

FILE COPY



CERTIFICATE OF INCORPORATION OF A PRIVATE LIMITED COMPANY

Company Number 12711328

The Registrar of Companies for England and Wales, hereby certifies that

GYMSHARK GROUP LIMITED

is this day incorporated under the Companies Act 2006 as a private company, that the company is limited by shares, and the situation of its registered office is in England and Wales

Given at Companies House, Cardiff, on **1st July 2020**



* N12711328C *



Companies House



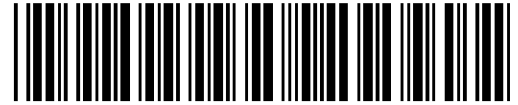
THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Companies House

IN01_(ef)

Application to register a company



Received for filing in Electronic Format on the: 30/06/2020

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<i>Company Name in full:</i>	GYMSHARK GROUP LIMITED
<i>Company Type:</i>	Private company limited by shares
<i>Situation of Registered Office:</i>	England and Wales
<i>Proposed Registered Office Address:</i>	GSHQ BLYTHE VALLEY PARK 3 CENTRAL BOULEVARD SOLIHULL UNITED KINGDOM B90 8AB
<i>Sic Codes:</i>	64209

Proposed Officers

Company Secretary 1

Type: Corporate
Name: GATELEY SECRETARIES LIMITED
Principal / Business Address: 111 EDMUND STREET
BIRMINGHAM
ENGLAND B3 2HJ

European Economic Area (EEA) Company

Register Location: UNITED KINGDOM
Registration Number: 03520422

The subscribers confirm that the corporate body named has consented to act as a secretary.

Company Director 1

Type: **Person**
Full Forename(s): **BENJAMIN**
Surname: **FRANCIS**
Former Names:
Service Address: **recorded as Company's registered office**
Country/State Usually Resident: **ENGLAND**

Date of Birth: ****/06/1992** **Nationality:** **BRITISH**
Occupation: **DIRECTOR**

The subscribers confirm that the person named has consented to act as a director.

Company Director 2

Type: **Person**
Full Forename(s): **STEVEN GERARD**
Surname: **HEWITT**
Former Names:
Service Address: **recorded as Company's registered office**
Country/State Usually Resident: **ENGLAND**

Date of Birth: ****/05/1973** **Nationality:** **BRITISH**
Occupation: **DIRECTOR**

The subscribers confirm that the person named has consented to act as a director.

Company Director 3

Type: **Person**

Full Forename(s): **PAUL STEPHEN**

Surname: **RICHARDSON**

Former Names:

Service Address: **recorded as Company's registered office**

Country/State Usually **ENGLAND**

Resident:

Date of Birth: ****/05/1959** *Nationality:* **BRITISH**

Occupation: **DIRECTOR**

The subscribers confirm that the person named has consented to act as a director.

Statement of Capital (Share Capital)

<i>Class of Shares:</i>	B	<i>Number allotted</i>	1280000
	ORDINARY	<i>Aggregate nominal value:</i>	1.28
<i>Currency:</i>	GBP		
<i>Prescribed particulars</i>			

EACH SHARE IS ENTITLED TO ONE VOTE IN ANY CIRCUMSTANCES. EACH SHARE IS EQUALLY ENTITLED TO A DISTRIBUTION OF DIVIDENDS. EACH SHARE IS EQUALLY ENTITLED TO A DISTRIBUTION OF CAPITAL.

<i>Class of Shares:</i>	C	<i>Number allotted</i>	260000
	ORDINARY	<i>Aggregate nominal value:</i>	0.26
<i>Currency:</i>	GBP		
<i>Prescribed particulars</i>			

EACH SHARE IS ENTITLED TO ONE VOTE IN ANY CIRCUMSTANCES. EACH SHARE IS EQUALLY ENTITLED TO A DISTRIBUTION OF DIVIDENDS. EACH SHARE IS EQUALLY ENTITLED TO A DISTRIBUTION OF CAPITAL.

<i>Class of Shares:</i>	D	<i>Number allotted</i>	6000000
	ORDINARY	<i>Aggregate nominal value:</i>	6
<i>Currency:</i>	GBP		
<i>Prescribed particulars</i>			

EACH SHARE IS ENTITLED TO ONE VOTE IN ANY CIRCUMSTANCES. THE AMOUNT OF ANY DIVIDEND DECLARED BY THE COMPANY IN RESPECT OF EACH D SHARE SHALL BE ONE HUNDREDTH THE AMOUNT OF ANY DIVIDEND DECLARED IN RESPECT OF EACH B SHARE OR C SHARE.. THE AMOUNT OF ANY SURPLUS ASSETS OF THE COMPANY DISTRIBUTED IN RESPECT OF EACH D SHARE ON A RETURN OF CAPITAL, AFTER THE PAYMENT OF ITS LIABILITIES AND WHETHER ON LIQUIDATION, CAPITAL REDUCTION OR OTHERWISE (BUT EXCLUDING A PURCHASE OF OWN SHARES) SHALL BE ONE HUNDREDTH OF THE AMOUNT DISTRIBUTED IN RESPECT OF EACH B SHARE OR C SHARE..

Statement of Capital (Totals)

<i>Currency:</i>	GBP	<i>Total number of shares:</i>	1280000
		<i>Total aggregate nominal value:</i>	1.28
		<i>Total aggregate unpaid:</i>	0
<i>Currency:</i>	GBP	<i>Total number of shares:</i>	260000
		<i>Total aggregate nominal value:</i>	0.26
		<i>Total aggregate unpaid:</i>	0
<i>Currency:</i>	GBP	<i>Total number of shares:</i>	6000000
		<i>Total aggregate nominal value:</i>	6
		<i>Total aggregate unpaid:</i>	0

Initial Shareholdings

Name: **BENJAMIN FRANCIS**

Address **GSHQ BLYTHE VALLEY
PARK
3 CENTRAL BOULEVARD
SOLIHULL
UNITED KINGDOM
B90 8AB**

Class of Shares: **B ORDINARY**

Number of shares: **1280000**

Currency: **GBP**

*Nominal value of each
share:* **0.0001**

Amount unpaid: **0**

Amount paid: **0.0001**

Class of Shares: **D ORDINARY**

Number of shares: **4800000**

Currency: **GBP**

*Nominal value of each
share:* **0.000001**

Amount unpaid: **0**

Amount paid: **0.000001**

Name: **STEVEN HEWITT**

Address **GSHQ BLYTHE VALLEY
PARK
3 CENTRAL BOULEVARD
SOLIHULL
UNITED KINGDOM
B90 8AB**

Class of Shares: **C ORDINARY**

Number of shares: **140000**

Currency: **GBP**

*Nominal value of each
share:* **0.0001**

Amount unpaid: **0**

Amount paid: **0.0001**

Name: **PAUL RICHARDSON**

Address **GSHQ BLYTHE VALLEY
PARK
3 CENTRAL BOULEVARD
SOLIHULL
UNITED KINGDOM
B90 8AB**

Class of Shares: **C ORDINARY**

Number of shares: **120000**

Currency: **GBP**

*Nominal value of each
share:* **0.0001**

Amount unpaid: **0**

Amount paid: **0.0001**

Name: **NIRAN CHANA**

Address **GSHQ BLYTHE VALLEY
PARK
3 CENTRAL BOULEVARD
SOLIHULL
UNITED KINGDOM
B90 8AB**

Class of Shares: **D ORDINARY**

Number of shares: **200000**

Currency: **GBP**

*Nominal value of each
share:* **0.000001**

Amount unpaid: **0**

Amount paid: **0.000001**

<i>Name:</i>	DAVID PARRY		
<i>Address</i>	GSHQ BLYTHE VALLEY PARK 3 CENTRAL BOULEVARD SOLIHULL UNITED KINGDOM B90 8AB	<i>Class of Shares:</i>	D ORDINARY
		<i>Number of shares:</i>	200000
		<i>Currency:</i>	GBP
		<i>Nominal value of each share:</i>	0.000001
		<i>Amount unpaid:</i>	0
		<i>Amount paid:</i>	0.000001

