

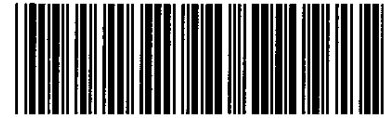
Company number 11342833

Private Company Limited by Shares

**Written Special Resolution**  
**of**

**SSDC Opium Power Limited**  
**(the "Company")**

WEDNESDAY



A09 \*A771F0EA\* #153  
30/05/2018  
COMPANIES HOUSE

Circulated on: 16<sup>th</sup> May 2018 (Circulation Date)

Date passed: 16<sup>th</sup> May 2018

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006 (**Act**), the directors of the Company propose that the following resolution be passed as written special resolution (the "**Resolution**").

**Special Resolution**

THAT the articles of association attached to this Resolution be adopted as the articles of association of the Company in substitution of and to the exclusion of the existing articles of association.

**Agreement**

Please read the notes at the end of this document before signing to confirm your agreement to the Resolution.

The undersigned being the persons entitled to vote on the Resolution on the Circulation Date hereby irrevocably agree to the Resolution:

Signed for and on behalf of South  
Somerset District Council by a duly  
authorised representative

.....  
Signature

.....  
Name

..... 16<sup>th</sup> May 2018 .....  
Date

Signed for and on behalf of Opium  
Power Limited by a director

.....  
Signature

.....  
Name

..... 16<sup>th</sup> May 2018 .....  
Date

## Notes

- 1 If you agree with the Resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to Veale Wasbrough Vizards LLP, Narrow Quay House, Narrow Quay, Bristol, BS1 4QA, for the attention of Polly Marlow.
- 2 If you do not agree to the Resolution, you do not need to do anything; you will not be deemed to agree if you fail to reply.
- 3 Once you have indicated your agreement to the Resolution, you may not revoke your agreement.
- 4 Unless within the period of 28 days beginning with the Circulation Date above sufficient agreement has been received for the Resolutions to pass, it will lapse. If you agree to the Resolution, please ensure that your agreement reaches the Company before the expiry of this period.

## **Articles of Association**

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**SSDC Opium Power Limited**

Company number:11342833

**The Companies Act 2006**

**Private Company Limited by Shares**

Adopted by way of special resolution passed on 16<sup>th</sup> May 2018



**The Companies Act 2006**  
**Company Limited by Shares**  
**Articles of Association**  
**of**

**SSDC Opium Power Limited (company number: 11342833)**

(the "Company")

(Adopted by special resolution passed on 16<sup>th</sup> May 2018)

**Introduction**

**1 Interpretation**

1.1 In these Articles, the following words have the following meanings:

**Appointor:** has the meaning given in article 13.1;

**A Director:** the directors appointed by the A Shareholder in accordance with Article 12.1;

**A Shareholder:** South Somerset District Council;

**A Shareholder Consent:** the prior written consent of an authorised representative of the A Shareholder;

**B Director:** the directors appointed by the B Shareholder in accordance with Article 12.1;

**B Shareholder:** Opium Power Limited incorporated and registered in England and Wales with company number 11227450;

**Board:** the board of directors from time to time of the Company;

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

**CA 2006:** the Companies Act 2006;

**Conflict:** a situation in which a director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company;

**Control:** in relation to a body corporate, the power of a person to secure that the affairs of the body corporate are conducted in accordance with the wishes of that person:

(a) by means of the holding of shares, or the possession of voting power, in or in relation to that or any other body corporate; or

(b) as a result of any powers conferred by the articles of association or any other document regulating that or any other body corporate,

and a "Change of Control" occurs if a person who controls any body corporate ceases to do so or if another person acquires Control of it.]

**Deemed Transfer Notice:** a Transfer Notice that is deemed to have been served under any provisions of these Articles;

**Eligible Director:** any director or alternative director who would be entitled to vote on the matter at a meeting of directors (but excluding any director or alternative director whose vote is not to be counted in respect of the particular matter);

**Excluded Shareholder:** each shareholder whose proposed course of action (or that of any of his Permitted Transferees) is the subject of the relevant Shareholder Consent or A Shareholder Consent;

**Fair Value:** the price for Sale Shares confirmed by the Valuers in accordance with article 23.

**Initial Directors:** the two A Directors and two B Directors appointed as directors of the Company on the date the Company was incorporated.

