

ARTICLES OF ASSOCIATION  
of  
BLUE INTERNATIONAL HOLDINGS LIMITED

Company Number: 10638438

as amended and restated on 17 July 2023



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ARTICLES OF ASSOCIATION  
of  
BLUE INTERNATIONAL HOLDINGS LIMITED  
Company Number: 10638438

INTERPRETATION

1 Interpretation

1.1 In these Articles, unless the context otherwise requires:

"Acting in Concert" has the meaning given to it in the UK City Code on Takeovers and Mergers;

"Articles" means the Company's articles of association in its present form or as from time to time amended;

"A Shares" means collectively the A1 Shares and the A2 Shares;

"A1 Share" means an A1 ordinary share of \$0.0001 in the capital of the Company;

"A2 Share" means an A2 no par value ordinary share in the capital of the Company;

"A Shareholder" means a holder of any A Shares;

"A1 Shareholder" means a holder of any A1 Shares;

"A2 Shareholder" means a holder of any A2 Shares;

"Associated Government Entities" means:

- a) any UK Government departments, including their executive agencies, other subsidiary bodies and other parts of UK Government;
- b) companies wholly or partly owned by UK Government departments and their subsidiaries;
- c) non-departmental public bodies, other public bodies, public corporations and their subsidiary bodies sponsored by UK Government departments; and/or
- d) any successors to any of the entities set out in (a), (b) and (c) above or any new bodies which fall within the same criteria;

"Auditors" mean the Company's incumbent auditors from time to time;

"B Share" means a B ordinary share of \$0.0001 in the capital of the Company;

"B Shareholder" means a holder of any B Shares;

"Board" means the Board of Directors of the Company or the Directors present at a meeting of Directors at which there is a quorum;

"Business Day" means a day (which for these purposes ends at 5.30pm) on which banks are open for general business in London other than a Saturday or Sunday;

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"Buyer" has the meaning give in Section 14.1.1;

"the Companies Act" means the Companies Acts (as defined in section 2 of the Companies Act 2006) in so far as they apply to the Company;

"Company" means the company incorporated in England and Wales under the name of Joule International Holdings Limited on 27 February 2017 and re-named to Blue International Holdings Limited on 10 January 2020;

"Connected Persons" has the meaning given in section 1122 of the UK Corporation Tax Act 2010;

"Controlling Interest" in relation to a person means the ownership by that person and his or its Connected Persons of shares of in excess of 75 per cent of the Equity Shares in issue excluding A2 Shares and C Shares;

"Convertible Loan Programme" means the convertible loans provided by private investors to the Company which may be converted (subject to the terms of the convertible loan agreement with each investor) into B Shares;

"C Share" means a C ordinary share of \$0.0001 in the capital of the Company;

"C Shareholder" means a holder of any C Shares;

"Director" means such person or persons as shall be appointed to the Board from time to time pursuant to these Articles;

"Drag Along Notice" has the meaning given in Section 15.2;

"Drag Along Right" has the meaning given in Section 15.1;

"D Share" means a D ordinary share of \$0.0001 in the capital of the Company;

"D Shareholder" means a holder of any D Shares;

"D Share Participation Trigger" means either:

- (a) the aggregate value of dividends or other distributions per Share reaching \$15; or
- (b) a Sale or a Listing at a price of not less than \$50 per Share, including the D Shares;

"Emergency Share Issue" means an issue of Shares required by the Board where, in the Board's reasonable opinion, it is in the best commercial interests of the Company and/or of a time critical nature for such Shares to be issued without being offered to existing Shareholders first;

"Employee Benefit Trust" means any C Shares held in trust for the benefit of the employees (which may include past employees) of the Company and/or any other Group Member;

"Equity Shareholder" means a holder of any Equity Shares;

"Equity Shares" means the issued A Shares, B Shares, the C Shares and, subject to the D Share

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Participation Trigger having been achieved, the D Shares at any time, and all shares derived from them (and any of them) whether by conversion, consolidation or sub division or by way of rights or bonus issue or otherwise in issue;

"Family Trust" means a trust (whether arising under a settlement, declaration of trust, testamentary disposition or on an intestacy) under which the only persons being (or capable of being) beneficiaries are the individual beneficial owner of the Shares held in trust and/or his Privileged Relations (or such other persons as may be approved in writing by the Directors, and in respect of which no power of control over the voting powers conferred by such Shares is exercisable at any time by or subject to the consent of any person other than the trustees as trustees or such individual beneficial owner or his Privileged Relations;

"Founder Majority" means A Shares carrying the right to more than 50% of the total number of votes attributable to A Shares which may be cast on a poll at a general meeting of the Company from time to time;

"fully paid" in relation to a Share means that the nominal value and any premium to be paid to the Company in respect of that Share have been paid to the Company. In relation to a no par value share, it shall mean the total amount received by the Company in respect of the issue of the no par value shares;

"Future Fund" means UK FF Nominees Limited, a company incorporated in England and Wales with company registration number 12591650 and whose registered office address is at 5 Churchill Place, 10th Floor, London, England, E14 5HU;

"Group" means the Company, any subsidiary of the Company, any holding company of the Company and any subsidiary of such holding company and references to a "Group Member" shall be construed accordingly;

"group undertaking" has the meaning given in Section 12.1.6;

"holder" in relation to any Share means the person whose name is entered in the register of members as the holder of that Share;

"Indemnified Person" means any Director, member of a committee duly constituted pursuant to these Articles and any liquidator, manager or trustee for the time being acting in relation to the affairs of the Company, and his heirs, executors and administrators;

"Insolvency Event" means in respect of a company any of the following events: (i) a petition for the winding up of the company being presented to court; (ii) an order being made for the appointment of an administrator of the company or an administrator of the company being appointed; (iii) a winding-up order being made or a provisional liquidator being appointed in respect of the company; (iv) the company passing a resolution for winding up (except for the purpose of amalgamation or reconstruction while solvent); (v) a receiver or manager or administrative receiver being appointed of any of the company's assets; (vi) a proposal being approved in respect of the company for a composition in satisfaction of its debts or a scheme of arrangement of its affairs or without prejudice to the generality of the foregoing a voluntary arrangement; (vii) a moratorium becoming applicable in respect of the company; (viii) the company being dissolved on the basis of insolvency; or (ix) a proceeding or step being taken or a court order being made in any jurisdiction in respect of the company which has a similar effect to any of the foregoing;

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"Institutional Investor" means any fund, partnership, body corporate, trust or other person or entity whose principal business is to make investments or a person whose business is to make, manage or advise upon investments for any of the foregoing, other than an Institutional Investor who the Board determines in its reasonable discretion is a competitor with the business of the Company;

"Interest" means the legal or equitable or any other interest in a Share (including any voting right attached to a Share);

"Listing" means the admission of all or any of the Shares to trading on a market for listed securities operated by a recognised investment exchange together with the admission of such Shares to listing on any official or otherwise prescribed list maintained by a competent or otherwise prescribed listing authority;

"MIP" means the management incentive plan on terms adopted by the Board from time to time pursuant to which Relevant Individuals shall be entitled to acquire and hold Shares;



International Holdings Limited on 27 February 2017 and re-named to Blue International Holdings Limited on 10 January 2020;

"Connected Persons" has the meaning given in section 1122 of the UK Corporation Tax Act 2010;

"Controlling Interest" in relation to a person means the ownership by that person and his or its Connected Persons of shares of in excess of 75 per cent of the Equity Shares in issue excluding A2 Shares and C Shares;

"Convertible Loan Programme" means the convertible loans provided by private investors to the Company which may be converted (subject to the terms of the convertible loan agreement with each investor) into B Shares;

"C Share" means a C ordinary share of \$0.0001 in the capital of the Company;

"C Shareholder" means a holder of any C Shares;

"Director" means such person or persons as shall be appointed to the Board from time to time pursuant to these Articles;

"Drag Along Notice" has the meaning given in Section 15.2;

"Drag Along Right" has the meaning given in Section 15.1;

"D Share" means a D ordinary share of \$0.0001 in the capital of the Company;

"D Shareholder" means a holder of any D Shares;

"D Share Participation Trigger" means either:

- (c) the aggregate value of dividends or other distributions per Share reaching \$15; or
- (d) a Sale or a Listing at a price of not less than \$50 per Share, including the D Shares;

"Emergency Share Issue" means an issue of Shares required by the Board where, in the Board's reasonable opinion, it is in the best commercial interests of the Company and/or of a time critical nature for such Shares to be issued without being offered to existing Shareholders first;

"Employee Benefit Trust" means any C Shares held in trust for the benefit of the employees (which may include past employees) of the Company and/or any other Group Member;

"Equity Shareholder" means a holder of any Equity Shares;

"Equity Shares" means the issued A Shares, B Shares, the C Shares and, subject to the D Share Participation Trigger having been achieved, the D Shares at any time, and all shares derived from them (and any of them) whether by conversion, consolidation or sub division or by way of rights or bonus issue or otherwise in issue;

"Family Trust" means a trust (whether arising under a settlement, declaration of trust, testamentary disposition or on an intestacy) under which the only persons being (or capable of being) beneficiaries are the individual beneficial owner of the Shares held in trust and/or his

Privileged Relations (or such other persons as may be approved in writing by the Directors, and in respect of which no power of control over the voting powers conferred by such Shares is exercisable at any time by or subject to the consent of any person other than the trustees as trustees or such individual beneficial owner or his Privileged Relations;

"Founder Majority" means A Shares carrying the right to more than 50% of the total number of votes attributable to A Shares which may be cast on a poll at a general meeting of the Company from time to time;

"fully paid" in relation to a Share means that the nominal value and any premium to be paid to the Company in respect of that Share have been paid to the Company. In relation to a no par value share, it shall mean the total amount received by the Company in respect of the issue of the no par value shares;

"Group" means the Company, any subsidiary of the Company, any holding company of the Company and any subsidiary of such holding company and references to a "Group Member" shall be construed accordingly;

"group undertaking" has the meaning given in Section 12.1.6;

"holder" in relation to any Share means the person whose name is entered in the register of members as the holder of that Share;

"Indemnified Person" means any Director, member of a committee duly constituted pursuant to these Articles and any liquidator, manager or trustee for the time being acting in relation to the affairs of the Company, and his heirs, executors and administrators;

