised or managed by such Adviser has directly or indirectly invested, including without limitation any portfolio companies.

8. RECORDS OF DECISIONS TO BE KEPT

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

9. NUMBER OF DIRECTORS

Unless otherwise determined by ordinary resolution, the number of Directors (other than alternate Directors) shall not be subject to any maximum or minimum.

10. APPOINTMENT OF DIRECTORS

10.1 Without prejudice to Article 17(1) of the Model Articles shall not apply. The appointment and removal of Directors of the Company shall be governed by the Advisory Deed. Any such appointment or removal shall be effected by an instrument which shall be in writing signed (or approved by letter, facsimile or electronic means) by the member or members making the same or by its duly authorised attorney (or in the case of a member being a Company signed by one of its directors or officers on its behalf), or in such other form as the Directors may accept, and shall take effect upon such appointment or removal being lodged with or otherwise communicated to the Company at the registered office or being handed or

otherwise communicated (including by electronic means) to any Director at a meeting of the Directors at which a quorum is present.

- 10.2 Any Director (the "**appointor**") may at any time appoint any person (including another Director) to be his alternate (the "**Alternate**" or "**Alternate Director**") and may at any time terminate such appointment.
- 10.3 The appointment or termination of appointment of an Alternate Director must be made by notice in writing signed by the appointor or in *any* other manner approved by the Directors.
- 10.4 The notice must identify the proposed Alternate and, in the case of an appointment, contain a statement signed by the proposed Alternate stating that the proposed Alternate is willing to act as the Alternate of the Director giving the notice.
- 10.5 The appointment of an Alternate Director shall terminate:
- (a) when the appointor revokes the appointment by notice to the Company specifying when it is to terminate;
 - (b) on the occurrence in relation to the Alternate of any event which if happened 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) if his appointor ceases to be a Director.
- 10.6 An Alternate Director shall be entitled to receive notices of meetings of the Directors and of any committee of the Directors of which his appointor is a member and shall be entitled to attend and vote as a Director at any such meeting and be counted in the quorum at any such meeting at which his appointor is not personally present and generally at such meetings to perform all functions of his appointor as a Director. For the purposes of the proceedings at such meetings, the provisions of these Articles shall apply as if the Alternate Director (instead of his appointor) were a Director.
- 10.7 If an Alternate is himself a Director or shall attend any such meeting as an Alternate for more than one Director, his voting rights shall be cumulative but he shall not be counted more than once for the purposes of the quorum.
- 10.8 If his appointor is for the time being temporarily unable to act through ill health or disability an Alternate's signature to any resolution in writing of the Directors shall be as effective as the signature of his appointor.
- 10.9 This Article 10 shall also apply (with such changes as are necessary) to such extent as the Directors *may* from time to time resolve to any meeting of any committee of the Directors of which the appointor of an Alternate Director is a member.
- 10.10 An Alternate Director shall not (except as otherwise provided in this Article 10) have power to act as a Director, nor shall he be deemed to be a Director for the purposes of these Articles, nor shall he be deemed to be the agent of his appointor.
- 10.11 An Alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent as if he were a Director.
- 10.12 An Alternate shall not be entitled to receive remuneration from the Company in respect of his appointment as Alternate Director except to the extent his appointor directs the Company to pay to the Alternate some of the remuneration otherwise payable to that Director.

11. SECRETARY

The directors may (but are not required to) appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit

and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

SHARES

12. PRE-EMPTION RIGHTS ON ALLOTMENT OF SHARES

12.1 Subject to the provisions of the Advisory Deed and the remaining provisions of this Article 12, 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 nominal amount of 300,000 Ordinary Shares, 38,000 A Shares and 15,000 B Shares;
- (2) this authority shall only apply insofar as the Company has not by resolution of the Ordinary Shareholders waived or revoked it;
- (3) this authority may only be exercised for a period of five years commencing upon the Date of Adoption.

This authority is in substitution for all subsisting authorities.

