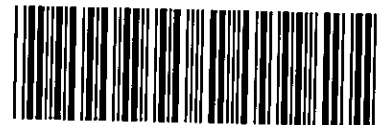


THE COMPANIES ACT 1985  
PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION  
of  
LAMELLAR BIOMEDICAL LIMITED

amended by special resolution on 31 August 2009

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**THE COMPANIES ACT 1985**  
**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION<sup>1</sup>**  
**of**  
**LAMELLAR BIOMEDICAL LIMITED**

**1. INTRODUCTION**

- 1.1 The Regulations contained or incorporated in Table A in the Schedule to the Companies (Tables A to F) Regulations 1985 as amended by The Companies (Tables A to F) Amendment Regulations 1985 ("**Table A**") shall apply to the Company, save insofar as they are varied or excluded by, or are inconsistent with, the following Articles.
- 1.2 In Regulation 1 of Table A, the words "and in articles of association adopting the same" shall be inserted after the word "Regulations" in the last paragraph of that Regulation and the sentence "Any reference to any statutory provision shall be deemed to include a reference to each and every statutory amendment, modification, re-enactment and extension thereof for the time being in force" shall be inserted at the end of that Regulation.
- 1.3 In these Articles:
- 1.3.1 article headings are used for convenience only and shall not affect the construction or interpretation of these Articles;
- 1.3.2 words denoting the singular include the plural and vice versa and reference to one gender includes the other gender and neuter and vice versa; and
- 1.3.3 Regulations 8, 29, 30, 31, 54, 62, 73 to 77 (inclusive), 80, 82, 94 to 98 (inclusive) 101, 115 and 118 of Table A shall not apply to the Company.

**2. DEFINITIONS**

In these Articles the following words and expressions shall have the following meanings:

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

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

**Accounts** means the audited balance sheet and profit and loss account of the Company or, if at the relevant time the Company has any ~~Subsidiary Undertaking(s)~~, a consolidation of the audited balance sheets and profit and loss accounts of the Company and its Subsidiary Undertaking(s), for each Financial Year;

**Act** means the Companies Acts 1985, 1989 and 2006 (as amended from time to time);

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

**Associate** in relation to any person means:

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<sup>1</sup> As amended by written resolution passed on 31 AUGUST 2009

- (a) any person who is an associate of that person and the question of whether a person is an associate of another is to be determined in accordance with section 435 of the Insolvency Act 1986 and (whether or not an associate as so determined);
- (b) any Member of the same Group;

**Auditors** means the auditors of the Company from time to time;

**Available Profits** means profits available for distribution within the meaning of part VIII of the Companies Act 1985;

**Bad Leaver** means the cessation of (i) employment with the Company or any Group Company or (ii) holding the office of Director or consultant of the Company or any Group Company, other than:

- (a) by reason of wrongful dismissal of the employee;
- (b) by reason of the employee leaving employment for reasons of ill health or disability as certified to the Board's reasonable satisfaction by an independent doctor or where the death or long term illness or disability of a spouse, parent, long term partner or child of the employee makes it reasonably necessary for the employee to provide care by himself or herself to that spouse, parent, partner or child;
- (c) by reason of the unfair dismissal of the employee;
- (d) by reason of the dismissal of the employee by reason of redundancy;
- (e) by reason of the death of the employee, consultant or the Director (as the case may be);
- (f) by reason of the retirement of the employee, Director or consultant at the normal retirement of 65 years of age (or such other date as is mutually agreed between the Company or any Group Company and the Director/consultant/employee (as the case may be));
- (g) by reason of the removal of a Director and employee as Director in circumstances where simultaneous dismissal as an employee would fall within the categories in paragraphs (a) or (c) above;
- (h) where such cessation occurs after the fifth anniversary of the date of commencement of employment or holding of office or 28 June 2008 (whichever is later), except where such cessation occurs in circumstances justifying summary dismissal of an employee (including without limitation gross misconduct or dishonesty);
- (i) by reason of the unlawful termination by the Company or any Group Company of the letter of appointment for the services of any non-executive Director or the non-renewal of the said letter of appointment at the instance of the Company or any such Group Company;
- (j) by reason of the unlawful termination by the Company or any Group Company of the consultancy contract for the services of any consultant or the non-renewal of the said consultancy contract at the end of its term at the instance of the Company or any such Group Company.

**Barwell** means Barwell PLC, a public limited company incorporated under the Companies Acts in Scotland with registered number SC142927 and having its registered office at Sterling House, 20 Renfield Street, Glasgow, G2 5AP;

**Barwell Group** means Barwell, Lord Gough, any subsidiary or holding company or member for the time being of Barwell, or any body of persons which shall have acquired the whole or substantially the whole of the undertaking of Barwell and the expression "member of the Barwell Group" shall be construed accordingly;

**Board** means the board of Directors and any committee of the board constituted for the purpose of taking any action or decision contemplated by these Articles;

**Business Day** means a day on which Scottish clearing banks are ordinarily open for the transaction of normal banking business in Glasgow (other than a Saturday or Sunday);

**Civil Partner** means in relation to a Shareholder, a civil partner (as defined in the Civil Partnerships Act 2004) of the Shareholder;

**Company** means Lamellar Biomedical Limited;

**Controlling Interest** means an interest in shares giving to the holder or holders control of the Company within the meaning of section 840 of ICTA;

**Conversion Date** has the meaning given in Article 8.1;

**Date of Adoption** means 28 June 2008;

**Director(s)** means a director or directors of the Company from time to time;

**Effective Termination Date** means the date on which the Employee's employment or consultancy terminates;

**Employee** means an individual who is employed by or who provides consultancy services to, the Company or any member of the Group;

**Employee Shares** in relation to an Employee means all Ordinary Shares or 'A' Ordinary Shares in the Company held by:

- (a) the Employee in question; and
- (b) by any **Permitted Transferee** of that Employee other than those Ordinary Shares held by those persons that an Investor Majority declares itself satisfied were not acquired directly or indirectly from the Employee or by reason of his/her relationship with the Employee;

**Employee Trust** means a trust, the terms of which are approved by the Investor Majority, whose beneficiaries are the Employees;

**Encumbrance** means any mortgage, charge, security, interest, lien, pledge, assignment by way of security, equity, claim, right of pre-emption, option, covenant, restriction, reservation, lease, trust, order, decree, judgment, title defect (including without limitation any retention of title claim), conflicting claim of ownership or any other encumbrance of any nature whatsoever (whether or not perfected other than liens arising by operation of law);

**Expert Valuer** is as determined in accordance with Article 13.2;

**Fair Value** is as determined in accordance with Article 13.3;

**Family Trusts** means as regards any particular individual member or deceased or former individual member, trusts (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the shares in question is for the time being vested in any person other than the individual and/or Privileged Relations of that individual; and so that for this purpose a person shall be considered to be beneficially interested in a share if such share or the income thereof is liable to be transferred or paid or applied or appointed to or for the benefit of such person or any voting or other rights attaching thereto are exercisable by or as directed by such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons;

**Financial Year and Financial Period** means an accounting reference period (as defined by the Act) of the Company;

**Founder** means Dr James Waugh Dobbie, of 26 Firhill Avenue, Airdrie, ML6 9DZ;

**Group** means the Company and its Subsidiary Undertaking(s) (if any) from time to time and **Group Company** shall be construed accordingly;

**ICTA** means the Income and Corporation Taxes Act 1988;

**Investment Agreement** means the investment agreement dated on or around the Date of Adoption between, inter alia, the Company and the Investors;

**Investors** means Barwell, Alec Mackie, residing at 21 Cleveden Gardens, Glasgow, G12 0PU, those Tri Capital Members who have subscribed for Shares on or around the Date of Adoption and Scottish Enterprise, and, in each case, their Permitted Transferees;

**Investor Director Consent** means the prior written consent of all the Investor Directors and if any Investor has not appointed an Investor Director, the consent of the relevant Investor;