"Insolvency Event" means in respect of a company any of the following events: (i) a petition for the winding up of the company being presented to court; (ii) an order being made for the appointment of an administrator of the company or an administrator of the company being appointed; (iii) a winding-up order being made or a provisional liquidator being appointed in respect of the company; (iv) the company passing a resolution for winding up (except for the purpose of amalgamation or reconstruction while solvent); (v) a receiver or manager or administrative receiver being appointed of any of the company's assets; (vi) a proposal being approved in respect of the company for a composition in satisfaction of its debts or a scheme of arrangement of its affairs or without prejudice to the generality of the foregoing a voluntary arrangement; (vii) a moratorium becoming applicable in respect of the company; (viii) the company being dissolved on the basis of insolvency; or (ix) a proceeding or step being taken or a court order being made in any jurisdiction in respect of the company which has a similar effect to any of the foregoing;

"Interest" means the legal or equitable or any other interest in a Share (including any voting right attached to a Share);

"Listing" means the admission of all or any of the Shares to trading on a market for listed securities operated by a recognised investment exchange together with the admission of such Shares to listing on any official or otherwise prescribed list maintained by a competent or otherwise prescribed listing authority;

"MIP" means the management incentive plan on terms adopted by the Board from time to time pursuant to which Relevant Individuals shall be entitled to acquire and hold Shares;

"Ordinary Resolution" has the meaning given in section 282 of the Companies Act;

"Other Voting Shares" has the meaning given in Section 22.6.2;

"paid up" means paid up or credited as paid up;

"Power Plant Operating Date" means the date that the proposed hydro-electric power plant, known as Bumbuna II, in Sierra Leone becomes operational;

"Privileged Relation" means in relation to any Shareholder, the Shareholder's parent, brother, sister, spouse or civil partner (as defined in the UK Civil Partnership Act 2004) and all lineal descendants of that Shareholder (including for this purpose any step-child or adopted child of the Shareholder or his lineal descendants) or any person who for the time being is married to any such lineal descendant but no lineal descendant may be a Privileged Relation whilst a minor;

"Register" means the Register of Shareholders of the Company;

"Registered Office" means the registered office for the time being of the Company;

"Related Party Transferee" means any person to whom Shares are permitted to be transferred pursuant to Section 15;

"Relevant Individual" means an employee, consultant or director of any Group Member;

"Relevant Proportion" means, in respect of any Shareholder, the proportion (expressed as a percentage) which the number of Shares held by such person bears to the total number of Shares;

"Sale" a sale or disposal of:

- (a) more than 50% of the issued Shares, pursuant to an offer to acquire all of the issued Shares (other than as part of a restructuring where, following completion of such restructuring, the Company is ultimately controlled, either directly or indirectly, by those members who collectively controlled the Company, either directly or indirectly, prior to such restructuring); or
- (b) the whole or substantially the whole of the business and assets of the Company (whether in a single transaction or a series of related transactions);

"Secretary" includes a temporary or assistant or deputy Secretary and any person appointed by the Board to perform any of the duties of the Secretary;

"Share" means a share in the capital of the Company;

"Shareholder" means a shareholder or member of the Company;

"Special Resolution" has the meaning given in section 283 of the Companies Act;

"transfer of Shares" or any similar expression shall be deemed to include any direction (by way of renunciation, assignment or otherwise) by a Shareholder entitled to an allotment, issue or transfer of Shares that a Share be allotted, issued or transferred to some person other than himself and any reference to a transfer of Shares or any similar expression shall also be deemed to include:

- (a) any sale, assignment or other disposition of an Interest;
  - (b) the creation or granting of any mortgage, charge, pledge or other encumbrance or security interest or trust over any Interest; and
  - (c) any grant of an option to acquire any Interest,
- whether effected by a Shareholder or otherwise, whether for consideration or otherwise and whether effected by an instrument in writing or otherwise;

"United Kingdom" means the country consisting of Great Britain and Northern Ireland;

"Voting Shares" means any of the A1 Shares and the B Shares;

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

- 1.2 For the purposes of these Articles, a corporation which is a shareholder shall be deemed to be present in person at a general meeting if, in accordance with the Companies Act, its authorised representative is present.
- 1.3 Words importing only the singular number include the plural number and vice versa.
- 1.4 Words importing only the masculine gender include the feminine and neuter genders respectively.
- 1.5 Words importing persons include companies or associations or bodies of persons, whether corporate or un-incorporate.
- 1.6 A reference to writing shall include typewriting, printing, lithography, photography and electronic record.
- 1.7 Any words or expressions defined in the Companies Act in force at the date when these Articles or any part thereof are adopted shall bear the same meaning in these Articles or such part (as the case may be).

The Company shall be a private company limited by shares.

#### REGISTERED OFFICE

### 2 Registered Office

The Registered Office shall be at such place in the United Kingdom as the Board shall from time to time determine.

#### SHARES AND SHARE RIGHTS

### 3 Share Rights

- 3.1 Subject to any special rights conferred on the holders of any share or class of shares, any share in the Company may be issued with or have attached thereto such preferred, deferred, qualified or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise, as the Company may by Shareholder Resolution determine or, if there has not been any such determination or so far as the same shall not make specific provision, as the Board may determine.

3.2 Except as otherwise provided in these Articles, the A1 Shares, the A2 Shares, the B Shares, the C Shares and the D Shares shall rank *pari passu* in all respects but shall constitute separate classes of shares. The rights and restrictions attaching to the A Shares, the B Shares, the C Shares and the D Shares are set out in full in these Articles. Subject to the Companies Act and without prejudice to Section 3.5, any preference Shares may, with the sanction of a resolution of the Board, be issued on terms:

3.2.1 that they are to be redeemed on the happening of a specified event or on a given date; and/or,

3.2.2 that they are liable to be redeemed at the option of the Company; and/or,

3.2.3 if authorised by these Articles of the Company, that they are liable to be redeemed at the option of the holder.

The terms and manner of redemption shall be provided for in such resolution of the Board and shall be attached to but shall not form part of these Articles.

3.3 The Board may, at its discretion and without the sanction of a Ordinary Resolution, authorise the purchase by the Company of its own Shares upon such terms as the Board may in its discretion determine, provided always that such purchase is effected in accordance with the provisions of the Companies Act.

3.4 The Board may, at its discretion and without the sanction of a Ordinary Resolution, authorise the acquisition by the Company of its own Shares, to be held as treasury Shares, upon such terms as the Board may in its discretion determine, provided always that such acquisition is effected in accordance with the provisions of the Companies Act. The Company shall be entered in the Register as a Shareholder in respect of the Shares held by the Company as treasury Shares and shall be a Shareholder of the Company but subject always to the provisions of the Companies Act and for the avoidance of doubt the Company shall not exercise any rights and shall not enjoy or participate in any of the rights attaching to those Shares save as expressly provided for in the Companies Act.

#### 4 Modification of Rights

4.1 Subject to the Companies Act, all or any of the special rights for the time being attached to any class of Shares for the time being issued may from time to time (whether or not the Company is being wound up) be altered or abrogated with the consent in writing of the holders of not less than seventy five percent (75%) of the issued Shares of that class or with the sanction of a resolution passed at a separate general meeting of the holders of such Shares voting in person or by proxy. To any such separate general meeting, all the provisions of these Articles as to general meetings of the Company shall *mutatis mutandis* apply, but so that the necessary quorum shall be one or more persons holding or representing by proxy any of the Shares of the relevant class, that every holder of Shares of the relevant class shall be entitled on a poll to one vote for every such Share held by him and that any holder of Shares of the relevant class present in person or by proxy may demand a poll.

4.2 The special rights conferred upon the holders of any Shares or class of Shares shall not, unless otherwise expressly provided in the rights attaching to or the terms of issue of such Shares, be deemed to be altered by the creation or issue of further Shares ranking *pari passu* therewith.

## 5 Shares

- 5.1 The Board may at its discretion and with the sanction of a Ordinary Resolution issue shares of any class subject however to the provisions of these Articles.
- 5.2 Subject to the provisions of these Articles, any Shares of the Company held by the Company as treasury Shares shall be at the disposal of the Board, which may hold all or any of the Shares, dispose of or transfer all or any of the Shares for cash or other consideration, or cancel all or any of the Shares.
- 5.3 Subject to Sections 5.5 and 5.6, any new Shares shall be offered by the Directors for subscription to the Shareholders in (as nearly as possible) the Relevant Proportions.
- 5.4 The offer shall be made by notice specifying the number and class of Shares offered, the price per Share, and a time (being not less than 15 Business Days) within which the offer, if not accepted, shall be deemed to be declined. At the end of that period or, if earlier, on the receipt of responses from all the person(s) to whom such notice is given confirming whether they accept or decline the Shares so offered, the Directors shall offer the declined Shares to the Shareholders who have accepted all the Shares initially offered to them, with the Relevant Proportion being applied as adjusted to discount any parties who did not accept their original Relevant Proportion in full. This further offer shall be made in the same manner as the original offer but may, at the discretion of the Directors, be limited to a period of five (5) Business Days after which it shall (to the extent that any Shares remain unaccepted) be deemed to have been withdrawn.
- 5.5 Any Shares not taken up at the end of the procedure set out in Sections 5.3 and 5.4 may be offered by the Directors to a third party provided that:
  - 5.5.1 no Shares shall be issued at a discount;
  - 5.5.2 no Shares shall be issued more than twelve months after the end of the period for acceptance of the last offer of such Shares under Sections 5.3 and 5.4 unless the procedure set out in those Sections is repeated in respect of such Shares;
  - 5.5.3 no Shares shall be issued on terms which are more favourable than those on which they were offered to the Shareholders.
- 5.6 No Shares shall be required, before they are issued, to be offered to Shareholders in accordance with Sections 5.3 and 5.4:
  - 5.6.1 if they are required to be allotted and issued pursuant to the terms of the MIP;
  - 5.6.2 if they are required to be allotted and issued pursuant to the exercise or conversion of options, rights to subscribe for or securities convertible into Shares or pursuant to the terms of the Convertible Loan Programme;
  - 5.6.3 if and to the extent that, following any such issue of Shares, the total number of Shares would not be greater than 20,000,000 (provided that in calculating the number of Shares in issue for purposes of this Section 5.8, A2 Shares, to the extent held together with an equal number of A1 Shares, shall be disregarded); or
  - 5.6.4 subject to Section 5.7, if they are to be issued as part of an Emergency Share Issue.