<i>Name:</i>	NOEL MCELHINNEY		
<i>Address</i>	GSHQ BLYTHE VALLEY PARK 3 CENTRAL BOULEVARD SOLIHULL UNITED KINGDOM B90 8AB	<i>Class of Shares:</i>	D ORDINARY
		<i>Number of shares:</i>	200000
		<i>Currency:</i>	GBP
		<i>Nominal value of each share:</i>	0.000001
		<i>Amount unpaid:</i>	0
		<i>Amount paid:</i>	0.000001

<i>Name:</i>	JOSEPH FRANCIS		
<i>Address</i>	GSHQ BLYTHE VALLEY PARK 3 CENTRAL BOULEVARD SOLIHULL UNITED KINGDOM B90 8AB	<i>Class of Shares:</i>	D ORDINARY
		<i>Number of shares:</i>	200000
		<i>Currency:</i>	GBP
		<i>Nominal value of each share:</i>	0.000001
		<i>Amount unpaid:</i>	0
		<i>Amount paid:</i>	0.000001

<i>Name:</i>	CHRISTOPHER PERRINS		
<i>Address</i>	GSHQ BLYTHE VALLEY PARK 3 CENTRAL BOULEVARD SOLIHULL UNITED KINGDOM B90 8AB	<i>Class of Shares:</i>	D ORDINARY
		<i>Number of shares:</i>	200000
		<i>Currency:</i>	GBP
		<i>Nominal value of each share:</i>	0.000001
		<i>Amount unpaid:</i>	0
		<i>Amount paid:</i>	0.000001

Name: **SEBASTIAN MILLS**

Address **GSHQ BLYTHE VALLEY
PARK
3 CENTRAL BOULEVARD
SOLIHULL
UNITED KINGDOM
B90 8AB**

Class of Shares: **D ORDINARY**

Number of shares: **200000**

Currency: **GBP**

*Nominal value of each
share:* **0.000001**

Amount unpaid: **0**

Amount paid: **0.000001**

Persons with Significant Control (PSC)

Statement of initial significant control

On incorporation, there will be someone who will count as a Person with Significant Control (either a registerable person or relevant legal entity (RLE)) in relation to the company

Individual Person with Significant Control details

Names: BENJAMIN FRANCIS

***Country/State Usually
Resident:*** ENGLAND

Date of Birth: **/06/1992 ***Nationality:*** BRITISH

Service address recorded as Company's registered office

The subscribers confirm that each person named as an individual PSC in this application knows that their particulars are being supplied as part of this application.

<i>Nature of control</i>	The person holds, directly or indirectly, 75% or more of the voting rights in the company.
<i>Nature of control</i>	The person holds, directly or indirectly, 75% or more of the shares in the company.
<i>Nature of control</i>	The person has the right, directly or indirectly, to appoint or remove a majority of the board of directors of the company.

Statement of Compliance

I confirm the requirements of the Companies Act 2006 as to registration have been complied with.

<i>Name:</i>	BENJAMIN FRANCIS
<i>Authenticated</i>	YES
<i>Name:</i>	STEVEN HEWITT
<i>Authenticated</i>	YES
<i>Name:</i>	PAUL RICHARDSON
<i>Authenticated</i>	YES
<i>Name:</i>	NIRAN CHANA
<i>Authenticated</i>	YES
<i>Name:</i>	DAVID PARRY
<i>Authenticated</i>	YES
<i>Name:</i>	NOEL MCELHINNEY
<i>Authenticated</i>	YES
<i>Name:</i>	JOSEPH FRANCIS
<i>Authenticated</i>	YES
<i>Name:</i>	CHRISTOPHER PERRINS
<i>Authenticated</i>	YES
<i>Name:</i>	SEBASTIAN MILLS
<i>Authenticated</i>	YES

Authorisation

Authoriser Designation: **subscriber**

Authenticated **YES**

COMPANY HAVING A SHARE CAPITAL

Memorandum of Association of GYMSHARK GROUP LIMITED

Each subscriber to this memorandum of association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company and to take at least one share.

Name of each subscriber	Authentication
BENJAMIN FRANCIS	Authenticated Electronically
STEVEN HEWITT	Authenticated Electronically
PAUL RICHARDSON	Authenticated Electronically
NIRAN CHANA	Authenticated Electronically
DAVID PARRY	Authenticated Electronically
NOEL MCELHINNEY	Authenticated Electronically
JOSEPH FRANCIS	Authenticated Electronically
CHRISTOPHER PERRINS	Authenticated Electronically
SEBASTIAN MILLS	Authenticated Electronically

Dated: 30/06/2020

GYMSHARK GROUP LIMITED

**ARTICLES OF ASSOCIATION
ADOPTED UPON INCORPORATION**

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PRIVATE COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION OF
GYMSHARK GROUP LIMITED

1. DEFINITIONS AND INTERPRETATION

1.1 In these Articles the following definitions will apply:

Accountants

the reporting accountants or (if legally required) the auditors of the Company for the time being or if, in relation to any reference made to such persons in accordance with these Articles, the reporting accountants or auditors of the Company are unable or unwilling to act in connection with that reference, a chartered accountant nominated by, and engaged on terms approved by, the Directors in their absolute discretion and acting as agent for the Company and each relevant Shareholder;

Act

the Companies Act 2006;

acting in concert

has the meaning set out in the City Code on Takeovers and Mergers in force for the time being;

Adoption Date

the date of incorporation of the Company;

Bad Leaver

a person who holds B Shares, C Shares or D Shares and who ceases to be an employee or director of, or a consultant to, the Company in the circumstances set out in article 7.1.1(h) as a result of:

- (a) the voluntary resignation of that Shareholder who holds B Shares, C Shares or D Shares (other than for a reason set out in the definition of Good Leaver);
- (b) disability or incapacity arising from the abuse of alcohol, solvents or drugs;
- (c) breach of the restrictive covenant provisions in the Shareholders' Agreement as determined by a decision of a Court which decision is final and no longer appealable or not subject to any appeal within six months of the date of the relevant Court order;
- (d) the termination of that Shareholder's employment by the Company in circumstances that are determined by a decision of an Employment Tribunal or Court, which decision is final and no longer appealable or not subject to any appeal within six months of the date of the relevant Court order, to be or amount to gross misconduct where the Company has commenced proceedings in respect of such claim within 3 months of the later of the date of cessation of that Shareholder's employment (determined in accordance with article 7.5) and the date on which the circumstances of gross misconduct were apparent to the Directors (excluding, where applicable, that Shareholder in his capacity as a Director);
- (e) bankruptcy arising from gambling or other addictive behaviour; or
- (f) any other circumstances in which he is not a Good Leaver;

Board Invitees

- (a) the Company (subject to compliance by the Company with the provisions of the Act); and/or

- (b) the trustees of any Employee Trust; and/or
- (c) any person(s) (being a current or future employee or officer of the Company) nominated by a Majority;

B Share

a B ordinary share of £0.0001 in the capital of the Company having the rights and being subject to the restrictions set out in these Articles;

Business Day

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

Change of Control

the acquisition (by any means) by a Third Party Purchaser of any interest in any Shares if, upon completion of that acquisition, the Third Party Purchaser together with any person connected with or acting in concert with that Third Party Purchaser (other than any such person who was a party to the Shareholders' Agreement on the Adoption Date) would be entitled to exercise more than 60% of the total voting rights normally exercisable at any general meeting of the Company;