12.2 Sections 561(1) and 562(1) to (5) (inclusive) of the Act do not apply to an allotment of Shares made by the Company.

12.3 Unless otherwise agreed by special resolution, 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 to the Ordinary Shareholder (the "**Subscribers**") on the same terms and at the same price as those New Securities are being offered to other persons on a pari passu and pro rata basis to the number of Ordinary Shares held by those holders (as nearly as may be without involving fractions). The offer:

- (a) shall be in writing, be open for acceptance from the date of the offer to the date 20 Business Days after the date of the offer (inclusive) (the "**Subscription Period**") and give details of the number and subscription price of the New Securities; and
- (b) may stipulate that any Subscriber 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 for which they wish to subscribe.

12.4 If, at the end of the Subscription Period, the number of New Securities applied for is equal to or exceeds the number of New Securities, the New Securities shall be allotted to the Subscribers who have applied for New Securities on a pro rata basis to the number of Ordinary Shares held by such Subscribers which procedure shall be repeated until all New Securities have been allotted (as nearly as may be without involving fractions or increasing the number allotted to any Subscriber beyond that applied for by him).

12.5 If, at the end of the Subscription Period, the number of New Securities applied for is less than the number of New Securities, the New Securities shall be allotted to the Subscribers in accordance with their applications and any remaining New Securities 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 Subscribers.

- 12.6 Subject to the provisions of the Advisory Deed and the requirements of Articles 12.1 to 12.10 (inclusive) and to the provisions of section 551 of the Act, any New Securities shall be at the disposal of the Company 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.
- 12.7 The provisions of Articles 12.1 to 12.10 (inclusive) shall not apply to:
- (a) New Securities issued in consideration of the acquisition by the Company of any company or business in accordance with the Advisory Deed and the Corporate Strategy;
 - (b) New Securities which have been approved in accordance with the Advisory Deed; or
 - (c) Shares issued or granted in accordance with the terms of the Advisory Deed or Investor Deeds of Adherence (excluding, for the avoidance of doubt, in respect of any Substitute Shareholders);
 - (d) the issue of A Share or B Shares in accordance with Article 12.10.
- 12.8 Any New Securities offered under this Article 12 to an Investor may be accepted in full or part on behalf of an Investor by any entity or individual who would be categorised as a Permitted Transferee of that Investor, subject to the restrictions contained in Article 12.10.
- 12.9 No Shares shall be allotted to any employee, Director, prospective employee or prospective director of the Company, who in the opinion of the Company 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.
- 12.10 Notwithstanding any provisions of this Agreement or the Articles to the contrary, neither the Company Board nor the Company shall issue any A Shares or any B Shares without the prior written approval of the Bluefield Directors.

13. TRANSFER OF SHARES

- 13.1 No Share may be transferred unless the transfer is made in accordance with these Articles.
- 13.2 Notwithstanding any provisions of this Agreement or the Articles to the contrary, neither the Company Board nor the Company shall register the transfer of any A Shares or any B Shares to any person unless such person has been approved in writing by the Bluefield Directors.
- 13.3 The provisions of the Advisory Deed and the Articles relating to the transfer of Ordinary Shares shall apply mutatis mutandis to the transfer of Investor Loan Notes.

14. REGISTER TRANSFER OF SHARES

- 14.1 Notwithstanding anything contained in these Articles (including, for the avoidance of doubt, provisions incorporated from the Model Articles)
- 14.1.1 the directors (or director if there is only one) of the Company may not decline to register any transfer of shares in the Company nor suspend registration of any such shares, and
 - 14.1.2 a holder of shares in the Company is not required to comply with any provision of the Articles (including, for the avoidance of doubt, provisions incorporated from the Model Articles) which restricts the transfer of shares or which requires any such shares to be first offered to all or any current shareholders of the Company before any transfer may take place,

where in any such case the transfer is or is to be:

