

**DATED** 3 July 2017

as amended by a special resolution dated 19 March 2021

**CLEAN POWER HYDROGEN GROUP LIMITED**

(company number 10286500)

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**ARTICLES OF ASSOCIATION**

adopted on 3 July 2017 and amended 19 March 2021



Company number: 10286500

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**CLEAN POWER HYDROGEN GROUP LIMITED**

**1 DEFINITIONS AND INTERPRETATION**

1.1 In these Articles the following definitions will apply:

**Accounting Period**

an accounting period in respect of which the Company prepares its accounts in accordance with the relevant provisions of the Act;

**acting in concert**

has the meaning in the City Code on Takeovers and Mergers in force for the time being,

**Act**

the Companies Act 2006;

**Adoption Date**

the date of the adoption of these Articles by the Company;

**Asset Sale**

the disposal by any one or more Group Companies of assets (whether together with associated liabilities or otherwise and as part of an undertaking or otherwise) which represent 50% or more (by book value) of the consolidated gross tangible assets of the Group at that time;

**Auditors**

the auditors of the Company for the time being;

**Bad Leaver**

a Member who ceases to be an employee or director of, or a consultant to, a Group Company in the circumstances set out in article 10.1.6 as a result of:

- (a) the voluntary resignation of that Member (other than for a reason set out in the definition of Good Leaver); or
- (b) any other circumstances in which he is not a Good Leaver;

**Board**

the board of Directors from time to time;

**Business Day**

any day (other than a Saturday, Sunday or public holiday) during which banks in London are open for normal business;

**Change of Control**

the acquisition (by any means) by a Third Party Purchaser of any interest in any Shares if, upon completion of that acquisition, the Third Party Purchaser together with any person connected with or acting in concert with that Third Party Purchaser would be entitled to exercise more than 75% of the total voting rights normally exercisable at any general meeting of the Company;

**Compulsory Transfer Notice**

has the meaning given in article 10.2;

**Compulsory Transfer Shares**

in relation to a Relevant Member, any Shares;

- (a) held by the Relevant Member at the time of the relevant Transfer Event;
- (b) held at the time of the relevant Transfer Event by any Family Member or Family Trust of the Relevant Member; and
- (c) acquired by the Relevant Member, his Family Members, Family Trusts and/or personal representatives after the occurrence of the Transfer Event pursuant to any Share Option Scheme or any other scheme or arrangement entered into prior to the Transfer Event,

together with, in any case, any further Shares received by any person referred to in paragraphs (a), (b) and (c) above at any time after the relevant Transfer Event which are derived from any such Shares, whether by conversion, consolidation or sub-division, or by way of capitalisation, rights or bonus issue or otherwise;

**Director**

a duly appointed director of the Company for the time being;

**Eligible Director**

a Director who would be entitled to vote on a matter at a meeting of the Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter) and references to eligible directors in article 8 of the Model Articles shall be construed accordingly;

**Employee Trust**

any trust established for the benefit of the employees of the Company or any Group Company and/or any of the persons referred to in section 1166 of the Act;

**Encumbrance**

any mortgage, charge (fixed or floating), pledge, lien, option, hypothecation, restriction, right to acquire, right of pre-emption or interest (legal or equitable) including any assignment by way of security, reservation of title, guarantee, trust, right of set off or other third party right or any other encumbrance or security interest having a similar effect howsoever arising;

**Expert**

the expert identified and engaged in accordance with article 23;

**Fair Value**

the price which the Expert states in writing to be their opinion of the fair value of the Shares concerned, calculated on the basis that:

- (a) the fair value is the sum which a willing buyer would agree with a willing seller on an arm's length sale to be the purchase price for the Shares concerned on a Share Sale;
- (b) no account shall be taken of the size of the holding which the relevant Shares comprise or whether those Shares represent a majority or minority interest;
- (c) no account shall be taken of the fact that the transferability of the relevant Shares is restricted under these Articles;
- (d) if the Company is then carrying on business as a going concern, it will continue to do so; and
- (e) any difficulty in applying any of the bases set out above shall be resolved by the Expert as it, in its absolute discretion, think fit;

**Family Member**

in relation to any Member, the spouse or civil partner of that Member and their children (including step and adopted children) for the time being;

**Family Trust**

a trust under which the only persons being (or capable of being) beneficiaries are:

- (a) the settlor (being a Member); and/or
- (b) the Family Members of that settlor; and;
- (c) any charity or charities as default beneficiaries (meaning that such charity or charities have no immediate beneficial interest in any of the settled property or the income from that property when the trust is created but may become so interested if there are no other beneficiaries for the time being except other charities),

and under which no power of control over the voting powers conferred by any Share is exercisable at any time by, or subject to the consent of, any person other than the trustees, the settlor or the Family Members of that settlor. For the purposes of this definition:

- (i) settlor shall include a testator or an intestate in relation to a Family Trust arising under a testamentary disposition or an intestacy of a deceased Member (as the case may be); and;
- (ii) Family Member shall include the widow or widower of the settlor or the surviving civil partner of such settlor at the date of his death;

**Good Leaver**

a Member who ceases to be an employee or director of, or a consultant to, a Group Company in the circumstances set out in article 10.1.6 as a result of:

- (a) the sale or disposal of the Group Company (or the business of the Group Company) by which he is engaged or employed;
- (b) termination of that Member's employment by a Group Company in circumstances that are determined by a decision of an Employment Tribunal or Court, which decision is final and no longer appealable, to be or amount to wrongful dismissal where the Member has commenced proceedings in respect of such claim within 3 months of the date of cessation of the Member's employment (determined in accordance with article 10.5);
- (c) any other reason which the Board, in its absolute discretion, within 20 Business Days of the Member ceasing to be employed or engaged by a Group Company, shall result in the Member being a Good Leaver for the purposes of these Articles; or
- (d) the retirement of that Member at aged 65 or over;

**Group**

the Company and its subsidiaries for the time being and references to a Group Company shall be construed accordingly;

**Issue Price**

in relation to any Share, the amount paid up or credited as paid up on such Share, including the full amount of any premium at which such Share was issued;

**Listing**

either:

- (a) the admission of all or any part of the Shares to listing on the Official List of the United Kingdom Listing Authority and to trading on the London Stock Exchange's market for listed securities;
- (b) the admission of all or any part of the Shares to trading on AIM, a market operated by London Stock Exchange; or
- (c) the admission of all or any part of the Shares to listing and/or trading on any other Recognised Investment Exchange,

and, in any such case, such admission becoming unconditionally effective;

**Listing Shares**

the equity share capital (as defined in section 548 of the Act) of the Company (excluding any such equity share capital to be subscribed and issued on the relevant Listing other than new shares to be paid up by way of capitalisation of reserves or arising from any sub-division, consolidation or conversion of shares);

**London Stock Exchange**

London Stock Exchange plc;

**Member**

a registered holder of a Share from time to time;

**Model Articles**

the model articles for private companies limited by shares contained in schedule 1 Companies (Model Articles) Regulations 2008 as amended prior to, and in force as at, the Adoption Date;

**Ordinary Share**

an ordinary share of £0.001 in the capital of the Company having the rights and being subject to the restrictions set out in these Articles;

**Realisation**

a Share Sale or a Listing;

**Recognised Investment Exchange**

has the meaning given in section 285(1) Financial Services and Markets Act 2000;

**Relevant Member**

a Member in respect of whom the Board has notified the Company that an event shall be treated as a Transfer Event in accordance with article 10.1;

**Relevant Securities**

any Shares, or any right to subscribe for or convert any securities into any Shares;

**Share Option Scheme**

any share option scheme of the Company or any other Group Company;

**Shares**

any shares of any class in the capital of the Company;

**Share Sale**

the transfer of any interest in any Shares (whether by one transaction or a series of transactions) other than a transfer in accordance with article 11 (Drag Along) or article 12 (Tag Along), which results in a Change of Control;

**Third Party Purchaser**

any person from time to time;

**Transfer Event**

each of the events set out in article 10.1, and

**Transfer Notice**

a notice in accordance with article 9 that a Member wishes to transfer his Shares.

