



ARTICLES of ASSOCIATION

PHYSIOMEDICS LIMITED

(Registered Number SC389958)

(ADOPTED 28 March 2022)



MBM COMMERCIAL LLP
ORCHARD BRAE HOUSE, SUITE 2, GROUND FLOOR, EDINBURGH EH4 2HS
DX ED403 EDINBURGH
TELEPHONE 0131 226 8200
FACSIMILE 0131 226 8240

Ref: ARC/0001/0232/AL/AD

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ARTICLES OF ASSOCIATION
of
PHYSIOMEDICS LIMITED
(Registered Number SC389958)

A PRIVATE LIMITED COMPANY

Incorporated under

THE COMPANIES ACT 2006

(ADOPTED 28 March 2022)

1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Articles, the words and expressions below shall have the following meanings unless the context requires otherwise:

“the Act”	means the Companies Act 2006 including any statutory modification or re-enactment thereof;
“Acting in Concert”	shall have the meaning given to it in the City Code on Takeovers and Mergers from time to time;
“Approved Issue”	means the issue of (i) up to 37,433 ordinary shares of £0.001 each at a minimum price of £9.00 per ordinary share of £0.001 each unless an Investor Majority agrees otherwise in writing to any employees, directors and/or consultants pursuant to any share option scheme and/or share option agreement(s) established or entered into by the Company, all pursuant to the Investment Agreement and (ii) up to 1% of the fully diluted equity share capital of the Company pursuant to the Warrant Instrument;
“Archangel Investor Majority”	means the Archangel Investors holding more than 50% by nominal value of the shares in the Company held collectively by the Archangel Investors;
“Archangel Investors”	means the Archangel Members holding shares in the Company;
“Archangel Member”	means any member of Archangels from time to time (and for these purposes, a member means a member of Archangels as a

	company limited by guarantee and/or a person who is recognised by Archangels as being a member of its investment syndicate);
"Archangels"	means Archangel Investors Limited, incorporated under the Companies Acts in Scotland with registered number SC209206 and having its registered office at Orchard Brae House, Suite 2, Ground Floor, Edinburgh EH4 2HS;
"Articles"	means these articles of association constituted by the following regulations together with any duly authorised amendments or alterations from time to time, and the term "Article" shall be a reference to a regulation contained in these Articles;
"Associated Company"	shall have the meaning given to it in the Act;
"Auditors"	means the Auditors of the Company from time to time; unless auditors are not required pursuant to the Act and have not been appointed, in which case such reference shall instead mean the accountants of the Company from time to time;
"Bad Leaver"	means a person who ceases (i) employment with the Company or any Group Member of the Company or (ii) holding the office of Director or consultant of the Company or any Group Member of the Company, other than as a Good Leaver;
"Base Date"	means 21 December 2016;
"Board"	means the board of Directors of the Company from time to time (including the Investor Director (if any));
"Business Day"	means any day from Monday to Friday inclusive which is not a local, public or statutory holiday in Scotland;
"Circulation Date"	means the earliest date on which a proposed written resolution is communicated in hard copy or electronic form (including without limitation by electronic mail or by publication on a website) to every eligible member who is entitled to receive such communication;
"Company"	means Physiomedics Limited, a private limited company incorporated under the Act, registered in Scotland under number SC389958 and having its registered office at 16 Ravelston House Park, Edinburgh, Scotland, EH4 3LU;
"Companies Acts"	means the Companies Acts (as defined in section 2 of the Act), in so far as they apply to the relevant company;
"Compulsory Offer Shares"	shall have the meaning given to it in Article 7.1;

“Compulsory Transferor”	means a member (including any joint holder) required to transfer his shares in accordance with Article 7.1 and “Compulsory Transfer” shall be construed accordingly;
“Connected Persons”	shall have the meaning given to it in sections 1122 and 1123 of the Corporation Tax Act 2010;
“Control Percentage”	means 50% or more of the issued share capital;
“Controlling Interest”	means an interest in the Control Percentage or more of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue and conferring the right to attend and vote at all general meetings;
“Corporate Appointor”	shall have the meaning given to it in Article 18.1;
“Corporate Representative”	shall have the meaning given to it in Article 18.1;
“Deemed Transfer Notice”	shall have the meaning given to it in Article 7.1;
“Director”	means a director of the Company or any alternate director duly appointed in accordance with these Articles;
“Eligible Director”	means a Director who would be entitled to vote on the matter at a meeting of Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter), as determined in particular in accordance with article 14 of the Model Articles;
“Exempt Shares”	means any share in the share capital of the Company acquired by any employee, consultant or officer of the Company (“Employee Subscriber”) at any time in respect of which the subscription price per share paid by such Employee Subscriber is at least equal to the subscription price paid by any non-Employee Subscriber subscribing for shares at the same time;
“Fair Value”	means the fair value of any shares to be valued (the “valued shares”) calculated by the Valuer on the basis of the value of the whole Company and shall be based on the following assumptions: (a) an arm’s length sale between a willing seller and a willing buyer; (b) if the Company is carrying on a business as a going concern, on the assumption that it will continue to do so; (c) that the said valued shares are capable of being transferred without restriction; (d) that no account is taken of the proportion which the said valued shares bear to the total number of shares in issue;

- (e) that no account is taken of the proportion which the said valued shares bear to the total number of shares of the same share class in issue;

declaring that the Fair Value of each valued share shall be calculated by dividing the Fair Value of all the valued shares by the total number of the valued shares;

“Final Determination”

means the decision of a court or tribunal from which either no appeal lies or in respect of which no appeal is made within the prescribed time limit for appeals to be made, and **“Finally Determined”** shall be construed accordingly;

“Founder”

means each of Mr Stuart, Ms Lord and Mr Roger;