- 5.7 In the event of an Emergency Share Issue, each Shareholder (other than those to whom any Shares were issued pursuant to such Emergency Share Issue) shall be entitled, but not obliged, to subscribe at any time during the period of 30 days following completion of the Emergency Share Issue for such number of the class or classes of Shares issued pursuant to the Emergency Share Issue as such Shareholder would have been entitled to subscribe for by reference to its holding of Shares in accordance with Sections 5.3 and 5.4 (had those Sections not been disapplied by Section 5.6.4).
- 5.8 The Board may in connection with the issue of any Shares exercise all powers of paying commission and brokerage conferred or permitted by law.
- 5.9 Except as ordered by a court of competent jurisdiction or as required by law (or except expressly provided in these Articles), no person shall be recognised by the Company as holding any Share upon trust and the Company shall not be bound by or required in any way to recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Share or in any fractional part of a Share or (except only as otherwise provided in these Articles or by law) any other right in respect of any Share except an absolute right to the entirety thereof in the registered holder.

## 6 Certificates

- 6.1 The preparation, issue and delivery of share certificates shall be governed by the Companies Act. In the case of a Share held jointly by several persons, delivery of a certificate to one of several joint holders shall be sufficient delivery to all.
- 6.2 If a Share certificate is defaced, lost or destroyed, it may be replaced without fee but on such terms (if any) as to evidence and indemnity and to payment of the costs and out of pocket expenses of the Company in investigating such evidence and preparing such indemnity as the Board may think fit and, in case of defacement, on delivery of the old certificate to the Company.
- 6.3 All certificates for Share or loan capital or other securities of the Company (other than letters of allotment, scrip certificates and other like documents) shall, except to the extent that the terms and conditions for the time being relating thereto otherwise provide, be signed by a Director, the Secretary or any person authorised by the Board for that purpose. The Board may by resolution determine, either generally or in any particular case, that any signatures on any such certificates need not be autographic but may be affixed to such certificates by some mechanical means or may be printed thereon or that such certificates need not be signed by any persons.

## REGISTER OF SHAREHOLDERS

### 7 Register of Shareholders

The Company shall establish and maintain the principal register of shareholders at the Registered Office in the manner prescribed by the Companies Act. Unless the Board so determines, no Shareholder or intending Shareholder shall be entitled to have entered in the Register any indication of any trust or any equitable, contingent, future or partial interest in any Share or any fractional part of a Share and if any such entry exists or is permitted by the Board it shall not be deemed to abrogate any of the provisions of Section 5.9. The share register shall state (a) the names and addresses of the Shareholders, (b)

the date on which each person was registered as a Shareholder, and (c) the date at which any person ceased to be a Shareholder, in accordance with the Companies Act.

## REGISTER OF DIRECTORS

### 8 Register of Directors

The Company shall establish and maintain a register of the Directors of the Company as required by the Companies Act. The register of Directors shall be open to inspection in the manner prescribed by the Companies Act between 10:00 a.m. and 12:00 noon on every Business Day.

## TRANSFER OF SHARES

### 9 Transfer of Shares

- 9.1 Subject to the Companies Act and to such of the restrictions contained in these Articles as may be applicable, any Shareholder may transfer all or any of his Shares by an instrument of transfer in the prescribed form. No such instrument shall be required on the redemption of a Share or on the purchase by the Company of a Share.
- 9.2 The instrument of transfer of a Share shall be signed by or on behalf of the transferor and where any Share is not fully-paid, the transferee. The transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered in the share register in respect thereof. All instruments of transfer when registered may be retained by the Company. The Board may, in its absolute discretion and without assigning any reason therefore, decline to register any transfer of any Share which is not a fully-paid Share. The Board may also decline to register any transfer unless:
  - 9.2.1 the instrument of transfer is duly stamped (if required by law) and lodged with the Company, accompanied by the certificate for the Shares (if any) to which it relates, and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer, and
  - 9.2.2 the instrument of transfer is in respect of only one class of Share.
- 9.3 Subject to any directions of the Board from time to time in force, the Secretary may exercise the powers and discretions of the Board under this Section.
- 9.4 The Board may in its absolute discretion decline to register a transfer. If the Board declines to register a transfer it shall, within twenty eight (28) days after the date on which the instrument of transfer was lodged, send to the transferee notice of such refusal.
- 9.5 If a transfer would, if made and registered, result in the Buyer and his or its Connected Persons obtaining a Controlling Interest, the Board shall refuse registration of such transfer until such time as an Approved Offer has been made and the provisions of Section 17 (Tag Along Rights) complied with.
- 9.6 Any A Shares duly transferred to a non A Shareholder shall be automatically and with immediate effect be reclassified as B Shares.



## PROHIBITED TRANSFERS

### 10 General Prohibitions

The Board of Directors shall at its own discretion decline to register any transfer of Shares to any of the following:

- 10.1 any person who, in the opinion of the Directors, acting reasonably, is carrying on business directly or indirectly in competition with the Company or any other Group Member, except this restriction shall not apply to any transfer of Shares pursuant to Section 14 (Tag Along Rights) or Section 15 (Drag Along Rights);
- 10.2 any person who is (or whom the Directors reasonably believe to be) less than 18 years of age and/or who does not have (or whom the Directors reasonably believe does not have) the legal capacity to hold and/or transfer any Shares without let, hindrance or court order or otherwise to comply fully with the provisions of these Articles.

### 11 Directors right to request further information

#### 11.1 For the purpose of ensuring that:

- 11.1.1 a transfer of Shares is permitted under these Articles; or
- 11.1.2 no circumstances have arisen whereby the provisions of Section 14 (Tag Along Rights) are required to be or ought to have been complied with,

the Directors may require any Shareholder to procure that any person whom the Directors reasonably believes to have information and evidence relevant to such purpose, provides the Company with such information and evidence as the Directors reasonably think fit (including the names, addresses and interests of all persons respectively having an Interest in the Shares from time to time registered in the relevant Shareholder's name) regarding any matter which they deem relevant for the purpose. Pending the provision of such information the Directors shall be entitled to refuse to register any relevant transfer.

## RELATED PARTY TRANSFERS

### 12 Related Party Transfers

12.1 Subject to Sections 9, 10 and 13, any of the following categories of Share transfer follows shall be considered a transfer to a related party:

- 12.1.1 by the beneficial owner to a person shown to the reasonable satisfaction of the Directors to be a nominee for such beneficial owner only, and by any such nominee to the beneficial owner or to another person shown to the reasonable satisfaction of the Directors to be a nominee for the beneficial owner only;
- 12.1.2 to the trustee or trustees of a Family Trust, and by any such trustee(s) to any other person or persons shown to the reasonable satisfaction of the Directors to be the trustee or trustees for the time being (on a change of trustee) of the Family Trust in question;

- 12.1.3 by the trustee or trustees of a Family Trust in that capacity to a person who has an immediate beneficial interest under the Family Trust or to the settlor of the Family Trust;
- 12.1.4 to a Privileged Relation and by any such Privileged Relation to the original transferor or to any other person or persons shown to the reasonable satisfaction of the Directors to be a Privileged Relation of the original transferor;
- 12.1.5 in the case of Shares held by an Employee Benefit Trust, to any beneficiary of that trust or to any replacement trustee or trustees or into the joint names of the existing and any new or additional trustees;
- 12.1.6 in the case of Shares held by a corporation, to any subsidiary or holding company, or other subsidiary of such holding company, (in each case hereinafter referred to as a "group undertaking"), of the transferor;
- 12.1.7 in the case of A Shares, to any A Shareholder;
- 12.1.8 in the case of B Shares, to any B Shareholder;
- 12.1.9 in the case of C Shares, when required by, and/or in accordance with, the terms of the MIP or otherwise with the prior written consent of the Board (in its absolute discretion and subject to such conditions as it may think fit);
- 12.1.10 in the case of D Shares to any D Shareholder;
- 12.1.11 to a Buyer in acceptance of an Approved Offer pursuant to Section 14 (Tag Along Rights) or Section 15 (Drag Along Rights); and
- 12.1.12 with the prior written consent of the holders of a Controlling Interest.

### 13 Further Transfers by a Related Party Transferee

13.1 Where Shares are held by one or more nominees of their beneficial owner, or by a trustee or trustees of a Family Trust or by one or more Privileged Relations or by a trustee or trustees of an Employee Benefit Trust and any such person ceases to be:

- 13.1.1 a nominee of the beneficial owner of the Shares; or
- 13.1.2 a trustee of the Family Trust; or
- 13.1.3 a Privileged Relation of the original transferor; or
- 13.1.4 a trustee of the Employee Benefit Trust,

such person shall on or before the cessation transfer such Shares to a transferee permitted (as the case may be) under Section 12.1.1, 12.1.2, 12.1.4 or 12.1.5.

13.2 Where Shares have been transferred under Section 12.1.6 and the transferee:

- 13.2.1 ceases to be a group undertaking of the transferor; or
- 13.2.2 is subject to an Insolvency Event,

it shall, on or before the cessation in the case of Section 13.2.1 or upon the occurrence of the Insolvency Event in the case of Section 13.2.2 transfer such Shares to the original transferor or to another group undertaking of the original transferor.