- 1.2 These Articles and the provisions of the Model Articles (subject to any modifications set out in these Articles) shall constitute all the articles of association of the Company.
- 1.3 In these Articles a reference to:
  - 1.3.1 a statutory provision includes a reference to the statutory provision as replaced, modified or re-enacted from time to time before or after the Adoption Date and any subordinate legislation made under the statutory provision before or after the Adoption Date;
  - 1.3.2 a "subsidiary" shall include a reference to a "subsidiary" and a "subsidiary undertaking" (each as defined in the Act) and a reference to a "holding company" shall include a reference to a "holding company" and a "parent undertaking" (each as defined in the Act);
  - 1.3.3 a person includes a reference to an individual, body corporate, association, government, state, agency of state or any undertaking (whether or not having a legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);
  - 1.3.4 writing includes any mode of reproducing words in legible, non-transitory form;
  - 1.3.5 "these Articles" is to these articles of association (including the provisions of the Model Articles incorporated in them), and a reference to an article is to an article of these Articles, in each case as amended from time to time in accordance with the terms of these Articles and the Act; and
  - 1.3.6 any agreement or document is to that agreement or document as in force for the time being and as amended from time to time in accordance with the terms of that agreement or document or with the agreement of all the relevant parties.
- 1.4 The contents table and headings in these Articles are for convenience only and do not affect the interpretation or construction of these Articles.
- 1.5 Words importing the singular include the plural and vice versa and words importing a gender include every gender.
- 1.6 The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- 1.7 Any question as to whether a person is connected with another shall be determined in accordance with section 1122 Corporation Tax Act 2010 (except that in construing section 1122 "control" has the meaning given by section 1124 or section 450 of that Act so that there is control whenever section 1124 or 450 requires) which shall apply in relation to these Articles as it applies in relation to that Act.
- 1.8 These Articles shall be binding on and shall survive for the benefit of the personal representatives and successors-in-title of each party.

## **2 DIVIDENDS**

- 2.1 Any profits which the Company, on the recommendation of the Directors, determines to distribute in respect of any Accounting Period shall be applied on a non-cumulative basis between the holders for the time being of the Ordinary Shares pro rata their holding of such Shares.
- 2.2 Any such dividend shall be paid in cash and shall be distributed amongst the holders of such Shares pro rata according to the number of such Shares held by each of them respectively, as if they constituted one class of share.

## **3 RETURN OF CAPITAL**

- 3.1 On a return of capital, whether on liquidation, capital reduction or otherwise (but excluding a purchase of own shares), any surplus assets of the Company remaining after the payment of its liabilities shall be applied between the holders for the time being of the Ordinary Shares pro rata their holding of such Shares.

## **4 EXIT PROVISIONS**

On a Share Sale the value of a Realisation (**Realisation Value**) shall be apportioned between the Ordinary Shares pro rata to their holding of such Shares.

## **5 VOTING**

Ordinary Shares shall confer on the holders thereof one vote for every Share held by them.

## **6 ISSUE OF SHARES**

- 6.1 Subject to the remaining provisions of this article 6 the Directors are generally and unconditionally authorised for the purposes of section 551 of the Act to exercise any power of the Company to allot Relevant Securities. The authority granted under this article 6.1 shall:
- 6.1.1 be limited to a maximum amount in nominal value of £11,000 comprising 11,000,000 ordinary shares on £0.001 each;
  - 6.1.2 only apply in so far as it is not renewed, waived or revoked by ordinary resolution of the Members; and
  - 6.1.3 expire on the day immediately preceding the fifth anniversary of the Adoption Date, provided that the Directors may allot Relevant Securities after the expiry of such period in pursuance of an offer or agreement to do so made by the Company within such period.
- 6.2 Any Relevant Securities which the Directors propose to allot, grant or otherwise dispose of shall, before they are so allotted, granted or otherwise disposed of, be offered to the Members. Such offer shall be made by means of a notice (a Subscription Notice) served by the Directors on all Members which shall;
- 6.2.1 state the number and class of Relevant Securities offered;
  - 6.2.2 state the subscription price per Relevant Security, which shall be determined by the Directors;
  - 6.2.3 invite the relevant offerees to respond in writing to the Company stating the number of Relevant Securities for which they wish to subscribe; and
  - 6.2.4 expire, and the offer made in that notice to an offeree shall be deemed to be withdrawn if not previously accepted by such offeree, on the date specified therein,

being not less than 10 nor more than 20 Business Days after the date of the Subscription Notice.

- 6.3 After the expiry of the period referred to in the Subscription Notice or, if sooner, upon all Members having responded to the Subscription Notice (in either case, the **Subscription Allocation Date**), the Directors shall allocate the Relevant Securities in accordance with the applications received provided that:
- 6.3.1 no Relevant Securities shall be allocated to any Member who, at the Subscription Allocation Date, is bound to give, or has given or is deemed to have given, a Transfer Notice in respect of any Shares registered in his name (including, for the avoidance of doubt, a Compulsory Transfer Notice);
  - 6.3.2 if there are applications for more than the number of Relevant Securities available, the Relevant Securities shall be allocated to the relevant applicants in proportion (as nearly as practicable but without allocating to any applicant more Relevant Securities than he applied for) to the number of Shares held by each of them respectively; and
  - 6.3.3 the allocation of any fractional entitlements to Relevant Securities amongst the Members shall be dealt with by the Directors in such manner as they see fit.
- 6.4 Within 5 Business Days of the Subscription Allocation Date the Directors shall give notice in writing (a **Subscription Allocation Notice**) to each Member to whom Relevant Securities have been allocated pursuant to article 6.3 (each a **Subscriber**). A Subscription Allocation Notice shall state:
- 6.4.1 the number and class of Relevant Securities allocated to that Subscriber;
  - 6.4.2 the aggregate subscription price payable by the Subscriber in respect of the Relevant Securities allocated to him; and
  - 6.4.3 the place, date and time (being not less than 2 nor more than 5 Business Days after the date of the Subscription Allocation Notice) at which completion of the subscription for the Relevant Securities shall take place.
- 6.5 Completion of a subscription for Relevant Securities pursuant to a Subscription Allocation Notice shall take place at the place, date and time specified in the Subscription Allocation Notice when the Subscriber will pay the relevant subscription monies to the Company in cleared funds and the Company will allot or grant the Relevant Securities to that Subscriber and deliver to that Subscriber a duly executed share certificate or certificate of grant (as the case may be) in respect of those Relevant Securities. If a Subscriber shall fail for any reason to pay the relevant subscription monies in respect of any Relevant Securities to the Company in cleared funds by the date specified in the Subscription Allocation Notice he shall:
- 6.5.1 be deemed to have declined the offer made to him in respect of those Relevant Securities which shall immediately be deemed to be released from the provisions of articles 6.2 to 6.4; and
  - 6.5.2 indemnify the Company against all costs, claims and expenses which the Company may suffer or incur as a result of such failure.
- 6.6 Any Relevant Securities which are not accepted pursuant to articles 6.2 to 6.4, and any Relevant Securities released from the provisions of those articles either by virtue of a Subscriber's default in accordance with article 6.5 may be offered by the Directors to a third party and such Relevant Securities shall, subject to the provisions of the Act and the remaining provisions of these articles, be at the disposal of the Directors who may allot, grant or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think fit in their absolute discretion, provided that:



- 6.6.1 no Share shall be issued at a discount;
  - 6.6.2 no Relevant Securities shall be allotted, granted or otherwise disposed of on terms which are more favourable than those on which they were offered to the Members pursuant to article 6.3; and
  - 6.6.3 no Relevant Securities shall be allotted, granted or otherwise disposed of more than 3 months after the date of the relevant Subscription Notice relating to those Relevant Securities unless the procedure in articles 6.2 to 6.4 is repeated in relation to that Relevant Security.
- 6.7 The provisions of articles 6.2 to 6.5 shall not apply to the grant of any option pursuant to a Share Option Scheme and the subsequent issue of any Shares on the exercise of such option.
- 6.8 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to the Company.