**Investor Directors** means such directors of the Company nominated by the Investors under Article 23.1;

**Investor Majority** means the holders from time to time of more than 50% of the A Ordinary Shares;

**Investor Majority Consent** means the prior written consent of the Investor Majority;

**IPO** means the admission of all or any of the Shares or securities representing those shares (including without limitation American depositary receipts, American depositary shares and/or other instruments) to or the grant of permission by any like authority for the same to be traded or quoted on Nasdaq or on the Official List of the United Kingdom Listing Authority or on the AIM Market operated by the London Stock Exchange Plc or any other recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000);

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

**Issue Price** means the price at which the relevant Share is issued, including any premium;

**Loan Notes** means loan notes issued pursuant to the loan note instrument constituting £2,250,000 of convertible unsecured loan notes to be created by the Board on or around the date hereof;

**Lord Gough** means the Right Honourable Viscount Gough residing 17 Stanhope Gardens, London SW7 5RQ;

**a Member of the same Group** means as regards any company, a company which is from time to time a Parent Undertaking or a Subsidiary Undertaking of that company or a Subsidiary Undertaking of any such Parent Undertaking and shall, in relation to:

- (a) Scottish Enterprise, include reference to any Member of the Scottish Enterprise Group; and
- (b) Barwell, include reference to any member of the Barwell Group;

**Nasdaq** means the Nasdaq National Stock Market of the Nasdaq Stock Market Inc.;

**Mr Morrison** means William Stuart Morrison residing at Timbertops, Purdis Farm Lane, Ipswich IP3 8UF

**New Securities** means any shares or other securities convertible into, or carrying the right to subscribe for those shares, issued by the Company after the Date of Adoption;

**Ordinary Shareholders** means the holders from time to time of the Ordinary Shares;

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

**Permitted Transfer** means a transfer of Shares in accordance with Article 11;

**Permitted Transferee** means:

- (a) in relation to a Shareholder who is an individual:
  - (i) any of his Privileged Relations or Trustees;
  - (ii) where that individual is a Tri Capital Member, any other Tri Capital Member;
- (b) in relation to a Shareholder which is an undertaking (as defined in section 259(1) of the Act) or in relation to any Investor, any Member of the same Group;
- (c) in relation to any Investor:
  - (i) any other Investor; or
  - (iii) a nominee of an Investor;

**Priority Rights** means the rights of Shareholders to purchase Shares contained in a Transfer Notice in the priority stipulated in Article 12 or Article 15 (as the case may be);

**Privileged Relation** in relation to a Shareholder who is an individual member or deceased or former member means a spouse, Civil Partner, child or grandchild (including step or adopted or illegitimate child and their issue);

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

**Proposed Seller** means any person proposing to transfer any shares in the capital of the Company;

**Sale Shares** has the meaning set out in Article 12.2.1 of these Articles;

**Seller** has the meaning set out in Article 12.2 of these Articles;

**Scottish Enterprise** means Scottish Enterprise, established by the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at 5 Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU;

**Scottish Enterprise Group** means Scottish Enterprise, any subsidiary for the time being of Scottish Enterprise and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of Scottish Enterprise or any subsidiary of such company, corporation or body and any other body to which the statutory functions of Scottish Enterprise have been delegated or a Scottish Enterprise Successor and the expression "member of the Scottish Enterprise Group" shall be construed accordingly;

**Scottish Enterprise Successor** means any party succeeding in whole or in part to the interest of Scottish Enterprise;

**Shareholder** means any holder of any Shares;

**Shares** means the Ordinary Shares and the A Ordinary Shares from time to time;

**Subsidiary, Subsidiary Undertaking and Parent Undertaking** have the meanings set out in the Act;

**Transfer Notice** shall have the meaning given in Article 12.2;

**Transfer Price** shall have the meaning given in Article 12.2.3;

**Tri Capital** means Tri Capital Limited, incorporated under the Companies Acts in Scotland with registered number SC275932 and having its registered office at St Dunstons House, High Street, Melrose, Roxburghshire, TD6 9RU;

**Tri Capital Member** means any member of Tri Capital from time to time (and for these purposes, a member means a member of Tri Capital as a company limited by guarantee and/or a person who is recognised by Tri Capital as being a member of its investment club having signed a club membership application form);

**Trustees** in relation to a Shareholder means the trustee or the trustees of a Family Trust.

### **3. SHARE CAPITAL**

- 3.1 The authorised share capital of the Company at the Date of Adoption is £980.00 divided into 88,000 A Ordinary Shares and 10,000 Ordinary Shares.
- 3.2 In these Articles, unless the context requires otherwise, references to shares of a particular class shall include shares created and/or issued after the Date of Adoption and ranking pari passu in all respects (or in all respects except only as to the date from which those shares rank for dividend) with the shares of the relevant class then in issue.
- 3.3 Except as otherwise provided in these Articles, the A Ordinary Shares and the Ordinary Shares shall rank pari passu in all respects but shall constitute separate classes of shares.

### **4. DIVIDENDS**

Subject to the Act and these Articles, the Board may, provided Investor Majority Consent is given, pay interim dividends if justified by the Available Profits in respect of the relevant period. Every dividend shall be distributed to the holders of the shares (pari passu as if the same constituted one class of share) pro rata according to the number of Shares held by them respectively.

### **5. VOTES IN GENERAL MEETING**

- 5.1 A Ordinary Shares shall confer on each holder of A Ordinary Shares the right to receive notice of and to attend, speak and vote at all general meetings of the Company.
- 5.2 The Ordinary Shares shall confer on each holder of Ordinary Shares the right to receive notice of and to attend, speak and vote at all general meetings of the Company.
- 5.3 Where Shares confer a right to vote, on a show of hands each holder of such shares who (being an individual) is present in person or by proxy or (being a corporation) is present by a duly authorised representative or by proxy shall have one vote and on a poll each such holder so present shall have one vote for each Share held by him.

### **6. CONVERSION OF A ORDINARY SHARES**

- 6.1 The Investor Majority shall be entitled, by notice in writing to the Company, to require conversion into Ordinary Shares of all of the A Ordinary Shares then in issue at any time and those A Ordinary Shares shall convert automatically on the date stipulated in such notice (being a date following the date of the notice) (the "**Conversion Date**"). The Investor Majority may in such notice, state that conversion of the A Ordinary Shares into Ordinary Shares is conditional upon the occurrence of particular events (the "**Conditions**").
- 6.2 All of the A Ordinary Shares shall automatically convert into Ordinary Shares immediately upon the occurrence of an IPO.
- 6.3 In the case of (i) Article 6.1, at least 5 Business Days after the Conversion Date or (ii) in the case of Article 6.2, at least 5 Business Days prior to the occurrence of the IPO, each holder of the relevant A Ordinary Shares shall deliver the certificate (or an indemnity in a form reasonably satisfactory to the Board in respect of any lost certificate(s)) in respect of the shares being converted for such shares to the Company at its registered office for the time being.



- 6.4 Where conversion is mandatory on the occurrence of a IPO, that conversion will be effective only immediately prior to such IPO (and "**Conversion Date**" shall be construed accordingly) and, if such IPO does not become effective or does not take place, such conversion shall be deemed not to have occurred. In the event of a conversion under Article 6.1, if the Conditions have not been satisfied or waived by the Investor Majority by the Conversion Date such conversion shall be deemed not to have occurred.
- 6.5 On the Conversion Date, the relevant A Ordinary Shares shall without further authority than is contained in these Articles stand converted into Ordinary Shares on the basis of one Ordinary Share for each A Share held and the Ordinary Shares resulting from that conversion shall in all other respects rank pari passu with the existing issued Ordinary Shares.
- 6.6 The Company shall on the Conversion Date enter the holder of the converted A Ordinary Shares on the register of Shareholders of the Company as the holder of the appropriate number of Ordinary Shares and, subject to the relevant holder delivering its certificate(s) (or indemnity) in respect of the A Ordinary Shares in accordance with this Article, the Company shall within 10 Business Days of the Conversion Date forward to such holder of A Ordinary Shares by post to his address shown in the register of Shareholders, free of charge, a definitive certificate for the appropriate number of fully paid Ordinary Shares.
- 6.7 On the Conversion Date (or as soon afterwards as it is possible to calculate the amount payable), the Company will, if it has sufficient Available Profits, pay to holders of the A Ordinary Shares falling to be converted and to the holders of the Ordinary Shares on the date immediately preceding the Conversion Date a dividend equal to all accruals of dividends in relation to those A Ordinary Shares and Ordinary Shares to be calculated on a daily basis down to and including the day immediately preceding the Conversion Date. If the Company has insufficient Available Profits to pay all such accruals of dividends in full then it will pay the same to the extent that it is lawfully able to do so and any accruals of dividends that remain outstanding shall continue to be at debt due from and immediately payable by the Company.