13.3 If a Shareholder fails or refuses to execute and deliver any instrument of transfer in respect of any relevant Shares pursuant to its obligations under Sections 13.1 or 13.2, the Directors may irrevocably appoint, as agent of the defaulting Shareholder, any person with full power and authority to:

13.3.1 execute and complete, on behalf of the defaulting Shareholder, the necessary instrument(s) of transfer and any other documents required or desirable to give effect to the transfer of the relevant Shares at such price and to such transferee as the Directors may specify; and

13.3.2 against receipt by the Company of the purchase money payable for the relevant Shares (to be held on trust for the defaulting Shareholder without interest) (such receipt being a good discharge to the transferee who shall not be bound to see to the application thereof), deliver such instrument(s) of transfer to the relevant transferee,

and the Directors shall (notwithstanding the absence of a certificate (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificate) authorise the registration of the transfer(s) and of the transferee as the holder of the relevant Shares, once appropriate stamp duty (if any) has been paid. After registration, the title of the transferee as registered holder of the relevant Shares shall not be affected by any irregularity in, or invalidity of, such proceedings, which shall not be questioned by any person. The defaulting Shareholder shall in such a case be bound to deliver up its certificate (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificate) for the relevant Shares to the Company whereupon the defaulting Shareholder shall be entitled to receive the purchase money payable for the relevant Shares. The appointment referred to above is given by way of security for the due performance of the defaulting Shareholder's obligations pursuant to these Articles.

## CHANGE OF CONTROL

### 14 Tag Along Rights

14.1 With the exception of transfer of shares pursuant to Sections 15 and 13 (Related Party Transfers) no transfer of Shares which would result, if made and registered, in any person and his or its Connected Persons or group of persons Acting in Concert obtaining a Controlling Interest, shall be made or registered unless:

14.1.1 an Approved Offer is made by the proposed transferee(s) ("Buyer") or, at the Buyer's written request, by the Company as agent for the Buyer; and

14.1.2 the Buyer complies in all respects with the terms of the Approved Offer at the time of completion of the sale and purchase of Shares pursuant to it and the Company complies with its obligation to serve an Exit Notice (as defined in Schedule 1) in accordance with Section 3.7 of Schedule 1 in connection therewith.

14.2 For the purposes of this Section 14 and Section 15:

14.2.1 "Approved Offer" means an offer in writing served on all Equity Shareholders (including the proposing transferor), offering to purchase all of the Equity Shares held by such Shareholders (including any Shares which may be allotted pursuant to the exercise or conversion of options, rights to subscribe for or securities convertible into Equity Shares in existence at the date of such offer) which:

14.2.1.1 is stipulated to be open for acceptance for at least 15 Business Days;

14.2.1.2 offers the same or equivalent consideration for each Equity Share (whether in cash, securities or otherwise in any combination) provided that a reduction, withholding or retention of consideration may be made to take account of tax payable or which might be payable by a Shareholder or by his employing company in relation to the conversion of securities, the exercise of an option over Equity Shares and/or the disposal of Equity Shares shall not be construed as a failure to comply with the application of this paragraph;

14.2.1.3 includes an undertaking by or on behalf of the Buyer that no other consideration (whether in cash or otherwise) is to be received or receivable by any Shareholder which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Equity Shares to be sold by such Shareholder and that neither the Buyer nor any person acting by agreement or understanding with it has, otherwise entered into more favourable terms or has agreed more favourable terms with any other Shareholder for the purchase of Equity Shares;

14.2.1.4 is on the terms that the sale and purchase of the Equity Shares in respect of which the offer is accepted shall be completed at the same time.

## 15 Drag Along Rights

15.1 Whenever an Approved Offer is made, the holders of a Controlling Interest shall have the right ("Drag Along Right") to require (in the manner set out in Section 15.2) all of the other Shareholders including other persons who acquire Shares following the making of the Approved Offer and/or after completion of the Approved Offer pursuant to the exercise of options or conversion of securities ("Other Shareholders") to accept the Approved Offer in full.

15.2 The Drag Along Right may be exercised by the service of notice ("Drag Along Notice") to that effect on the Other Shareholders at the same time as, or within five Business Days following, the making of the Approved Offer (or, if later, within five Business Days following the acquisition by the relevant Other Shareholder of any Equity Shares). A Drag Along Notice shall specify:

15.2.1 the identity of the Buyer;

15.2.2 the consideration for which the Shares are to be transferred; and

15.2.3 the proposed date of transfer (being a date not less than three days from the date of the Drag Along Notice).

- 15.3 On the exercise of the Drag Along Right, each of the Other Shareholders shall be bound to accept the Approved Offer in respect of its entire holding of Shares and to comply with the obligations assumed by virtue of such acceptance.
- 15.4 If any of the Other Shareholders fails to accept the Approved Offer or, having accepted such offer, fails to complete the sale of any of its Shares pursuant to the Approved Offer, or otherwise fails to take any action required of it under the terms of the Approved Offer, any Director or any persons so authorised by the Directors may accept the offer as agent on behalf of the Other Shareholder in question, or undertake any action required under the terms of the Approved Offer as agent for and on behalf of the Other Shareholder in question. In particular, such person may execute and complete on that Other Shareholder's behalf the necessary instrument(s) of transfer and any other documents required or desirable to give effect to the sale; and against:
- 15.4.1 receipt by the Company of the consideration payable for the relevant Shares (to be held on trust for such Other Shareholder without interest) (such receipt being a good discharge to the Buyer, who shall not be bound to see to the application of it);
- 15.4.2 compliance by the Buyer and, where relevant, the Company with all other terms of the Approved Offer,
- deliver such instrument(s) of transfer (and any other documents) to the Buyer (or its nominee). The Directors shall then (notwithstanding the failure) authorise the registration of the transfer(s) and of the Buyer (or its nominee) as the holder of the Shares so transferred once appropriate stamp duty (if any) has been paid. After registration, the title of the Buyer (or its nominee) as registered holder of such Shares shall not be affected by any irregularity in, or invalidity, of such proceedings, which shall not be questioned by any person. The Other Shareholder shall in such a case be bound to deliver, up its certificate (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificates) for its Shares to the Company whereupon the Other Shareholder shall be entitled to receive the consideration for such Shares.
- 15.5 Where the consideration payable for the relevant Shares is the issue of shares and/or other securities, such Other Shareholder shall be deemed to have authorised the Company to accept the allotment of such shares and/or other securities on his behalf and on completion of the transfer (duly stamped, if appropriate) the Buyer shall register such Other Shareholder as the holder of the relevant shares and/or such other securities.

#### TRANSMISSION OF SHARES

#### 16 Transmission of Shares

- 16.1 In the case of the death of a Shareholder, the survivor or survivors, where the deceased was a joint holder, and the estate representative, where he was sole holder, shall be the only person recognised by the Company as having any title to his Shares; but nothing herein contained shall release the estate of a deceased holder (whether the sole or joint) from any liability in respect of any Share held by him solely or jointly with other persons. For the purpose of this Section, estate representative means the person to whom probate or letters of administration has or have been granted in the United Kingdom or, failing any such person, such other person as the Board may in its absolute discretion determine to be the person recognised by the Company for the purpose of this Section.

16.2 Any person becoming entitled to a Share in consequence of the death of a Shareholder or otherwise by operation of applicable law may, subject as hereafter provided and upon such evidence being produced as may from time to time be required by the Board as to his entitlement, either be registered himself as the holder of the Share or elect to have some person nominated by him registered as the transferee thereof. If the person so becoming entitled elects to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have his nominee registered, he shall signify his election by signing an instrument of transfer of such Share in favour of his nominee. All the limitations, restrictions and provisions of these Articles relating to the right to transfer and the registration of transfer of Shares shall be applicable to any such notice or instrument of transfer as aforesaid as if the death of the Shareholder or other event giving rise to the transmission had not occurred and the notice or instrument of transfer was an instrument of transfer signed by such Shareholder.

16.3 A person becoming entitled to a Share in consequence of the death of a Shareholder or otherwise by operation of applicable law shall (upon such evidence being produced as may from time to time be required by the Board as to his entitlement) be entitled to receive and may give a discharge for any dividends or other monies payable in respect of the Share, but he shall not be entitled in respect of the Share to receive notices of or to attend or vote at general meetings of the Company or, save as aforesaid, to exercise in respect of the Share any of the rights or privileges of a Shareholder until he shall have become registered as the holder thereof. The Board may at any time give notice requiring such person to elect either to be registered himself or to transfer the Share and, if the notice is not complied with within sixty (60) days, the Board may thereafter withhold payment of all dividends and other monies payable in respect of the Shares until the requirements of the notice have been complied with.

16.4 Subject to any directions of the Board from time to time in force, the Secretary may exercise the powers and discretions of the Board under this Section.

## 17 Alteration of Capital

17.1 The Company may from time to time and without the sanction of a Ordinary Resolution:

- 17.1.1 divide its Shares into several classes and attach thereto respectively any preferential, deferred, qualified or special rights, privileges or conditions;
- 17.1.2 consolidate and divide all or any of its Share capital into Shares of larger par value than its existing Shares;
- 17.1.3 sub-divide its Shares or any of them into Shares of smaller par value than is fixed by its memorandum, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced Share shall be the same as it was in the case of the Share from which the reduced Share is derived;
- 17.1.4 subject to Section 5.1, make provision for the issue and allotment of Shares which do not carry any voting rights;
- 17.1.5 cancel Shares which have not been taken or agreed to be taken by any person, and diminish the amount of its Share capital by the amount of the Shares so cancelled; and
- 17.1.6 change the currency denomination of its Share capital.

17.2 Where any difficulty arises in regard to any division, consolidation, or sub-division under this Section 17, the Board may settle the same as it thinks expedient and, in particular, may arrange for the sale of the Shares representing fractions and the distribution of the net proceeds of sale in due proportion amongst the Shareholders who would have been entitled to the fractions, and for this purpose the Board may authorise some person to transfer the Shares representing fractions to the purchaser thereof, who shall not be bound to see to the application of the purchase money nor shall his title to the Shares be affected by any irregularity or invalidity in the proceedings relating to the sale.

17.3 Subject to the Companies Act and to any confirmation or consent required by law or these Articles, the Company may without the sanction of a Ordinary Resolution from time to time convert any preference Shares into redeemable preference Shares.

#### 18 Reduction of Capital

18.1 Subject to the Companies Act, and any confirmation or consent required by law, or these Articles, the Company may from time to time by Special Resolution authorise the reduction of its issued Share capital or any share premium account in any manner.

18.2 In relation to any such reduction, the Company may by Special Resolution determine the terms upon which such reduction is to be effected including, in the case of a reduction of part only of a class of Shares, those Shares to be affected.