## **7 TRANSFER OF SHARES - GENERAL**

- 7.1 Notwithstanding any other provision of these Articles, the Directors shall not register a transfer of any interest in a Share:
- 7.1.1 if it is to a minor, undischarged bankrupt, trustee in bankruptcy or person who (in the opinion of the Board) lacks capacity; or
  - 7.1.2 unless:
    - (a) the transfer is permitted by article 8; or
    - (b) the transfer is made in accordance with article 9, 10, 11 or 12.
- 7.2 The Directors may only refuse to register a transfer of Shares which is either permitted under article 8 or made in accordance with articles 9, 10, 11 or 12 if:
- 7.2.1 the transfer has not been lodged at the Company's registered office (or such other place as the Directors may nominate for this purpose);
  - 7.2.2 the transfer is not accompanied by the certificate for the Shares to which it relates (or an indemnity for a lost, stolen or damaged certificate in such form as is reasonably required by the Directors) and such other evidence (if any) as the Directors may reasonably require to show the right of the transferor to make the transfer;
  - 7.2.3 the transfer is in respect of more than one class of Shares;
  - 7.2.4 the transfer is in favour of more than four transferees; or
  - 7.2.5 the transfer has not been properly stamped or certified as being not liable to stamp duty.

In all other cases, the Directors must register such a transfer of Shares. Article 26(5) of the Model Articles shall not apply to the Company.

- 7.3 For the purposes of ensuring that:
- 7.3.1 a transfer of any Share is in accordance with these Articles; or
  - 7.3.2 no circumstances have arisen whereby a Member is required to give or may be deemed to have given a Transfer Notice in respect of any Share; or

- 7.3.3 no circumstances have arisen whereby the provisions of article 12 are required to be or ought to have been triggered,

the Directors may from time to time require any Member to provide, or to procure that any person named as the transferee in any transfer lodged for registration or any other person whom the Directors reasonably believes to have information relevant to such purpose provides, such information and evidence as the Directors may reasonably require for such purpose. Pending such information or evidence being provided, the Directors are entitled to refuse to register any relevant transfer of Shares.

- 7.4 If any information or evidence provided pursuant to article 7.3 discloses to the reasonable satisfaction of the Directors that circumstances have arisen whereby a Member may be required to give or be deemed to have given a Transfer Notice the Directors may by notice in writing to the relevant Member require that a Transfer Notice be given in respect of the Shares concerned.
- 7.5 In any case where a Member is required to give a Transfer Notice in accordance with the provisions of these Articles and such Transfer Notice is not duly given within a period of 10 Business Days of written notice from the Directors to the relevant Member requesting that such Transfer Notice be duly given, such Transfer Notice shall be deemed to have been given immediately upon the expiry of that period of 10 Business Days.
- 7.6 Notwithstanding any other provision of these Articles, any Shares which are the subject of a Transfer Notice deemed to have been served in accordance with article 7.5 (and any Shares received after the date of service, or deemed service, of any such Transfer Notice which are derived from any Share which is the subject of that Transfer Notice, whether by conversion, consolidation or sub-division, or by way of capitalisation, rights or bonus issue or otherwise) shall with effect from the date of the relevant deemed Transfer Notice (or, if later, the date on which such Shares are issued), cease to confer upon the holder of such shares any right to receive notice of, or attend, speak or vote at, any general meeting of the Company or any right to receive or vote on any written resolution of the Company until such time as another person is entered in the register of members of the Company as the holder of those Shares.
- 7.7 Notwithstanding any other provision of these Articles, an obligation to transfer a Share under these Articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free from any Encumbrance.
- 7.8 Where any Shares are the subject of a Transfer Notice (including a Compulsory Transfer Notice deemed to have been given in accordance with article 10.2), no transfer of any such Shares shall be permitted pursuant to article 8.

## **8 PERMITTED TRANSFERS**

### **8.1 Transfer within corporate group**

8.1.1 Any Member which is a body corporate may at any time transfer any Shares held by it to a company which is for the time being a subsidiary or holding company of that Member or another subsidiary of such holding company (each a **member of the same group**).

8.1.2 Where, following a transfer or series of transfers of Shares pursuant to this article 8.1, the transferee of any Shares ceases at any time for any reason to be a member of the same group as the original transferor of those Shares, such transferee shall forthwith transfer all the Shares held by it to the original transferor (or another member of the same group as that original transferor) for such consideration as they may agree between them and, if they do not agree such consideration or if the transfer is not effected for any other reason within 20 Business Days of the date on which the transferee ceased to be a member of the same group as the original transferor, the Directors may either authorise and instruct any Director to execute a transfer of the Shares on behalf of the relevant transferee and register

the original transferor of those Shares as the holder of such Shares or require such transferee to serve a Transfer Notice in respect of all the Shares held by it in which case the provisions of article 9 shall apply.

## 8.2 Transfer by Employee Trust

Where any Shares are held by a trustee(s) on an Employee Trust, those Shares may be transferred to:

- 8.2.1 any new trustee(s) of the Employee Trust appointed on a change in trustee(s); or
- 8.2.2 any beneficiary of the Employee Trust, provided the transfer is made pursuant to, and in accordance with the rules of, a Share Option Scheme.

## 8.3 Transfers between nominees, trustees and fund managers

Any Share held (other than an employee Member) may be transferred at any time:

- 8.3.1 where held by a nominee or trustee, to another nominee or trustee for the same beneficiaries for whom the Shares were originally held;
- 8.3.2 to another investment fund or co-investment plan which is managed or advised by the same manager or adviser as the transferor or as the investment fund or co-investment plan for whom the Shares are held;
- 8.3.3 to any unitholder, shareholder, partner or participant in, or manager or adviser (or an officer or employee, past or present, of such manager or adviser) of the investment fund or co-investment plan for whom the Shares are held;
- 8.3.4 to any other person, company, investment fund or co-investment plan whose business consists of holding securities for investment purposes; or
- 8.3.5 to a manager, custodian, nominee or trustee (or other person so authorised) of any person mentioned in this article 8.3 or by any such manager, custodian, nominee or trustee to any such person

## 8.4 Transfer to a Family Member

- 8.4.1 Any individual Member (other than an employee Member) may at any time transfer any of the Shares held by him to one or more of his Family Members.
- 8.4.2 Where, following a transfer of Shares pursuant to article 8.4.1, the transferee of those Shares ceases for any reason to be a Family Member of the original transferor of those Shares or one of the events specified in articles 10.1.1 to 10.1.7 occurs in relation to the transferee, such transferee (or his trustee in bankruptcy, personal representatives, executors or attorney, as the case may be) shall within 20 Business Days of a written request so to do from the Directors transfer all the Shares held by them to the original transferor failing which the Directors may at any time either authorise and instruct any Director to execute a transfer of the Shares on behalf of the relevant transferee (or his trustee in bankruptcy, personal representatives, executors or attorney, as the case may be) and register the original transferor of those Shares as the holder of such Shares or require such transferee (or his trustee in bankruptcy, personal representatives, executors or attorney, as the case may be) to serve a Transfer Notice in respect of all the Shares held by him and the provisions of article 9 shall apply.
- 8.4.3 A Family Member to whom Shares have been transferred pursuant to this article 8.4 may transfer those Shares back to the original transferor at any time but may not otherwise transfer such Shares pursuant to this article 8.4 or article 8.5.

- 8.4.4 For the avoidance of doubt, the provisions of article 8.4.2 shall apply in priority to the provisions of article 10 in relation to a transfer of Shares required following the occurrence of one of the events in articles 10.1.1 to 10.1.7 in relation to a transferee.

## 8.5 Transfer to a Family Trust

- 8.5.1 Any individual Member may at any time transfer any of the Shares held by him to one or more trustees to be held on a Family Trust.

- 8.5.2 Where any Shares are held by a trustee(s) on a Family Trust, those Shares may be transferred to:

- (a) any new trustee(s) of the Family Trust appointed on a change in trustee(s);
- (b) the settlor of such Family Trust;
- (c) the trustees of another Family Trust which has the same settlor; or
- (d) any Family Member of the settlor of such Family Trust on their becoming entitled to such Shares under the terms of the Family Trust.