## **7. VARIATION OF RIGHTS**

- 7.1 Whenever the share capital of the Company is divided into different classes of shares, the special rights attached to any such class may only be varied or abrogated (either whilst the Company is a going concern or during or in contemplation of a winding-up) with the consent in writing of the holders of more than 66 per cent. in nominal value of the issued shares of that class.
- 7.2 Without prejudice to the generality of Article 7.1, the special rights attaching to the A Ordinary Shares shall be deemed to be varied by the occurrence of the following events:
- 7.2.1 the amendment or repeal of any provision of, or addition of any provision to the Articles;
  - 7.2.2 the alteration of the authorised or issued share capital of the Company or creation of any securities;
  - 7.2.3 the reduction of the amount standing to the credit of the share premium account or capital redemption reserve other than as expressly provided for in these Articles;
  - 7.2.4 the approval of any merger, liquidation, dissolution or acquisition of the Company or sale of all or a substantial part of the business, undertaking or assets of the Company;
  - 7.2.5 the purchase by the Company of any Ordinary Shares;
  - 7.2.6 the acquisition of any shares or other securities;
  - 7.2.7 the making of any bonus issue of shares or debenture stock;
  - 7.2.8 the entering into of a voluntary winding-up;
  - 7.2.9 the transferring of any profits to reserves and the taking of any action (excluding

payment of dividends) which will raise or may reduce the amount of the profits of the Company available for distribution;

7.2.10 any member of the Group doing any of the events described in paragraphs 7.2.1 to 7.2.9 above;

7.2.11 the Company or a member of the Group incurring any obligation to do any of the events described in paragraphs 7.2.1 to 7.2.9.

7.3 The creation of a new class of shares which has preferential rights to one or more existing classes of shares shall not, except as provided in Article 7.2, constitute a variation of the rights of those existing classes of shares.

## **8. ALLOTMENT OF NEW SHARES OR OTHER SECURITIES: PRE-EMPTION**

8.1 Subject to the remaining provisions of this Article 8, the Directors are generally and unconditionally authorised for the purpose of section 80 of the Act to exercise any power of the Company to:

8.1.1 offer, allot or grant rights to subscribe for, or

8.1.2 convert securities into, or

8.1.3 otherwise deal in, or dispose of,

any Shares or any other relevant securities in the Company to any persons, at any times and subject to any terms and conditions as the Directors think proper, provided that:

(a) this authority shall be limited to a maximum nominal amount of Shares equal to the amount of the authorised but unissued share capital of the Company immediately following the Date of Adoption;

(b) this authority shall only apply insofar as the Company in general meeting has waived or revoked it;

(c) this authority may only be exercised for a period of five years commencing upon the Date of Adoption, save that the Directors may make an offer or agreement which would or might require relevant securities to be allotted after the expiry of such authority (and the Directors may allot relevant securities in pursuance of an offer or agreement as if such authority had not expired).

8.2 In accordance with section 91(1) of the Act, sections 89(1) and 90(1) to (6) (inclusive) of the Act do not apply to an allotment of equity securities made by the Company.

8.3 Subject to Article 8.8, unless otherwise agreed by special resolution or by written resolution passed in accordance with sections 381A of the Act or regulation 53 of Table A, if the Company proposes to allot any New Securities those New Securities shall not be allotted to any person unless the Company has in the first instance offered them to all holders of Shares on the same terms and at the same price as those New Securities are being offered to other persons on a pari passu and pro rata basis to the number of Shares held by those holders (as nearly as may be without involving fractions). The offer:

8.3.1 shall be in writing, give details of the number and subscription price of the New Securities; and

8.3.2 may stipulate that any Shareholder who wishes to subscribe for a number of New Securities in excess of the proportion to which each is entitled shall in their acceptance state the number of excess New Securities ("Excess Securities") for which they wish to subscribe.

8.4 Any New Securities not accepted by Shareholders pursuant to the offer made to them in accordance with Article 8.3 shall be used for satisfying any requests for Excess Securities made pursuant to Article 8.3 and in the event that there are insufficient Excess Securities to

satisfy such requests, the Excess Securities shall be allotted to the applicants on a pro rata basis to the number of Shares held by the applicants immediately prior to the offer made to Shareholders in accordance with Article 8.3 (as nearly as may be without involving fractions or increasing the number allotted to any Shareholder beyond that applied for by him) and after that allotment, any Excess Securities remaining shall be offered, subject to Article 8.6, to any other person as the Directors may determine at the same price and on the same terms as the offer to the Shareholders.

- 8.5 Subject to Articles 8.3 and 8.4 and to the provisions of section 80 of the Act, any New Securities shall be at the disposal of the Board who may allot, grant options over or otherwise dispose of them to any persons at those times and generally on the terms and conditions they think proper, provided that the allotment to that person must be approved in writing by an Investor Majority.
- 8.6 The provisions of Articles 8.3 to 8.5 shall not apply to:
- 8.6.1 New Securities issued or granted in order for the Company to comply with its obligations under these Articles;
  - 8.6.2 New Securities issued in consideration of the acquisition by the Company of any company or business which has been approved in writing by an Investor Majority;
  - 8.6.3 subject to Article 8.8 below, New Securities which the Investor Majority have agreed in writing should be issued without complying with the procedure set out in this Article 8;
  - 8.6.4 New Securities issued as a result of a bonus issue of shares which has been approved in writing by an Investor Majority provided that any bonus issue of shares must be made to all holders of Shares on the same terms and on a pari passu and pro rata basis;
  - 8.6.5 Shares or options for Shares issued or granted to the Investors in accordance with the terms of the Investment Agreement; and
  - 8.6.6 New Securities issued pursuant to an employee share incentive scheme the terms and extent of which have been approved in writing by the Investor Majority.
- 8.7 No Shares shall be allotted to any Employee, Director, prospective employee or director unless such person has entered into a joint section 431 ITEPA election with the Company.
- 8.8 Notwithstanding the provisions of Article 8.3 but without prejudice to Articles 8.6, 8.6.1, 8.6.2, 8.6.4, and 8.6.5, unless otherwise waived by the Tri Capital Members then holding Shares and any members of the Scottish Enterprise Group then holding Shares, the Directors shall be bound to offer any member of the Scottish Enterprise Group and any Tri Capital Member in each case for the time being holding Shares, such a proportion of any New Securities as the aggregate nominal value of Shares held by such member of the Scottish Enterprise Group or Tri Capital Member (as the case may be) bears to the total issued share capital of the Company immediately prior to the issue of the New Securities on the same terms and at the same price as those New Securities are being offered to other persons. Such New Securities may be registered in the name of one or more members of the Scottish Enterprise Group or Tri Capital Members (as the case may be) following a written request by the relevant holder of Shares.
- 8.9 Notwithstanding the provisions of Article 8.6.3, the Directors shall be bound to offer to holders of Ordinary Shares and A Ordinary Shares such proportion of any New Securities issued pursuant to article 8.6.3 as the aggregate nominal value of Shares held by such holder bears to the total Issued Share Capital of the Company immediately prior to the issue of the New Securities on the same terms and at the same price as those New Securities are being offered to other persons.

## **9. LIEN**

The Company shall have a first and paramount lien on every Share not fully paid for all and any indebtedness of any holder of it to the Company (whether a sole holder or one of two or

more joint holders), whether or not that indebtedness or liability is in respect of the Shares concerned and whether or not it is presently payable.