**Interested Director:** has the meaning given in article 10.1;

**Member of the Same Group:** as regards any company, a company which is from time to time a holding company or a subsidiary of that company or a subsidiary of any such holding company.

**Minimum Transfer Condition:** as defined in article 20.3.4;

**Model Articles:** the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (*SI 2008/3229*) as amended prior to the date of adoption of these Articles and reference to a numbered Model Article is a reference to that article of the Model Articles;

**Original Shareholder:** a shareholder who holds shares in the Company on the date of adoption of these Articles;

**Permitted Transferee:** (in relation to a shareholder which is a company) a Member of the Same Group as that company.

**Sale Shares:** the Shares being transferred by a Seller;

**Seller:** a shareholder transferring Shares by virtue of a Transfer Notice or Deemed Transfer Notice;

**shareholder:** a shareholder of the Company;

**Shareholder Consent:** the prior written consent of all Shareholders (excluding, where relevant, any Shares held by an Excluded Shareholder);

**Shares:** shares (of any class) in the capital of the Company from time to time;

**Transfer Notice:** as defined in article 20.3;

**Transfer Price:** the price per Sale Share determined in accordance with article 20.3.3;

**Valuers:** an independent firm of accountants jointly appointed by the Seller and the Board acting with Shareholder Consent or, in the absence of agreement between the Seller and the Board on the identity of the Valuers within [30] Business Days of the expiry of the period referred to in article 23.1, an independent firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants in England and Wales.

**Writing or written:** the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise, unless otherwise expressly provided in these Articles.

- 1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the CA 2006 shall have those meanings in these Articles.
- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an article is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the CA 2006.
- 1.6 Unless expressly provided otherwise, a reference to a statute or statutory provision is a reference to it as it is in force at the date of these Articles.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of these Articles under that statute or statutory provision.
- 1.8 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.9 Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

## **2 Adoption of the Model Articles**

- 2.1 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles or regulations set out in any statute or in any statutory instrument or other subordinate legislation.
- 2.2 Model Articles 6(2), 7, 8, 9(1), 11, 13, 14(1), (2), (3) and (4), 10(3), 16, 27 to 29 (inclusive), 38, 39, 44(2), 49 and 50 to 53 (inclusive) shall not apply to the Company.
- 2.3 Model Article 20 shall be amended by the insertion of the words "(including alternate directors and the secretary)" before the words "properly incur".
- 2.4 In Model Article 25(2)(c), the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 2.5 Model Articles 31(1)(a) to (c) (inclusive) shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide". Model Article 31(1)(d) shall be amended by the deletion of the words "either" and "or by such other means as the directors decide".

## **Directors**

### **3 Directors' meetings**

- 3.1 The directors shall hold a board meeting no less than once every three calendar months in each year.

- 3.2 If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is, this may include a directors meeting held by way of telephone conference.
- 3.3 Within [10] Business Days of each director meeting, minutes of such meeting shall be produced and distributed to each director.
- 3.4 Any decision of the directors must be taken at a meeting of directors in accordance with these Articles or must be a decision taken in accordance with article 4.
- 3.5 *Subject as provided in these Articles, the directors may participate in directors' meetings for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.*
- 3.6 All decisions made at any meeting of the directors or of any committee of the directors shall be made only by resolution and resolutions at any meeting of the directors or committee of the directors shall be decided by a majority of votes.

#### **4 Unanimous decisions of directors**

- 4.1 A decision which is made in accordance with article 4 shall only be valid when no less than one of the directors receives, on behalf of all of the directors, A Shareholder Consent (which shall not be unreasonably withheld).
- 4.2 A decision of the directors is taken in accordance with this article when all Eligible Directors indicate to each other by any means that they share a common view on a matter, and, they have received A Shareholder Consent.
- 4.3 Such a decision may take the form of a resolution in writing, where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement in writing, and the Eligible Directors have received A Shareholder Consent.
- 4.4 A decision may not be taken in accordance with this article if the Eligible Directors would not have formed a quorum at a directors' meeting to vote on the matter in accordance with article 7 or if A Shareholder Consent has not been obtained in accordance with article 4.1.

#### **5 Number of directors**

Unless otherwise determined by A Shareholder Consent, the number of directors (other than alternate directors) shall be a maximum of four but shall not be less than two.

#### **6 Calling a directors' meeting**

Any director may call a meeting of directors by giving not less than [5] Business Days' notice of the meeting (or such shorter period of notice as all directors may agree) to each director or by authorising the Company secretary (if any) to give such notice.