Compulsory Transfer Shares

in relation to a Leaving Shareholder, any Shares:

- (a) held by the Leaving Shareholder at the time of the relevant Transfer Event;
- (b) held at the time of the relevant Transfer Event by any permitted transferee of the Leaving Shareholder; and
- (c) acquired by the Leaving Shareholder, his permitted transferees and/or personal representatives after the occurrence of the Transfer Event pursuant to any share option agreement or any other scheme or arrangement entered into prior to the Transfer Event,

together with, in any case, any further Shares received by any person referred to above at any time after the relevant Transfer Event by way of rights or on a capitalisation in respect of any of the Shares referred to above;

C Share

a C ordinary share of £0.0001 in the capital of the Company having the rights and being subject to the restrictions set out in these Articles;

D Share

a D ordinary share of £0.000001 in the capital of the Company having the rights and being subject to the restrictions set out in these Articles;

Director

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

Eligible Director

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

Employee Trust

any trust, approved by the Shareholders, which is established for the benefit of the employees of the Company and/or any of the persons referred to in section 1166 of the Act;

Encumbrance

a mortgage, charge, pledge, lien, option, restriction, right of first refusal, right of pre-emption, right of set-off, third-party right or interest, assignment by way of security, other encumbrance or security interest of any kind or another type of preferential arrangement (including a title transfer or retention arrangement) having similar effect howsoever arising (but excluding any such rights or arrangements arising under these Articles or the Shareholders' Agreement);

Fair Value

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

- (a) the fair value is the sum which a willing buyer would agree with a willing seller on an arm's length sale to be the purchase price for the Shares concerned on a sale of the entire share capital of the Company taking into account its debts and liabilities to tax;
- (b) no account shall be taken of the size of the holding which the relevant Shares comprise or whether those Shares represent a majority or minority interest save that due discount shall be applied to the value of any Shares which are held by a person who is not employed or otherwise engaged in a senior position by the Company or by a person who receives Shares compulsorily by an order of the Court or by a person who refuses to adhere to the Shareholders' Agreement;
- (c) no account shall be taken of the fact that the transferability of the relevant Shares is restricted under these Articles;
- (d) if the Company is then carrying on business as a going concern, it will continue to do so; and
- (e) any difficulty in applying any of the bases set out above shall be resolved by the Accountants as they, in their absolute discretion, think fit;

Good Leaver

a person who holds B Shares, C Shares or D Shares and who ceases to be an employee or director of, or a consultant to, the Company in the circumstances set out in article 7.1.1(h) as a result of:

- (a) the death of that Shareholder;
- (b) disability or incapacity through critical illness or accident (other than where such illness or accident arises from the abuse of alcohol, solvents or drugs) where the Majority acting reasonably considers such illness or accident is preventing, or is likely to prevent, that Shareholder from performing his normal duties;
- (c) bankruptcy of that Shareholder which does not result from gambling or other addictive behaviour;
- (d) the termination of that Shareholder's employment by the Company in circumstances that are determined by a decision of an Employment Tribunal or Court, which decision is final and no longer appealable (or not subject to any appeal within six months of the date of the decision of the Employment Tribunal or Court), to be or amount to wrongful dismissal or unfair dismissal (excluding unfair dismissal by reason of an unfair procedure) where that Shareholder has commenced proceedings in respect of such claim within 3 months of the date of cessation of his employment (determined in accordance with article 7.5);
- (e) any other reason which the Majority in its absolute discretion within 20 Business Days of that Shareholder ceasing to be employed or engaged by the Company, shall result in that Shareholder being a Good Leaver for the purposes of these Articles;

Group

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

Leaving Shareholder

any Shareholder who is subject to article 7.1;

Majority

the holders for the time being of more than 50% of the B Shares;

Minimum Price

the sum of £30,000,000 on a cash free, debt free basis;

Model Articles

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

Relevant Securities

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

Sale Shares

has the meaning given in article 6.1.1;

Share

any share of any class in the capital of the Company for the time being;

Shareholder

a registered holder for the time being of an issued Share, as recorded in the register of members of the Company;

Shareholders' Agreement

the agreement dated on or around the Adoption Date and made between the Company and the Shareholders on that date;

Third Party Purchaser

any person who is not a Shareholder for the time being or a person connected with such a Shareholder;

Transfer Event

has the meaning given in article 7.1; and

Transfer Notice

a notice in accordance with article 6 that a Shareholder wishes to transfer his Shares.

1.2 These Articles and the provisions of the Model Articles (subject to any modifications set out in these Articles) shall constitute all the articles of association of the Company.

1.3 In these Articles a reference to:

1.3.1 a statutory provision includes a reference to the statutory provision as replaced, modified or re-enacted from time to time before or after the Adoption Date and any subordinate legislation made under the statutory provision before or after the Adoption Date;

1.3.2 a "subsidiary" shall include a reference to a "subsidiary" and a "subsidiary undertaking" (each as defined in the Act) and a reference to a "holding company" shall include a reference to a "holding company" and a "parent undertaking" (each as defined in the Act);

1.3.3 a person includes a reference to an individual, body corporate, association, government, state, agency of state or any undertaking (whether or not having a

- legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);
- 1.3.4 writing includes any mode of reproducing words in a legible and non-transitory form other than fax or (unless stated otherwise) email;
- 1.3.5 "these Articles" is to these articles of association (including the provisions of the Model Articles incorporated in them), and a reference to an article is to an article of these Articles, in each case as amended from time to time in accordance with the terms of these Articles and the Act; and
- 1.3.6 any agreement or document is to that agreement or document as in force for the time being and as amended from time to time in accordance with the terms of that agreement or document or with the agreement of all the relevant parties.
- 1.4 The contents table and headings in these Articles are for convenience only and do not affect the interpretation or construction of these Articles.
- 1.5 Words importing the singular include the plural and vice versa and words importing a gender include every gender.
- 1.6 The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.
- 1.7 Any question as to whether a person is connected with another shall be determined in accordance with section 1122 Corporation Tax Act 2010 (except that in construing section 1122 "control" has the meaning given by section 1124 or section 450 of that Act so that there is control whenever section 1124 or 450 requires) which shall apply in relation to these Articles as it applies in relation to that Act.
- 1.8 These Articles shall be binding on and shall survive for the benefit of the personal representatives and successors-in-title of each party.
2. **SHARES**
- 2.1 Except as provided otherwise in these Articles, B Shares and C Shares shall rank pari passu in all respects but shall constitute separate classes of shares.
- 2.2 Subject to any other provision of these Articles, the rights attaching to the D Shares are as follows:
- 2.2.1 **Income**
- The amount of any profits available for distribution and resolved to be distributed in respect of each D Share shall be equal to one hundredth of the amount resolved to be distributed in respect of each B Share or C Share.
- 2.2.2 **Capital**
- The amount of any surplus assets of the Company distributed in respect of each D Share on a return of capital, after the payment of its liabilities and whether on liquidation, capital reduction or otherwise (but excluding a purchase of own shares) shall be one hundredth of the amount distributed in respect of each B Share or C Share.
- 2.2.3 **Dividend**
- The amount of any dividend declared by the Company in respect of each D Share shall be one hundredth the amount of any dividend declared in respect of each B Share or C Share.
- 2.2.4 **Voting**
- On a poll or written resolution each holder of D Shares shall be entitled to one vote for every 100 D Shares held by that Shareholder.