## **10. TRANSFERS OF SHARES – GENERAL**

- 10.1 In Articles 10 to 17 inclusive, reference to the transfer of a Share includes the transfer or assignation 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.
- 10.2 No Share may be transferred unless the transfer is made in accordance with these Articles.
- 10.3 If a Shareholder transfers or purports to transfer a Share otherwise than in accordance with these Articles he will be deemed immediately to have served a Transfer Notice in respect of all Shares held by him.
- 10.4 Any transfer of a Share by way of sale which is required to be made under Articles 12 to 17 (inclusive) will be deemed to include a warranty that the transferor is the legal and beneficial owner of the shares in question.
- 10.5 Unless express provision is made in these Articles to the contrary, no Ordinary Shares shall be transferred without the consent of the Investor Majority.
- 10.6 In addition to the provisions of Regulation 24 of Table A, the Directors may refuse to register a transfer if:
- 10.6.1 it is a transfer of a share to a bankrupt, a minor or a person of unsound mind;
- 10.6.2 the transfer is to an Employee, Director or prospective employee or director and such person has not entered in a joint section 431 ITEPA election with the Company,
- and Regulation 24 of Table A shall be modified accordingly.
- 10.7 The Directors may, as a condition to the registration of any transfer of shares in the Company (whether pursuant to a Permitted Transfer or otherwise), require the transferee to execute and deliver to the Company a deed agreeing to be bound by the terms of any shareholders' agreement or similar document in force between some or all of the shareholders and the Company in any 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) and if any condition is imposed in accordance with this Article 10.7 the transfer may not be registered unless that deed has been executed and delivered to the Company's registered office by the transferee.
- 10.8 To enable the Directors to determine whether or not there has been any disposal of shares in the capital of the Company (or any interest in shares in the capital of the Company) in breach of these Articles the Directors may, with Investor Director Consent, require any holder or the legal personal representatives of any deceased holder or any person named as transferee in any transfer lodged for registration or any other person who the Directors or the Investor Directors may reasonably believe to have information relevant to that purpose, to furnish to the Company that information and evidence the Directors may request regarding any matter which they deem relevant to that purpose, including (but not limited to) the names, addresses and interests of all persons respectively having interests in the shares in the capital of the Company from time to time registered in the holder's name. If the information or evidence is not provided to enable the Directors to determine to their reasonable satisfaction that no breach has occurred, or where as a result of the information and evidence the Directors are reasonably satisfied that a breach has occurred, the Directors shall immediately notify the holder of such shares in the capital of the Company in writing of that fact and the following shall occur:
- 10.8.1 the relevant shares shall cease to confer upon the holder of them (or any proxy) any rights:

- (a) to vote whether on a show of hands or on a poll and whether exercisable at a general meeting of the Company or at any separate meeting of the class in question) provided that such rights shall not cease if as a result of such cessation the Company shall become a Subsidiary of an Investor; or
- (b) to receive dividends or other distributions otherwise attaching to those shares or to any further shares issued in respect of those shares; and

10.8.2 the holder may be required at any time following receipt of the notice to transfer some or all of its Shares to any person(s) at the price that the Directors may require by notice in writing to that holder.

The rights referred to in (a) above may be reinstated by the Board subject to Investor Director Consent and shall in any event be reinstated upon the completion of any transfer referred to in (b) above.

10.9 In any case where the Board may require a Transfer Notice to be given in respect of any Shares, if a Transfer Notice is not duly given within a period of 10 Business Days of demand being made, a Transfer Notice shall be deemed to have been given at the expiration of that period. If a Transfer Notice is required to be given or is deemed to have been given under these Articles, the Transfer Notice will be treated as having specified that:

10.9.1 the Transfer Price for the Sale Shares will be as agreed between the Board (any director with whom the Seller is connected (within the meaning of section 346 of the Act) not voting) and the Seller, or, failing agreement within five Business Days after the date on which the Board becomes aware that a Transfer Notice has been deemed to have been given, will be the Fair Value of the Sale Shares;

10.9.2 it does not include a Minimum Transfer Condition (as defined in Article 12.2.4); and

10.9.3 the Seller wishes to transfer all of the Shares held by it.

## 11. PERMITTED TRANSFERS

11.1 Subject to Article 10.6, a Shareholder (the "**Original Shareholder**") may transfer all or any of his or its Shares to a **Permitted Transferee** without restriction as to price or otherwise and the provisions of Article 10.5 are expressly excluded.

11.2 Where under the provision of a deceased Shareholder's will or laws as to intestacy, the persons legally or beneficially entitled to any Shares, whether immediately or contingently, are Permitted Transferees of the deceased Shareholder, the legal representative of the deceased Shareholder may transfer any Share to those Permitted Transferees, in each case without restriction as to price or otherwise. Shares previously transferred as permitted by this Article 11.2 may be transferred by the transferee to any other Permitted Transferee of the Original Shareholder without restriction as to price or otherwise, and the provisions of Article 10.5 are expressly excluded.

11.3 If a Permitted Transferee who was a Member of the same Group as the Original Shareholder ceases to be a Member of the same Group as the Original Shareholder, the Permitted Transferee must not later than 5 Business Days after the date on which the Permitted Transferee so ceases, transfer the Shares held by it to the Original Shareholder or a Member of the same Group as the Original Shareholder (which in either case is not in liquidation) without restriction as to price or otherwise failing which it will (unless the Investor Majority otherwise determine) be deemed to have given a Transfer Notice in respect of those Shares.

11.4 A transfer of any Shares approved by the Investor Majority may be made without restriction as to price or otherwise and each transfer shall be registered by the Directors.

11.5 Trustees may (i) transfer Shares to a company in which they hold the whole of the share capital and which they control (a "**Qualifying Company**") or (ii) transfer Shares to the Original Shareholder or to another Permitted Transferee of the Original Shareholder or (iii) transfer Shares to the new or remaining trustees upon a change of Trustees without restrictions as to price or otherwise.

- 11.6 No transfer of Shares may be made to Trustees unless the Board is satisfied:
- 11.6.1 with the terms of the trust instrument and in particular with the powers of the trustees;
  - 11.6.2 with the identity of the proposed trustees;
  - 11.6.3 the proposed transfer will not result in 50% or more of the aggregate of the Company's equity share capital being held by trustees of that and any other trusts; and
  - 11.6.4 that no costs incurred in connection with the setting up or administration of the Family Trust in question are to be paid by the Company.
- 11.7 If a company to which a Share has been transferred under Article 11.5, ceases to be a Qualifying Company it must within 5 Business Days of so ceasing, transfer the Shares held by it to the Trustees or to a Qualifying Company (any may do so without restriction as to price or otherwise) failing which it will be deemed to have given a Transfer Notice in respect of such Shares.
- 11.8 If a Permitted Transferee who is a spouse or Civil Partner of the Original Shareholder ceases to be a spouse or Civil Partner of the Original Shareholder whether by reason of divorce or otherwise he must, within 15 Business Days of so ceasing either:
- 11.8.1 execute and deliver to the Company a transfer of the Shares held by him to the Original Shareholder (or, to any Permitted Transferee of the Original Shareholder) for such consideration as may be agreed between them; or
  - 11.8.2 give a Transfer Notice to the Company in accordance with Article 12.2;
- failing which he shall be deemed to have given a Transfer Notice.
- 11.9 On the death (subject to Article 11.2), bankruptcy, liquidation, administration or administrative receivership of a Permitted Transferee (other than a joint holder) his personal representatives or trustee in bankruptcy, or its liquidator, administrator or administrative receiver must within 5 Business Days after written request by the Investor Directors, execute and deliver to the Company a transfer of the Shares held by the Permitted Transferee without restriction as to price or otherwise. The transfer shall be to the Original Shareholder if still living (and not bankrupt or in liquidation) or, if so directed by the Original Shareholder, to any Permitted Transferee of the Original Shareholder. If the transfer is not executed and delivered within 5 Business Days of such period or if the Original Shareholder has died or is bankrupt or is in liquidation, the personal representative or trustee in bankruptcy or liquidator will be deemed to have given a Transfer Notice.