“Good Founder Reason”

means a Founder who becomes a Leaver after the third anniversary of the Base Date where such Founder is either (i) a Good Leaver, or (ii) has not been dismissed by the Company in circumstances (a) which would justify the Summary Dismissal of an employee, or (b) where such Founder is not in breach of his or her statutory duties as a director or otherwise in material breach of the terms of the Investment Agreement or his or her contract of employment or other contract for services with the Company (or a Group Member of the Company);

“Good Leaver”

means a person who ceases (i) employment with the Company or any Group Member of the Company or (ii) holding the office of Director or consultant of the Company or any Group Member of the Company in any of the following situations:

- (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, civil partner, long term partner, parent or child of the employee makes it reasonably necessary for the employee to provide care by himself or herself to that spouse, civil partner, long term partner, parent or child;
- (c) by reason of the unfair dismissal (including constructive 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 with the agreement of the Board (including the approval of the Investor Director);

- (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 by a Director only occurs after (i) 30 June 2021 in the case of Ms Lord, (ii) the third anniversary (in the case of Mr Roger or Mr Stuart) and (iii) the fifth anniversary (in the case of any other Leaver), in each case of the later of the date of 30 June 2021 or the date of commencement of employment or holding of office, except (i) where such cessation occurs in circumstances justifying Summary Dismissal of an employee or (ii) where the employee, Director or consultant (as the case may be) takes up employment with or undertakes the provision of services to a competitor of the Company within 12 months of such cessation in breach of any applicable restrictive covenants contained in the relevant employment or service contract or (iii) where the employee, Director or consultant (as the case may be) breaches any obligation of confidentiality contained in the relevant employment or service contract or otherwise;
- (i) by reason of the unlawful termination by the Company or any Group Member of the 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 Member;
- (j) by reason of the unlawful termination by the Company or any Group Member of the 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 Member;

“Group Member”

means any holding company, subsidiary company, wholly-owned subsidiary company or a parent company, in each case as defined in the Act;

“Investment Agreement”

means the Investment Agreement amongst the Company, the Executives, the 2022 Investors and others (all as defined therein) dated on or around the date of adoption of these Articles;

“Investor Director”

means such person as an Investor Majority may appoint as director of the Company in accordance with Article 14.3;

“Investor Majority”

means the Investors holding for the time being more than 50% by nominal value of the shares in the Company for the time being held by the Investors (and which must include (i) an Archangel Investor Majority for as long as any Archangel

	Investors hold any shares in the Company; and (ii) SE for as long as SE holds any shares in the Company);
"Investors"	shall have the same meaning as given to it in the Investment Agreement;
"Issued Amount"	means £352.285 divided into 352,285 ordinary shares of £0.001 each in the Company;
"member"	means a person registered as a member in the register of members of the Company;
"Model Articles"	means the model Articles for private companies limited by shares contained in Schedule 1 of The Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles;
"Mr Stuart"	means Alan Davidson Stuart, of 16 Ravelston House Park, Edinburgh EH4 3LU;
"Ms Lord"	means Kirsten Juliet Lord of 2F2, 1 Eyre Place, Edinburgh, EH3 5ES;
"Mr Roger"	means Mark Douglas Roger, of Calder House, Main Street, Lochwinnoch, PA12 4AH;
"Observers"	means such person(s) appointed in accordance with Article 17;
"Offer Shares"	means the Voluntary Offer Shares or the Compulsory Offer Shares, as appropriate;
"Option Holder"	means a holder of options, warrants or any other right to acquire new shares in the share capital of the Company;
"Privileged Relation"	means in respect of an individual: (i) the spouse, civil partner, long term partner, surviving civil partner, surviving long term partner, widower or widow of the relevant person; (ii) the relevant person's issue (including step and adopted issue); (iii) the relevant person's parents and grandparents (including step and adoptive parents); (iv) the relevant person's siblings and their respective issue (including step and adoptive siblings) (the persons referred to in (i) to (iv) being the "family members"); (v) any trust (including without limitation any pension fund) established for the benefit of the relevant person or his family members, or

	(vi) any charitable trust established by the relevant person and/or by his family members; and in respect of any such family trust referred to in paragraph (v), a beneficiary of such trust;
"Qualifying Majority"	means 75% (including an Investor Majority);
"Scottish Enterprise" or "SE"	means Scottish Enterprise, established by the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ;
"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;
"SE Director"	means such person as Scottish Enterprise may appoint as director of the Company pursuant to Article 14.4;
"share"	means any share forming part of the share capital of the Company;
"Subscription Price"	means in respect of each share, the price per share (including any premium) paid in cash or otherwise to the Company for the subscription of such share;
"Summary Dismissal"	means dismissal without notice by the Company of an employee for reasons of fraud, gross misconduct, dishonesty or some other substantial reason relating to the material adverse conduct of the employee (and in the event that the relevant person to which this definition applies is an officer or consultant of the Company then the foregoing definition shall be construed so that the person's material adverse conduct would have resulted in him being dismissed without notice if he had been an employee of the Company);
"Termination Date"	means the date on which the contract of employment (or appointment, as the case may be) is terminated which in the case where notice is served shall be the date on which such notice expires and in the case where payment in lieu of notice is made shall be the date on which such payment is made and in the case of death shall be the date of death;

"Total Transfer Condition"	shall have the meaning given to it in Article 6.2;
"Valuer"	means the Auditors unless they decline to act and in such an instance the valuer shall instead be appointed by the President for the time being of the Institute of Chartered Accountants of Scotland;
"Voluntary Offer Shares"	shall have the meaning given to it in Article 6.2;
"Warrant Instrument"	means the warrant instrument entered into between the Company and Archangels dated 21 December 2016 as amended by the Warrant Instrument Amendment; and
Warrant Instrument Amendment	means the Warrant Instrument amendment letter dated on or around the date of adoption of these Articles in respect of the Warrant Instrument dated 21 December 2016.