#### **7 Quorum for directors' meetings**

- 7.1 The quorum at any meeting of the directors (including adjourned meetings) shall be two Eligible Directors comprising of no less than one A Director and one B Director.
- 7.2 No business shall be conducted at any meeting of the directors unless a quorum is present at the beginning of the meeting and also when that business is voted on.
- 7.3 If a quorum is not present within 30 minutes of the time specified for the relevant meeting in the notice of the meeting then the meeting shall be adjourned for 5 Business Days at the same time and place. If a quorum is not present at any such adjourned meeting within 30

minutes of the time specified, then the meeting shall continue to be adjourned until a quorum can be present.

- 7.4 For the purposes of any meeting (or part of a meeting) held pursuant to article 10 to authorise a director's conflict, if there is only one Eligible Director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.

## **8 Chairing of directors' meetings**

- 8.1 The A Shareholder shall appoint or remove one A Director as chair of the board of directors for such term of office as the A Shareholder shall determine.
- 8.2 If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairman or other director chairing the meeting shall have a casting vote.
- 8.3 Article 8.2 shall not apply in respect of a particular meeting (or part of a meeting) if, in accordance with the Articles, the chairman or other director is not an Eligible Director for the purposes of that meeting (or part of a meeting).

## **9 Directors' interests - transactions or other arrangements with the company**

- 9.1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the company:
- 9.1.1 may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company is otherwise (directly or indirectly) interested;
  - 9.1.2 shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
  - 9.1.3 shall be entitled to vote and participate in the quorum at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested;
  - 9.1.4 may act by himself or his firm in a professional capacity for the company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
  - 9.1.5 may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the company is otherwise (directly or indirectly) interested; and
  - 9.1.6 shall not, save as he may otherwise agree, be accountable to the company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.



## **10 Directors' conflicts of interest**

- 10.1 The directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director (an **Interested Director**) breaching his duty under section 175 of the Act to avoid conflicts of interest (**Conflict**).
- 10.2 Any authorisation under this article 10 will be effective only if:
- 10.2.1 to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration in the same way that any other matter may be proposed to the directors under the provisions of these Articles;
  - 10.2.2 [any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director or any other interested director;] and
  - 10.2.3 the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's and any other interested director's vote had not been counted.
- 10.3 Any authorisation of a Conflict under this article 10 may (whether at the time of giving the authorisation or subsequently):
- 10.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
  - 10.3.2 provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict;
  - 10.3.3 provide that the Interested Director shall or shall not be an eligible director in respect of any future decision of the directors in relation to any resolution related to the Conflict;
  - 10.3.4 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;
  - 10.3.5 provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the company) information that is confidential to a third party, he will not be obliged to disclose that information to the company, or to use it in relation to the company's affairs where to do so would amount to a breach of that confidence; and
  - 10.3.6 permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the directors to the extent they relate to such matters.
- 10.4 Where the directors authorise a Conflict, the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the directors in relation to the Conflict.
- 10.5 The directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.

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

## **11 Records of decisions to be kept**

Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in a form that enables the Company to retain a copy of such decisions.

## **12 Appointment and removal of directors**

- 12.1 Subject to Article 12.2, each shareholder shall have the right, for so long as he holds at least [50]% in nominal value of the Shares in issue from time to time, to appoint and maintain in office two people as directors of the Company and to remove any director so appointed and, upon his removal (whether by his appointor or otherwise), to appoint another person to act as a director in his place, provided at all times that any appointment does not cause the number of Directors to exceed the maximum number set out in article 5. Accordingly:
- 12.1.1 a person who is appointed as a director by way of an A Shareholder in accordance with the articles shall be known as an A Director; and
- 12.1.2 a person who is appointed as a director by way of a B Shareholder in accordance with the articles shall be known as B Director.
- 12.2 Any appointment or removal of a B Director shall require A Shareholder Consent.
- 12.3 Save for the appointment of the Initial Directors (but including their removal), any appointment or removal of a director pursuant to article 12.1 shall be in writing and signed by or on behalf of the relevant shareholder and served on each of the other shareholders and the Company at its registered office, or delivered to a duly constituted meeting of the directors of the Company, and on the director (in the case of his removal). Any such appointment or removal shall take effect when received by the Company or at such later time as shall be specified in such notice.
- 12.4 No director shall be appointed or removed otherwise than pursuant to these Articles, save as provided by law.
- 12.5 In any case where, as a result of death or bankruptcy, the Company has no shareholders and no directors, the personal representative(s) of the last shareholder to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a natural person (including a personal representative who is a natural person), who is willing to act and is permitted to do so, to be a director.
- 12.6 For the purposes of article 12.5, where 2 or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