### GENERAL MEETINGS AND RESOLUTIONS IN WRITING

#### 19 General Meetings and Resolutions in Writing

19.1 The Board shall convene and the Company shall hold general meetings in accordance with the requirements of the Companies Act at such times and places as the Board shall appoint.

19.2 Except in the case of the removal of auditors or Directors, anything which may be done by resolution of the Voting Shareholders in general meeting or by resolution of any class of Voting Shareholders in a separate general meeting may be done by resolution in writing, signed by the Voting Shareholders (or the holders of such class of Voting Shares) who at the date of the notice of the resolution in writing represent the majority of votes that would be required if the resolution had been voted on at a meeting of the Voting Shareholders. Such resolution in writing may be signed by the Voting Shareholder or its proxy, or in the case of a Voting Shareholder that is a corporation (whether or not a company within the meaning of the Companies Act) by its representative on behalf of such Voting Shareholder, in as many counterparts as may be necessary.

19.3 Notice of any resolution in writing to be made under this Section shall be given to all the Voting Shareholders who would be entitled to attend a meeting and vote on the resolution. The requirement to give notice of any resolution in writing to be made under this Section to such Voting Shareholders shall be satisfied by giving to those Voting Shareholders a copy of that resolution in writing in the same manner as that required for a notice of a general meeting of the Company at which the resolution could have been considered, except that the length of the period of notice shall not apply. The date of the notice shall be set out in the copy of the resolution in writing.

- 19.4 The accidental omission to give notice, in accordance with this Section, of a resolution in writing to, or the non-receipt of such notice by, any person entitled to receive such notice shall not invalidate the passing of the resolution in writing.
- 19.5 For the purposes of this Section, the date of the resolution in writing is the date when the resolution in writing is signed by, or on behalf of, the Voting Shareholder who establishes the majority of votes required for the passing of the resolution in writing and any reference in any enactment to the date of passing of a resolution is, in relation to a resolution in writing made in accordance with this Section, a reference to such date.
- 19.6 A resolution in writing made in accordance with this Section is as valid as if it had been passed by the Company in general meeting or, if applicable, by a meeting of the relevant class of Voting Shareholders of the Company, as the case may be. A resolution in writing made in accordance with this Section shall constitute minutes for the purposes of the Companies Act and these Articles.

## 20 Notice of General Meetings

- 20.1 A general meeting must be called by notice of at least fourteen (14) days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, day and time of the meeting, and, the nature of the business to be considered. Notice of every general meeting shall be given in any manner permitted by these Articles to all Voting Shareholders other than such as, under the provisions of these Articles or the terms of issue of the Voting Shares they hold, are not entitled to receive such notice from the Company and every Director who or which has delivered a written notice upon the Registered Office requiring that such notice be sent to him or it.
- 20.2 Notwithstanding that a general meeting of the Company is called by shorter notice than that specified in this Section, it shall be deemed to have been duly called if it is so agreed by a majority in number of the Voting Shareholders having the right to attend and vote at the meeting, being a majority together holding not less than ninety-five percent (95%) in nominal value of the Voting Shares giving that right.
- 20.3 The accidental omission to give notice of a meeting or (in cases where instruments of proxy are sent out with the notice) the accidental omission to send such instrument of proxy to, or the non-receipt of notice of a meeting or such instrument of proxy by, any person entitled to receive such notice shall not invalidate the proceedings at that meeting.
- 20.4 The Board may cancel or postpone a meeting of the Voting Shareholders after it has been convened and notice of such cancellation or postponement shall be served in accordance with these Articles upon all Voting Shareholders entitled to notice of the meeting so cancelled or postponed setting out, where the meeting is postponed to a specific date, notice of the new meeting in accordance with this Section.

## 21 Proceedings at General Meetings

- 21.1 In accordance with the Companies Act, a general meeting may be held with only one individual present provided that the requirement for a quorum is satisfied. No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business, but the absence of a quorum shall not preclude the appointment, choice or election of a chairman, which shall not be treated as part of the business of the



meeting. Save as otherwise provided by these Articles, at least two holders of issued A1 Shares and one holder of B Shares, present in person or by proxy and entitled to vote, shall be a quorum for all purposes.

21.2 A meeting of the Voting Shareholders or any class thereof may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone, or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and participation in such a meeting shall constitute presence in person at such meeting.

21.3 Each Director, and upon giving the notice referred to in Section 20.1 above, shall be entitled to attend and speak at any general meeting of the Company.

21.4 The Chairman (or President) or, in his absence, the Deputy Chairman (or Vice-President), shall preside as chairman at every general meeting. If there is no such Chairman or Deputy Chairman (or President or Vice-President), or if at any meeting the Chairman or Deputy Chairman (or the President or Vice-President) is not present within five (5) minutes after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors present shall choose one of their number to act or if only one Director is present he shall preside as chairman if willing to act. If no Director is present, or if each of the Directors present declines to take the chair, the persons present and entitled to vote on a poll shall elect one of their number to be chairman.

21.5 The chairman of the meeting may, with the consent by resolution of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for three (3) months or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as expressly provided by these Articles, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

## 22 Voting

22.1 Save where a greater majority is required by the Companies Act or these Articles, any question proposed for consideration at any general meeting shall be decided on by a simple majority of votes cast.

22.2 At any general meeting, a resolution put to the vote of the meeting shall be decided by a poll.

22.3 On a poll, votes may be cast either personally or by proxy.

22.4 Subject to Sections 22.6, 27.3 and 27.4, upon a resolution proposed at a general meeting of the Company on a poll every Voting Shareholder who (being an individual) is present in person or by proxy or (being a corporation) is present by a representative or by proxy shall have one vote for every Voting Share of which he is the holder and on a vote on a written resolution of the Shareholders or on a poll every Voting Shareholder shall have one vote for every Voting Share of which he is the holder.

22.5 Neither the A2 Shares nor the C Shares shall entitle the holders thereof to receive notice of, or to attend or vote at, any general meeting of the Company at any time, nor to vote in relation to any written resolution of the Shareholders.

22.6 For so long as the A1 Shareholders together hold or control A1 Shares carrying the right to less than, in aggregate, 51 per cent of the total number of votes which may be cast on a poll at a general meeting of the Company or on a written resolution of the Shareholders on all, or substantially all, matters the following provisions shall apply:

22.6.1 the A1 Shares so held or controlled shall on a poll or on a written resolution each carry the following number of votes:

$$VR = (0.51 \times VS) / A1$$

where:

VR = the number of votes exercisable on a poll or on a written resolution in respect of each A1 Share;

VS = the total number of Voting Shares in issue; and

A1 = the number of A1 Shares in issue;

22.6.2 the Voting Shares not so held or controlled ("Other Voting Shares") shall on a poll or on a written resolution each carry the following number of votes:

$$OV = (0.49 \times VS) / OS$$

where:

OV = the number of votes exercisable on a poll or on a written resolution in respect of each Other Voting Share;

VS = the total number of Voting Shares in issue; and

OS = the number of Other Voting Shares in issue.

22.7 In the case of an equality of votes at a general meeting, the chairman of such meeting shall not be entitled to a second or casting vote and the resolution shall fail.

22.8 In the case of joint holders of a Voting Share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the joint holding.

22.9 A Voting Shareholder who is a patient for any purpose of any statute or applicable law relating to mental health or in respect of whom an order has been made by any Court having jurisdiction for the protection or management of the affairs of persons incapable of managing their own affairs may vote on a poll, by his receiver, committee, *curator bonis* or other person in the nature of a receiver, committee or *curator bonis* appointed by such Court and such receiver, committee, *curator bonis* or other person may vote on a poll by proxy, and may otherwise act and be treated as such Voting Shareholder for the purpose of general meetings.

22.10 No Voting Shareholder shall, unless the Board otherwise determines, be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of Voting Shares in the Company have been paid.

22.11 If:

22.11.1 any objection shall be raised to the qualification of any voter; or,

22.11.2 any votes have been counted which ought not to have been counted or which might have been rejected; or,

22.11.3 any votes are not counted which ought to have been counted,

the objection or error shall not vitiate the decision of the meeting or adjourned meeting on any resolution unless the same is raised or pointed out at the meeting or, as the case may be, the adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any objection or error shall be referred to the chairman of the meeting and shall only vitiate the decision of the meeting on any resolution if the chairman decides that the same may have affected the decision of the meeting. The decision of the chairman on such matters shall be final and conclusive.

## 23 Proxies and Corporate Representatives

23.1 The instrument appointing a proxy or corporate representative shall be in writing executed by the appointor or his attorney authorised by him in writing or, if the appointor is a corporation, executed by an officer, attorney or other person authorised to sign the same.

23.2 Any Voting Shareholder may appoint a proxy or (if a corporation) representative for a specific general meeting, and adjournments thereof, or may appoint a standing proxy or (if a corporation) representative, by serving on the Company at the Registered Office, or at such place or places as the Board may otherwise specify for the purpose, a proxy or (if a corporation) an authorisation. Any standing proxy or authorisation shall be valid for all general meetings and adjournments thereof or resolutions in writing, as the case may be, until notice of revocation is received at the Registered Office or at such place or places as the Board may otherwise specify for the purpose. Where a standing proxy or authorisation exists, its operation shall be deemed to have been suspended at any general meeting or adjournment thereof at which the Voting Shareholder is present or in respect to which the

Voting Shareholder has specially appointed a proxy or representative. The Board may from time to time require such evidence as it shall deem necessary as to the due execution and continuing validity of any standing proxy or authorisation and the operation of any such standing proxy or authorisation shall be deemed to be suspended until such time as the Board determines that it has received the requested evidence or other evidence satisfactory to it.