- 1.2 Words importing the singular include the plural and vice versa.
- 1.3 Words importing a particular gender include any gender.
- 1.4 References to a "person" include any natural person, or any legal person, body or organisation, incorporated or unincorporated.
- 1.5 The headings in these Articles are for convenience only and shall not affect the construction of these Articles.
- 1.6 Words and expressions defined in the Act shall bear the same meanings in these Articles.
- 1.7 Unless provision is made to the contrary, references to any statute or statutory provision includes a reference to:
 - 1.7.1 that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated whether before or after the date of adoption of these Articles; and
 - 1.7.2 all statutory instruments or orders made pursuant to it.
- 1.8 References to the phrase "Privileged Relations" shall save for the references in Article 1.1 and Article 5.2 respectively, be deemed to include the phrase "and/or Group Member".
- 1.9 References to the consultancy of an individual person shall be deemed to include the consultancy company or business of that person and/or of his Privileged Relations.

2. MODEL ARTICLES

- 2.1 The Model Articles shall apply to the Company except in so far as they are excluded or varied by or are inconsistent with these Articles.
- 2.2 Articles 11(2), 23, 24(2)(d), 24(5)(a), 48(2), 48(3), 49, 52 and 53 of the Model Articles shall not apply to the Company.

2.3 The following amendments shall be made to the articles of the Model Articles in so far as they apply to the Company:

- 2.3.1 in article 9(1) of the Model Articles, by the insertion of the phrase “not less than five Business Days” in the first sentence between the words “giving” and “notice”;
- 2.3.2 in article 20 of the Model Articles, by the insertion of the phrase “(including alternate directors) and the secretary” in the first sentence between the words “directors” and “properly incur”;
- 2.3.3 in article 22(1) of the Model Articles, by the amendment to the reference to “ordinary resolution” to read “special resolution”; and
- 2.3.4 in article 31(1) of the Model Articles, by the deletion of all occurrences of the phrase “either in writing or as the directors may otherwise decide” and by the substitution, in its place, of the phrase “in writing”.

3. SHARE CAPITAL

- 3.1 Notwithstanding any other provision of these Articles, the issued share capital of the Company on the date of adoption of these Articles (including, without limitation any shares issued to investors on such date of adoption pursuant to the Investment Agreement) consists of the Issued Amount. Save in respect of any Approved Issue or save to the extent authorised from time to time by an ordinary resolution of the members, the Directors shall not exercise any power to allot shares or to grant rights to subscribe for, or to convert any security into, any shares in the Company. Section 550 of the Act shall not apply to the Company.
- 3.2 The Company may at its sole discretion recognise and record the holding of a share by a person on trust, or in the names of trustees, but unless specifically recognised by the Company as such a holding, the Company shall not be bound by, or obliged to recognise, any interest in any share except for the absolute rights of the holder named in the register of members.
- 3.3 Subject to the Investment Agreement and Articles 3.4 and 3.5, any shares of the Company for the time being unissued and any new shares from time to time to be created shall be offered to existing members in strict proportion to the number of shares held by them at that time. The offer shall be made by notice to each member specifying the number of shares offered and stating a period (not being less than 21 days) within which the offer if not accepted by notice to the Company shall be deemed to be declined. Following expiry of such period or receipt of notice of the acceptance or refusal of every offer made hereunder the Directors may dispose of any shares not accepted by the members in such manner as they think most beneficial to the Company provided that such shares shall not be disposed of on terms which are more favourable to the allottee than the terms on which they were offered to the members hereunder. The provisions of this Article 3.3 shall not apply to any Approved Issue.
- 3.4 Notwithstanding any other provisions of these Articles (but declaring that this Article 3.4 shall not apply to any Approved Issue):
 - 3.4.1 (for so long as any Archangel Member holds shares in the Company) unless otherwise waived by a majority of the Archangel Members who are members of the Company, the directors shall be bound to offer to any Archangel Member for the time being holding shares in the capital of the Company such a proportion of any shares forming part of the share capital of the Company which the directors determine to issue as the aggregate nominal value of shares in the share capital of the Company for the time being held by such Archangel Member bears to the total issued share capital of the Company immediately prior to the issue of the shares. Any shares issued to an Archangel Member pursuant to such offer shall be issued upon terms and conditions that are identical regarding payment and otherwise to those made available to other shareholders. Such

shares shall at the request of the Archangel Member be registered in the name or names of any one or more Archangel Members.

- 3.4.2 (for so long as any member of the Scottish Enterprise Group holds shares in the Company) unless otherwise waived by Scottish Enterprise, the directors shall be bound to offer to any members of the Scottish Enterprise Group for the time being holding shares in the capital of the Company such a proportion of any shares forming part of the share capital of the Company which the directors determine to issue as the aggregate nominal value of shares in the share capital of the Company for the time being held by such members of the Scottish Enterprise Group bears to the total issued share capital of the Company immediately prior to the issue of the shares. Any shares issued to a member of the Scottish Enterprise Group pursuant to such offer shall be issued upon terms and conditions that are identical regarding payment and otherwise to those made available to other shareholders. Such shares shall at the request of Scottish Enterprise be registered in the name or names of any one or more members of the Scottish Enterprise Group.
- 3.5 Article 3.3 shall not apply to any shares which the Company may, having had the consent of an Investor Majority, at any time by special resolution (but excluding the votes of any shares held by a Founder and the Privileged Relations of that Founder which have voting rights suspended pursuant to Article 7) declare shall not be subject to the provisions of Article 3.3. In the event of the application of this Article 3.5 and the proposed issue of shares pursuant thereto then Article 3.4 shall always remain applicable in respect of any member of the Scottish Enterprise Group holding shares in the Company.
- 3.6 Pursuant to the Act, all statutory rights of pre-emption shall be excluded from applying to the Company. In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.