3. **ISSUE OF SHARES**

- 3.1 Notwithstanding any other provision of these Articles, the maximum issued share capital of the Company at all times after the Adoption Date shall be £200. The issued share capital of the Company on the Adoption Date shall be £160 divided into 1,280,000 B Shares, 260,000 C Shares and 6,000,000 D Shares.
- 3.2 No Relevant Securities shall be allotted by the Company unless, within 20 Business Days prior to the allotment of such Relevant Securities, a Majority has consented in writing to such allotment and to the identity of the proposed allottee.
- 3.3 The Directors may with the consent of a Majority allot, grant or otherwise dispose of Relevant Securities to such persons at such times and generally on such terms and conditions as they think fit, provided that no Share shall be issued at a discount.
- 3.4 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to the Company.
- 3.5 Notwithstanding any other provision of these Articles:
- 3.5.1 no Share other than a D Share shall be allotted to a person who is not already a party to the Shareholders' Agreement unless that person has entered into a deed of adherence to, and in the form required by, the Shareholders' Agreement; and
- 3.5.2 no Share shall be allotted to a person who is subject to a Transfer Notice or a Compulsory Transfer Notice.

4. **TRANSFER OF SHARES - GENERAL**

- 4.1 Subject to articles 4.2 and 4.3, the Directors shall forthwith register any duly stamped transfer made in accordance with, or permitted by, these Articles and the Directors shall not register any transfer of Shares which is not so made or permitted. Article 26(5) of the Model Articles shall not apply to the Company.
- 4.2 No transfer (other than a transfer of D Shares) shall be registered unless the relevant transferee, if not already a party to the Shareholders' Agreement, has entered into a deed of adherence to, and in the form required by, the Shareholders' Agreement.
- 4.3 For the purposes of ensuring that:
- 4.3.1 a transfer of any Share is in accordance with these Articles;
- 4.3.2 no circumstances have arisen whereby a Shareholder is required to give or may be deemed to have given a Transfer Notice in respect of any Share; or
- 4.3.3 no circumstances have arisen whereby the provisions of article 7.1 are required to be or ought to have been triggered,
- the Directors may from time to time require any Shareholder to provide, or to procure that any person named as the transferee in any transfer lodged for registration or any other person whom the Directors reasonably believe to have information relevant to such purpose provides, such information and evidence as the Directors may reasonably require for such purpose. Pending such information or evidence being provided, the Directors are entitled to refuse to register any relevant transfer of Shares.
- 4.4 If any information or evidence provided pursuant to article 4.3 discloses to the reasonable satisfaction of the Directors that circumstances have arisen whereby a Shareholder may be required to give or be deemed to have given a Transfer Notice, the Directors may by notice in writing to the relevant Shareholder, require that a Transfer Notice be given in respect of the Shares concerned.
- 4.5 In any case where a Shareholder is required to give a Transfer Notice in accordance with the provisions of these Articles and such Transfer Notice is not duly given within a period of 10 Business Days of written notice from the Directors to the relevant Shareholder requesting that such Transfer Notice be duly given, such Transfer Notice shall be deemed to have been given immediately upon the expiry of that period of 10 Business Days. Notwithstanding any other provision of these Articles, unless the Directors resolve otherwise, any Shares which

are the subject of a Transfer Notice deemed to have been served in accordance with this article 4.5 (and any Shares received after the date of service, or deemed service, of any such Transfer Notice by way of rights or on a capitalisation in respect of the Shares which are the subject of that Transfer Notice) shall with effect from the date of the relevant deemed Transfer Notice (or, if later, the date on which such Shares are issued), cease to confer upon the holder thereof any right to receive notice of, or attend, speak or vote at, any general meeting of the Company (or at any meeting of the holders of any class of Shares) or any right to receive or vote on any written resolution of the Company (or the holders of any class of Shares) or to receive any distribution of any kind until such time as another person is entered in the register of members of the Company as the holder of those Shares.

- 4.6 Notwithstanding any other provision of these Articles, an obligation to transfer a Share under these Articles shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such Share free from all Encumbrances.
- 4.7 Notwithstanding any other provision of these Articles, no transfer of any Share which is the subject of a Transfer Notice shall be permitted pursuant to article 5.
- 4.8 Where any Share is transferred to an existing Shareholder, such Share shall on and from the time of registration of the transfer of that share in the register of members of the Company, be immediately and automatically (without resolution of the Shareholders or Directors) re-designated as a Share of the same class as the Shares already held by such Shareholder.

5. **PERMITTED TRANSFERS**

- 5.1 Any Shares may be transferred at any time with the prior written consent of a Majority.
- 5.2 Subject to the Act, the Company may buy back, repurchase, cancel, reduce, or otherwise buy back Shares at any time in accordance with articles 6 and 7.
- 5.3 Where the Company has established an Employee Trust, any Shares may be transferred by or to the trustees of such Employee Trust.
- 5.4 Where any Shares are held by a trustee(s) on an Employee Trust, those Shares may be transferred by and to:
 - 5.4.1 any new trustee(s) of the Employee Trust appointed on a change in trustee(s); or
 - 5.4.2 any beneficiary of the Employee Trust, provided the transfer is made pursuant to, and in accordance with the rules of, the applicable trust instrument.

6. **PRE-EMPTION ON TRANSFER OF SHARES**

6.1 **Transfer Notice**

- 6.1.1 Except as permitted under article 5 (Permitted Transfers) or as provided for in articles 8 (Drag Along) and 9 (Tag Along) and subject to article 6.1.2, any Shareholder (a **Seller**) who wishes to transfer all (but not part only) of his Shares (**Sale Shares**) shall, before transferring or agreeing to transfer such Sale Shares, give notice in writing (a **Transfer Notice**) to the Majority and to the Company of his wish provided that no Shareholder who has received his Shares under article 5.1 shall be entitled to use the procedure set out in this article.
- 6.1.2 A Leaving Shareholder in respect of whom a Compulsory Transfer Notice has been served pursuant to article 7 may not serve a Transfer Notice under this article 6.
- 6.1.3 A Transfer Notice shall:
 - (a) state the name (if any or known) of the person to whom the Seller wishes to transfer the Sale Shares;
 - (b) state the price per Sale Share (the **Proposed Price**) at which the Seller wishes to transfer the Sale Shares;
 - (c) relate to all, and not part only, of his Shares;

- (d) constitute the Company as the agent of the Seller in relation to the sale of the Sale Shares in accordance with this article 6; and
- (e) not be capable of variation or cancellation without the consent of the Majority.

6.2 **Transfer Price**

- 6.2.1 The Sale Shares will be offered for sale in accordance with this article 6 at the following price (the **Transfer Price**):
- (a) subject to the consent of the Majority, the Proposed Price; or
 - (b) such other price as may be agreed between the Seller and the Majority, within 10 Business Days of the date of service (or deemed service) of the Transfer Notice; or
 - (c) if no price is agreed pursuant to article (b) within the period specified in that article, or if the Majority directs at any time during that period, an amount equal to 75% of the Fair Value determined in accordance with article 6.2.2.
- 6.2.2 If the Seller and the Majority are unable to agree on the Transfer Price in accordance with article 6.2.1(b) or if the Majority directs in accordance with article 6.2.1(c), the Majority shall forthwith instruct the Accountants to determine and certify an amount equal to 75% of the Fair Value of each Sale Share as at the date of service of the Transfer Notice or Compulsory Transfer Notice (as the case may be).
- 6.2.3 The decision of the Accountants (who shall be deemed to act as an expert and not as an arbitrator) shall be final and binding on the Shareholders, save in the event of fraud or manifest error, and their costs for reporting on their opinion of 75% of the Fair Value shall be borne wholly by the Seller.