*Permitted transfers by Scottish Enterprise*

- 11.10 Notwithstanding any other provisions of these articles a transfer of any shares in the Company held by any member of the Scottish Enterprise Group may be made without restriction as to price or otherwise between the member of the Scottish Enterprise Group holding such shares and any other member of the Scottish Enterprise Group. If any such transferee ceases to be a member of the Scottish Enterprise Group such transferee shall forthwith transfer the relevant shares and any additional shares issued or transferred to such transferee by virtue of it holding the relevant shares back to the original transferor, or where such transferor is no longer a member of the Scottish Enterprise Group, another member of the Scottish Enterprise Group.
- 11.11 Notwithstanding any other provisions of these articles a Founder may transfer up to an aggregate of 1,429 Shares without restriction as to price or otherwise to any holder of shares in Lamellar Therapeutics Limited for whom the Founder holds the beneficial interest in such Shares on trust, provided that the proposed transferee(s) comply with Article 10.7;
- 11.12 In addition to any transfers pursuant to Article 11.11, a Founder may transfer up to an aggregate of 33% of his entire interest in Shares to any person where the Founder has received a personal tax assessment from a Governmental revenue authority of £50,000 or

more in aggregate and providing the procedures in Articles 10 to 12 of these Articles have been observed.

## **12. TRANSFERS OF SHARES SUBJECT TO PRE-EMPTION RIGHTS**

12.1 Save where the provisions of Articles 11, 15, 16 and 17 apply, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights contained in this Article 12.

12.2 A Shareholder who wishes to transfer Shares (a "**Seller**") shall, except as otherwise provided in these Articles, before transferring or agreeing to transfer any Shares give notice in writing (a "**Transfer Notice**") to the Company specifying:

12.2.1 the number of Shares which he wishes to transfer (the "**Sale Shares**");

12.2.2 if he wishes to sell the Sale Shares to a third party, the name of the proposed transferee;

12.2.3 the price (in cash) at which he wishes to transfer the Sale Shares (which will be deemed to be Fair Value of the Sale Shares if no cash price is agreed between the Seller and the Board (including the Investor Directors) (the "**Transfer Price**"); and

12.2.4 whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold to Shareholders (a "**Minimum Transfer Condition**").

12.3 Except with the written consent of the Investor Majority, no Transfer Notice once given or deemed to have been given under these Articles may be withdrawn.

12.4 A Transfer Notice constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price.

12.5 As soon as practicable following the later of:

12.5.1 receipt of a Transfer Notice; and

12.5.2 in the case where the Transfer Price has not been specified or the Transfer Notice is deemed to have been served, the determination of the Transfer Price under Article 13,

the Board shall offer the Sale Shares for sale to the Shareholders in the manner set out in Articles 12.6 to 12.8. Each offer must be in writing and give details of the number and Transfer Price of the Sale Shares offered.

12.6 Priority for offer of Sale Shares

12.6.1 If the Sale Shares are A Ordinary Shares, the Company shall offer them in the following priority:

(a) first, to the A Shareholders;

(b) second, to the Ordinary Shareholders,

in each case on the basis as set out in Article 12.7.

12.6.2 If the Sale Shares are Ordinary Shares, the Sale Shares shall be offered to all holders of A Ordinary Shares and Ordinary Shares on the basis set out in Article 12.7.

12.7 Transfers: First Offer

12.7.1 The Board shall offer the Sale Shares pursuant to the Priority Rights to all shareholders specified in the offer other than the Seller (the "**Continuing Shareholders**") inviting them to apply in writing within the period from the date of the offer to the date 15 Business Days after the offer (inclusive) (the "**First Offer Period**") for the maximum number of Sale Shares they wish to buy.

12.7.2 If the Sale Shares are subject to a **Minimum Transfer Condition** then any allocation made under Articles 12.7 and 12.8 will be conditional on the fulfilment of the Minimum Transfer Condition.

12.7.3 If, at the end of the First Offer Period, the 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 Continuing Shareholder in the proportion (fractional entitlements being rounded to the nearest whole number) which his existing holding of Shares bears to the total number of Shares held by those Continuing Shareholders who have applied for Sale Shares but no allocation shall be made to a Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy.

12.7.4 If not all Sale Shares are allocated in accordance with Article 12.7.3 but there are applications for Sale Shares that have not been satisfied those Sale Shares shall be allocated to the relevant applicant(s) in accordance with the procedure set out in Article 12.7.3.

12.7.5 If, at the end of the First Offer Period, the number of Sale Shares applied for is less than the number of Sale Shares, the Board shall allocate the Sale Shares to the Continuing Shareholders in accordance with their applications and the balance (the "**Initial Surplus Shares**") will be dealt with in accordance with Article 12.8.

## 12.8 Transfers: Second Offer

12.8.1 At the end of the First Offer Period, the Board shall offer the Initial Surplus Shares to all the Continuing Shareholders inviting them to apply in writing within the period from the date of the offer to the date 15 Business Days after the date of the offer (inclusive) (the "**Second Offer Period**") for the maximum number of the Initial Surplus Shares they wish to buy.

12.8.2 If, at the end of the Second Offer Period, the number of Initial Surplus Shares applied for exceeds the number of Initial Surplus Shares, the Board shall allocate the remaining Initial Surplus Shares to each Continuing Shareholder in the proportion (fractional entitlements being rounded to the nearest whole number) which his existing holding of Shares bears to the total number of Shares (including Sale Shares) held by those Continuing Shareholders who have applied during the Second Offer Period for Initial Surplus Shares but no allocation shall be made to a Shareholder of more than the maximum number of Initial Surplus Shares which he has stated he is willing to buy.

12.8.3 If, at the end of the Second Offer Period, the number of Initial Surplus Shares applied for is less than the number of Initial Surplus Shares, the Board shall allocate the Initial Surplus Shares to the Continuing Shareholders in accordance with their applications and the balance (the "**Second Surplus Shares**") will be offered to any other person in accordance with 12.9.5.

## 12.9 Completion of transfer of Sale Shares

12.9.1 If the Transfer Notice includes a Minimum Transfer Condition and the total number of Shares applied for is less than the number of Sale Shares the Board shall notify the ~~Seller and the Seller may either elect to proceed with the sale of the Sale Shares as~~ have been applied for or, if he elects not to proceed, the Board shall notify all those to whom Sale Shares have been conditionally allocated under Articles 12.7 and 12.8 stating the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

12.9.2 If:

(a) the Transfer Notice does not include a Minimum Transfer Condition; and

(b) allocations have been made in respect of all the Sale Shares,

the Board shall, when no further offers are required to be made under Articles 12.7



and 12.8, give written notice of allocation (an "Allocation Notice") to the Seller and each Shareholder to whom Sale Shares have been allocated (an "Applicant") specifying the number of Sale Shares allocated to each Applicant and the place and time (being not less than 10 Business Days nor more than 20 Business Days after the date of the Allocation Notice) for completion of the transfer of the Sale Shares.

12.9.3 Upon service of an Allocation Notice, the Seller must, against payment of the Transfer Price, transfer the Sale Shares in accordance with the requirements specified in it.

12.9.4 If the Seller fails to comply with the provisions of Article 12.9.3:

- (a) the Chairman of the company or, failing him, one of the directors, or some other person nominated by a resolution of the Board, may on behalf of the Seller:
  - (i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants;
  - (ii) receive the Transfer Price and give a good discharge for it; and
  - (iii) (subject to the transfer being duly stamped) enter the Applicants in the register of Shareholders as the holders of the Shares purchased by them; and
  - (iv) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered to the Company his certificate or certificates for the relevant Shares (or an indemnity, in a form reasonably satisfactory to the Board, in respect of any lost certificate).

12.9.5 If an Allocation Notice does not relate to all the Sale Shares then, subject to Article 12.9.6, the Seller may, within eight weeks after service of the Allocation Notice, transfer the Surplus Shares to any person at a price at least equal to the Transfer Price provided that the sale of the Second Surplus Shares shall continue to be subject to any Minimum Transfer Conditions.