## **13 Alternate directors**

- 13.1 Any director (other than an alternate director) (the **Appointor**) may appoint any person (whether or not a director) to be an alternate director to exercise the Appointor's powers,

- and carry out the Appointor's responsibilities, in relation to the taking of decisions by the directors, in the absence of the Appointor. A person may be appointed an alternate director by more than one director.
- 13.2 Any appointment or removal of an alternate director must be effected by notice in writing to the Company (and to the alternate, on removal) signed by the Appointor, or in any other manner approved by the directors.
- 13.3 The notice must:
- 13.3.1 identify the proposed alternate; and
  - 13.3.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate that he is willing to act as the alternate of the director giving the notice.
- 13.4 An alternate director has the same rights, in relation to any decision of the A Directors, as the alternate's Appointor.
- 13.5 Except as the Articles specify otherwise, alternate directors:
- 13.5.1 are deemed for all purposes to be A Directors;
  - 13.5.2 are liable for their own acts and omissions;
  - 13.5.3 are subject to the same restrictions as their Appointors; and
  - 13.5.4 are not deemed to be agents of or for their Appointors,
- and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his Appointor is a member.
- 13.6 A person who is an alternate director but not a director may, subject to him being an Eligible Director:
- 13.6.1 Be counted as participating for the purposes of determining whether a quorum is present at a meeting of directors (but only if that person's Appointor is an Eligible Director and is not participating); and
  - 13.6.2 Participate in a unanimous decision of the directors (but only if his Appointor is an Eligible Director in relation to that decision, and does not himself participate).
- 13.7 A director who is also an alternate director is entitled, in the absence of his Appointor(s), to a separate vote on behalf of each Appointor (provided that each relevant Appointor is an Eligible Director in relation to that decision), in addition to his own vote on any decision of the directors.
- 13.8 An alternate director may be paid expenses and may be indemnified by the Company to the same extent as if he were a director but shall not be entitled to receive from the Company any remuneration in his capacity as an alternate director except such part (if any) of the remuneration otherwise payable to the alternate's Appointor as the Appointor may by notice in writing to the Company from time to time direct.
- 13.9 An alternate director's appointment as an alternate (in respect of a particular Appointor) terminates:
- 13.9.1 when the alternate's Appointor revokes the appointment by notice to the Company and the alternate in writing specifying when it is to terminate; or

13.9.2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a director; or

13.9.3 when the alternate director's Appointor ceases to be a director for whatever reason.

## **Shares**

### **14 Share capital**

14.1 Except as otherwise provided in these Articles, the Shares shall rank *pari passu* in all respects.

14.2 No variation of the rights attaching to any class of shares shall be effective except with the sanction of the A Shareholder.

### **15 Voting rights**

15.1 At a general meeting:

15.1.1 on a show of hands every shareholder who is present in person or by proxy shall have one vote, unless the proxy is himself a shareholder entitled to vote; and

15.1.2 on a poll every shareholder present in person or by proxy shall have one vote for each Share of which he is the holder; and on a vote on a written resolution every shareholder has one vote for each Share of which he is the holder.

### **16 Dividend rights**

16.1 Every ordinary resolution, or director resolution, by which a dividend is declared shall direct that such dividend be paid in respect of each of the Share.

16.2 Where a dividend is declared the Shares shall be deemed to rank *pari passu* in all respects.

### **17 Rights to capital**

On a winding up or other repayment of capital the assets of the Company (including capital uncalled at the commencement of the winding up) remaining after paying and discharging the debts and liabilities of the Company and the costs of winding up shall be divided amongst the shareholders in proportion to the nominal amount paid up or credited as paid up on any Shares they hold.

### **18 Share transfers: general**

18.1 In these Articles, reference to the transfer of a share includes the transfer, assignment or other disposal of a beneficial or other interest in that share, or the creation of a trust or encumbrance over that share, and reference to a share includes a beneficial or other interest in a share.