6.3 **Offer Notice**

- 6.3.1 Subject to article 6.3.2, the Directors shall serve a notice (an **Offer Notice**) on the Majority and the Company within 10 Business Days of the Transfer Price being agreed or determined in accordance with these Articles.
- 6.3.2 An Offer Notice shall not be sent to, and no Sale Shares shall be treated as offered to:
- (a) the Seller;
 - (b) any Shareholder who, at the date of the Offer Notice, is bound to give, or has given or is deemed to have given a Transfer Notice in respect of any Shares registered in his name; and
 - (c) any Leaving Shareholder upon whom a Compulsory Transfer Notice has been served pursuant to article 7.
- 6.3.3 An Offer Notice shall:
- (a) state the Transfer Price;
 - (b) contain the other relevant information set out in the Transfer Notice; and
 - (c) confirm that the Company is entitled to repurchase, cancel, reduce or otherwise buy back the Sale Shares.
- 6.3.4 For the purposes of allocating the Sale Shares amongst the Shareholders and any Board Invitees, Sale Shares of a class specified in the first column of the table set out below will be treated as offered:
- (a) firstly, to all persons in the category set out in the corresponding line in the second column in the table below;

- (b) secondly, to the extent not already accepted by persons in the second column, to all persons in the category set out in the corresponding line in the third column in the table below; and
- (c) thirdly, to the extent not already accepted by persons in the second or third columns, to all persons in the category set out in the corresponding line in the fourth column in the table below.

Class of Sale Shares	First offer to:	Second offer to:	Third offer to:
B Shares	Holders of B Shares	Board Invitees	Holders of C Shares
C Shares	Holders of B Shares	Board Invitees	Holders of C Shares
D Shares	Holders of B Shares	Board Invitees	-

6.4 **Sale Share Allocation**

- 6.4.1 Unless a Majority determines otherwise and subject to article 7.3.1(b), where the Sale Shares are C Shares, such Sale Shares shall be repurchased, cancelled, reduced or otherwise bought back by the Company within a period of six months from the date on which the Company received the Transfer Notice or the Compulsory Transfer Notice (as the case may be).
- 6.4.2 If the Company does not repurchase, cancel, reduce or otherwise buy back the relevant Sale Shares referred to in article 6.4.1 by the expiry of the relevant periods referred to in that article or in article 7.3.1(b), the Directors may offer such Sale Shares to a Majority who shall have a further period of up to four months to complete the purchase of the Sale Shares.
- 6.4.3 If the Sale Shares are not transferred to a Majority following the expiry of the period of four months referred to in article 6.4.2, the Seller shall be entitled to sell such Sale Shares to any other holder of C Shares on the same terms as those set out in the Offer Notice. If the Seller does not sell such Sale Shares within a period of four months, he shall be obliged to hold these Sale Shares and not offer them for sale under this article 6 for a period of at least 12 months at which point the procedure set out in this article 6 shall apply again.

6.5 **Completion**

Completion of a sale and purchase of Sale Shares shall take place at the Company's registered office address on the date and time specified in the Offer Notice when the Seller will, upon payment of the Transfer Price in respect of the Sale Shares, transfer those Sale Shares, and deliver up the relevant share certificate(s) in respect of those Shares.

6.6 **Default by the Seller**

- 6.6.1 If a Seller shall fail for any reason to transfer any Sale Shares when required by this article 6, the Majority may authorise and instruct any Director to execute each necessary transfer of Sale Shares on the Seller's behalf and to deliver that transfer.
- 6.6.2 The Company may receive the purchase money on behalf of the Seller and thereafter shall, subject to due stamping, make appropriate entries in its register of members. The receipt of the Company for the purchase money shall constitute a good discharge and the validity of the proceedings shall not be questioned by any person.
- 6.6.3 The Company shall hold the relevant purchase money on trust for the Seller (but without interest) and the Company shall not pay such money to the Seller until he has delivered the share certificate(s) in respect of the relevant Shares (or a suitable indemnity or other documentation if an interest in Shares is being transferred, in each case in a form reasonably satisfactory to the Directors) to the Company.

7. **COMPULSORY TRANSFERS**

7.1 In this article 7 each of the following shall be a **Transfer Event**:

7.1.1 in relation to a person who holds B Shares, C Shares or D Shares, if any of the following occur:

- (a) the death of that Shareholder;
- (b) an order being made for the bankruptcy of that Shareholder or a petition being presented for such bankruptcy which petition is not withdrawn or dismissed within 10 Business Days of being presented;
- (c) the Shareholder convening a meeting of his creditors or circulating a proposal in relation to, or taking any other steps with a view to, making an arrangement or composition in satisfaction of his creditors generally;
- (d) the Shareholder being unable to pay his debts as they fall due (within the meaning of section 268 Insolvency Act 1986);
- (e) any step being taken for the appointment of a receiver, manager or administrative receiver over all or any material part of the Shareholder's assets, or any other steps being taken to enforce any Encumbrance over all or any material part of the Shareholder's assets or any Shares held by that Shareholder;
- (f) any proceedings or orders equivalent or analogous to any of those described in articles (b) to (e) above occurring in respect of the Shareholder under the law of any jurisdiction outside England and Wales;
- (g) that Shareholder suffering from mental disorder and being admitted to hospital or, by reason of his mental health, being subject to any court order which wholly or partly prevents that Shareholder from personally exercising any powers or rights which that Shareholder would otherwise have;
- (h) that Shareholder, being a director or employee of, or a consultant to, the Company, ceasing to be such a director, employee or consultant; or
- (i) that Shareholder breaching any provision of these Articles or the Shareholders' Agreement which breach, if capable of remedy, has not been remedied to the reasonable satisfaction of the Majority within 10 Business Days of a notice from the Majority to the Leaving Shareholder requesting such remedy,

and, in any such case, the Majority notifying the Company within six months of the occurrence of such event (or, if later, within six months of the date on which the Directors first became aware of the occurrence of such event) that such event is a Transfer Event in relation to that Shareholder (**Leaving Shareholder**) for the purposes of this article 7.1.

7.2 Upon the Majority notifying the Company that an event is a Transfer Event in respect of a Leaving Shareholder in accordance with article 7.1, the Leaving Shareholder and any other person holding Compulsory Transfer Shares, shall be deemed to have served a Transfer Notice (a **Compulsory Transfer Notice**) in respect of all the Compulsory Transfer Shares held from time to time by each of them respectively. A Compulsory Transfer Notice shall supersede any current Transfer Notice in respect of any Compulsory Transfer Shares.

7.3 The Compulsory Transfer Shares shall be offered for sale in accordance with the provisions of article 6 as if the Compulsory Transfer Shares were Sale Shares except that:

7.3.1 where the relevant Transfer Event falls within the provisions of article 7.1.1(h):

- (a) the Transfer Price in respect of the Compulsory Transfer Shares shall be:
 - (i) where the Leaving Shareholder is a Bad Leaver, either:

- (I) 25% of their Fair Value where the Leaving Shareholder falls within limbs (c), (d) and (e) of the definition of Bad Leaver; or
 - (II) 50% of their Fair Value where the Leaving Shareholder falls within any other limb in the definition of Bad Leaver; and
 - (ii) where the Leaving Shareholder is a Good Leaver, either:
 - (I) 75% of their Fair Value where the Leaving Shareholder falls within limb (c) of the definition of Good Leaver; or
 - (II) 100% of their Fair Value where the Leaving Shareholder falls within any other limb in the definition of Good Leaver; and
 - (b) the period within which Company shall repurchase, cancel, reduce or otherwise buy back the Sale Shares shall be:
 - (i) where the Leaving Shareholder is a Good Leaver, either:
 - (I) not less than 12 months nor more than 18 months in the case of limb (c) of the definition of Good Leaver; or
 - (II) as soon as possible but in any event within six months from the Cessation Date in the case of any other limb in the definition of Good Leaver; and
 - (ii) where the Leaving Shareholder is a Bad Leaver, either:
 - (I) not less than 12 months nor more than 18 months in the case of limb (e) of the definition of Bad Leaver; or
 - (II) 12 months in the case of any other limb in the definition of Bad Leaver.
- 7.4 Any dispute as to whether the provisions of article 7.3.1(a)(i) or 7.3.1(a)(ii) apply in relation to any Compulsory Transfer Notice shall not affect the validity of a Compulsory Transfer Notice nor shall it delay the procedure to be followed under article 6 in respect such notice.
- 7.5 For the purposes of article 7.1.1(h) the date of cessation of a Shareholder's employment, directorship or engagement shall be (or be deemed to be) whichever is the first to occur of:
- 7.5.1 the date of a notice given by the Group to the Shareholder terminating (or purporting to terminate) that Shareholder's employment, directorship or engagement with the Group (or, if later, the date specified in any such notice as being the termination date), regardless of whether any such notice constitutes unfair or wrongful dismissal;
 - 7.5.2 the date of a notice given by a Shareholder to the Group terminating (or purporting to terminate) that Shareholder's employment, directorship or engagement with the Group (or, if later, the date specified in any such notice as being the termination date), regardless of whether any such notice may lawfully be given by the Shareholder;
 - 7.5.3 the date on which a repudiatory breach of any contract of employment or engagement by either the Shareholder or the Group is accepted by the other party to that contract;
 - 7.5.4 the date of any event which results in the termination of the contract of employment or engagement under the doctrine of frustration; or
 - 7.5.5 in any circumstances other than those specified in articles 7.5.1 to 7.5.4, the date on which the Shareholder actually ceases to be employed or engaged by the Group.
- 7.6 Notwithstanding any other provision of these Articles any Compulsory Transfer Shares shall, with effect from the date of a first instance Court decision relating to a Bad Leaver or the date of the relevant Compulsory Transfer Notice (or, if later, the date on which such Shares

are issued), cease to confer on the holder of those Shares any right to receive notice of, or attend, speak or vote at, any general meeting of the Company (or at any meeting of the holders of any class of Shares) or any right to receive or vote on any written resolution of the Company (or the holders of any class of Shares) or to receive any distribution of any kind until such time as either a final Court decision is made relating to a Bad Leaver or another person is entered in the register of members of the Company as the holder of those Compulsory Transfer Shares (or other Shares).

7.7 Articles 27(2)(a) and 28 of the Model Articles shall not apply to the Company.

8. **DRAG ALONG**

8.1 Subject to article 8.2, if a Majority wishes to transfer all their Shares (together the **Selling Shareholders**) to a Third Party Purchaser which has made an offer in excess of the Minimum Price, they shall have the option (a **Drag Along Option**) to require all of the other Shareholders (the **Continuing Shareholders**) to transfer all their Shares with full title guarantee to the Third Party Purchaser (or as the Third Party Purchaser shall direct) in accordance with this article 8.

8.2 A Shareholder in respect of whom a Compulsory Transfer Notice has been served in accordance with article 7 may not exercise (or join in exercising) the Drag Along Option under this article 8.

8.3 The Selling Shareholders shall exercise the Drag Along Option by giving notice to that effect (a **Drag Along Notice**) to each of the Continuing Shareholders at any time before the registration of the transfer of the Selling Shareholders' Shares. A Drag Along Notice shall specify:

8.3.1 that the Continuing Shareholders are required to transfer all their Shares (the **Continuing Shares**) pursuant to this article 8;

8.3.2 the identity of the Third Party Purchaser;

8.3.3 the consideration for which, or the price at which, the Continuing Shares are to be transferred, determined in accordance with article 8.5 (the **Drag Along Consideration**); and

8.3.4 the proposed date of transfer (if known).

8.4 A Drag Along Notice may be revoked by the Selling Shareholders at any time prior to the completion of the sale and purchase of the Continuing Shares.

8.5 The Drag Along Consideration shall be the same consideration per Continuing Share (in the same form and due at the same time(s)) as that offered, given, paid or payable by, or due from, the Third Party Purchaser in respect of each Share held by the Selling Shareholders together with the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the Selling Shareholders which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or consideration given in respect of the Shares held by those Selling Shareholders.

8.6 If the Drag Along Consideration cannot be agreed between the Third Party Purchaser and the holders of not less than 50% of the Continuing Shares within 10 Business Days of the date of service of the Drag Along Notice, such matter shall be referred for determination to the Accountants (in accordance with article 19) and, pending their determination, the sale or transfer of the Selling Shareholders' Shares shall have no effect and shall not be registered.

8.7 Upon the service of a Drag Along Notice each Continuing Shareholder is required, as a legally binding commitment, not to divulge or communicate to any third party either the fact that the Selling Shareholders wish to transfer their Shares to a Third Party Purchaser or any other information concerning the sale and purchase of any of the Selling Shareholders' Shares or the Continuing Shares pursuant to this article 8.

8.8 Completion of the sale and purchase of the Continuing Shares shall take place on the same date as completion of the sale and purchase of the Selling Shareholders' Shares (unless a Majority and at least 50% of the Continuing Shareholders shall agree otherwise).

- 8.9 Upon the service of a Drag Along Notice each Continuing Shareholder shall be deemed to have irrevocably appointed each of the Selling Shareholders (severally) as the agent of the Continuing Shareholder to execute, in the name of and on behalf of that Continuing Shareholder, any stock transfer form and covenant for full title guarantee in respect of the Continuing Shares registered in the name of that Continuing Shareholder and to do such other things as the agent may consider necessary or desirable to transfer and complete the sale of the Continuing Shares pursuant to this article 8.
- 8.10 The provisions of this article 8 shall prevail over any contrary provisions of these Articles and, for the avoidance of doubt, the rights of pre-emption on transfer of Shares contained in article 6 shall not apply to the transfer of any Shares to a Third Party Purchaser named in a Drag Along Notice (or as that Third Party Purchaser may direct). Any Transfer Notice served in respect of a Share which has not been allocated to a Buyer in accordance with article 6 shall automatically be revoked by the service of a Drag Along Notice.
- 8.11 Upon any person (a **New Shareholder**) becoming, at any time after the service of a Drag Along Notice, a registered holder of any Share pursuant to the exercise of any option, warrant or other right to subscribe for or acquire Shares, a Drag Along Notice, on the same terms as the then current Drag Along Notice, shall immediately be deemed to have been served upon that New Shareholder. Upon the deemed service of a Drag Along Notice pursuant to this article 8.11 the New Shareholder shall become bound to sell and transfer to the Third Party Purchaser (or as the Third Party Purchaser may direct) any Share acquired by him as a result of the exercise of any such option, warrant or other right to subscribe for or acquire Shares. The provisions of this article 8 shall apply mutatis mutandis to the sale of any such Shares by such New Shareholder provided that completion of the sale and purchase of those Shares shall take place on whichever is the later of:
- 8.11.1 the date on which a Drag Along Notice is deemed to have been served on the New Shareholder pursuant to this article 8.11; and
- 8.11.2 the date of completion of the sale and purchase of the Continuing Shares pursuant to the original Drag Along Notice.