- (a) executed by a bank or institution to which such shares have been

mortgaged, charged or pledged by way of security (whether as lender, or as agent or trustee for a group of banks or institutions or otherwise) (a "**Secured Institution**") (or by any nominee of such Secured Institution) pursuant to a power of sale or any other right in connection with such security;

- (b) executed by a receiver or manager appointed by or on behalf of any such Secured Institution or its nominee under any such security;
 - (c) delivered to the Company for registration by a Secured Institution or its nominee in order to perfect its security over the shares;
 - (d) to any such Secured Institution or its nominee pursuant to any such security; or
 - (e) in favour of any third party upon disposal or realisation of shares following the Secured Institution having become entitled to exercise or enforce its rights under any such mortgage, charge and/or call or other option.
- 14.2 A certificate by any officer of such bank or institution that the shares were so charged and the transfer was so executed shall be conclusive evidence of such facts.
- 14.3 Notwithstanding anything contained in these Articles (including, for the avoidance of doubt, provisions incorporated from the Model Articles), the directors (or director if there is only one) of the Company may not exercise its right of lien over shares that have been mortgaged, charged or pledged by way of security to a Secured Institution.
- 14.4 Notwithstanding anything contained in these Articles (including, for the avoidance of doubt, provisions incorporated from the Model Articles), the Directors shall not issue any share certificate (whether by way of replacement or otherwise) without the prior written consent of each Secured Institution to which the shares of the Company have been mortgaged, charged or pledged by way of security.
- 14.5 Notwithstanding anything contained in these Articles (including, for the avoidance of doubt, provisions incorporated from the Model Articles), any rights that the Company has in respect of liens on or forfeiture or surrender of shares shall not apply in respect of any shares which have been charged by way of security to any Secured Institution to which such shares have been mortgaged, charged or pledged by way of security.

15. PERMITTED TRANSFERS

- 15.1 A Shareholder (the "**Original Shareholder**") may transfer all or any of his or its Shares or Investor Loan Notes to a Permitted Transferee, so long as, in the case of Ordinary Shareholders only, such transfer is in accordance with the provisions of Clause 3.4 of the *Advisory Deed*.
- 15.2 If the Original Shareholder is a company, and a Permitted Transfer has been made, the Permitted Transferee shall, within 20 Business Days of ceasing to be a Member of the Same Group as the Original Shareholder, transfer the Shares it holds to:
- (a) the Original Shareholder; or
 - (b) a Member of the Same Group as the Original Shareholder,

(which in either case is not in liquidation), without *any* price or other restriction.

- 15.3 Where Shares are held by the trustees of a Family Trust, the trustees may transfer Shares to:
- (a) The Original Shareholder;
 - (b) another Privileged Relation of the Original Shareholder;
 - (c) another Family Trust of which the Original Shareholder is the Settler; or
 - (d) to the new (or remaining) trustees upon a change of trustees of a Family Trust
- without any price or other restriction.
- 15.4 A transfer of Shares may only be made to a Family Trust if the Company 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) that the proposed transfer will not result in 50% or more of the aggregate of the Company's equity share capital being held by trustees of that and any other trusts; and
 - (d) that no costs incurred in connection with the setting up or administration of that Family Trust are to be paid by the Company or any other Group Company.
- 15.5 If a Permitted Transfer is made to the spouse or Civil Partner of the Original Shareholder, the Permitted Transferee shall upon ceasing to be the spouse or Civil Partner of the Original Shareholder (whether by reason of divorce or otherwise) 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.
- 15.6 Where, under a deceased Shareholder's will (or the laws as to intestacy), the persons legally or beneficially entitled to any Shares or the Investor Loan Notes (whether immediately or contingently) are Privileged Relations of the deceased Shareholder, the legal representative of the deceased Shareholder may transfer any Shares or Investor Loan Notes to those Privileged Relations who are Permitted Transferees, in each case without restriction as to price or otherwise. Shares or Investor Loan Notes previously transferred as permitted by this Article 14.6 may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder without any price or other restriction.
- 15.7 Subject to Article 14.6, on the death, bankruptcy or liquidation of a Permitted Transferee (other than a joint holder), his personal representatives, trustee in bankruptcy or its liquidator shall execute and deliver to the Company a transfer of the Shares or Investor Loan Notes held by the Permitted Transferee (without any price or other restriction) within 20 Business Days after the date of the grant of probate, the making of the bankruptcy order or the passing of a resolution or making of an order for winding up. 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.
- 16. CO-SALE**
- 16.1 No transfer (other than to a Permitted Transferee or in case of an Exit) of any of the Ordinary Shares may be made or validly registered unless the relevant Ordinary Shareholder and any Permitted Transferee (each a "**Selling Shareholder**") shall have observed the following procedures of this Article unless the Directors have determined in writing that this Article 15 shall not apply to such transfer.