18.2 No share shall be transferred unless the transfer is made in accordance with these Articles.

18.3 Subject to article 18.4, the directors must register any duly stamped transfer made in accordance with these Articles and shall not have any discretion to register any transfer of shares which has not been made in compliance with these Articles.

18.4 The directors may, as a condition to the registration of any transfer of shares in the Company require the transferee to execute and deliver to the Company a deed under which the transferee agrees to be bound by the terms of any shareholders' agreement (or similar

document) in force between the shareholders in such form as the directors may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor under any such agreement or other document). If any such condition is imposed in accordance with this article 18.4, the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee.

- 18.5 Any transfer of shares by way of a sale that is required to be made under articles 20 or 21 shall be deemed to include a warranty that the transferor sells the shares with full title guarantee.

## **19 Permitted transfer of shares**

- 19.1 A shareholder (the **Original Shareholder**) shall only transfer all or any of its Shares to a Permitted Transferee following the receipt of A Shareholder Consent.

- 19.2 If the Original Shareholder is a company and a Permitted Transfer has been made, the Permitted Transferee shall, within [5] Business Days of ceasing to be a Member of the Same Group as the Original Shareholder, transfer the Shares held by it to:

19.2.1 the Original Shareholder; or

19.2.2 subject to A Shareholder Consent, a Member of the Same Group as the Original Shareholder,

*(which in either case is not in liquidation), without any price or other restriction. If the Permitted Transferee fails to make a transfer in accordance with this article 19.2, a Transfer Notice shall be deemed to have been given in respect of such Shares in accordance with article 20.3 and on the expiry of the period set out in this article 19.2.*

## **20 Pre-emption rights on transfer**

- 20.1 Except where the provisions of articles 19 apply, any transfer of Shares by a shareholder shall be subject to the pre-emption rights in this article 20.

- 20.2 The B Shareholder shall not take steps to transfer its shares to a third party without A Shareholder Consent. If A Shareholder Consent is given in accordance with this article, articles 20.3 to 20.17, 22 and 23 will nevertheless apply.

- 20.3 Subject to Article 20.2, any shareholder (**Seller**) wishing to transfer Shares (**Sale Shares**) in accordance with these Articles must give notice in writing (**Transfer Notice**) to the Company giving details of the proposed transfer including:

20.3.1 the number of Sale Shares;

20.3.2 if the Seller wishes to sell the Sale Shares to a third party, the name of the proposed buyer;

20.3.3 the price per share (in cash) at which the Seller wishes to sell the Sale Shares (which, failing agreement between the Seller and the Board (acting with Shareholder Consent) as to the appropriate cash price of the Sale Shares within 15 Business Days of the proposed transfer arising, shall be the Fair Value) (**Transfer Price**); and

20.3.4 whether the Transfer Notice is conditional on all, or a specific number of, the Sale Shares being sold to the existing shareholders (**Minimum Transfer Condition**).

- 20.4 In article 20.3, reference to the transfer of a Share includes the transfer, assignment or other disposal of a beneficial or other interest in that share, or the creation of a trust or encumbrance over that share, and reference to a share includes a beneficial or other interest in a share.
- 20.5 Once given (or deemed to have been given) under these Articles, a Transfer Notice may not be withdrawn save with A Shareholder Consent.
- 20.6 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares in accordance with the provisions of these Articles.
- 20.7 As soon as practicable following the receipt of a Transfer Notice, the Board shall offer the Sale Shares for sale in the manner set out in the remaining provisions of this article 20 at the Transfer Price. Each offer shall be in writing and give details of the number and Transfer Price of the Sale Shares offered.
- 20.8 The Board shall offer the Sale Shares to:
- 20.8.1 first, the Company, which shall be granted the right, subject to compliance with all applicable laws, to buyback the Sale Shares; and
- 20.8.2 secondly, if the Company has not opted or is unable to buyback the Sale Shares within [10] Business Days of being offered, any shareholders other than the Seller (**Qualifying Shareholders**), inviting them to apply in writing within the period from the date of the offer to the date [20] Business Days after the offer (both dates inclusive) (**Offer Period**) for the maximum number of Sale Shares they wish to buy.
- 20.9 If the Sale Shares are subject to a Minimum Transfer Condition, any allocation made under articles 20.10 shall be conditional on the fulfilment of the Minimum Transfer Condition.
- 20.10 If:
- 20.10.1 at the end of the Offer Period, the total number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Board shall allocate the Sale Shares to each Qualifying Shareholder who has applied for Sale Shares in the proportion which the Qualifying Shareholder's existing holding of Shares held by those Qualifying Shareholders who have applied for Sale Shares. Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Sale Shares being allocated, in which case the allocation of any such fractional entitlements among the Qualifying Shareholders who have applied for Sale Shares shall be determined by the Board). No allocation shall be made to a Qualifying Shareholder of more than the maximum number of Sale Shares which it has stated it is willing to buy;
- 20.10.2 not all Sale Shares are allocated following allocations in accordance with article 20.10.1, but there are applications for Sale Shares that have not been satisfied, the Board shall allocate the remaining Sale Shares to such applicant(s) in accordance with the procedure set out in article 20.10.1. The procedure set out in this article 20.10.2 shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and
- 20.10.3 at the end of the Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Board shall allocate the Sale Shares to the Qualifying Shareholders in accordance with their applications. The balance (**Surplus Shares**) shall be dealt with in accordance with article 20.15.