- 8.5.3 Where any Shares are held by a trustee(s) on a Family Trust and either:

- (a) the relevant trust ceases to be a Family Trust in relation to the settlor; or
- (b) there ceases to be any beneficiaries of the Family Trust other than charities,

the trustee(s) shall forthwith, and in any event within 20 Business Days of the date on which the trust ceased to be such a Family Trust or there ceased to be any beneficiaries as above, transfer all the Shares held by them to the original transferor failing which the Directors may at any time either authorise and instruct any Director to execute a transfer of the Shares on behalf of the relevant transferee and register the original transferor of those Shares as the holder of such Shares or require such trustee(s) to serve a Transfer Notice in respect of all the Shares held by them and the provisions of article 9 shall apply.

## 9 PRE-EMPTION ON TRANSFER OF SHARES

### 9.1 Transfer Notice

- 9.1.1 Except as permitted under article 8 (Permitted Transfers) or as provided for in articles 11 (Drag Along) and 12 (Tag Along), any Member (a **Seller**) who wishes to transfer any Share (or any interest in any Share) shall, before transferring or agreeing to transfer such Share (or interest), give notice in writing (a **Transfer Notice**) to the Company of his wish.

- 9.1.2 Subject to article 9.1.3, a Transfer Notice shall:

- (a) state the number and class of Shares (the **Sale Shares**) which the Seller wishes to transfer;
- (b) state the name of the person (if any) to whom the Seller wishes to transfer the Sale Shares;
- (c) state the price per Share (the **Proposed Price**) at which the Seller wishes to transfer the Sale Shares;

- (d) state if the Transfer Notice is conditional upon all (and not only part) of the Sale Shares being sold pursuant to this article 9 (a **Total Transfer Condition**);
- (e) relate to only one class of Share;
- (f) constitute the Company as the agent of the Seller in relation to the sale of the Sale Shares in accordance with this article 9; and
- (g) not be capable of variation or cancellation without the consent of the Board.

9.1.3 Where a Transfer Notice is one which is deemed to have been given by virtue of any provision of these Articles (including a Compulsory Transfer Notice deemed to have been served in accordance with article 10.2):

- (a) it shall relate to all the Shares registered in the name of the Seller;
- (b) it shall not contain a Total Transfer Condition;
- (c) subject to article 10.2, the Transfer Price shall be such price as may be agreed between the Seller and the Directors within 10 Business Days of the date of service (or deemed service) of the Transfer Notice or if either no price is agreed within such period or directs at any time during that period, the Fair Value determined in accordance with article 9.2.2;
- (d) it shall be irrevocable; and
- (e) subject to articles 7.4 and 10.5.5, the Seller may retain any Sale Shares for which Buyers (as defined in article 9.5.2) are not found.

## 9.2 Transfer Price

9.2.1 The Sale Shares will be offered for sale in accordance with this article 9 at the following price (the **Transfer Price**):

- (a) subject to the consent of the Board, the Proposed Price; or
- (b) such other price as may be agreed between the Seller and the Directors within 10 Business Days of the date of service (or deemed service) of the Transfer Notice; or
- (c) if no price is agreed pursuant to article (b) within the period specified in that article, whichever is the lower of (i) the Proposed Price and (ii) the Fair Value.

9.2.2 If the Seller and the Directors are unable to agree on the Transfer Price in accordance with article 9.2.1(b) or if the Board directs in accordance with article 9.2.1(c) (or article 9.1.3(c) in the case of a Transfer Notice which is deemed to have been given by virtue of any provision of these Articles), the Directors shall instruct the Expert to determine and certify the Fair Value of the Sale Shares in accordance with article 23.

9.2.3 Where the Fair Value is less than the price proposed by the Directors to the Seller not less than 5 Business Days prior to receipt of the Expert's report by the Company then the Expert's fees shall be borne wholly by the Seller.

## 9.3 Board Invitees

In these Articles, the expression **Board Invitee** shall mean any of:

- 9.3.1 the trustees of any Employee Trust; and/or
- 9.3.2 any person(s) (being a current or future employee or officer of a Group Company) nominated the Board or any other interested party acceptable to the Board,

as selected by the Directors in the period of one month after the date on which the Transfer Price is agreed or determined in accordance with these Articles or, if no such persons are selected in accordance with this article 9.3 within that period, as selected by the Board within a further period of three months.

9.4 Offer Notice

9.4.1 Subject to compliance by the Company with the provisions of the Act, at the discretion of the Directors, the Sale Shares shall first be offered for purchase to the Company and the Company shall have two months from receipt of the Transfer Notice to purchase all or any of such shares. Any Sale Shares not purchased by the Company shall be offered by the Directors in accordance with the following articles.

9.4.2 Subject the Company to articles 9.4.1 and 9.4.3, the Directors shall serve a notice (an **Offer Notice**) on all Members and any Board Invitees (as the case may be) to whom the Sale Shares are to be offered in accordance with these Articles as soon as reasonably practicable after (and in any event within 20 Business Days of) whichever is the first to occur of:

- (a) the Company receiving a written request from any Member that the First offer to be made under Article 9.4.5 proceeds immediately and before Board Invitees are selected;
- (b) the period prescribed in article 9.3 for the selection of Board Invitees having expired; or
- (c) the identity of all Board Invitees having been determined; or
- (d) the Directors determining, that none of the Sale Shares are to be offered to a Board Invitee

or, if later, on the Transfer Price being agreed or determined in accordance with these Articles.

9.4.3 An Offer Notice shall not be sent to, and no Sale Shares shall be treated as offered to, the Seller or any Member who, at the date of the Offer Notice, is bound to give, or has given or is deemed to have given, a Transfer Notice in respect of any Shares registered in his name.

9.4.4 An Offer Notice shall:

- (a) state the Transfer Price;
- (b) contain the other relevant information set out in the Transfer Notice;
- (c) invite the relevant offerees to respond in writing to the Company stating the number of Sale Shares which they wish to purchase; and
- (d) expire, and the offer made in that Offer Notice shall be deemed to be withdrawn, on a date which is not less than 10 nor more than 20 Business Days after the date of the Offer Notice.

9.4.5 For the purposes of allocating the Sale Shares amongst the Members and any Board Invitees, Sale Shares will be treated as offered:

- (a) firstly, to the Members, however if the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Directors shall allocate the Sale Shares to each of the Members who have applied for Sale Shares in the proportion which his existing holding of Shares bears to the total number of Shares held by all Members who applied for Sale Shares;
- (b) secondly, to the extent not already accepted by Members to all Board Invitees.

## 9.5 Allocation of Sale Shares

9.5.1 After the expiry of the period specified in the Offer Notice or, if sooner, upon all Members having responded to the Offer Notice and the Company having received valid applications for all the Sale Shares (in either case the **Allocation Date**), the Directors shall allocate the Sale Shares in accordance with the applications received in the priorities and in respect of each class of persons set out article 9.4.5 provided that:

- (a) the allocation of any fractional entitlements to Sale Shares amongst the members of a particular class of Shares shall be dealt with by the Directors in such manner as they see fit;
- (b) the allocation of Sale Shares between two or more Board Invitees shall be at the absolute discretion of the Directors; and
- (c) no Sale Shares shall be allocated to any Member who, at the Allocation Date, is bound to give, or has given or is deemed to have given, a Transfer Notice in respect of any Shares registered in his name.

9.5.2 Within 5 Business Days of the Allocation Date the Directors shall give notice in writing (an **Allocation Notice**) to the Seller and each Member or Board Invitee (as appropriate) to whom Sale Shares have been allocated pursuant to article 9.5.1 (each a **Buyer**). An Allocation Notice shall state:

- (a) the number of Sale Shares allocated to that Buyer;
- (b) the name and address of the Buyer;
- (c) the aggregate purchase price payable by the Buyer in respect of the Sale Shares allocated to him;
- (d) the information (if any) required pursuant to article 9.5.4; and
- (e) subject to article 9.5.4, the place, date and time (being not less than 2 nor more than 5 Business Days after the date of the Allocation Notice) at which completion of the sale and purchase of the relevant Sale Shares shall take place.