4. LIEN

- 4.1 The Company shall have a first and paramount lien on every share for all moneys, whether presently payable or not, called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares registered in the name of any person, whether solely or jointly with others, for all moneys owing to the Company from that person, or that person's estate, either alone or jointly with any other person, whether as a member, or not, and whether such moneys are presently payable or not. The Directors may at any time declare any share to be wholly or partly exempt from the provisions of this Article.

5. TRANSFER OF SHARES

- 5.1 The Directors shall refuse to register any transfer of shares made in contravention of the provisions of these Articles.
- 5.2 Subject only to Articles 8 and Articles 9, the Directors shall register a transfer of shares complying with one or more of the following conditions (declaring for the avoidance of doubt that any transfers complying with the conditions set out in Articles 5.2.3 to 5.2.7 may be made without restriction as to price or otherwise):
- 5.2.1 a transfer of a share made pursuant to Article 6;
- 5.2.2 a transfer of a share made pursuant to Article 7;
- 5.2.3 a transfer of a share made with the prior written consent of the holders of 80% of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue (which must include an Investor Majority but which must exclude (i) any shares held by a Founder and

the Privileged Relations of that Founder which have voting rights suspended pursuant to Article 7 and (ii) the transferor);

- 5.2.4 a transfer or transmission of a share by any Investor who is an individual to a Privileged Relation and a retransfer of any such share from such Privileged Relation to such Investor;
- 5.2.5 (other than a member of the Scottish Enterprise Group) a transfer or transmission of a share by any Investor, which is a company, to a Group Member of that company, subject to the obligation on any such corporate transferee to retransfer any such share to the original transferor in the event that the corporate transferee ceases to be a Group Member;
- 5.2.6 a transfer or transmission of a share by an Archangel Member made in favour of any other Archangel Member;
- 5.2.7 a transfer or transmission of a share by any member of the Scottish Enterprise Group to any other member of the Scottish Enterprise Group;
- 5.2.8 a transfer or transmission of a share by a Founder to a Privileged Relation provided that (i) in this instance any such transfer is conditional upon the transferor remaining the holder of at least one Ordinary Share thereafter, and a retransfer of any such share from such Privileged Relation to such transferor and provided prior written notice of any such transfer or re-transfer being provided to Archangels, and (ii) no such transfer shall be permitted by Ms Lord to a Privileged Relation before the fifth anniversary of the Base Date without the prior written approval of Archangels and SE.

6. **PRE-EMPTION RIGHTS ON TRANSFER**

- 6.1 Except in the case of a transfer expressly authorised by Article 5.2, no person shall be entitled to dispose of any interest in any shares without first offering such shares for transfer to the holders of other shares in the Company.
- 6.2 The offer shall be made by the proposing transferor(s) (the “**Transferor**”) by notice in writing to the Company (a “**Transfer Notice**”) and may be in respect of all or some only of the shares held by the Transferor (the “**Voluntary Offer Shares**”). The Transfer Notice shall specify the Voluntary Offer Shares and the price at which they are offered for sale (the “**Suggested Price**”) and shall constitute the Directors as the agents of the Transferor for the sale of the Voluntary Offer Shares in accordance with these Articles. A Transfer Notice may contain a provision that unless all the Voluntary Offer Shares are sold under this Article, none shall be sold (a “**Total Transfer Condition**”). A Transfer Notice may not be revoked unless (i) it contains a Total Transfer Condition, or (ii) all the members of the Company (other than the Transferor) agree in writing that it may be revoked, or (iii) permitted in terms of Article 6.5. This Article 6.2, together with Articles 6.3 and 6.4, shall not apply to any Compulsory Transfer, and instead Articles 7.1 to 7.6 shall apply.
- 6.3 Within 7 days after a Transfer Notice (other than a Deemed Transfer Notice) is received by the Company, the Directors shall give notice to all the holders of shares in the Company (other than the Transferor) of the number and description of the Voluntary Offer Shares and the Suggested Price, inviting each such holder to notify the Company within 21 days (a) if he requires the Voluntary Offer Shares to be valued (such notification being a “**Valuation Notice**”) and (b) if he does not so require whether he is willing to purchase any and, if so, what maximum number, of Voluntary Offer Shares at the Suggested Price.
- 6.4 If on or before the expiry of the 21 day period referred to in Article 6.3 the Directors shall receive a Valuation Notice requesting a valuation then the Directors shall instruct a Valuer as soon as reasonably practicable thereafter to determine the Fair Value of the Voluntary Offer Shares, acting as an expert and not an arbitrator, and to produce a certificate stating such value (a “**Certificate of Fair Value**”) within 14

days of being instructed to do so. If the Directors do not receive a Valuation Notice within the relevant period, then the Suggested Price of the Voluntary Offer Shares shall be the "**Purchase Price**", and Article 6.8 shall apply accordingly.