- 20.11 If the Transfer Notice includes a Minimum Transfer Condition and the total number of Sale Shares applied for is less than the number of Sale Shares specified in the Minimum Transfer Condition, the Board shall notify the Seller and all those to whom Sale Shares have been conditionally allocated under article 20.10, stating that the Minimum Transfer Condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.
- 20.12 If:
- 20.12.1 the Transfer Notice includes a Minimum Transfer Condition and such Minimum Transfer Condition has been satisfied, or the Transfer Notice does not include a Minimum Transfer Condition; and
- 20.12.2 allocations under articles 20.10 have been made in respect of some or all of the Sale Shares,
- the Board shall give written notice of allocation (**Allocation Notice**) to the Seller and each Qualifying Shareholder to whom Sale Shares have been allocated (each an **Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant and/or to the Company, the amount payable by each Applicant and/or the Company for the number of Sale Shares allocated to them (**Consideration**) and the place and time for completion of the transfer of the Sale Shares (which shall be at least [2] Business Days, but not more than [10] Business Days, after the date of the Allocation Notice).
- 20.13 On the date specified for completion in the Allocation Notice, the Seller shall, against payment of the Consideration, execute and deliver a transfer of the Sale Shares allocated to the relevant Applicant and/or the Company, in accordance with the requirements specified in the Allocation Notice.
- 20.14 If the Seller fails to comply with article 20.13:
- 20.14.1 the chairman of the Company (or, failing the chairman, one of the other directors, or some other person nominated by a resolution of the Board) may, as agent on behalf of the Seller:
- 20.14.2 complete, execute and deliver in the Seller's name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
- 20.14.3 receive the Consideration and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Consideration);
- 20.14.4 (subject to the transfers being duly stamped) enter the Applicants in the register of members as the holders of the Sale Shares purchased by them; and
- 20.14.5 the Company shall pay the Consideration into a separate bank account in the Company's name on trust (but without interest) for the Seller until the Seller has *delivered its certificate(s) for the relevant Sale Shares or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate, together, in either case, with such other evidence (if any) as the Board may reasonably require to prove good title to those Sale Shares, to the Company.*
- 20.15 If there are Surplus Shares or the Transfer Notice lapses pursuant to article 20.11 then:
- 20.15.1 firstly, the Company shall be granted the right, subject to compliance with all applicable laws, to buyback the Surplus Shares or the Sale Shares (in the case of a lapsed offer) (as the case may be); and

20.15.2 secondly, if the Company has not opted or is unable to buyback the Surplus Shares within [60] Business Days of being offered,]the Seller may transfer the Surplus Shares or the Sale Shares (in the case of a lapsed offer) (as the case may be) to any person at a price at least equal to the Transfer Price, subject to article 20.16 (but the Company shall be permitted to opt to buyback such shares at any time prior to completion of such transfer, subject to compliance with all applicable laws),

Any sale in accordance with this article 20.15 shall continue to be subject to any Minimum Transfer Condition.

20.16 The Seller's right to transfer Sale Shares under article 20.15 does not apply if the Board reasonably considers that:

20.16.1 the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or

20.16.2 the Seller has failed or refused to promptly provide information available to the Seller and reasonably requested by the Board to enable it to form the opinions mentioned above.