9.5.3 Subject to article 9.5.4, completion of a sale and purchase of Sale Shares pursuant to an Allocation Notice shall take place at the place, date and time specified in the Allocation Notice when the Seller will, upon payment of the Transfer Price in respect of the Sale Shares allocated to a Buyer, transfer those Sale Shares, and deliver the relevant share certificate(s) in respect of such Sale Shares, to that Buyer.

9.5.4 If the Transfer Notice contained a Total Transfer Condition and the total number of Shares applied for and allocated to the Buyers in accordance with article 9.5.1 is less than the total number of Sale Shares, then:

- (a) the Allocation Notice will refer to the Total Transfer Condition and will contain a further offer (the **Further Offer**) to the Buyers inviting them to apply for further Sale Shares at the Transfer Price;
- (b) the Further Offer shall expire, and shall be deemed to be withdrawn, upon the expiry of the period (being not more than 10 Business Days) specified in the Allocation Notice;
- (c) any Sale Shares accepted by the Buyers pursuant to the Further Offer shall be allocated amongst them in accordance with the provisions of articles 9.5.1(a) to (c); and
- (d) following the allocation of any Sale Shares amongst the Buyers in accordance with article (c) and provided all the Sale Shares have then been allocated, the Directors shall issue revised Allocation Notices in accordance with article 9.5.2 but omitting article 9.5.2(d) of that article.

9.5.5 Subject to article 9.5.6, the service of an Allocation Notice (or a revised Allocation Notice in accordance with article 9.5.4) shall constitute the acceptance by a Buyer of the offer to purchase the number of Sale Shares specified in that Allocation Notice on the terms offered to that Buyer.

9.5.6 If after following the procedure set out in this article 9 the total number of Shares applied for and allocated to the Buyers remains less than the total number of Sale Shares, then:

- (a) if the Transfer Notice contained a Total Transfer Condition, then notwithstanding any other provision of this article 9 no Sale Shares shall be deemed to have been allocated to any Buyer and the Seller and the Buyers shall not be bound to sell or purchase any Sale Shares in accordance with this article 9; and
- (b) the Company shall notify the Seller that it has failed to find Buyers for all or some (as the case may be) of the Sale Shares.

## 9.6 Default by the Seller

9.6.1 If a Seller shall fail for any reason (including death) to transfer any Sale Shares to a Buyer when required by this article 9, the Directors may authorise any Director to execute each necessary transfer of Sale Shares on the Seller's behalf and to deliver that transfer to the relevant Buyer.

9.6.2 The Company may receive the purchase money from a Buyer on behalf of the Seller and shall then, subject to due stamping, enter the name of that Buyer in the register of members of the Company as the holder of the Sale Shares so transferred to him. The receipt of the Company for the purchase money shall constitute a good discharge to the Buyer (who shall not be bound to see to the application of it) and after the Buyer has been registered in purported exercise of the power conferred by this article 9.6 the validity of the proceedings shall not be questioned by any person.

9.6.3 The Company shall hold the relevant purchase money on trust for the Seller (but without interest) and the Company shall not pay such money to the Seller until he has delivered to the Company the share certificate(s) in respect of the relevant Shares (or a suitable indemnity in a form reasonably satisfactory to the Directors).



#### 9.7 Transfers following exhaustion of pre-emption rights

If any Sale Shares are not allocated to a Buyer under any of the foregoing provisions of this article 9 the Seller may, at any time within 3 calendar months of the date of service of the notice referred to in article 9.5.6(b), sell any of those unallocated Sale Shares to the person named in the Transfer Notice (or, if none was so named, any other person) at not less than the Transfer Price (without any deduction, rebate or allowance to the proposed purchaser) provided that:

- 9.7.1 no Share shall be sold to, and the Directors shall not register a transfer to, a person who is not already a Member without the prior written consent of the Board;
- 9.7.2 if the Transfer Notice contained a Total Transfer Condition, the Seller shall not be entitled to sell only some of the Sale Shares without the prior written consent of the Board;
- 9.7.3 the Directors may require to be satisfied that the relevant Sale Shares are being transferred under a bona fide sale for the consideration stated in the transfer without deduction, rebate or allowance to the proposed purchaser and, if not so satisfied, may refuse to register the transfer (without prejudice to any power of the Directors to refuse to register a transfer in accordance with these articles); and
- 9.7.4 the Directors shall not register the transfer if as a result of such transfer the proposed purchaser would be required to make an offer in accordance with article 12 until such time as that offer has been made and, if accepted, completed.

### 10 COMPULSORY TRANSFERS

10.1 In this article 10 each of the following shall be a **Transfer Event** in relation to a Member holding Ordinary Shares:

- 10.1.1 an order being made by the court or the adjudicator for the bankruptcy of that Member, or a petition being presented or an application being made for an adjudication for such bankruptcy which petition or application is not withdrawn or dismissed within 10 Business Days of being presented or made;
- 10.1.2 the Member convening a meeting of his creditors or circulating a proposal in relation to, or taking any other steps with a view to, making an arrangement or composition in satisfaction of his creditors generally;
- 10.1.3 the Member being unable to pay his debts as they fall due (within the meaning of section 268 Insolvency Act 1986);
- 10.1.4 any step being taken for the appointment of a receiver, manager or administrative receiver over all or any material part of the Member's assets, or any other steps being taken to enforce any Encumbrance over all or any material part of the Member's assets or any Shares held by that Member;
- 10.1.5 any proceedings or orders equivalent or analogous to any of those described in articles 10.1.1 to 10.1.4 above occurring in respect of the Member under the law of any jurisdiction outside England and Wales;

(the matters referred to in articles 10.1.1 to 10.1.5 each being an **Insolvency Event**),

- 10.1.6 *save where cessation occurs by reason of death or mental disorder, that Member, being a director or employee of, or a consultant to, a Group Company, ceasing to be such a director, employee or consultant (including where such cessation occurs as a result of a Group Company ceasing to be a Group Company) where the Member does not remain, or immediately become, a director or employee of, or a consultant to, another Group Company; or*

10.1.7 that Member breaching any provision of these Articles which breach, if capable of remedy, has not been remedied to the reasonable satisfaction the Board within 10 Business Days of a notice from the Board to the Member requesting such remedy,

and, the Board notifying the Company within six months of the occurrence of such event (or, if later, within six months of the date on which the Directors first become aware of the occurrence of such event) (the **Compulsory Transfer Notice Period**), in each case, that such event is a Transfer Event in relation to that Member for the purposes of this article 10.

10.2 Upon the Board notifying the Company within the Compulsory Transfer Notice Period that an event is a Transfer Event in respect of a Member in accordance with article 10.1, the Relevant Member and any other person holding Compulsory Transfer Shares, shall then be deemed to have served a Transfer Notice (a **Compulsory Transfer Notice**) in respect of all the Compulsory Transfer Shares held from time to time by each of them respectively. A Compulsory Transfer Notice shall supersede any current Transfer Notice in respect of any Compulsory Transfer Shares.

10.3 The Compulsory Transfer Shares shall be offered for sale in accordance with the provisions of article 9 as if the Compulsory Transfer Shares were Sale Shares except that where the relevant Transfer Event falls within the provisions of article 10.1.6, the Transfer Price in respect of the Compulsory Transfer Shares shall be:

10.3.1 where the Relevant Member is a Bad Leaver, whichever is the lower of:

- (a) their Fair Value; and
- (b) their Issue Price,

provided that the Board may at any time by notice to the Company specify that in respect of any particular Relevant Member the Transfer Price for all Compulsory Transfer Shares shall, on that occasion, be the Issue Price (in which case there shall be no need in respect of that Relevant Member on that occasion to establish the Fair Value) and the Transfer Price shall be determined by the notice served pursuant to this article 10.3.1 on the date upon which such notice is received at the registered office of the Company; or

10.3.2 where the Relevant Member is a Good Leaver:

- (a) in respect of the Vested Portion, Fair Value; and
- (b) in respect of the Unvested Portion, Issue Price.