16.2 The Selling Shareholder shall give to each holder of Shares not less than 15 Business Days' notice in advance of the proposed sale (a "Co-Sale Notice"). The Co-Sale Notice shall specify:

- (a) the identity of the proposed purchaser (the "Buyer");
- (b) the price per share which the Buyer is proposing to pay;
- (c) the manner in which the consideration is to be paid;
- (d) the number of Shares which the Selling Shareholder proposes to sell; and
- (e) the address where the counter-notice should be sent.

16.3 For the purposes of this Article 15, it is acknowledged that Shares of different classes will be transferable at different prices, such price per class of Share being a sum equal to that to which they would be entitled if the consideration payable by the Buyer to the Selling Shareholder were used to determine the valuation of the entire issued share capital of the Company and such valuation was then allocated as between the Shares in accordance with Article 21.

16.4 Each Shareholder shall be entitled within five Business Days after receipt of the Co-Sale Notice, to notify the Selling Shareholder that they wish to sell a certain number of Shares held by them at the proposed sale price, by sending a counter-notice which shall specify the number of Equity Shares which such Shareholder wishes to sell. The maximum number of shares which a Shareholder can sell under this procedure shall be:

$\frac{(X) \times Z}{Y}$

where:

- X is the number of Shares held by the Shareholder;
- Y is the total number of Shares held by the Shareholders;
- Z is the number of Shares the Selling Shareholder proposes to sell.

16.5 Any Shareholder who does not send a counter-notice within such five Business Day period shall be deemed to have specified that they wish to sell no shares.

16.6 Following the expiry of five Business Days from the date the Shareholders receive the Co-Sale Notice, the Selling Shareholders shall be entitled to sell to the Buyer on the terms notified to the Shareholders a number of shares not exceeding the number specified in the Co-Sale Notice less any shares which Shareholders have indicated they wish to sell, provided that at the same time the Buyer (or another person) purchases from the Shareholders the number of shares they have respectively indicated they wish to sell on terms no less favourable than those obtained by the Selling Shareholders from the Buyer.

16.7 No sale by the Selling Shareholders shall be made pursuant to any Co-Sale Notice more than 90 Business Days after service of that Co-Sale Notice.

17. DRAG ALONG

17.1 If the holders of either:

- (a) more than 75 per cent of the Ordinary Shares wish to transfer all their interest in Shares and investor Loan Notes (the "Sellers' Shares") to a Proposed Purchaser; or

- (b) more than 50 per cent of the Ordinary Shares wish to transfer all their interest in the Sellers' Shares to an Unconnected Proposed Purchaser where the Internal Rate of Return for each of the Investors (excluding in relation to any B Shares) will exceed 20%;

(together in either case the "**Selling Shareholders**"),

the Selling Shareholders shall 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 and *Investor* Loan Notes to the Proposed Purchaser or as the Proposed Purchaser shall direct (the "**Drag Purchaser**") in accordance with the provisions of this Article.

- 17.2 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 and Investor Loan Notes to the Drag Purchaser. A Drag Along Notice shall specify that:

- (a) the Called Shareholders are required to transfer all their Shares and Investor Loan Notes (the "**Called Securities**") under this Article;
- (b) the person to whom they are to be transferred;
- (c) the consideration for which the Called Securities 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**"),

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.