12.9.6 The right of the Seller to transfer Shares under Article 12.9.5 does not apply if the Board is of the opinion on reasonable grounds that:

- (a) the transferee is a person (or a nominee for a person) who the Investor Directors determine in their absolute discretion is a competitor with (or an Associate of a competitor with) the business of the Company or with a Subsidiary Undertaking of the Company;
- (b) 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
- (c) the Seller has failed or refused to provide promptly information available to it or him and reasonably requested by the Board for the purpose of enabling it to form the opinion mentioned above.

#### 12.10 Waiver of restrictions

The restrictions imposed by this Article may be waived in relation to any proposed transfer of Shares with Investor Majority Consent.

12.11 Notwithstanding any other provisions of these Articles, no Founder shall be permitted to transfer any interest in Shares in the two year period following the Date of Adoption other than (i) to a Permitted Transferee or (ii) in accordance with Article 11.11 or 11.12 or (iii) with the consent of the Investor Majority.

### 13. VALUATION OF SHARES

- 13.1 If a Transfer Notice does not specify a Transfer Price or if a Transfer Notice is deemed to have been served then, upon service of the Transfer Notice or, in the case of the deemed service of a Transfer Notice, on the date on which the Board first has actual knowledge of the facts giving rise to such deemed service, the Board shall either:
- 13.1.1 appoint expert valuers in accordance with Article 13.2 (the "**Expert Valuers**") to certify the Fair Value of the Sale Shares; or (if the Fair Value has been certified by Expert Valuers within the preceding 12 week);
  - 13.1.2 specify that the Fair Value of the Sale Shares will be calculated by dividing any Fair Value so certified by the number of Sale Shares to which it related and multiplying such Fair Value by the number of Sale Shares the subject of the Transfer Notice.
- 13.2 The Expert Valuers will be either:
- 13.2.1 the Auditors, or if the auditors refuse to act or if so specified in the relevant Transfer Notice;
  - 13.2.2 an independent firm of Chartered Accountants to be agreed between the Board and the Seller or failing agreement not later than the date 10 Business Days after the date of service of the Transfer Notice to be appointed by the then President of the Institute of Chartered Accountants of Scotland on the application of either party.
- 13.3 The "**Fair Value**" of the Sale Shares shall be determined by the Expert Valuer on the following assumptions and bases:
- 13.3.1 valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer;
  - 13.3.2 if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - 13.3.3 that the Sale Shares are capable of being transferred without restriction;
  - 13.3.4 valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent; and
  - 13.3.5 reflect any other factors which the Expert Valuers reasonably believe should be taken into account.
- 13.4 If any difficulty arises in applying any of these assumptions or bases then the Expert Valuers shall resolve that difficulty in whatever manner they shall in their absolute discretion think fit.
- 13.5 The Expert Valuers shall be requested to determine the Fair Value within 20 Business Days of their appointment and to notify the Board of their determination.
- 13.6 The Expert Valuers shall act as experts and not as arbiters and their determination shall be ~~final and binding on the parties (in the absence of fraud or manifest error).~~
- 13.7 The Board will give the Expert Valuers access to all accounting records or other relevant documents of the Company subject to them agreeing such confidentiality provisions as the Board may reasonably impose.
- 13.8 The Expert Valuers shall deliver their certificate to the Company. As soon as the Company receives the certificate it shall deliver a copy of it to the Seller. Unless the shares are to be sold under a Transfer Notice, which is deemed to have been served, the Seller may by notice in writing to the Company within 5 Business Days of the service on him of the copy certificate, cancel the Company's authority to sell the Sale Shares.
- 13.9 The cost of obtaining the certificate shall be paid by the Company unless:

13.9.1 the Seller cancels the Company's authority to sell; or

13.9.2 the sale is pursuant to a Transfer Notice which is deemed to have been served, and the Sale Price certified by the Expert Valuers is less than the price (if any) offered by the directors to the Seller for the Sale Share before Expert Valuer was instructed,

in which case the Seller shall bear the cost.

#### **14. COMPULSORY TRANSFERS – GENERAL**

14.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder shall be deemed to have given a Transfer Notice in respect of that Share at a time determined by the Directors.

14.2 If a Share remains registered in the name of a deceased Shareholder for longer than one year after the date of his death the Directors may (with Investor Director Consent) require the legal personal representatives of that deceased Shareholder either:

14.2.1 to effect a Permitted Transfer of such Shares (including for this purpose an election to be registered in respect of the Permitted Transfer); or

14.2.2 to show to the satisfaction of the Directors that a Permitted Transfer will be effected before or promptly upon the completion of the administration of the estate of the deceased Shareholder.

If either requirement in this Article 14.2 shall not be fulfilled to the satisfaction of the Directors a Transfer Notice shall be deemed to have been given in respect of each such Share save to the extent that, the Directors may otherwise determine.

14.3 If a Shareholder which is a company or a Permitted Transferee of that Shareholder, either suffers or resolves for the appointment of a liquidator, administrator or administrative receiver over it or any material part of its assets, the relevant Shareholder or Permitted Transferee shall be deemed to have given a Transfer Notice in respect of all the shares held by the relevant Shareholder and/or such Permitted Transferee save to the extent that, and at a time, the Directors may determine.

#### **15. COMPULSORY TRANSFER – EMPLOYEES**

15.1 If any Employee (other than a Founder or an Investor Director) ceases for any reason to be an Employee the relevant Employee shall be deemed to have given a Transfer Notice in respect of all the Employee Shares on the Effective Termination Date. In such circumstances the Transfer Price shall be determined as follows:

15.1.1 where the Employee is a Bad Leaver, except where otherwise agreed by the Investor Majority, the Transfer Price shall be the lower of the par value and the Fair Value;

15.1.2 in all other circumstances, the Transfer Price shall be the Fair Value; and

15.1.3 for the avoidance of doubt, if a Founder ceases to be an employee, director or consultant of the Company he shall not be deemed to have given a Transfer Notice and he shall not be deemed to be a Bad Leaver.

15.2 For the purposes of this Article, the Priority Rights shall be such that the Employee Shares are offered in the following order of priority:

15.2.1 to a person or persons nominated by an Investor Majority to take the departing Employee's place conditionally upon them commencing employment with the Company; and/or

15.2.2 to any of the existing Employees (other than the departing Employee); and/or

15.2.3 to any other person or persons approved by the Investor Directors and by the Board

(other than the departing Employee) including the Trustees of an Employee Trust; and/or

15.2.4 to the Company (subject always to the provisions of the Act).

- 15.3 All voting rights attached to Employee Shares held by the departing Employee (the "**Restricted Member**"), if any, shall at the time he ceases to be an Employee be suspended unless the Board and the Investor Majority notify him otherwise.
- 15.4 Any Employee Shares whose voting rights are suspended pursuant to Article 15.3 ("**Restricted Shares**") shall confer on the holders of Restricted Shares the right to receive a notice of and attend all general meetings of the Company but shall have no right to vote either in person or by proxy. Voting rights suspended pursuant to Article 15.3 shall be automatically restored immediately prior to an IPO. If a Restricted Member transfers any Restricted Shares in the Company in accordance with these Articles all voting rights attached to the Restricted Shares so transferred shall upon completion of the transfer (as evidenced by the transferee's name being entered in the Company's register of shareholders) automatically be restored.