- 23.3 Subject to Section 23.2, the instrument appointing a proxy or corporate representative together with such other evidence as to its due execution as the Board may from time to time require, shall be delivered at the Registered Office (or at such place as may be specified in the notice convening the meeting or in any notice of any adjournment or, in either case or the case of a resolution in writing, in any document sent therewith) prior to the holding of the relevant meeting or adjourned meeting at which the person named in the instrument proposes to vote or, in the case of a poll taken subsequently to the date of a meeting or adjourned meeting, before the time appointed for the taking of the poll, or, in the case of a resolution in writing, prior to the effective date of the resolution in writing and in default the instrument of proxy or authorisation shall not be treated as valid.
- 23.4 Instruments of proxy or authorisation shall be in any common form or in such other form as the Board may approve and the Board may, if it thinks fit, send out with the notice of any meeting or any resolution in writing forms of instruments of proxy or authorisation for use at that meeting or in connection with that resolution in writing. The instrument of proxy shall be deemed to confer authority to demand or join in demanding a poll, to speak at the meeting and to vote on any amendment of a resolution in writing or amendment of a resolution put to the meeting for which it is given as the proxy thinks fit. The instrument of proxy or authorisation shall, unless the contrary is stated therein, be valid as well for any adjournment of the meeting as for the meeting to which it relates.
- 23.5 A vote given in accordance with the terms of an instrument of proxy or authorisation shall be valid notwithstanding the previous death or unsoundness of mind of the principal, or revocation of the instrument of proxy or of the corporate authority, provided that no intimation in writing of such death, unsoundness of mind or revocation shall have been received by the Company at the Registered Office (or such other place as may be specified for the delivery of instruments of proxy or authorisation in the notice convening the meeting or other documents sent therewith) at least one hour before the commencement of the meeting or adjourned meeting, or the taking of the poll, or the day before the effective date of any resolution in writing at which the instrument of proxy or authorisation is used.
- 23.6 Subject to the Companies Act, the Board may at its discretion waive any of the provisions of these Articles related to proxies or authorisations and, in particular, may accept such verbal or other assurances as it thinks fit as to the right of any person to attend, speak and vote on behalf of any Voting Shareholder at general meetings or to sign resolutions in writing.

#### BOARD OF DIRECTORS

#### 24 Appointment and Removal of Directors

- 24.1 The number of Directors shall not be subject to any maximum and shall not be less than two (2)
- 24.2 Any person who is willing to act as a Director (including an alternate Director), and is permitted by law to do so, may be appointed:.

(a) by Ordinary Resolution, or

(b) by a decision of the Board.

24.3 Without prejudice to Section 27.1 and Section 28.1, a person ceases to be a Director—

(a) by Ordinary Resolution;

(b) by a decision of the Board;

(c) as soon as that person ceases to be a Director by virtue of any provision of the Companies Act or is prohibited from being a director by law;

(d) as soon as a bankruptcy order is made against that person;

(e) as soon as a composition is made with that person's creditors generally in satisfaction of that person's debts;

(f) as soon as a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;

(g) as soon as notification is received by the company from the Director that the Director is resigning from office, and such resignation has taken effect in accordance with its terms.

## 25 Directors' Fees and Additional Remuneration and Expenses

The amount, if any, of Directors' fees shall from time to time be determined by the Board. Unless otherwise determined to the contrary, such fees shall be deemed to accrue from day to day. Each Director may be paid his reasonable travel, hotel and incidental expenses in attending and returning from meetings of the Board or committees constituted pursuant to these Articles or general meetings and shall be paid all expenses properly and reasonably incurred by him in the conduct of the Company's business or in the discharge of his duties as a Director. Any Director who, by request, goes or resides abroad for any purposes of the Company or who performs services which in the opinion of the Board go beyond the ordinary duties of a Director may be paid such extra remuneration (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Section.

## 26 Directors' Interests

26.1 A Director may hold any other office or place of profit with the Company (except that of auditor) in conjunction with his office of Director for such period and upon such terms as the Board may determine, and may be paid such extra remuneration therefore (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and such extra remuneration shall be in addition to any remuneration provided for by or pursuant to any other Section.

26.2 A Director 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.

26.3 Subject to the provisions of the Companies Act, a Director may notwithstanding his office be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested; and be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is interested. The Board may also cause the voting power conferred by the Voting Shares in any other company held or owned by the Company to be exercised in such manner in all respects as it thinks fit, including the exercise thereof in favour of any resolution appointing the Directors or any of them to be directors or officers of such other company, or voting or providing for the payment of remuneration to the directors or officers of such other company.

26.4 So long as, where it is necessary, he declares the nature of his interest at the first opportunity at a meeting of the Board or by writing to the Directors as required by the Companies Act, a Director shall not by reason of his office be accountable to the Company for any benefit which he derives from any office or employment to which these Articles allow him to be appointed or from any transaction or arrangement in which these Articles allow him to be interested, and no such transaction or arrangement shall be liable to be avoided on the ground of any interest or benefit.

26.5 Subject to the Companies Act and any further disclosure required thereby, a general notice to the Directors by a Director declaring that he is a director or has an interest in a person and is to be regarded as interested in any transaction or arrangement made with that person, shall be a sufficient declaration of interest in relation to any transaction or arrangement so made.

## 27 A Directors

27.1 The A1 Shareholders shall have the right to appoint, in aggregate, up to four persons as Directors of the Company ("A Directors").

27.2 Any such appointment of any A Director must be effected by notice in writing to the Company by or on behalf of the holders of a Founder Majority, who may in a similar manner remove from office any such A Director appointed pursuant to this Section, and appoint any person in place of any such A Director so removed, any such appointment or removal to take effect when such notice is received by the Company or on such later date (if any) specified in the notice.

27.3 Subject to the provisions of the Companies Act, on any resolution to remove an A Director, the A1 Shares shall together carry one vote in excess of 50 per cent of all the other votes exercisable either at a general meeting at which such resolution is to be proposed or on a written resolution of the Shareholders, and if any such A Director is removed pursuant to the provisions of the Companies Act or otherwise, the appointing A1 Shareholder(s) may reappoint him or any other person as an A Director.

27.4 The A Directors shall be entitled to be appointed to any committee of the Directors and to the board of directors of any Group Member and to any committee of directors of any Group Member.

## 28 B Director and B Observer

- 28.1 The B Ordinary Shareholders shall have the right to appoint one person as a non-executive Director ("B Director").
- 28.2 Subject to Section 34.3 any such appointment of a B Director must be effected by notice in writing to the Company by or on behalf of the holders of a majority of the B Ordinary Shares, who may in a similar manner remove from office any such B Director and appoint any person in his place, any such appointment or removal to take effect when such notice is received by the Company or on such later date (if any) as may be specified in the notice.
- 28.3 Individual candidates proposed for appointment pursuant to Section 34.2 shall be subject to approval by the A Shareholders, who may in addition, by notice to the Company, remove candidate so appointed.
- 28.4 The B Director shall be entitled to be a member of the audit, remuneration and investment committees of the Board and no decision of any of those committees shall be valid without the approval of the B Director.
- 28.5 The B Ordinary Shareholders shall also have the right by notice in writing from time to time to appoint one person (and to remove and replace any person so appointed) as an observer at meetings of the Board (the "B Observer"). The amount, if any, of B Observer fees shall from time to time be determined by the Board. Unless otherwise determined to the contrary, such fees shall be deemed to accrue from day to day. The B Observer may be paid his reasonable travel, hotel and incidental expenses in attending and returning from meetings of the Board or committees constituted pursuant to these Articles or general meetings and shall be paid all expenses properly and reasonably incurred by him in the conduct of the Company's business or in the discharge of his duties as the B Observer.

#### POWERS AND DUTIES OF THE BOARD

##### 29 Powers and Duties of the Board

- 29.1 Subject to the provisions of the Companies Act, these Articles and to any directions given by the Company by Ordinary Resolution, the Board shall manage the business of the Company and may pay all expenses incurred in promoting and incorporating the Company and may exercise all the powers of the Company. No alteration of these Articles and no such direction shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Section shall not be limited by any special power given to the Board by these Articles and a meeting of the Board at which a quorum is present shall be competent to exercise all the powers, authorities and discretions for the time being vested in or exercisable by the Board.
- 29.2 The Board may exercise all the powers of the Company except those powers that are required by the Companies Act or these Articles to be exercised by the Shareholders.
- 29.3 All cheques, promissory notes, drafts, bills of exchange and other instruments, whether negotiable or transferable or not, and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board shall from time to time by resolution determine.
- 29.4 The Board on behalf of the Company may provide benefits, whether by the payment of gratuities or pensions or otherwise, for any person including any Director or former Director

who has held any executive office or employment with the Company or with any body corporate which is or has been a subsidiary or affiliate of the Company or a predecessor in the business of the Company or of any such subsidiary or affiliate, and to any member of his family or any person who is or was dependent on him, and may contribute to any fund and pay premiums for the purchase or provision of any such gratuity, pension or other benefit, or for the insurance of any such person.

- 29.5 The Board may from time to time appoint one or more of its body to be a managing director, joint managing director or an assistant managing director or to hold any other employment or executive office with the Company for such period and upon such terms as the Board may determine and may revoke or terminate any such appointments. Any such revocation or termination as aforesaid shall be without prejudice to any claim for damages that such Director may have against the Company or the Company may have against such Director for any breach of any contract of service between him and the Company which may be involved in such revocation or termination. Any person so appointed shall receive such remuneration (if any) (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine, and either in addition to or in lieu of his remuneration as a Director.

### 30 Delegation of the Board's Powers

- 30.1 The Board may by power of attorney appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under these Articles) and for such period and subject to such conditions as it may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney and of such attorney as the Board may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Such attorney may, if so authorised by the power of attorney, execute any deed, instrument or other document on behalf of the Company.

- 30.2 The Board may entrust to and confer upon any Director or, without prejudice to the provisions of Section 30.3, other person any of the powers, authorities and discretions exercisable by it upon such terms and conditions with such restrictions as it thinks fit, and either collaterally with, or to the exclusion of, its own powers, authorities and discretions, and may from time to time revoke or vary all or any of such powers, authorities and discretions, but no person dealing in good faith and without notice of such revocation or variation shall be affected thereby.

- 30.3 The Board may delegate any of its powers, authorities and discretions to committees, consisting of such person or persons (whether a member or members of its body or not) as it thinks fit. Any committee so formed shall, in the exercise of the powers, authorities and discretions so delegated, and in conducting its proceedings conform to any regulations which may be imposed upon it by the Board. If no regulations are imposed by the Board the proceedings of a committee with two (2) or more members shall be, as far as is practicable, governed by the Sections regulating the proceedings of the Board.