20.17 Each Shareholder shall procure (so far as is lawfully possible in the exercise of his rights and powers as a shareholder of the Company) the registration of each transfer of Sale Shares under this article 20 (subject to due stamping of a transfer by the relevant Applicant(s) and/or the Company) and each of them consents to such transfers and registrations.

## **21 Compulsory transfers**

21.1 A shareholder is deemed to have served a Transfer Notice under article 20.3 (a **Deemed Transfer Notice**) immediately before any of the following events:

21.1.1 the B Shareholder undergoes a Change of Control;

21.1.2 a petition being presented for the shareholder's bankruptcy or insolvency, or an arrangement or composition being proposed with any of his creditors, or where he otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors; or

21.1.3 the shareholder committing a material or persistent breach of these Articles which, if capable of remedy, has not been so remedied within 15 Business Days of notice to remedy the breach being served by the Board (acting with Shareholder Consent).

21.2 A Deemed Transfer Notice has the same effect as a Transfer Notice and the provisions of article 20 shall apply, except that:

21.2.1 the Deemed Transfer Notice shall be treated as having specified that the Seller wishes to transfer all the Shares held by him (including any Shares acquired after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Deemed Transfer Notice);

21.2.2 if the Seller is deemed to have given a Transfer Notice as a result of article 21.1.3, the Transfer Price shall be restricted to a maximum of the lower of the subscription price paid in respect of each Sale Share, including any share premium, and the Fair Value of each such Sale Share.



## **22 Suspension of Voting Rights**

- 22.1 Subject to article 22.4, any voting rights attached to any Sale Shares shall, as from the date of the relevant Transfer Notice or Deemed Transfer Notice, be suspended and the shareholders shall serve notice on the Company to this effect (**Suspension Notice**) in accordance with article 22.2.
- 22.2 A Suspension Notice shall be signed by all of the shareholders. If a shareholder holding any Sale Shares fails to execute a Suspension Notice then any director of the Company (or some other person nominated by a resolution of the Board) or any other shareholder may, as attorney on behalf of such shareholder, complete, execute and deliver a copy of the relevant Suspension Notice in his name.
- 22.3 For the avoidance of doubt, the suspension of voting rights described in article 22.1 shall not apply so as to suspend any voting rights in relation to a proposed derogation or variation of class rights.
- 22.4 A Suspension Notice shall cease to have effect on the date on which the Shares which are the subject of such notice are transferred from the relevant Seller in accordance with these Articles, and any voting rights attached to such Shares may continue to be exercised from such date.

## **23 Valuation of Sale Shares**

- 23.1 If, in accordance with article 20.3.3, the Transfer Price for any Sale Shares is to be determined with reference to the Fair Value then the Valuers shall be appointed and shall be requested to determine the Fair Value within [15] Business Days of their appointment and to notify the Company and the Seller in writing of their determination.
- 23.2 The Valuers, if appointed, shall determine the Fair Value on the following bases and assumptions:
- 23.2.1 the date the Valuers were requested to determine the Fair Value;
  - 23.2.2 each of the Sale Shares shall be valued as a proportion of the total value of all the Shares in the capital of the Company without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent or for the rights or restrictions applying to the Sale Shares;
  - 23.2.3 if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - 23.2.4 the sale is to be on arms' length terms between a willing seller and a willing buyer;
  - 23.2.5 the Sale Shares are sold free of all Encumbrances.
- 23.3 The parties are entitled to make submissions to the Valuers in writing and will provide (or procure that the Company provides) the Valuers with such assistance and documents as the Valuers reasonably require for the purpose of reaching a decision[, subject to the Valuers agreeing to give such confidentiality undertakings as the parties may reasonably require.
- 23.4 To the extent not provided for by this article 23, the Valuers may, in their reasonable discretion, determine such other procedures to assist with the valuation as they consider just or appropriate.
- 23.5 The Valuers shall act as expert and not as arbitrator and their written determination shall be final and binding on the parties (in the absence of manifest error or fraud).

- 23.6 The cost of obtaining the Valuers' valuation shall be borne by the Company and the relevant Seller equally.