#### 16. **MANDATORY OFFER ON A CHANGE OF CONTROL**

- 16.1 Except in the case of Permitted Transfers and transfers pursuant to Articles 14 and 15, after going through the pre-emption procedure in Article 12, the provisions of Article 16.2 will apply if one or more Proposed Sellers propose to transfer in one or a series of related transactions any Shares (the "**Proposed Transfer**") which would, if put into effect, result in any Proposed Purchaser (and Associates of his or persons Acting in Concert with him) acquiring a Controlling Interest in the Company.
- 16.2 A Proposed Seller must, before making a Proposed Transfer procure the making by the Proposed Purchaser of an offer (the "**Offer**") to the other Shareholders to acquire all of the Company's Shares for a consideration per share the value of which is at least equal to the Specified Price (as defined in Article 16.7).
- 16.3 The Offer must be given by written notice (a "**Proposed Sale Notice**") at least 10 Business Days (the "**Offer Period**") prior to the proposed sale date ("**Proposed Sale Date**"). The Proposed Sale Notice must set out, to the extent not described in any accompanying documents, the identity of the Proposed Purchaser, the purchase price and other terms and conditions of payment, the Proposed Sale Date and the number of Shares proposed to be purchased by the Proposed Purchaser.
- 16.4 If any other holder of Shares and in particular, the holder of any Ordinary Shares is not given the rights accorded him by this Article, the Proposed Sellers will not be entitled to complete their sale and the Company will not register any transfer intended to carry that sale into effect.
- 16.5 If the Offer is accepted by any Shareholder (an "**Accepting Shareholder**") within the Offer Period, the completion of the Proposed Transfer will be conditional upon the completion of the purchase of all the Shares held by Accepting Shareholders.
- 16.6 The Proposed Transfer is subject to the pre-emption provisions of Article 12 but the purchase of the Accepting Shareholders' shares shall not be subject to Article 12.
- 16.7 For the purpose of this Article:
- 16.7.1 the expression "**transfer**" and "**purchaser**" shall include the renunciation of a renounceable letter of allotment and the renounee under any such letter of allotment respectively;
- 16.7.2 the expression "**Specified Price**" shall mean in respect of each Share a sum in cash equal to the highest price per Share offered or paid by the Proposed Purchaser:
- (a) in the Proposed Transfer; or
- (b) in any related or previous transaction by the Proposed Purchaser or any person Acting in Concert with the Proposed Purchaser in the 12 months

preceding the date of the Proposed Transfer,

plus an amount equal to the Relevant Percentage of any other consideration (in cash or otherwise) paid or payable by the Proposed Purchaser or any other person Acting in Concert with the Proposed Purchaser, which having regard to the substance of the transaction as a whole, can reasonably be regarded as an addition to the price paid or payable for the Shares;

16.7.3 Relevant Percentage =  $A/B \times 100$

where: A = number of Equity Shares being sold by the Proposed Seller;

B = number of Equity Shares held by the Proposed Seller immediately before the Proposed Transfer.

16.7.4 For the avoidance of doubt for the purposes of this Article 16 the Ordinary Shares and the 'A' Ordinary Shares shall be valued and treated equally, and the Proposed Purchaser will be obliged to offer to acquire the Ordinary Shares on the same terms and conditions and at the same purchase price as that offered in respect of the 'A' Ordinary Shares in the Company, unless the holders of the Ordinary Shares decline to accept that offer.

## 17. DRAG-ALONG

17.1 If the holders of at least 66% of the Shares (the "**Selling Shareholders**") wish to transfer all their interest in Shares (the "**Sellers' Shares**") to a Proposed Purchaser, the Selling Shareholders shall have the option (the "**Drag Along Option**") to require all the other holders of Shares (the "**Called Shareholders**") to sell and transfer all their Shares to the Proposed Purchaser or as the Proposed Purchaser shall direct in accordance with the provisions of this Article.

17.2 The Selling Shareholders may exercise the Drag Along Option by giving a written notice to that effect (a "**Drag Along Notice**") to the Called Shareholders at any time before the transfer of the Sellers' Shares to the Proposed Purchaser. A Drag Along Notice shall specify that the Called Shareholders are required to transfer all their Shares (the "**Called Shares**") under this Article, the person to whom they are to be transferred, the consideration for which the Called Shares are to be transferred (calculated in accordance with this Article) and the proposed date of transfer.

17.3 Drag Along Notices shall be irrevocable but will lapse if for any reason there is not a sale of the Sellers' Shares by the Selling Shareholders to the Proposed Purchaser within 40 Business Days after the date of service of the Drag Along Notice. The Selling Shareholders shall be entitled to serve further Drag Along Notices following the lapse of any particular Drag Along Notice.

17.4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be that to which they would be entitled if the total consideration proposed to be paid by the Proposed Purchaser were distributed to the holders of the Called Shares and the Sellers' Shares in accordance with the provisions of Article 6 and so that the consideration paid for each of the Called Share is the same irrespective of whether ~~the Called Shares are Ordinary Shares or 'A' Ordinary Shares or were A Ordinary Shares prior to conversion.~~

17.5 No Drag Along Notice may require a Called Shareholder to agree to any terms except those specifically provided for in this Article.

17.6 Within 5 Business Days of the Proposed Purchaser serving a Drag Along Notice on the Called Shareholders, the Called Shareholders shall deliver stock transfer forms for their Shares in favour of the Proposed Purchaser or as the Proposed Purchaser shall direct, together with the relevant share certificate(s) (or a suitable indemnity in lieu thereof) to the Company. On the expiration of that five Business Day period the Company shall pay the Called Shareholders, on behalf of the Proposed Purchaser, the amounts they are due pursuant to Article 17.4 to the extent the Proposed Purchaser has put the Company in the requisite funds. The Company's

receipt for the price shall be a good discharge to the Purchaser. The Company shall hold the amounts due to the Called Shareholders pursuant to Article 17.4 in trust for the Called Shareholders without any obligation to pay interest.

- 17.7 To the extent that the Proposed Purchaser has not, on the expiration of such 5 Business Day period, put the Company in funds to pay the price due pursuant to Article 17.6, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificate (or suitable indemnity) for the relevant Shares and the Called Shareholders shall have no further rights or obligations under this Article 17 in respect of their Shares.
- 17.8 If a Called Shareholder fails to deliver stock transfer forms and share certificates (or suitable indemnity) for its Shares to the Company upon the expiration of that 5 Business Day period, the Directors shall, if requested by the Proposed Purchaser, authorise any Director to transfer the Called Shareholder's Shares on the Called Shareholder's behalf to the Proposed Purchaser (or its nominee(s)) to the extent the Proposed Purchaser has, at the expiration of that 5 Business Day period, put the Company in funds to pay the price for the Called Shareholder's Shares offered to him. The Board shall then authorise registration of the transfer once appropriate stamp duty has been paid. The defaulting Called Shareholder shall surrender his share certificate for his Shares (or provide a suitable indemnity) to the Company. On surrender, he shall be entitled to the amount due to him under Article 17.4.
- 17.9 Any transfer of Shares to a Proposed Purchaser (or as they may direct) pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the provisions of Article 12.
- 17.10 On any person, following the issue of a Drag Along Notice, becoming a Shareholder of the Company pursuant to the exercise of a pre-existing option to acquire shares in the Company or pursuant to the conversion of any convertible security of the Company (a "New Shareholder"), a Drag Along Notice shall be deemed to have been served on the New Shareholder on the same terms as the previous Drag Along Notice who shall then be bound to sell and transfer all Shares so acquired to the Proposed Purchaser or as the Proposed Purchaser may direct and the provisions of this Article shall apply with the necessary changes to the New Shareholder except that completion of the sale of the Shares shall take place immediately on the Drag Along Notice being deemed served on the New Shareholder.

## **18. GENERAL MEETINGS**

- 18.1 In Regulation 37 of Table A there shall be substituted for the words "eight weeks" the words "twenty-eight days".
- 18.2 In its application to the Company, Regulation 50 of Table A shall be modified by the insertion after the word "shall" and before the words "be entitled" of the word "not".

## **19. PROXIES**

The instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified notarially or in some other way approved by the Directors may:

- 19.1.1 be deposited at the office or at any other place within the United Kingdom as may be specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting at any time before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote;
- 19.1.2 be delivered at the meeting or adjourned meeting at which the person named in the instrument proposes to vote to the Chairman or to the Secretary or to any Director; or
- 19.1.3 in the case of a poll, be delivered at the meeting at which the poll was demanded to the Chairman or to the Secretary or to any Director, or at the time and place at which the poll is held to the Chairman or to the Secretary or to any Director or scrutineer,

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

**20. DIRECTORS' BORROWING POWERS**

The Directors may exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property and uncalled capital and to issue debentures, debenture stock and other securities as security for any debt, liability of obligation of the Company or of any third party.