- 6.5 Within 7 days of receipt by the Directors of the Certificate of Fair Value (whether pursuant to Article 6.4 or 7.6), the Directors shall send a copy thereof to the Transferor; declaring that the Transferor (other than a Compulsory Transferor) shall be entitled to revoke the Transfer Notice by notice in writing to the Directors within 7 days from the date of service upon the Transferor of such copy. Where the Transferor is a Compulsory Transferor, the Compulsory Transferor shall be entitled within 7 days from the date of service upon the Compulsory Transferor of such copy to notify the Company that the Compulsory Transferor objects to the calculation of the Fair Value whereupon the Company shall immediately refer the matter to the President for the time being of the Institute of Chartered Accountants of Scotland with a request to nominate forthwith an independent valuer to calculate the Fair Value within 30 days of being instructed to do so. The decision of such independently nominated valuer shall be final and binding on all parties concerned and the costs of the said valuer shall be borne by the Compulsory Transferor alone.
- 6.6 The cost of obtaining a Certificate of Fair Value shall be borne by the Company, unless (i) the Transferor revokes the Transfer Notice in accordance with Article 6.5 in which case the Transferor shall bear such cost or (ii) the Compulsory Transferor notifies the Company that the Compulsory Transferor objects to the calculation of the Fair Value in accordance with Article 6.5 in which case the Compulsory Transferor shall bear such cost.
- 6.7 In the case of a Transfer Notice other than a Deemed Transfer Notice, unless the Transfer Notice is revoked by the Transferor in accordance with Article 6.5, the Directors shall give notice to all the holders of shares in the Company (other than the Transferor) of the lower of (i) the Suggested Price and (ii) the Fair Value as determined by the Valuer (the "**Purchase Price**"), and in each case the number and description of the Offer Shares, inviting each such holder to notify the Company within 14 days whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Purchase Price. In the case of a Deemed Transfer Notice, as soon as reasonably practicable (if necessary, following any decision by an independently nominated valuer appointed in accordance with Article 6.5), the Directors shall give notice to all the holders of shares in the Company (other than the Compulsory Transferor) of the lower of (i) the Suggested Price and (ii) the Fair Value as determined by the independently nominated valuer referred to in Article 6.5 (the "**Purchase Price**"), and in each case the number and description of the Offer Shares, inviting each such holder to notify the Company within 14 days whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Purchase Price.
- 6.8 On the expiry of the 21 day period referred to in Article 6.3 or, if a Certificate of Fair Value has been obtained, the expiry of the 14 day period referred to in Article 6.7, the Directors shall allocate the Offer Shares to those members who have applied to purchase the Offer Shares, and in the event of competition amongst members such allocation shall be in accordance with Article 6.9. If the Transfer Notice contains a Total Transfer Condition, no allocation of the Offer Shares shall be made under this Article 6.8 or Article 6.9 unless as a result of such allocation combined with the purchase of Offer Shares by the Company pursuant to Article 6.13 (if any), all the Offer Shares will be sold.
- 6.9 If the aggregate number of Offer Shares for which members have applied exceeds the number of Offer Shares available, priority shall be given to those members holding shares of the same class as the Offer Shares, and the allocation shall be made so far as practicable in proportion to the nominal amount of the share capital of that class held by each of those members but shall not in the case of any member exceed the number of Offer Shares for which he has applied. Thereafter, any Offer Shares remaining unallocated shall be allocated amongst the holders of other classes of shares so far as practicable in proportion to the nominal amount of share capital of the Company held by each of those members but shall not in the case of any member exceed the number of Offer Shares for which he has applied.

- 6.10 On the allocation being made, the Directors shall give details of the allocation in writing to the Transferor and to each member who has stated his willingness to purchase and, on the seventh day after such details are given, the members to whom the allocation has been made shall be bound to pay the Purchase Price for, and to accept a transfer of, the Offer Shares allocated to them respectively and the Transferor shall be bound, on payment of the Purchase Price, to transfer the Offer Shares to the respective purchasers.
- 6.11 If in any case a Transferor, after having become bound to transfer any shares to a purchaser, shall make default in transferring the Offer Shares, the Directors may authorise any Director to execute on behalf of and as attorney for the Transferor any necessary transfer documentation and may receive the Purchase Price and shall thereupon cause the name of the purchaser to be entered in the register as the holder of the Offer Shares and hold the Purchase Price in trust for the Transferor. The receipt by the Directors of the Purchase Price shall be a good discharge to the purchaser and after the name of the purchaser has been entered in the register of members of the Company the validity of the transfer to the purchaser may not be questioned by the Transferor.
- 6.12 Where more than one member has stated his willingness to purchase Offer Shares and through no default of the Transferor such purchase is not duly completed, the Directors shall forthwith notify all the other members who have stated their willingness to purchase Offer Shares and if, within 7 days of such notice being given, those other members shall not between them duly complete the purchase of the Offer Shares in respect of which there has been default in completion, the provisions of Article 6.13 shall apply.
- 6.13 Following the expiry of the latest applicable of (i) the 21 day period referred to in Article 6.3 or (ii) if a Certificate of Fair Value has been obtained, the 14 day period referred to in Article 6.7 or (iii) the 7 day period referred to in Article 6.12 (in all cases the **"Relevant Expiry Date"**), if any of the Offer Shares have not been allocated:
- 6.13.1 The Directors may within 7 days of the Relevant Expiry Date determine that the Company shall, if it is permitted to do so under the Act, attempt to purchase some or all of the Offer Shares itself at the Purchase Price (the **"Determination"**).
- 6.13.2 The Directors shall have a period of 60 days from the date of any such Determination to (i) obtain from the shareholders and the Transferor any necessary consents and authorities including any required under the Act for any such purchase by the Company and (ii) to complete any such purchase.
- 6.13.3 In the event that a Transferor either (i) refuses to sign any document necessary to enable the purchase of some or all of the Offer Shares by the Company or (ii) fails to respond to the Directors within 14 days of any such request (in accordance with Article 6.13.2), the Directors may authorise any Director to execute on behalf of and as attorney for the Transferor any such document and may receive the Purchase Price and hold the Purchase Price in trust for the Transferor; provided that if the Transfer Notice contains a Total Transfer Condition the Directors may only so authorise any Director if all the Offer Shares will as a result be sold.
- 6.13.4 The receipt by the Directors of the Purchase Price shall be a good discharge to the Company and after the Offer Shares purchased by the Company have been cancelled, the Transferor may not question the validity of the purchase.
- 6.14 If either (i) the Directors do not by the close of business on the last day of the 7 day period referred to in Article 6.13.1, make a Determination; or (ii) having made such a Determination, the Company shall not complete a purchase of the Offer Shares by the close of business on the last day of the 60 day period referred to in Article 6.13.2 (in each case a **"Buy-Back Expiry Date"**), then the Transferor may at any time within a period of 30 days from the occurrence of the relevant Buy-Back Expiry Date, transfer the Offer Shares not allocated to other members of the Company to any person at the Purchase Price provided that (a) if the Transfer Notice contains a Total Transfer Condition the Transferor shall be entitled to

transfer all but not some only of the Offer Shares and (b) any such transfer of the Offer Shares shall be subject to the approval of the Board.