10.4 Any dispute as to whether the provisions of article 10.3.1 or 10.3.2 apply in relation to any Compulsory Transfer Notice shall not affect the validity of a Compulsory Transfer Notice nor shall it delay the procedure to be followed under article 9 in respect such notice. If, however, the Issue Price is less than the Fair Value any Buyer acquiring Compulsory Transfer Shares pursuant to a Compulsory Transfer Notice while such dispute is continuing shall pay to the Seller whichever is the lower of their Fair Value and their Issue Price and shall, in addition, pay to the Company an amount equal to the difference between their Fair Value and their Issue Price. The Company shall hold such amount as trustee in a separate interest-bearing account and shall, upon final resolution of the relevant dispute, pay such amount (together with interest on such amount but less any applicable bank charges) to:

10.4.1 the Seller, in respect of any Compulsory Transfer Shares which are determined to be sold for their Fair Value; or

10.4.2 the Buyer, in respect of any Compulsory Transfer Shares which are determined to be sold for their Issue Price.

- 10.5 For the purposes of article 10.1.6 the date of cessation of a Member's employment, directorship or engagement shall be (or be deemed to be) whichever is the first to occur of:
- 10.5.1 the date of a notice given by a Group Company to the Member terminating (or purporting to terminate) that Member's employment, directorship or engagement with the Group (or, if later, the date specified in any such notice as being the termination date), regardless of whether any such notice constitutes unfair or wrongful dismissal;
  - 10.5.2 the date of a notice given by a Member to a Group Company terminating (or purporting to terminate) that Member's employment, directorship or engagement with the Group (or, if later, the date specified in any such notice as being the termination date), regardless of whether any such notice may (awfully be given by the Member;
  - 10.5.3 the date on which a repudiatory breach of any contract of employment or engagement by either the Member or a Group Company is accepted by the other party to that contract;
  - 10.5.4 the date of any event which results in the termination of the contract of employment or engagement under the doctrine of frustration; or
  - 10.5.5 in any circumstances other than those specified in articles 10.5.1 to 10.5.4, the date on which the Member actually ceases to be employed or engaged by the Group.
  - 10.5.6 Notwithstanding any other provision of these Articles, unless the Board resolves otherwise, any Compulsory Transfer Shares shall, with effect from the date of the relevant Compulsory Transfer Notice (or, if later, the date on which such Shares are issued), cease to confer on the holder of those Shares any right to receive notice of, or attend, speak or vote at, any general meeting of the Company (or at any meeting of the holders of any class of Shares) or any right to receive or vote on any written resolution of the Company (or the holders of any class of Shares) until such time as another person is entered in the register of members of the Company as the holder of those Compulsory Transfer Shares (or other Shares).
- 10.6 Articles 27(2)(a) and 28 of the Model Articles shall not apply to the Company.
- 10.7 For the purposes of Article 10, the **Vested Portion or Unvested Portion** of the Compulsory Transfer Shares shall be calculated by reference to the date on which the relevant Shareholder is deemed to become a Relevant Member (which in the case of a Relevant Member who acquired Shares pursuant to a Share Option Scheme shall, in respect of Shares acquired under such a scheme, be deemed to be the date the Relevant Member was granted an option). For the purpose of this Article 10.7 **Acquisition Date** means the date of issue or transfer (or if relevant, grant of option) to the Relevant Member of the Compulsory Transfer Shares.

(1) Leaving Date	(2) Vested Portion (%)	(3) Unvested Portion (%)
A date prior to the first anniversary of the Acquisition Date	10	90
On or after the first anniversary of the Acquisition Date but before the date falling 15 months after the Acquisition Date	20	80

On or after the date falling 15 months after the Acquisition Date but before the date falling 18 months after the Acquisition Date	30	70
On or after the date falling 18 months after the Acquisition Date but before the date falling 21 months after the Acquisition Date	40	60
On or after the date falling 21 months after the Acquisition Date but before the date falling 24 months after the Acquisition Date	50	50
On or after the second anniversary of the Acquisition Date but before the date falling 27 months after the Acquisition Date	60	40
On or after the date falling 27 months after the Acquisition Date but before the date falling 30 months after the Acquisition Date	70	30
On or after the date falling 30 months after the Acquisition Date but before the date falling 33 months after the Acquisition Date	80	20
On or after the date falling 33 months after the Acquisition Date but before the date falling 36 months after the Acquisition Date	90	10
On or after the third anniversary of the Acquisition Date	100	0

## 11 DRAG ALONG

- 11.1 If Members constituting the holders of not less than 75% of the Ordinary Shares (together the **Selling Members**) wish to transfer all their Ordinary Shares to an arm's length third party proposed purchaser (the **Proposed Purchaser**), they shall have the option (a **Drag Along Option**) to require all or any of the other Members (the **Remaining Members**) to transfer all their Shares with full title guarantee to the Proposed Purchaser (or as the Proposed Purchaser shall direct) in accordance with this article 11.
- 11.2 The Selling Members shall exercise the Drag Along Option by giving notice to that effect (a **Drag Along Notice**) to each of the Remaining Members at any time before the registration of the transfer of the Selling Members' Shares. A Drag Along Notice shall specify:
- 11.2.1 that the Remaining Members are required to transfer all their Shares (the **Remaining Shares**) pursuant to this article 11;
  - 11.2.2 the identity of the Proposed Purchaser;
  - 11.2.3 the consideration for which, or the price at which, the Remaining Shares are to be transferred in accordance with article 11.4 (the **Drag Along Consideration**); and
  - 11.2.4 the proposed date of transfer (if known).

11.3 A Drag Along Notice:

- 11.3.1 may be revoked by the Selling Members at any time prior to the completion of the sale and purchase of the Remaining Shares; and
  - 11.3.2 shall lapse if for any reason the sale of the Selling Members' Shares to the Proposed Purchaser is not completed within 40 Business Days of the date of service of the Drag Along Notice (such lapse being without prejudice to the right of the Selling Members to serve any further Drag Along Notice following such lapse).
- 11.4 The Drag Along Consideration shall be the same consideration per Remaining Share (in the same form and due at the same time(s)) as that offered, given, paid or payable by, or due from, the Proposed Purchaser in respect of each Share held by all Members other than the Remaining Members, which consideration together in aggregate shall be the Realisation Value for the purposes of calculating the allocation of that Realisation Value amongst the Members in accordance with article 4.
- 11.5 Upon the service of a Drag Along Notice each Remaining Member is required, as a legally binding commitment, not to divulge or communicate to any third party either the fact that the Selling Members wish to transfer their Shares to the Proposed Purchaser (or any other person) or any other information concerning the sale and purchase of any of the Selling Members' Shares or the Remaining Shares pursuant to this article 11.
- 11.6 Completion of the sale and purchase of the Remaining Shares shall take place on the same date as completion of the sale and purchase of the Selling Members' Shares or such later date, being not more than 20 Business Days after the date of such completion, the Board may direct in writing.
- 11.7 Upon the service of a Drag Along Notice each Remaining Member shall be deemed to have irrevocably appointed each of the Selling Members (severally) as the agent of the Remaining Member to execute, in the name of and on behalf of that Remaining Member, any stock transfer form and covenant for full title guarantee in respect of the Remaining Shares registered in the name of that Remaining Member and to do such other things as the agent may consider necessary or desirable to transfer and complete the sale of the Remaining Shares pursuant to this article 11.
- 11.8 The provisions of this article 11 shall prevail over any contrary provisions of these Articles and, for the avoidance of doubt, the rights of pre-emption and other restrictions on transfer of Shares contained in these Articles shall not apply to the transfer of any Shares to a Proposed Purchaser named in a Drag Along Notice (or as that Proposed Purchaser may direct). Any Transfer Notice or Compulsory Transfer Notice served in respect of a Share which has not been allocated to a Buyer in accordance with article 9 shall automatically be revoked by the service of a Drag Along Notice.
- 11.9 Where at any time after the service of a Drag Along Notice but before completion of the sale and purchase of the Remaining Shares by the Proposed Purchaser, any person (a **New Member**) becomes a registered holder of any Share pursuant to the exercise of any option, warrant or other right to subscribe for or acquire Shares, a Drag Along Notice, on the same terms as the then current Drag Along Notice, shall immediately be deemed to have been served upon that New Member. Upon the deemed service of a Drag Along Notice pursuant to this article 11.9 the New Member shall become bound to sell and transfer to the Proposed Purchaser (or as the Proposed Purchaser may direct) any Share acquired by him as a result of the exercise of any such option, warrant or other right to subscribe for or acquire Shares. The provisions of this article 11 shall apply mutatis mutandis to the sale of any such Shares by such New Member provided that completion of the sale and purchase of those Shares shall take place on whichever is the later of:
- 11.9.1 the date on which a Drag Along Notice is deemed to have been served on the New Member pursuant to this article 11.9; and

- 11.9.2 the date of completion of the sale and purchase of the Remaining Shares pursuant to the original Drag Along Notice.