- 17.3 Drag Along Notices shall be irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares and Investor Loan Notes by the Selling Shareholders to the Drag Purchaser within 90 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.
- 17.4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Securities shall be on no less favourable terms than those on which the Seller's Shares and Investor Loan Notes are being sold by the Selling Shareholders provided that the total consideration paid by the Proposed Purchaser in respect of the Seller's Shares and Investor Loan Notes and Called Securities shall be distributed to the Shareholders and holders of Investor Loan Notes in accordance with the provisions of Article 21 (the "**Drag Consideration**").
- 17.5 In respect of a transaction that is the subject of a Drag-Along Notice and with respect to any Drag Document, a Called Shareholder shall only be obliged to undertake to transfer his Shares and Investor Loan Notes with full title guarantee (and provide an indemnity for lost certificate in a form reasonably acceptable to the Company Board if so necessary) in receipt of the Drag Consideration when due and shall not be obliged to give warranties or indemnities except a warranty as to capacity to enter into a Drag Document and the full title guarantee of the Shares and Investor Loan Notes held by such Called Shareholder.
- 17.6 Within three Business Days of the Company copying the Drag Along Notice to 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 and Investor Loan Notes in favour of the Drag Purchaser;
- (b) the relevant share certificate(s) (or a *duly* executed indemnity for lost certificate in a form reasonably acceptable to the Company Board) and the relevant Investor Loan Note certificates 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").

- 17.7 On the Drag Completion Date, the Company shall pay each Called Shareholder, on behalf of the Drag Purchaser, the Drag Consideration that is due 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.
- 17.8 To the extent that the Drag Purchaser has not, on the Drag Completion Date, paid the Drag Consideration that is due to the Company, the Called Shareholders shall be entitled to the immediate return of the Drag Documents for the relevant Shares and Investor Loan Notes and the Called Shareholders shall have no further rights or obligations under this Article 16 in respect of their Shares.
- 17.9 If a Called Shareholder fails to deliver the Drag Documents for its Shares and Investor Loan Notes to the Company by the Drag Completion Date, the Company and each Director shall be constituted as the agent of such defaulting Called Shareholder to take such actions and enter into any Drag Document or such other agreements or documents as are necessary to effect the transfer of the Called Shareholder's Shares and Investor Loan Notes pursuant to this Article 16 and the Directors shall, if requested by the Drag Purchaser, authorise any Director to transfer the Called Shareholder's Shares and Investor Loan Notes 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 and Investor Loan Notes offered to him. The Company Board shall then authorise registration of the transfer once appropriate stamp duty has been paid (to the extent applicable). The defaulting Called Shareholder shall surrender his share certificate for his Shares and Investor Loan Note transfer certificate for his Investor Loan Notes (or, in each case, suitable executed indemnity) to the Company. On surrender, he shall be entitled to the Drag Consideration due to him.
- 17.10 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 and/or Investor Loan Notes 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 and/or Investor Loan Notes 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 and/or Investor Loan Notes shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder.

Asset Sale

- 17.11 In the event that an Asset Sale is approved in accordance with the Advisory Deed, such consenting Shareholders shall have the right, by notice in writing to all other Shareholders, to require such Shareholders to take any and all such actions as it may be necessary for Shareholders to take in order to give effect to or otherwise implement such Asset Sale, subject always to the proceeds from such Asset Sale being distributed to Shareholders in accordance with the provisions of Articles 21 and 22.

DECISION MAKING BY SHAREHOLDERS

18. VOTING

Each Ordinary Share shall carry a right to one vote. A Shares shall not carry any rights to vote. B Shares shall not carry any rights to vote.

19. QUORUM

No business shall be transacted at any general meeting unless a quorum is present. Subject to the following in respect of a sole member, two persons entitled to vote upon the business to be transacted, each being a member or a proxy or representative of a member shall be a quorum. If and for so long as the Company has only one member that member present in person or by proxy, or if that member is a corporation by a proxy or representative, shall be a quorum.