7. COMPULSORY TRANSFERS

7.1 Where any of the following events occurs after the date of adoption of these Articles in relation to a member (a "**Compulsory Transferor**"), the member in question shall be deemed to have immediately given a provisional notice of transfer (a "**Deemed Transfer Notice**") in respect of all the shares as then registered in the name of such member and all of the shares as then beneficially owned or controlled by that member (save as noted in Article 7.1.1.5 below) (the "**Compulsory Offer Shares**");

7.1.1 In relation to a member being an individual:

- 7.1.1.1. such member is adjudicated bankrupt; or
- 7.1.1.2. such member is suffering from a mental disorder as referred to in articles 18(d) of the Model Articles; or
- 7.1.1.3. such member ceases to be a director and/or employee and/or consultant of the Company or of any Group Member of the Company where such member does not remain acting in any other of such capacities in relation to the Company or any such Group Member (as an employee, Director or consultant); or
- 7.1.1.4. such member is a Privileged Relation of a person who ceases to be a director and/or employee and/or consultant of the Company or of any Group Member of the Company (where neither (i) such Privileged Relation nor (ii) the relevant person ceasing to be a director, employee or consultant, remains acting in any other of such capacities in relation to the Company or any such Group Member of the Company); or
- 7.1.1.5. and in relation to Ms Lord, where Ms Lord is required to transfer (or otherwise transfers or agrees to transfer) any of her shares to Edinburgh Physiotherapy Centre Limited (SC273388) ("**EPC**") or any receiver, manager or administrative receiver, liquidator or other insolvency officer appointed in relation to EPC as a result of a successful claim being made against Ms Lord that she received shares from EPC either at an under-value or otherwise on terms which constitute a gratuitous alienation (save always that the Deemed Transfer Notice shall only apply to those shares of Ms Lord that are being transferred as a result of such a claim or are otherwise the subject of such a claim and the defined term "**Compulsory Offer Shares**" shall be interpreted accordingly).

7.1.2 In relation to a member being a body corporate:

- 7.1.2.1. a receiver, manager or administrative receiver is appointed in respect of such member or over all or any part of its undertaking or its assets; or
- 7.1.2.2. such member enters into liquidation (other than a voluntary liquidation for the purposes of a bona fide scheme of solvent amalgamation or reconstruction); or
- 7.1.2.3. such member ceases to be controlled (as defined by Sections 450-451 of the Corporation Tax Act 2010) by the person(s) who controlled such member on the date on which it became the member of the Company or the date of adoption of these Articles (whichever is later).

- 7.1.3 In relation to a member being a trust or charitable trust, such member is a Privileged Relation of a person who ceases to be a director and/or employee and/or consultant of the Company or of any Group Member of the Company (where neither (i) such Privileged Relation nor (ii) the relevant person ceasing to be a director, employee or consultant remains acting in any other of such capacities in relation to the Company or any such Group Member of the Company).
- 7.2 The Deemed Transfer Notice shall be deemed to constitute the Directors as the agents of the Compulsory Transferor for the sale of the Compulsory Offer Shares in accordance with these Articles and it shall confer upon the Directors the authority to implement a Compulsory Transfer of the Compulsory Offer Shares, subject to the passing of a Board resolution or otherwise in accordance with Article 7.3. A Deemed Transfer Notice cannot contain a Total Transfer Condition and may not be revoked by the Compulsory Transferor.
- 7.3 The Deemed Transfer Notice may be enforced by the Directors, if the Directors pass a resolution to that effect, by written notice to the Compulsory Transferor (and his Privileged Relations, as appropriate) at any time within a period of eighteen months from the date of the event which results in a Deemed Transfer Notice. After expiry of this period, the Deemed Transfer Notice may not be enforced, but the provisions of Article 7.14 continue to apply. The Directors must enforce a Deemed Transfer Notice at the written request of an Investor Majority without the need for any further resolution of the Directors. The Directors must immediately notify the Compulsory Transferor in writing of such a request of an Investor Majority. Immediately upon written notice having been served upon the Compulsory Transferor, the provisions of Articles 7.4 to 7.14 shall apply and the provisions of Article 6 shall apply to any Deemed Transfer Notice as if it were a Transfer Notice, subject always to the overriding effect of Articles 7.4 to 7.14.
- 7.4 In the event that a Compulsory Transferor makes an application to an employment tribunal within any applicable time period for the making of such application, the Deemed Transfer Notice shall continue to apply but the application of the remaining provisions of Article 7 shall be suspended until the application has been Finally Determined.
- 7.5 The Deemed Transfer Notice shall be deemed to specify the price at which the Compulsory Offer Shares are offered for sale (the “**Suggested Price**”), which price shall be calculated as follows:
- 7.5.1 where the Deemed Transfer Notice relates to (i) a Compulsory Transferor (pursuant to Article 7.1.1.3) who was a Bad Leaver by virtue of a Summary Dismissal or (ii) a Compulsory Transferor (pursuant to Article 7.1.1.4 or 7.1.3) who is the Privileged Relation of a Bad Leaver by virtue of a Summary Dismissal, the Suggested Price shall be the lower of (i) par value of the shares and (ii) the Fair Value; and
- 7.5.2 where the Deemed Transfer Notice relates to (i) a Compulsory Transferor (pursuant to Article 7.1.1.3) who was a Bad Leaver otherwise than by virtue of a Summary Dismissal or (ii) a Compulsory Transferor (pursuant to Article 7.1.1.4 or 7.1.3) who is the Privileged Relation of a Bad Leaver otherwise than by virtue of a Summary Dismissal, the Suggested Price shall be the lower of (i) the Subscription Price of the shares and (ii) the Fair Value; and
- 7.5.3 where the Deemed Transfer Notice relates to (i) a Compulsory Transferor (pursuant to Article 7.1.1.3) who was a Good Leaver or (ii) a Compulsory Transferor (pursuant to Article 7.1.1.4 or 7.1.3) who is the Privileged Relation of a person who was a Good Leaver, the Suggested Price shall be the price agreed by the Compulsory Transferor and the Directors, or if the Compulsory Transferor and the Directors are unable to agree in writing a price within 21 days of the Directors giving notice pursuant to Article 7.3, the Suggested Price shall be the Fair Value; and
- 7.5.4 in all other circumstances, the Suggested Price shall be the Fair Value.