### 31 Proceedings of the Board



- 31.1 The Board may meet for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. Questions arising at any meeting shall be determined by a majority of votes. In the case of an equality of votes, the motion shall be deemed to have been lost. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Board.
- 31.2 Notice of a meeting of the Board may be given to a Director by word of mouth or in any manner permitted by these Articles. A Director may retrospectively waive the requirement for notice of any meeting by consenting in writing to the business conducted at the meeting.
- 31.3 The quorum necessary for the transaction of the business of the Board (other than Board meetings that are adjourned in accordance with Section 37.4) shall be three (3) individuals (or such other number as may be fixed by the Board) of which (save in the circumstances set out in Section 31.5) two must be A Directors (or their respective alternates) and one must be the B Director (or his alternate). Any Director who ceases to be a Director at a meeting of the Board may continue to be present and to act as a Director and be counted in the quorum until the termination of the meeting if no other Director objects and if otherwise a quorum of Directors would not be present.
- 31.4 If within five (5) minutes (or such longer time as the chairman of the meeting may determine to wait) after the time appointed for the meeting, a quorum is not present, the meeting shall stand adjourned for the consideration of the same business to the same time and place the next following week or to such other day and such other time and place as the chairman of the meeting may determine and at such adjourned meeting one A Director (or his alternate) shall be a quorum. The Company shall give not less than five (5) days' notice of any meeting adjourned through want of a quorum.
- 31.5 The circumstances referred to in Article 37.3 are:
- 31.5.1 where there is no A Director or B Director (as the case may be) in office; or
- 31.5.2 in respect of a particular decision at a Board meeting, where there is no A Director or B Director (as the case may be) in office who would be able to be counted as participating for quorum purposes in relation to that decision.
- 31.6 A Director who to his knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract, transaction or arrangement with the Company and has complied with the provisions of the Companies Act and these Articles with regard to disclosure of his interest shall be entitled to vote in respect of any contract, transaction or arrangement in which he is so interested and if he shall do so his vote shall be counted, and he shall be taken into account in ascertaining whether a quorum is present.
- 31.7 So long as a quorum of Directors remains in office, the continuing Directors may act notwithstanding any vacancy in the Board but, if no such quorum remains, the continuing Directors or a sole continuing Director may act only for the purpose of calling a general meeting.
- 31.8 The Chairman (or President) or, in his absence, the Deputy Chairman (or Vice-President), shall preside as chairman at every meeting of the Board. If there is no such Chairman or Deputy Chairman (or President or Vice-President), or if at any meeting the Chairman or Deputy Chairman (or the President or Vice-President) is not present within five (5) minutes

after the time appointed for holding the meeting, or is not willing to act as chairman, the Directors present may choose one of their number to be chairman of the meeting.

- 31.9 The meetings and proceedings of any committee consisting of two (2) or more members shall be governed by the provisions contained in these Articles for regulating the meetings and proceedings of the Board so far as the same are applicable and are not superseded by any regulations imposed by the Board.
- 31.10 A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Board (or by an Alternate Director, as provided for in these Articles) or by all the members of a committee for the time being shall be as valid and effectual as a resolution passed at a meeting of the Board or, as the case may be, of such committee duly called and constituted. Such resolution may be contained in one document or in several documents in the like form each signed by one or more of the Directors or members of the committee concerned.
- 31.11 A meeting of the Board or a committee appointed by the Board may be held by means of such telephone, electronic or other communication facilities (including, without limiting the generality of the foregoing, by telephone or by video conferencing) as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting. Such a meeting shall be deemed to take place where the largest group of those Directors participating in the meeting is physically assembled, or, if there is no such group, where the chairman of the meeting then is.
- 31.12 All acts done by the Board or by any committee or by any person acting as a Director or member of a committee or any person duly authorised by the Board or any committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any member of the Board or such committee or person acting as aforesaid or that they or any of them were disqualified or had vacated their office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director, member of such committee or person so authorised.

#### MINUTES

#### 32 Minutes

32.1 The Board shall cause minutes to be made and books kept for the purpose of recording:

- 32.1.1 all appointments of Directors made by the Board;
- 32.1.2 the names of the Directors and other persons (if any) present at each meeting of the Board and of any committee; and
- 32.1.3 all proceedings at meetings of the Company, of the holders of any class of Shares in the Company, of the Board and of committees appointed by the Board or the Shareholders.

32.2 Shareholders shall only be entitled to see the Register of Directors, the Register, the financial information provided for in Section 37.3 and the minutes of meetings of the Shareholders of the Company.

#### SECRETARY

### 33 Secretary

- 33.1 The Secretary (including one or more deputy or assistant secretaries) may be appointed by the Board at such remuneration (if any) and upon such terms as it may think fit and any Secretary so appointed may be removed by the Board. The duties of the Secretary shall be those prescribed by the Companies Act together with such other duties as shall from time to time be prescribed by the Board.
- 33.2 A provision of the Companies Act or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

### DIVIDENDS AND OTHER PAYMENTS

#### 34 Dividends and other payments

- 34.1 Unless otherwise determined to the contrary by a Special Resolution, from the Power Plant Operating Date, 90% of the profits of the Company available for distribution in respect of each financial year shall be distributed amongst the holders of the A2 Shares, the B Shares and the C Shares (and with effect from the D Share Participation Trigger the D Shares) pro rata to their holdings of such Shares held as if the same constituted a single class of Shares. This will only apply to dividends paid up to the Company from Joule Africa Limited.
- 34.2 No dividend or other distribution shall be declared, paid or made at any time in relation to the A1 Shares.
- 34.3 No dividend or other distribution shall be declared, paid or made at any time in relation to the D Shares until the D Share Participation Trigger, whereupon there shall attach to the D Shares the right to participate in full dividends and other distributions, and on any return of capital, *pari passu* with the B Shares.
- 34.4 Subject to Section 34.2 and 34.3, the Board may from time to time declare dividends or distributions out of contributed surplus to be paid to the Shareholders according to their rights and interests, including such interim dividends as appear to the Board to be justified by the position of the Company. The Board, in its discretion, may determine that any dividend shall be paid in cash or shall be satisfied, subject to Section 36, in paying up in full shares in the Company to be issued to the Shareholders credited as fully paid or partly paid or partly in one way and partly the other. The Board may also pay any fixed cash dividend which is payable on any shares of the Company half yearly or on such other dates, whenever the position of the Company, in the opinion of the Board, justifies such payment.
- 34.5 Except insofar as the rights attaching to, or the terms of issue of, any share otherwise provide:
- 34.5.1 all dividends or distributions out of contributed surplus may be declared and paid according to the amounts paid up on the shares in respect of which the dividend or distribution is paid, and an amount paid up on a share in advance of calls may be treated for the purpose of this Section as paid-up on the share;
  - 34.5.2 dividends or distributions out of contributed surplus may be apportioned and paid pro rata according to the amounts paid-up on the shares during any portion or portions of the period in respect of which the dividend or distribution is paid.

- 34.6 The Board may deduct from any dividend, distribution or other monies payable to a Shareholder by the Company on or in respect of any shares all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in respect of shares of the Company.
- 34.7 No dividend, distribution or other monies payable by the Company on or in respect of any share shall bear interest against the Company.
- 34.8 Any dividend, distribution or interest, or part thereof payable in cash, or any other sum payable in cash to the holder of shares may be paid by cheque sent through the post or by courier addressed to the holder at his address in the Register or, in the case of joint holders, addressed to the holder whose name stands first in the Register in respect of the shares at his registered address as appearing in the Register or addressed to such person at such address as the holder or joint holders may in writing direct. Every such cheque shall, unless the holder or joint holders otherwise direct, be made payable to the order of the holder or, in the case of joint holders, to the order of the holder whose name stands first in the Register in respect of such shares, and shall be sent at his or their risk and payment of the cheque by the bank on which it is drawn shall constitute a good discharge to the Company. Any one of two (2) or more joint holders may give effectual receipts for any dividends, distributions or other monies payable or property distributable in respect of the shares held by such joint holders.
- 34.9 Any dividend or distribution out of contributed surplus unclaimed for a period of six (6) years from the date of declaration of such dividend or distribution shall be forfeited and shall revert to the Company and the payment by the Board of any unclaimed dividend, distribution, interest or other sum payable on or in respect of the share into a separate account shall not constitute the Company a trustee in respect thereof.
- 34.10 The Board may also, in addition to its other powers, direct payment or satisfaction of any dividend or distribution out of contributed surplus wholly or in part by the distribution of specific assets, and in particular of paid-up shares or debentures of any other company, and where any difficulty arises in regard to such distribution or dividend, the Board may settle it as it thinks expedient, and in particular, may authorise any person to sell and transfer any fractions or may ignore fractions altogether, and may fix the value for distribution or dividend purposes of any such specific assets and may determine that cash payments shall be made to any Shareholders upon the footing of the values so fixed in order to secure equality of distribution and may vest any such specific assets in trustees as may seem expedient to the Board..

### 35 Reserves

The Board may, before declaring any dividend or distribution out of contributed surplus, set aside such sums as it thinks proper as reserves which shall, at the discretion of the Board, be applicable for any purpose of the Company and pending such application may, also at such discretion, either be employed in the business of the Company or be invested in such investments as the Board may from time to time think fit. The Board may also without placing the same to reserve carry forward any sums which it may think it prudent not to distribute.

## CAPITALISATION OF PROFITS

### 36 Capitalisation of Profits

- 36.1 The Board may from time to time resolve to capitalise all or any part of any amount for the time being standing to the credit of any reserve or fund which is available for distribution or to the credit of any share premium account and accordingly that such amount be set free for distribution amongst the Shareholders or any class of Shareholders who would be entitled thereto if distributed by way of dividend and in the same proportions, on the footing that the same be not paid in cash but be applied either in or towards paying up amounts for the time being unpaid on any Shares in the Company held by such Shareholders respectively or in payment up in full of unissued Shares, debentures or other obligations of the Company, to be allotted and distributed credited as fully paid amongst such Shareholders, or partly in one way and partly in the other, provided that for the purpose of this Section, a share premium account may be applied only in paying up of unissued Shares to be issued to such Shareholders credited as fully paid.
- 36.2 Where any difficulty arises in regard to any distribution under this Section, the Board may settle the same as it thinks expedient and, in particular, may authorise any person to sell and transfer any fractions or may resolve that the distribution should be as nearly as may be practicable in the correct proportion but not exactly so or may ignore fractions altogether, and may determine that cash payments should be made to any Shareholders in order to adjust the rights of all parties, as may seem expedient to the Board. The Board may appoint any person to sign on behalf of the persons entitled to participate in the distribution any contract necessary or desirable for giving effect thereto and such appointment shall be effective and binding upon the Shareholders.