9. **TAG ALONG**

- 9.1 Save in the case of a transfer of Shares which is permitted in accordance with the provisions of article 5, but otherwise notwithstanding any other provision of these Articles, no sale or other disposition of any Shares (the **Committed Shares**) which would result in a Change of Control shall be made or registered unless before the transfer is lodged for registration:
- 9.1.1 a Majority has consented to such transfer; and
- 9.1.2 the relevant Third Party Purchaser has made a bona fide offer (a **Tag Along Offer**) by notice in writing (a **Tag Along Notice**) to acquire, in accordance with this article 9, from all the Shareholders other than the Third Party Purchaser (or persons connected with or acting in concert with him) all the Shares which are not Committed Shares (the **Uncommitted Shares**) for the consideration, or at the price, (the **Tag Along Consideration**) calculated in accordance with articles 9.3 and 9.4.
- 9.2 A Tag Along Notice shall:
- 9.2.1 state the Tag Along Consideration (subject to article 9.4);
- 9.2.2 state the identity of the Third Party Purchaser;
- 9.2.3 invite the relevant offerees to respond in writing to the Third Party Purchaser stating that they wish to accept the Tag Along Offer; and
- 9.2.4 subject to article 9.4.1, expire, and the offer made in the Tag Along Notice to an offeree shall be deemed to be withdrawn if not previously accepted by such offeree, on the date (being not less than 5 nor more than 20 Business Days after the date of service of the Tag Along Notice) specified in the Tag Along Notice.
- 9.3 For the purposes of this article 9 the Tag Along Consideration shall be the same consideration per Uncommitted Share (in the same form and due at the same time(s)) as

that offered, given, paid or payable by, or due from, the Third Party Purchaser in respect of each Committed Share together with the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Committed Shares which, having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or consideration given in respect of the Committed Shares.

- 9.4 If the Tag Along Consideration cannot be agreed between the Third Party Purchaser and the holders of not less than 50% of the Uncommitted Shares within 10 Business Days of the date of service of the Tag Along Notice, such matter shall be referred for determination to the Accountants (in accordance with article 19) and, pending their determination:

9.4.1 the period specified in the Tag Along Notice for acceptance of the Tag Along Offer shall not start to run until such time as the Accountants' determination of the Tag Along Consideration is served on the Third Party Purchaser and the Shareholders holding Uncommitted Shares; and

9.4.2 the sale or transfer of the Committed Shares shall have no effect and shall not be registered.

10. **GENERAL MEETINGS**

- 10.1 No business shall be transacted at any general meeting unless the requisite quorum is present at the commencement of the business and also when such business is voted upon. Subject to article 10.2, two Shareholders (each of whom must have entered into or duly adhered to the Shareholders' Agreement), present either in person or by proxy shall be a quorum.

- 10.2 Any Leaving Shareholder in respect of whom a Compulsory Transfer Notice has been served pursuant to article 7 shall not be required in order to form a quorum at any general meeting.

- 10.3 Article 41 of the Model Articles shall be amended by the addition of the following as a new paragraph 41(7) in that article: "If within half an hour of the time appointed for the holding of an adjourned meeting a quorum is not present, the meeting shall be dissolved".

- 10.4 Any Director may chair general meetings.

- 10.5 A poll may be demanded at any general meeting by:

10.5.1 the chairman; or

10.5.2 by any Shareholder present (in person, by proxy or by a duly appointed corporate representative) and entitled to vote on the relevant resolution.

Article 44(2) of the Model Articles shall not apply to the Company.

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

- 10.7 Article 45(1) of the Model Articles shall be amended as follows:

10.7.1 by the deletion of the words in Article 45(1)(d) and the insertion of the following in their place: "is delivered to the Company in accordance with the articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate."; and

10.7.2 by the insertion of the following as a new paragraph at the end of Article 45(1): "and a proxy notice which is not delivered in such manner shall be invalid".

11. **APPOINTMENT AND REMOVAL OF DIRECTORS**

- 11.1 The number of Directors (other than alternate directors) shall be not less than two.

- 11.2 Article 17 of the Model Articles shall not apply to the Company.

- 11.3 Each Shareholder who from time to time holds in aggregate not less than 50% of the Shares shall have the right, exercisable from time to time and on more than one occasion, to

appoint one natural person to be a Director and, from time to time and on more than one occasion, to remove any such person so appointed.

- 11.4 Any appointment or removal pursuant to article 11.3 shall be made by notice in writing to the Company signed by or on behalf of the relevant Shareholder(s). Such notice (which may consist of several documents in similar form each signed by or on behalf of one or more Shareholders) must be left at or sent by post to the registered office of the Company and the appointment or removal (as the case may be) shall take effect when the notice is received by the Company or, if later, on such date (if any) as may be specified in the notice.
- 11.5 Subject to section 168 of the Act, on any resolution to remove a Director appointed pursuant to article 11.3 Shares held by the Shareholder(s) who appointed that Director shall together carry one vote in excess of 50% of all the other votes exercisable in relation to such resolution and if any such Director is removed pursuant to section 168 of the Act (or otherwise) that Shareholder(s) may reappoint him or any other person as a Director.
- 11.6 In any case where, as a result of death or bankruptcy, the Company has no Shareholders and no Directors, the transmittee(s) of the last Shareholder to have died or to have a bankruptcy order made against him (as the case may be) has the right, by notice in writing, to appoint a natural person who is willing to act and is permitted to do so, to be a Director. Article 27(3) of the Model Articles shall be modified accordingly.

12. **ALTERNATE DIRECTORS**

- 12.1 Any Director (in this article 12, an **appointor**) may appoint as an alternate any other Director, or any other person approved by resolution of the Directors, to:
- 12.1.1 exercise that Director's powers; and
 - 12.1.2 carry out that Director's responsibilities,
- in relation to the taking of decisions by the Directors, in the absence of the alternate's appointor.
- 12.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the Directors.
- 12.3 The notice must:
- 12.3.1 identify the proposed alternate; and
 - 12.3.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice.
- 12.4 An alternate Director may act as alternate director to more than one Director and has the same rights in relation to any decision of the Directors as the alternate's appointor.
- 12.5 Save as provided otherwise in these Articles, alternate Directors:
- 12.5.1 are deemed for all purposes to be Directors;
 - 12.5.2 are liable for their own acts and omissions;
 - 12.5.3 are subject to the same restrictions as their appointors; and
 - 12.5.4 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.
- 12.6 A person who is an alternate Director but not a Director:
- 12.6.1 may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating);
 - 12.6.2 may participate in a unanimous decision of the Directors (but only if his appointor is an Eligible Director in relation to that decision and does not himself participate); and

- 12.6.3 shall not be counted as more than one Director for the purposes of articles 12.6.1 and 12.6.2.
- 12.7 A Director who is also an alternate Director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the Directors (provided that his appointor is an Eligible Director in relation to that decision), but shall not count as more than one Director for the purposes of determining whether a quorum is present.
- 12.8 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the remuneration of the alternate's appointor as the appointor may direct by notice in writing to the Company. An alternate Director shall be entitled to be reimbursed by the Company such expenses as might properly be reimbursed to him if he were a Director.
- 12.9 The appointment of an alternate Director terminates:
- 12.9.1 when the alternate's appointor revokes the appointment by notice in writing to the Company specifying when it is to terminate;
 - 12.9.2 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;
 - 12.9.3 on the death of the alternate's appointor;
 - 12.9.4 when the appointment of the alternate's appointor as a Director terminates; or
 - 12.9.5 when written notice from the alternate, resigning his office, is received by the Company.

13. **PROCEEDINGS OF DIRECTORS**

13.1 **Notice**

Unless agreed otherwise by the Shareholders:

- 13.1.1 meetings of the Directors may be convened by any Director by not less than five Business Days' notice provided that a meeting of the Directors may be convened by not less than 48 hours' notice if:
- (a) the interests of the Company would, in the reasonable opinion of a Shareholder, be likely to be materially and adversely affected if the business to be transacted at that meeting were not dealt with as a matter of urgency; or
 - (b) a Majority agrees in writing (which may be by email or other electronic means); and
- 13.1.2 notice of each meeting of the Directors shall be sent to each Director (and any alternate duly appointed in accordance with article 12) at the address or email address notified to the Company for this purpose by each such Director or alternate. Each notice of a meeting shall be accompanied by a full agenda and supporting papers and each meeting shall only deal with the business set out in that agenda.