- 7.6 In the event that a valuation of the Compulsory Offer Shares is required in terms of Article 7.5, the Directors shall instruct the Valuer, acting as an expert and not as an arbitrator, (i) to determine the Fair Value of the Offer Shares as at the date of the event giving rise to the Deemed Transfer Notice, whereby in the case of a Deemed Transfer Notice arising under Articles 7.1.1.3, 7.1.1.4 or 7.1.3 (other than on account of death), account shall be taken in assessing the Fair Value of the effect of the relevant person ceasing to be an employee, Director or consultant, and (ii) to produce a certificate stating such value (a “**Certificate of Fair Value**”) within 30 days of being instructed to do so.
- 7.7 Where a former employee, consultant, Director or officer of the Company (or a Group Member of the Company) (a “**Former Worker**”) acquires shares after cessation of such employment, consultancy or appointment by exercising an option or warrant which was granted to such Former Worker while he was an employee, consultant, Director or officer of the Company (or a Group Member of the Company, as appropriate), or where a personal representative or executor of a Former Worker acquires shares in such manner, then this Article 7 shall apply such that:
- 7.7.1 the Former Worker (or his personal representative or executor) in question shall be deemed to have given a Deemed Transfer Notice in respect of such shares on the date of issue of such shares; and
- 7.7.2 where the Former Worker was a Bad Leaver by virtue of a Summary Dismissal, the Suggested Price shall be the lower of (i) the par value of the shares and (ii) the Fair Value on the date of cessation of employment, consultancy or appointment (as appropriate);
- 7.7.3 where the Former Worker was a Bad Leaver otherwise than by virtue of a Summary Dismissal, the Suggested Price shall be the lower of (i) the Subscription Price for the shares or (ii) the Fair Value on the date of cessation of employment, consultancy or appointment (as appropriate); and
- 7.7.4 in all other instances the Suggested Price shall be Fair Value on the date of cessation of employment, consultancy or appointment (as appropriate).
- 7.8 Any obligation to transfer a share under the provisions of this Article 7 shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such share free from any lien, charge or other encumbrance.
- 7.9 Article 7 shall not apply to (i) any shares held by the Investors, (ii) any shares transferred by an Investor under Article 5.2.4, 5.2.5, or 5.2.6, (iii) any shares held by the Investor Director or Corporate Representative of any Investor Director, or (iv) any Exempt Shares (if any).
- 7.10 The Board (with the prior written consent of an Investor Majority) may determine that a Leaver should be entitled to retain some (but not all) of his or her Offer Shares and /or the Board (with prior written consent of an Investor Majority) may determine to treat a Bad Leaver as a Good Leaver in respect of some (but not all) of his or her Offer Shares and the application of this Article 7 to such Offer Shares held by such Leaver may be waived. Where a Leaver is entitled to retain some of his or her Offer Shares (including without limitation pursuant to Article 7.14) (hereinafter referred to as a “Leaver Shareholder” and any Offer Shares so retained by him or her are hereinafter referred to as “Leaver Shares”) in accordance with this Article, then such Leaver Shareholder in relation to any such Leaver Shares held by him or her shall:
- 7.10.1 be entitled to receive notice of and to attend general meetings of the Company;
- 7.10.2 have no right to vote thereat or sign any written resolutions; and
- 7.10.3 (i) have no right to participate in any other offer round of shares (pursuant to Articles 6 or 7) and (ii) be deemed to waive any rights of pre-emption accordingly;
- 7.11 declaring that all voting rights attached to such shares held by a Leaver Shareholder shall be suspended forthwith (with effect from the date such Leaver Shareholder ceases to be an employee, director or consultant of the Company, as applicable) until such time as (i) the transfer of those shares is completed (being, for the avoidance of doubt, the registration of the transferee's name in the register of members

in respect of those shares) in accordance with these Articles, or (ii) the provisions of Article 7 are waived in respect of such Leaver Shareholder in accordance with this Article.

- 7.12 The provisions of this Article 7 (but not in relation to Article 7.14) may be waived in whole or in part in any particular case with the prior written consent of an Investor Majority, and in particular:

7.12.1 the application of this Article 7 to all or some of the relevant Compulsory Offer Shares may be waived;

7.12.2 at the request of the Directors, an alternate arrangement in respect of any Compulsory Offer Shares held by a Compulsory Transferor may be approved;

7.12.3 the Compulsory Transferor may be declared a "Good Leaver";

provided that any waiver shall not result in the Compulsory Transferor being more adversely treated than had such waiver not been made.