## 12 TAG ALONG

- 12.1 Subject to article 11 and save in the case of a transfer of Shares which is permitted in accordance with the provisions of article 8, but otherwise notwithstanding any other provision of these Articles, no sale or other disposition of any Shares (the **Committed Shares**) which would result in a Change of Control shall be made or registered unless before the transfer is lodged for registration the relevant Third Party Purchaser has made a bona fide offer (a **Tag Along Offer**) by notice in writing (a **Tag Along Notice**) to acquire, in accordance with this article 12, from all the Members other than the Third Party Purchaser (or persons connected with or acting in concert with him) all the Shares which are not Committed Shares (the **Uncommitted Shares**) for the consideration, or at the price, (the **Tag Along Consideration**) calculated in accordance with articles 12.3 and 12.4.
- 12.2 A Tag Along Notice shall:
- 12.2.1 state the Tag Along Consideration (subject to article 12.4);
  - 12.2.2 state the identity of the relevant Third Party Purchaser;
  - 12.2.3 invite the relevant offerees to respond in writing to the Third Party Purchaser stating that they wish to accept the Tag Along Offer; and
  - 12.2.4 subject to article 12.4.1, expire, and the offer made in that notice shall be deemed to be withdrawn, on the date (being not less than 5 nor more than 20 Business Days after the date of the Tag Along Notice) specified in that notice.
- 12.3 For the purposes of this article 12, the Tag Along Consideration shall be the same consideration per Uncommitted Share (in the same form and due at the same time(s)) as that offered, given, paid or payable by, or due from, the Third Party Purchaser in respect of each Committed Share together with the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Committed Shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or consideration given in respect of the Committed Shares.
- 12.4 If the Tag Along Consideration cannot be agreed between the Third Party Purchaser and the holders of not less than 75% of the Uncommitted Shares within 10 Business Days of the date of the Tag Along Notice, such matter shall be referred for determination to the Expert (in accordance with article 23) and, pending their determination:
- 12.4.1 the period specified in the Tag Along Notice for acceptance of the Tag Along Offer shall not start to run until such time as the Expert's determination of the Tag Along Consideration is served on the Third Party Purchaser and the Members holding Uncommitted Shares; and
  - 12.4.2 the sale or transfer of the Committed Shares shall have no effect and shall not be registered.
- 12.5 Upon agreement or determination of the Tag Along Consideration, such Tag Along Consideration together with the consideration or price due in respect of the Committed Shares shall together in aggregate be the Realisation Value for the purposes of calculating the allocation of that Realisation Value amongst the Members in accordance with article 4.

## 13 GENERAL MEETINGS

- 13.1 Without prejudice to the provisions of sections 302 and 288(3) of the Act, the Board may:
- 13.1.1 call a general meeting of the Company; or

- 13.1.2 propose a written resolution of the Company (and the provisions of section 291 of the Act shall apply to any such proposed written resolution).
- 13.2 No business shall be transacted at any general meeting unless the requisite quorum is present at the commencement of the business and also when such business is voted upon. Two Members present either in person, by proxy or by a duly appointed corporate representative shall be a quorum.
- 13.3 Any Member, having the right to attend and vote at the meeting in question and who is present at that meeting in person, by proxy or by a duly appointed corporate representative, may demand a poll. Article 44(2) of the Model Articles shall not apply to the Company.
- 13.4 Article 44(3) of the Model Articles shall be amended by the insertion of the following as a new paragraph at the end of that article: "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made."
- 13.5 Article 45(1) of the Model Articles shall be amended as follows:
- 13.5.1 by the deletion of the words in Article 45(1)(d) and the insertion in their place of the following: "is delivered to the Company in accordance with the articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate."; and
- 13.5.2 by the insertion of the following as a new paragraph at the end of Article 45(1): "and a proxy notice which is not delivered in such manner shall be invalid unless the Directors, in their discretion accept the proxy notice at any time before the meeting."
- 13.6 The Company shall not be required to give notice of a general meeting to a Member:
- 13.6.1 whose registered address is outside the United Kingdom or Republic of Ireland unless he has provided an address for service within the United Kingdom; or
- 13.6.2 for whom the Company no longer has a valid United Kingdom or Republic of Ireland address.

#### **14 APPOINTMENT AND REMOVAL OF DIRECTORS**

- 14.1 Unless and until determined otherwise by ordinary resolution of the Company, the number of Directors (other than alternate directors) shall not be less than two but is not subject to any maximum.
- 14.2 The office of a Director shall automatically be vacated, and the Director in question shall be deemed to have resigned, upon:
- 14.2.1 in the case of an executive Director only, that Director ceasing for any reason whatsoever to be employed by the Company or any other Group Company in circumstances where he does not remain, or immediately become, an employee of another Group Company;
- 14.2.2 that Director failing to take part in any directors' decisions for a period of more than 6 consecutive months and the Directors resolving that his appointment as a Director should terminate (and the director in question shall not be an "Eligible Director" for the purposes of such resolution of the Directors); or
- 14.2.3 all the other Directors requesting his resignation by notice in writing. Such notice (which may consist of several documents in similar form each signed by or on behalf of one or more Members) must be left at or sent by post to the registered

office of the Company (or another address nominated by the Directors and the resignation shall take effect when the notice is received by the Company or, if later, on such date (if any) as may be specified in the notice.

Article 18 of the Model Articles shall be extended accordingly.

## **15 ALTERNATE DIRECTORS**

15.1 Any Director (in this article 15, an **appointor**) may appoint as an alternate any other Director, or any other person approved by resolution of the Directors, to:

15.1.1 exercise that director's powers; and

15.1.2 carry out that director's responsibilities,

in relation to the taking of decisions by the Directors, in the absence of the alternate's appointor, at a meeting of the Board,

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

15.3 The notice must:

15.3.1 identify the proposed alternate and the meeting at which he is appointed to attend; and

15.3.2 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.

15.4 An alternate Director may act as alternate director to more than one Director and has the same rights in relation to any decision of the Directors as the alternate's appointor.

15.5 Save as provided otherwise in these Articles, alternate Directors:

15.5.1 are deemed for all purposes to be Directors;

15.5.2 are liable for their own acts and omissions;

15.5.3 are subject to the same restrictions as their appointors; and

15.5.4 are not deemed to be agents of or for their appointors,

and, in particular, each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his appointor is a member.

15.6 A person who is an alternate Director but not a Director:

15.6.1 may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating),

15.6.2 may participate in a unanimous decision of the Directors (but only if his appointor is an Eligible Director in relation to that decision and does not himself participate); and

15.6.3 shall not be counted as more than one Director for the purposes of articles 15.6.1 and 15.6.2.