Article 9(1) of the Model Articles shall not apply to the Company.

13.2 **Quorum**

Where the Company has three or more Directors, three Eligible Directors present either in person or by a duly appointed alternate, shall be a quorum for any meeting of the Directors. No business shall be transacted at any meeting of the Directors unless the requisite quorum is present at the commencement of the business and also when such business is voted upon. Article 11(2) of the Model Articles shall not apply to the Company.

13.3 **Voting**

- 13.3.1 Subject to article 13.3.2 and save as agreed otherwise in writing by a Majority:

- (a) all decisions made at any meeting of the Directors (or of any committee of the Directors) shall be made by resolution and any such resolution shall be decided by a majority of votes; and
 - (b) at any Board meeting each Eligible Director present shall be entitled to cast one vote on each issue put to a vote.
- 13.3.2 Any Director appointed by a Leaving Shareholder upon whom a Compulsory Transfer Notice has been served pursuant to article 7 shall not be entitled to vote at a meeting of the Directors.
- 13.3.3 If the number of votes for and against a proposal at a Directors' meeting is equal the chairman shall not have a casting vote. Article 13 of the Model Articles shall not apply to the Company.

13.4 **Adjournment**

If within 30 minutes of the time appointed for a meeting of the Directors there is no quorum present, the Director(s) present shall adjourn the meeting to a place and time not less than three Business Days later and shall procure that notice of such adjourned meeting is given to each Director in accordance with article 13.1. If at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the adjourned meeting the meeting shall be dissolved.

13.5 **Miscellaneous**

Article 16 of the Model Articles shall be amended by the insertion of the following words after the word "may": "with the prior written consent of a Majority".

14. **TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY**

- 14.1 Subject to sections 177 and 182 of the Act and (where applicable) to any terms and conditions imposed by the Directors under article 15.3, 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:

- 14.1.1 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;
- 14.1.2 shall be an Eligible Director for the purposes of any proposed decision of the Directors (or a committee of Directors) in respect of such transaction or arrangement, or proposed transaction or arrangement, in which he is interested;
- 14.1.3 shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) or participate in any unanimous decision of the Directors, in respect of such transaction or arrangement, or proposed transaction or arrangement, in which he is interested;
- 14.1.4 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;
- 14.1.5 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
- 14.1.6 shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

- 14.2 Articles 14(1) to 14(4) of the Model Articles shall not apply to the Company.
15. **DIRECTORS' CONFLICTS OF INTEREST**
- 15.1 The Directors may, in accordance with the requirements set out in this article 15, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director breaching his duty under section 175 of the Act to avoid situations which conflict or possibly may conflict with the interests of the Company (a **Conflict**).
- 15.2 Any authorisation under this article will be effective only if:
- 15.2.1 the matter in question shall have been proposed by any Director for consideration at a meeting of Directors in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine;
 - 15.2.2 any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question; and
 - 15.2.3 the matter was agreed to without the Director in question or would have been agreed to if his vote had not been counted.
- 15.3 Any authorisation of a Conflict under this article 15 shall be in recorded in writing (but the authorisation shall be effective whether or not the terms are so recorded) and may, whether at the time of giving the authorisation or subsequently:
- 15.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
 - 15.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the Directors may determine; and
 - 15.3.3 be terminated or varied by the Directors at any time.
- This will not affect anything done by the Director prior to such termination or variation in accordance with the terms of the authorisation.
- 15.4 In authorising a Conflict the Directors may decide (whether at the time of giving the authorisation or subsequently) that if a Director has obtained any information through his involvement in the Conflict otherwise than as a director of the Company and in respect of which he owes a duty of confidentiality to another person, the Director is under no obligation to:
- 15.4.1 disclose such information to the Directors or to any Director or other officer or employee of the Company; or
 - 15.4.2 use or apply any such information in performing his duties as a Director,
- where to do so would amount to a breach of that confidence.
- 15.5 Where the Directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the Director:
- 15.5.1 is excluded from discussions (whether at meetings of Directors or otherwise) related to the Conflict;
 - 15.5.2 is not given any documents or other information relating to the Conflict; and
 - 15.5.3 may or may not vote (or may or may not be counted in the quorum) at any future meeting of Directors in relation to any resolution relating to the Conflict.
- 15.6 Where the Directors authorise a Conflict:
- 15.6.1 the relevant Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict; and
 - 15.6.2 the Director will not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the Directors impose in respect of their authorisation.

- 15.7 A Director may, notwithstanding his office, be a director or other officer of, or employed by or otherwise interested in, a Shareholder who appointed him as a Director (or any company which is for the time being a subsidiary or holding company of that Shareholder or another subsidiary of such holding company) and no authorisation under article 15.1 shall be necessary in respect of such interest.
- 15.8 Any Director appointed pursuant to article 11.3 shall be entitled from time to time to disclose to the Shareholder(s) who appointed him such information concerning the business and affairs of the Company as he may, in his absolute discretion, see fit.
- 15.9 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.

16. **SERVICE OF DOCUMENTS**

- 16.1 Any notice, document or other information given in accordance with these Articles shall be deemed served on or delivered to the intended recipient:

- 16.1.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted;
- 16.1.2 if properly addressed and sent by reputable international overnight courier to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, five Business Days after posting provided that delivery in at least five Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider;
- 16.1.3 if properly addressed and delivered by hand, when it was given or left at the appropriate address;
- 16.1.4 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
- 16.1.5 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.

For the purposes of this article 16.1, no account shall be taken of any part of a day that is not a working day.

- 16.2 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.

17. **INDEMNITY**

- 17.1 Subject to article 17.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

- 17.1.1 each relevant officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:
 - (a) in the actual or purported execution and/or discharge of his duties, or in relation to them; and
 - (b) in relation to the activities of the Company (or any associated company) as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is

acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company (or any associated company); and

- 17.1.2 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 17.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 17.2 This article 17 does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.
- 17.3 In this article 17 and in article 18:
- 17.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- 17.3.2 a **relevant officer** means any director or other officer or former director or other officer of the Company or any associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or any associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).
- 17.4 Article 52 of the Model Articles shall not apply to the Company.

18. **INSURANCE**

- 18.1 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any loss or liability which has been or may be incurred by that relevant officer in connection with his duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the Company or associated company.
- 18.2 Article 53 of the Model Articles shall not apply to the Company.

19. **ACCOUNTING DISPUTES**

Where these Articles provide for any dispute in relation to a particular matter to be determined pursuant to this article 19, such dispute shall be referred, at the request of any Shareholder or Director, to the Accountants. The decision of the Accountants (who shall be deemed to act as an expert and not as an arbitrator) shall, save in the event of fraud or manifest error, be final and binding on the Company and the Shareholders. The cost of such reference shall be borne as directed in the relevant article or, where no such direction is given, by the party or parties named by the Accountants (taking into account the conduct of the parties and the merits of their respective arguments in relation to any matters in dispute) or, where no such party is named by the Accountants, equally by the parties concerned.

20. **MISCELLANEOUS**

Articles 36, 43 and 51 of the Model Articles shall not apply to the Company.

21. **SECRETARIES**

The Directors may, subject to the terms of the Shareholders' Agreement, appoint any two persons who are willing to act as joint secretaries of the Company for such term, on such remuneration and on such conditions as they may think fit and may from time to time remove or replace such person.