20. POLL VOTES

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

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

21. DIVIDENDS

Any Available Profits which the Company may determine to distribute in respect of any Financial Year will be allocated among the holders of Ordinary Shares and A Shares pro rata to their respective holdings of shares as if they constituted the same class of shares. Save as provided in Article 21, the B Shares shall not have any right to receive dividends.

22. DISTRIBUTIONS

22.1 Distributions shall be applied (to the extent that the Company is lawfully permitted to do so) as follows:

- (a) first, by way of redemption of Investor Loans Notes and payment of any interest thereon, provided that all such redemption of Investor Loan Notes are made to holders of Investor Loan Notes pro-rata to the Investor Loan Notes held by them or their Permitted Transferees and then in repaying the Paid-up Amount to the Ordinary Shareholders pro rata to the Ordinary Shares held by them or their Permitted Transferees;
- (b) next, in paying to the holders of A Shares 1000 x the nominal value of such A Shares (provided that if there are insufficient surplus assets to pay such amounts per share, the remaining surplus assets shall be distributed to the holders of A Shares pro rata to their respective holdings of A Shares);
- (c) next to the holders of Ordinary Shares and A Shares as if they constituted the same class of shares, pro rata to the number of Ordinary Shares and A Shares held by each, an amount required such that all Ordinary Shareholders have received an aggregate amount of Distributions (together with any other Distributions previously received by him/her under Article 21. 1(a) or otherwise and any dividends paid pursuant to Article 20) equal to his/her Paid-up Amount and Investor Loan Notes and the Target Return (provided that if there are insufficient surplus assets to pay such amounts per share, the remaining surplus assets shall be distributed to the holders of A Shares and Ordinary Shares pro rata to their respective holdings of A Shares and Ordinary Shares as if they constituted one class of share); and

- (c) next, to the B Shareholders pro rata to the number of B Shares held by each until the B Shareholders have received an aggregate amount of Distributions (together with any other Distributions previously received by him/her) equal to 20% of all Distributions paid pursuant to Articles 21.1(b) and this 21.1(c);
 - (d) finally, 80% of any further Distributions shall be distributed among the Ordinary Shareholders and A Shares pro rata to the number of Ordinary Shares or A Shares as if they constituted the same class of shares and 20% to the B Shareholders pro rata to the number of B Shares held.
- 22.2 The distribution provisions under this Article 21, the Exit Provisions in Article 22 and the allotment and issue of A Shares or B Shares in addition to the A Shares or B Shares in issue on the Date of Adoption shall constitute separate class rights of the Ordinary Shares and the B Shares.
- 23. EXIT PROVISIONS**
- 23.1 On a Share Sale the Proceeds of Sale shall be distributed amongst the Shareholders selling Shares and Investor Loan Notes in the Share Sale in the manner and order of priority set out in Article 21 and the Directors shall not register any transfer of Shares if the Proceeds of Sale are not so distributed.
- 23.2 On an Asset Sale the surplus assets of the Company remaining after payment of its liabilities shall be distributed (to the extent that the Company is lawfully permitted to do so) in the order of priority set out in Article 21 provided always that if it is not lawful for the Company to distribute its surplus assets in accordance with the provisions of these Articles, the Shareholders shall take any action including, but without prejudice to the generality of this Article 22.2, creating distributable profits or reserves by way of reduction of capital or such action as may be necessary to put the Company into voluntary liquidation so as to distribute such surplus assets in accordance with Article 21.
- 24. INDEMNITY**
- 24.1 Subject to Article 19.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:
 - 23.1.1 each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer including any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated company's) affairs; and
 - 23.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in Article 23.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 24.2 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.
- 24.3 In this Article:
 - 23.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and

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

25. INSURANCE

25.1 The Directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer in respect of any relevant loss.

25.2 In this Article:

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

24.2.2 a **"relevant loss"** means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated Company; and

24.2.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.