## **24 Further issues of shares**

- 24.1 Save to the extent authorised by these Articles, or authorised from time to time by A Shareholder Consent, the directors shall not exercise any power to allot shares or to grant rights to subscribe for, or to convert any security into, any shares in the company.
- 24.2 In accordance with section 567(1) of the CA 2006, sections 561 and 562 of the CA 2006 shall not apply to an allotment of equity securities (as defined in section 560(1) of the CA 2006) made by the company.
- 24.3 Unless otherwise agreed by A Shareholder Consent, if the company proposes to allot any equity securities, those equity securities shall not be allotted to any person unless the company has first offered them to all shareholders on the date of the offer on the same terms, and at the same price, as those equity securities are being offered to other persons on a pari passu and pro rata basis to the number of Shares held by those holders (as nearly as possible without involving fractions). The offer:
- 24.3.1 shall be in writing, shall be open for acceptance for a period of [15] business days from the date of the offer and shall give details of the number and subscription price of the relevant equity securities; and
- 24.3.2 may stipulate that any shareholder who wishes to subscribe for a number of equity securities in excess of the proportion to which he is entitled shall, in his acceptance, state the number of excess equity securities (**Excess Securities**) for which he wishes to subscribe.
- 24.4 Any equity securities not accepted by shareholders pursuant to the offer made to them in accordance with article 24.3 shall be used for satisfying any requests for Excess Securities made pursuant to article 24.3.2. If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants pro rata to the number of Shares held by the applicants immediately before the offer was made to shareholders in accordance with article 24.3 (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any shareholder beyond that applied for by him). After that allotment, any Excess Securities remaining shall be offered to any other person as the A Shareholder may determine, at the same price and on the same terms as the offer to the shareholders.

## **Decision making by shareholders**

### **25 Quorum for general meetings**

- 25.1 If and for so long as the Company has one shareholder only who is entitled to vote on the business to be transacted at a general meeting, that shareholder present at the meeting in person or by one or more proxies or, in the event that the shareholder is a corporation, by one or more corporate representatives, is a quorum.
- 25.2 If and for so long as the Company has two or more shareholders entitled to vote on the business to be transacted at a general meeting, two of such shareholders, each of whom is present at the meeting in person or by one or corporate representatives, are a quorum.
- 25.3 Model Article 41(1) is modified by the addition of a second sentence as follows:

"If, at the adjourned general meeting, a quorum is not present within half an hour from the time appointed therefor or, alternatively, a quorum ceases to be present, the adjourned meeting shall be dissolved.".

- 25.4 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.

## **26 Chairing general meetings**

The chairman of the board of directors, in accordance with article 8.1 shall chair general meetings. If the chairman is unable to attend any general meeting, any other director present may act as chairman at the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

## **27 Poll votes**

- 27.1 A poll may be demanded at any general meeting by a qualifying person (as defined in section 318 of the CA 2006) present and entitled to vote at the meeting.
- 27.2 Article 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that article.

## **28 Proxies**

- 28.1 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the Company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of general meeting (or adjourned meeting) to which they relate".
- 28.2 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid" as a new paragraph at the end of that article.

## **Administrative arrangements**

### **29 Means of communication to be used**

- 29.1 Any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:
- 29.1.1 if delivered by hand, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
  - 29.1.2 if sent by pre-paid United Kingdom first class post or another next working day delivery service providing proof of postage to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or
  - 29.1.3 if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
  - 29.1.4 if sent or supplied by email, at the time of transmission; or

- 29.1.5 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website; and
  - 29.1.6 if deemed receipt under the previous paragraphs of this article 29.1 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 am on the day when business next starts in the place of deemed receipt. For the purposes of this article, all references to time are to local time in the place of deemed receipt.
- 29.2 To prove service, it is sufficient to prove that:
- 29.2.1 if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or
  - 29.2.2 if sent by post, the envelope containing the notice was properly addressed, paid for and posted; or
  - 29.2.3 if sent by email, the notice was properly addressed and sent to the email address of the recipient.
- 29.3 In proving that any notice, document or information was properly addressed, it will suffice to show that the notice, document or information was addressed to an address permitted for the purpose by the CA 2006.

### **30 Indemnity and insurance**

- 30.1 Subject to article 30.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:
- 30.1.1 each relevant officer of the Company shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties, or in relation to them, including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's affairs; and
  - 30.1.2 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 30.1.1 and otherwise may take action to enable any such relevant officer to avoid incurring such expenditure.
- 30.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the CA 2006 or by any other provision of law.
- 30.3 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.
- 30.4 In this article:
- 30.4.1 a "relevant officer " means any director or other officer or former director or other officer of the Company but excluding in each case any person engaged by the

Company as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor; and

- 30.4.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company or any pension fund or employees' share scheme of the Company.