**21. ALTERNATE DIRECTORS**

Notwithstanding any provision of these Articles to the contrary, any person appointed as a director may appoint any person as he thinks fit to be his, her or its alternate Director and the appointment of an alternate Director shall not require approval by a resolution of the Directors, and in its application to the Company Regulation 65 of Table A shall be modified accordingly.

**22. NUMBER OF DIRECTORS**

Unless and until the Company in general meeting shall otherwise determine the number of Directors shall be not less than two.

**23. APPOINTMENT OF DIRECTORS**

23.1 Each of Barwell, Scottish Enterprise, Mr Morrison and Tri Capital for so long as it and its Permitted Transferees holds (or in the case of Tri Capital, for so long as Tri Capital Members (or their Permitted Transferees) between them hold), not less than 5 per cent of the Shares in issue and/or (in the case of Mr Morrison) Loan Notes shall each be entitled to nominate one person to act as a Director of the Company by notice in writing addressed to the Company from time to time and the other holders of Shares shall not vote their Shares so as to remove that Director from office. Each of Barwell, Scottish Enterprise, Mr Morrison and Tri Capital shall be entitled to remove their nominated Director so appointed at any time by notice in writing to the Company served at its registered office and appoint another person to act in his place.

23.2 An appointment or removal of a Director under Article 23.1 will take effect at and from the time when the notice is received at the registered office of the Company or produced to a meeting of the directors of the Company.

23.3 Each Investor Director shall be entitled at his request to be appointed to any committee of the Board established from time to time and to the board of directors of any Subsidiary Undertaking.

23.4 Each Investor holding more than 10% of the Shares in issue from time to time, shall be entitled to appoint one person to act as an observer to the Board. The observer shall be entitled to attend and speak at all meetings of the Board and receive copies of all board papers as if he were a Director but shall not be entitled to vote on any resolutions proposed at a board meeting.

23.5 In its application to the Company, Regulation 78 of Table A shall be modified by the deletion of the words "... and may also determine the rotation in which any additional Directors are to retire".

In its application to the Company, Regulation 79 of Table A shall be modified by the deletion of the second and third sentences.

23.6 In its application to the Company, Regulation 84 of Table A shall be modified by the deletion of the third and final sentences.

**24. DISQUALIFICATION OF DIRECTORS**

In addition to that provided in Regulation 81 of Table A, the office of a Director shall also be vacated if:

24.1 he is convicted of a criminal offence (other than a minor motoring offence) and the Directors

resolve that his, her or its office be vacated;

- 24.2 in the case of Directors, other than an Investor Director, if a majority of his co-Directors serve notice on him in writing, removing him from office.

## **25. PROCEEDINGS OF DIRECTORS**

- 25.1 To be quorate, any meeting of the Board must include at least one half of the Directors then holding office, of whom, at least 2 must be Investor Directors. If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or at such time and place as determined by the directors present at such meeting and the Investor Directors. If a quorum is not present at any such adjourned meeting within half an hour from the time appointed, then the meeting shall proceed.

- 25.2 In its application to the Company Regulation 89 of Table A shall be modified:

25.2.1 by the deletion of the words "may be fixed by the Directors and unless so fixed at any other number" in the first sentence; and

25.2.2 by the addition of the following as the final sentence:

"In the event that a meeting of the Directors is attended by a Director who is acting as alternate for one or more other Directors, the Director or Directors for whom he is the alternate shall be counted in the quorum despite their absence, and if on that basis there is a quorum the meeting may be held despite the fact (if it is the case) that only one Director is physically present".

- 25.3 Any Director who participates in the proceedings of a meeting by means of a communication device (including a telephone) which allows all the other Directors present at that meeting (whether in person or by alternate or by means of that type of communication device) to hear at all times that Director and that Director to hear at all times all other Directors present at the meeting (whether in person or by alternate or by means of that type of communication device) shall be deemed to be present at the meeting and shall be counted when reckoning a quorum. A meeting held by these means shall be deemed to take place where the largest group of participants in number is assembled. In the absence of a majority the location of the chairman shall be deemed to be the place of the meeting.

- 25.4 A Director may vote at a meeting of the Directors, and form part of a quorum present at that meeting, in relation to any matter in which he has, directly or indirectly, an interest or duty which conflicts or which may conflict with the interests of the Company, provided that he has previously disclosed the nature of such duty or interest to the Directors. The provisions of Regulation 86 of Table A shall be taken to apply equally to any disclosure to be made under the provisions of this Article.

- 25.5 Questions arising at any meeting of the Directors shall be decided by a majority of votes. In the case of any equality of votes, the chairman shall not have a second or casting vote.

- 25.6 If the chairman of the Board has not been appointed within three months of the Date of Adoption or within three months of the resignation of a chairman the Investor Majority shall be entitled to appoint a chairman by notice in writing addressed to the Company.

## **26. EXECUTION OF DOCUMENTS**

Regulation 6 shall be amended by the deletion of the phrase "sealed with the seal" in the second sentence and the by the substitution therefor of the phrase "executed in accordance with the Act or the Requirements of Writing (Scotland) Act 1995".

## **27. DIVIDENDS**

In Regulation 103 of Table A the words from "If the share capital is divided" to the end of the third sentence of the Regulation shall be deleted.



## **28. NOTICES**

- 28.1 Any notice shall be in writing and shall be conclusively deemed to have been duly given:
- 28.1.1 when hand delivered to the relevant party;
  - 28.1.2 when received when sent by facsimile, e-mail or any other form of electronic communication at the relevant address;
  - 28.1.3 2 Business Days after dispatch if sent to an address in the United Kingdom by post;
  - 28.1.4 5 Business Days after dispatch if sent by reputable international overnight courier addressed to the relevant party provided that delivery in at least 5 Business Days was guaranteed at the time of sending and the sending Party receives a confirmation of delivery from the courier service provider; or
  - 28.1.5 by airmail (registered or certified) 15 Business Days after sending.
- 28.2 In proving service of a notice it shall be sufficient to prove that personal delivery was made, or that the relevant notice or other written communication was properly addressed stamped and posted or in the case of a facsimile, e-mail or other form of electronic communication evidence that the relevant communication was properly sent.

28.3 Regulation 115 of Table A shall be deleted.

## **29. INDEMNITIES AND INSURANCE**

- 29.1 Subject to the provisions of the Act:
- 29.1.1 every Director or other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his, her or its office or otherwise in relation to his, her or its office, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his, her or its favour or in which he is acquitted or in connection with any application under section 144 or 727 of the Act in which relief is granted to him by the court, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his, her or its office or otherwise in relation to his, her or its office;
  - 29.1.2 the Directors may exercise all the powers of the Company to purchase and maintain insurance for any such Director or other officer against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the Company.
- 29.2 The Company shall (at the cost of the Company) effect and maintain for each Director policies of insurance insuring each Director against risks in relation to his office as each director may reasonably specify including without limitation, any liability which by virtue of any rule of law may attach to him in respect of any negligence, default of duty or breach of trust of which he may be guilty in relation to the Company.

## **30. DATA PROTECTION**

Each of the shareholders and directors of the Company (from time to time) consent to the processing of their personal data by the Company, its shareholders and directors (each a "Recipient") for the purpose of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information among themselves. A Recipient may process the personal data either electronically or manually. The personal data which may be processed under this Article shall include any information which may have a bearing on the prudence or commercial merits of investing, or disposing of any shares (or other investment or security) in the Company. Other than as required by law, court order or other regulatory authority, that personal data may not be disclosed by a Recipient or any other

person except to a Member of the same Group ("**Recipient Group Companies**") and to employees, directors and professional advisers of that Recipient or the Recipient Group Companies and funds managed by any of the Recipient Group Companies. Each of the Company's shareholders and directors (from time to time) consent to the transfer of relevant personal data to persons acting on behalf of the Recipient and to the offices of any Recipient both within and outside the European Economic Area for the purposes stated above, where it is necessary or desirable to do so.