#### ACCOUNTING RECORDS

##### 37 Accounting Records

- 37.1 The Board shall cause to be kept accounting records sufficient to give a true and fair view of the state of the Company's affairs and to show and explain its transactions, in accordance with the Companies Act.
- 37.2 The records of account shall be kept at the Registered Office or at such other place or places as the Board thinks fit, and shall at all times be open to inspection by the Directors, PROVIDED that if the records of account are kept at some place outside the United Kingdom, there shall be kept at an office of the Company in the United Kingdom such records as will enable the Directors to ascertain with reasonable accuracy the financial position of the Company at intervals of not more than (6) months. No Shareholder (other than a Director of the Company) shall have any right to inspect any accounting record or book or document of the Company except as conferred by law or authorised by the Board or by Ordinary Resolution.
- 37.3 A copy of every balance sheet and statement of income and expenditure, including every document required by law to be annexed thereto, which is to be laid before the Company in general meeting, together with a copy of the auditors' report, shall be sent to each person entitled thereto in accordance with the requirements of the Companies Act.

#### AUDIT

##### 38 Audit

Save and to the extent that the Company is exempt from the requirements of the Companies Act relating to the audit of accounts, auditors shall be appointed and their

duties regulated in accordance with the Companies Act, any other applicable law and such requirements not inconsistent with the Companies Act as the Board may from time to time determine.

## SERVICE OF NOTICES AND OTHER DOCUMENTS

### 39 Service of Notices and Other Documents

39.1 Any notice or other document (including but not limited to a Share certificate, any notice of a general meeting of the Company, any instrument of proxy and any document to be sent in accordance with Section 37.3) may be sent to, served on or delivered to any Shareholder by the Company

39.1.1 personally;

39.1.2 by sending it through the post (by airmail where applicable) in a pre-paid letter addressed to such Shareholder at his address as appearing in the Register;

39.1.3 by sending it by courier to or leaving it at the Shareholder's address appearing in the Register;

39.1.4 where applicable, by sending it by email to an address supplied by such Shareholder for the purposes of communication in such manner; or

39.1.5 by publication of an electronic record of it on a website and notification of such publication (which shall include the address of the website, the place on the website where the document may be found, and how the document may be accessed on the website) by any of the methods set out in paragraphs 39.1.1, 39.1.2, 39.1.3 or 39.1.4 of this Section, in accordance with the Companies Act.

In the case of joint holders of a Share, service or delivery of any notice or other document on or to one of the joint holders shall for all purposes be deemed as sufficient service on or delivery to all the joint holders.

39.2 Any notice or other document shall be deemed to have been served on or delivered to any Shareholder by the Company

39.2.1 if sent by personal delivery, at the time of delivery;

39.2.2 if sent by domestic post, forty-eight (48) hours after it was put in the post, or if sent by airmail, ninety-six (96) hours after it was put in the post;

39.2.3 if sent by email twelve (12) hours after sending; or

39.2.4 if published as an electronic record on a website, at the time that the notification of such publication shall be deemed to have been delivered to such Shareholder,

and in proving such service or delivery, it shall be sufficient to prove that the notice or document was properly addressed and stamped and put in the post, published on a website in accordance with the Companies Act and the provisions of these Articles, or sent by courier or email, as the case may be, in accordance with these Articles.

Each Shareholder and each person becoming a Shareholder for the Company subsequent to the adoption of these Articles, by virtue of its holding or its acquisition and continued holding of a Share, as applicable, shall be deemed to have acknowledged and agreed that any notice or other document (excluding a Share certificate) may be provided by the Company by way of accessing them on a website, following due notification of such publication, instead of being provided by other means.

39.3 Any notice or other document delivered, sent or given to a Shareholder in any manner permitted by these Articles shall, notwithstanding that such Shareholder is then dead or bankrupt or that any other event has occurred, and whether or not the Company has notice of the death or bankruptcy or other event, be deemed to have been duly served or delivered in respect of any Share registered in the name of such Shareholder as sole or joint holder unless his name shall, at the time of the service or delivery of the notice or document, have been removed from the Register as the holder of the Share, and such service or delivery shall for all purposes be deemed as sufficient service or delivery of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in the Share.

39.4 Save as otherwise provided, the provisions of these Articles as to service of notices and other documents on Shareholders shall *mutatis mutandis* apply to service or delivery of notices and other documents to the Company or any Director, Alternate Director pursuant to these Articles.

#### RETURN OF CAPITAL

##### 40 Return of Capital

40.1 On a return of capital of the Company on a liquidation or otherwise, other than a redemption of Shares or the purchase by the Company of its own Shares which is funded out of retained profits of an income rather than capital nature, or on a Share Sale, the surplus assets and retained profits of the Company available for distribution among the Shareholders (or, in the case of a Share Sale, the proceeds thereof) shall be applied to the holders of the A1 Shares, the B Shares, the C Shares and, subject to the D Share Participation Trigger having been achieved, the D Shares pro rata according to their holdings of such Shares as if the same constituted a single class of Shares.

40.2 Any return of capital in respect of Shares of a particular class will be made amongst the holders of such Shares pro rata as nearly as possible to their respective holdings of Shares of that class.

40.3 The A2 Shares shall not confer any entitlement to a return of capital of the Company on liquidation or otherwise (other than a redemption of Shares or the purchase by the Company of its own Shares which is funded out of retained profits of an income rather than capital nature) nor any entitlement to proceeds on a Share Sale.

#### INDEMNITY

##### 41 Indemnity

41.1 Subject to the proviso below, every Indemnified Person shall be indemnified and held harmless out of the assets of the Company against all liabilities, loss, damage or expense (including but not limited to liabilities under contract, tort and statute or any applicable

foreign law or regulation and all reasonable legal and other costs and expenses properly payable) incurred or suffered by him by or by reason of any act done, conceived in or omitted in the conduct of the Company's business or in the discharge of his duties and the indemnity contained in this Section shall extend to any Indemnified Person acting in any office or trust in the reasonable belief that he has been appointed or elected to such office or trust notwithstanding any defect in such appointment or election PROVIDED ALWAYS that the indemnity contained in this Section shall not extend to any matter which would be prohibited or rendered void by any provision of the Companies Act or by any other provision of law.

- 41.2 No Indemnified Person shall be liable to the Company for the acts, defaults or omissions of any other Indemnified Person.
- 41.3 Every Indemnified Person shall be indemnified out of the assets of the Company against all liabilities incurred by him by or by reason of any act done, conceived in or omitted in the conduct of the Company's business or in the discharge of his duties in defending any proceedings, whether civil or criminal, in which judgement is given in his favour, or in which he is acquitted, or in connection with any application under the Companies Act in which relief from liability is granted to him by the court.
- 41.4 To the extent that any Indemnified Person is entitled to claim an indemnity pursuant to these Articles in respect of amounts paid or discharged by him, the relevant indemnity shall take effect as an obligation of the Company to reimburse the person making such payment or effecting such discharge.
- 41.5 Each Shareholder and the Company agree to waive any claim or right of action he or it may at any time have, whether individually or by or in the right of the Company, against any Indemnified Person on account of any action taken by such Indemnified Person or the failure of such Indemnified Person to take any action in the performance of his duties with or for the Company PROVIDED HOWEVER that such waiver shall not apply to any claims or rights of action arising out of the fraud of such Indemnified Person or to recover any gain, personal profit or advantage to which such Indemnified Person is not legally entitled.
- 41.6 Expenses incurred in defending any civil or criminal action or proceeding for which indemnification is required pursuant to these Articles shall be paid by the Company in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of the Indemnified Person to repay such amount if any allegation of fraud or dishonesty is proved against the Indemnified Person.

## THE FUTURE FUND

### 42 The Future Fund

#### 42.1 Permitted Transfer Rights

The Future Fund shall at any time be entitled to transfer its any shares in the capital of the Company that are held by the Future Fund, without restriction as to price or otherwise and free of pre-emption rights howsoever expressed to:

42.1.1 any Associated Government Entities; or

42.1.2 an Institutional Investor that is acquiring the whole or part (being not fewer



than 10 companies, including the Company) of the Future Fund's interest in a portfolio of investments which comprise or result from the conversion of unsecured convertible loans substantially on the same terms as the convertible loan agreement between the Future Fund and the Company, provided always that such transaction(s) is bona fide in all respects.

#### 42.2 Put Option

In the event that it is determined by the Future Fund (in its absolute discretion) that it would be prejudicial to the reputation of the Future Fund and/or the UK Government to continue holding any shares in the capital of the Company, the Future Fund shall have the option to require the Company to purchase all of the shares in the capital of the Company held by the Future Fund for an aggregate price of £1.00 at any time (the "**Put Option**"), provided that:

- (i) the Put Option shall be exercisable by irrevocable notice in writing from the Future Fund to the Company (the "**Put Option Notice**");
- (ii) the terms of the completion of the Put Option have been authorised by a resolution of the Company;
- (iii) completion of the Put Option shall take place as soon as reasonably practicable and in any event no later than 20 Business Days following the Company's receipt of the Put Option Notice; and
- (iv) each of the *shareholders* of the Company and the Company shall execute, and the Company shall procure so far as it lies within its power to do so the execution of, all such documents and deeds and do all such acts and things as may be reasonably required from time to time to implement the Put Option and transfer the legal and beneficial ownership of the relevant shares being sold to the Company under this Article [*insert article reference*], including waiving any pre-emption rights relating to such transfer.

#### 42.3 Future Fund Rights

The Future Fund specific rights cannot be amended or removed without the prior written consent of the Future Fund.

### ALTERATION OF THESE ARTICLES

#### 43 Alteration of Articles

These Articles may be amended from time to time by resolution of the Board, but subject to approval by Special Resolution.