- 15.7 A Director who is also an alternate Director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the Directors (provided that his appointor is an Eligible Director in relation to that decision), but shall not count as more than one Director for the purposes of determining whether a quorum is present.
- 15.8 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the remuneration of the alternate's appointor as the appointor may direct by notice in writing to the Company. An alternate Director shall be entitled to be reimbursed by the Company such expenses as might properly be reimbursed to him if he were a Director.
- 15.9 The appointment of an alternate Director shall automatically terminate upon conclusion of the board meeting at which he is appointed to attend (whether or not the alternative Director resigns from office at the end of such meeting).

## **16 REMUNERATION AND AUDIT COMMITTEES**

Without prejudice to the provisions of article 5(1) of the Model Articles the Board may establish a remuneration committee and/or an audit committee

## **17 PROCEEDINGS OF DIRECTORS**

- 17.1 Decisions of the directors may be taken either:

17.1.1 by a majority at a board meeting; or

17.1.2 by written resolution made in accordance with articles 17.2 and 17.3.

Articles 7(1) and 8 of the Model Articles shall not apply to the Company.

- 17.2 Any Director may propose a Directors' written resolution and the Company secretary must propose a Directors' written resolution if a Director so requests. A Directors' written resolution is proposed by notice in writing, of the proposed Directors' written resolution, being given to each Director indicating the proposed resolution and the time by which it is proposed that the Directors should adopt it. Any decision which a person giving notice of a Directors' proposed written resolution takes regarding the process of adopting that resolution must be taken reasonably in good faith.
- 17.3 A proposed Directors' written resolution is adopted when all the Eligible Directors in relation to the resolution(s) contained in the proposed Directors' written resolution have signed one or more copies of it, provided that those Eligible Directors would have formed a quorum at a meeting of the Directors to consider such resolution(s). It is immaterial whether a Director signs the resolution before or after the time by which the notice proposed that it should be adopted.
- 17.4 Two Eligible Directors present either in person or by a duly appointed alternate, shall be a quorum. For the purpose of any meeting held to authorise a director's conflict of interest under article 19 if there is only one Eligible Director in office other than the conflicted Director(s), the quorum for such meeting shall be one Eligible Director. If the number of votes for and against a proposal at a Directors' meeting are equal, the chairman shall not have a casting vote.
- 17.5 Not less than 5 Business Days' notice of a Directors' meeting must be given to each Director in writing provided that the requirements of this article may be waived or varied with the prior approval of all Eligible Directors. Article 9(3) of the Model Articles shall not apply to the Company.

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

- 18.1 Subject to sections 177 and 182 of the Act and provided (in any case) he has declared the nature and extent of his interest in accordance with the requirements of the Act, a Director who

is in any way (whether directly or indirectly) interested in an existing or proposed transaction or arrangement with the Company:

- 18.1.1 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;
- 18.1.2 shall be an Eligible Director for the purposes of any proposed decision of the Directors (or a committee of Directors) in respect of such contract or proposed contract in which he is interested;
- 18.1.3 shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) or participate in any unanimous decision of the Directors, in respect of such contract or proposed contract in which he is interested;
- 18.1.4 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;
- 18.1.5 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
- 18.1.6 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,

18.2 Articles 14(1) to 14(4) of the Model Articles shall not apply to the Company.

## **19 DIRECTORS' CONFLICTS OF INTEREST**

- 19.1 The Directors may, in accordance with the requirements set out in this article 19, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director breaching his duty under section 175 of the Act to avoid situations which conflict or possibly may conflict with the interests of the Company (a Conflict).
- 19.2 Any authorisation under this article will be effective only if:
  - 19.2.1 the matter in question shall have been proposed by any Director for consideration at a meeting of Directors in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors
  - 19.2.2 any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question; and
  - 19.2.3 the matter was agreed to without the Director in question voting or would have been agreed to if his vote had not been counted.
- 19.3 Any authorisation of a Conflict under this article 19 shall be recorded in writing (but the authorisation shall be effective whether or not the terms are so recorded) and may, whether at the time of giving the authorisation or subsequently:
  - 19.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;

19.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the Directors may determine; and

19.3.3 be terminated or varied by the Directors at any time.

This will not affect anything done by the Director prior to such termination or variation in accordance with the terms of the authorisation.

19.4 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:

19.4.1 disclose such information to the Directors or to any Director or other officer or employee of the Company; or

19.4.2 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.

19.5 Where the Directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide without limitation that the Director:

19.5.1 is excluded from discussions (whether at meetings of Directors or otherwise) related to the Conflict;

19.5.2 is not given any documents or other information relating to the Conflict; and

19.5.3 may or may not vote (or may or may not be counted in the quorum) at any future meeting of Directors in relation to any resolution relating to the Conflict,

19.6 Where the Directors authorise a Conflict:

19.6.1 the relevant Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict; and

19.6.2 the Director will not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the Directors impose in respect of its authorisation.

19.7 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.

## **20 SECRETARY**

The Directors may appoint any person who is willing to act as the Secretary of the Company for such term, on such remuneration and on such conditions as they may think fit and may from time to time remove or replace such person.

## **21 Indemnity**

21.1 Subject to article 21.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

21.1.1 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:

- (a) in the actual or purported execution and/or discharge of his duties, or in relation to them; and
- (b) in relation to the activities of the Company (or any Group Company) as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company (or any Group Company); and

21.1.2 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 21.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

21.2 This article 21 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.

21.3 In this article 21 and in article 22 a **relevant officer** means any director or other officer or former director or other officer of the Company or any Group Company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or any Group Company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

21.4 Article 52 of the Model Articles shall not apply to the Company.

## **22 INSURANCE**

22.1 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 loss or liability which has been or may be incurred by that relevant officer in connection with his duties or powers in relation to the Company, any Group Company or any pension fund or employees' share scheme of the Company or Group Company.

22.2 Article 53 of the Model Articles shall not apply to the Company.

## **23 EXPERT**

23.1 Where these Articles provide for any matter or dispute to be determined by the Expert, such matter or dispute shall be referred, at the request of any Member or Director, to the Auditors provided that in the circumstances referred to in article 23.2 such matter or dispute shall be referred to an independent chartered accountant nominated in writing for this purpose by an the Board.

23.2 The circumstances referred to in article 23.1 are:

- 23.2.1 where the Auditors are unable or unwilling to act in connection with the relevant reference; or

- 23.2.2 where, within 10 Business Days of the Company notifying the relevant Member that a matter or dispute is to be referred to an Expert in accordance with these Articles, the Board directs in writing that instead of being referred to the Auditors the relevant matter or dispute shall be referred to the independent chartered accountant nominated by the Board in their direction and, for this purpose, the Company undertakes to notify the Board of any such proposed referral to an Expert.
- 23.3 The Expert shall be engaged on terms agreed between the relevant Expert and the Director, provided that if such terms are not so agreed within 10 Business Days of the Expert being instructed, the Expert shall be engaged on such terms as may be agreed between the Expert and the Director (acting reasonably). For the purposes of agreeing the terms of the Expert's engagement pursuant to this article 23.3, the Directors shall act as agent for the Company and each relevant Member,
- 23.4 The Company and any relevant Members shall supply the Expert with any information which he may reasonably request in connection with his determination. The Company and any relevant Members shall be entitled to make written submissions to the Expert provided that a copy of any such written submissions is also simultaneously delivered to the other relevant parties.
- 23.5 The Expert shall give due weight to any such written submission which is received by the Expert within such time limit as he may determine and have notified to the relevant parties.
- 23.6 The decision of the Expert (who shall be deemed to act as an expert and not as an arbitrator) shall, save in the event of fraud or manifest error, be final and binding on the Company and the Members.
- 23.7 The cost of any reference to the Expert shall be borne as directed in the relevant article or, where no such direction is given, by the party or parties named by the Expert (taking into account the conduct of the parties and the merits of their respective arguments in relation to any matters in dispute) or, where no such party is named by the Expert, equally by the parties concerned.

## **24 CHANGE OF NAME**

The name of the Company may be changed by a decision of the Directors.

## **25 PURCHASE OF OWN SHARES OUT OF CASH**

The Company may purchase its own Shares to the extent permitted by section 692(1ZA) of the Act.