- 7.13 The holders of any shares which are the subject of a Deemed Transfer Notice or Compulsory Transfer:

7.13.1 shall, in relation to such shares, be entitled to receive notice of and to attend general meetings of the Company;

7.13.2 shall, in relation to such shares, have no right to vote thereat or sign any written resolutions; and

7.13.3 shall, in relation to such shares, (i) have no right to participate in any other offer round of shares (pursuant to Articles 6 or 7) and (ii) be deemed to waive any rights of pre-emption accordingly;

Declaring that all voting rights attached to such shares which are the subject of a Deemed Transfer Notice shall be suspended forthwith (with effect from the sooner to occur of the Deemed Transfer Notice or Compulsory Transfer) until such time as (i) the transfer of those shares is completed (being, for the avoidance of doubt, the registration of the transferee's name in the register of members in respect of those shares) in accordance with these Articles, or (ii) the provisions of Article 7 are waived in respect of such Deemed Transfer Notice in accordance with Article 7.10.

- 7.14 Notwithstanding the foregoing provisions of this Article 7, in the event that a Founder becomes a Leaver after the third anniversary of the Base Date where a Good Founder Reason applies, then such Founder shall be entitled to retain the undernoted percentage of such Founder's shareholding in the Company as held at the Base Date:

Timescales (starting from the Base Date):	Percentage of relevant Founder's Shares in respect of which relevant Founder is deemed to be a Good Leaver:
Any time on or after the third anniversary of the Base Date and before the fourth anniversary of the Base Date	Ms Lord: 30% Mr Stuart: 30% Mr Roger: 65%
Any time on or after the fourth anniversary of the Base Date and before the fifth anniversary of the Base Date	Ms Lord: 50% Mr Stuart: 50% Mr Roger: 75%
Any time on or after the fifth anniversary of the Base Date	Ms Lord: 60% Mr Stuart: 60% Mr Roger: 100%

DECLARING THAT (i) the other provisions of this Article 7 shall continue to apply to all other shares of the Founder and any Privileged Relation of such Founder; (ii) the provisions of Article 7.10 shall apply to all shares of the Founder retained pursuant to this Article 7.14; and (iii) the exemptions set out in this Article 7.14 shall not however apply if a Leaver subsequently breaches the terms of any restrictive covenant set out in the Investment Agreement or his or her contract of employment or other contract for services with the Company (or a Group Member of the Company) where a Deemed Transfer Notice shall then apply to all such shares of the Founder which would otherwise be exempt but for such breach.

8. LIMITATION ON CHANGE OF CONTROL – TAG ALONG RIGHTS

8.1 Notwithstanding any other Article, no sale or transfer (other than a sale or transfer permitted by Articles 5.2.3 (provided that there is no change in the Controlling Interest), 5.2.4, 5.2.5 or 5.2.6, 5.2.7 or 5.2.8) of the legal or beneficial interest in any shares in the Company (the “**Specified Shares**”) may be made or validly registered if as a result of a sale or transfer of the legal and or beneficial interest in any such shares in the Company:

8.1.1 a Controlling Interest would be obtained in the Company by any person or group of persons Acting in Concert;

8.1.2 50% or more of the shares held collectively by the Founders or their Privileged Relations or Connected Persons would be transferred to any person or group of persons Acting in Concert

unless the proposed transferee or transferees or his or their nominees has or have offered to purchase all the shares for the time being in issue at the Specified Price (as defined below) and on the same terms and conditions as to the payment of the Specified Price (the “**Tag Along Offer**”), such offer to be made by notice in writing to all Recipients (as defined below) and such offer stipulated to be open for acceptance for at least 21 days.

8.2 A Tag Along Offer shall expire 21 days (or such longer period of acceptance stipulated within the Tag Along Offer) after the date of the Tag Along Offer. Any Recipient who wishes to accept the Tag Along Offer must notify the proposed transferee(s) in writing of its acceptance of such offer. Any Recipient who fails to accept the Tag Along Offer within the period for acceptance shall be deemed to have rejected it. In the event that an Option Holder wishes to accept a Tag Along Offer, such person must also notify the Company in writing no less than seven days prior to expiry of the period of acceptance of the Tag Along Offer of its intention to exercise the relevant option or other right to acquire shares, and any failure to do so or any inability under the terms of the relevant option agreement to exercise such option or right to acquire shares within 30 days of notification shall be deemed a rejection of the Tag Along Offer.

8.3 The Specified Price in respect of a particular share shall take into account any differences in class rights between it and any other share including, without limitation, any Specified Share.

8.4 If any part of the Specified Price is to be paid except by cash then each Recipient may, at its option, elect to take a price per share of such cash sum as may be agreed by it and the proposed transferee having regard to the transaction as a whole.

8.5 In the event of a disagreement, the calculation of the Specified Price (including a determination of the Fair Value) shall be referred to an independent expert (acting as an expert and not as an arbitrator and whose decision shall be final and binding) nominated by the President for the time being of the Institute of Chartered Accountants of Scotland and acting at the expense of the proposed transferee(s) or his or their nominees (as appropriate).

8.6 For the purposes of this Article 8:

“**Recipients**” means all members of the Company and all Option Holders (and “**Recipient**” means any one of them); and

"Specified Price" means a price per ordinary share being not less than the Fair Value and at least equal to the value of the consideration (in cash or otherwise) offered or paid or payable by the proposed transferee(s) or his or their nominees for the Specified Shares being acquired including without limitation (i) the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holders of the Specified 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 payable per share and (ii) all arrears and accruals of the dividends on such shares calculated down to the date of the sale or transfer.

9. SALE BY QUALIFYING MAJORITY – DRAG ALONG RIGHTS

- 9.1 Notwithstanding any other Article but subject to Article 9.3, where any person or persons (an **"Offeror"**) makes a Qualifying Offer (as hereinafter defined) and this is to be accepted by the Majority Members (as hereinafter defined), the Majority Members may by notice in writing (a **"Drag Along Notice"**) to the other members of the Company (the **"Minority Members"**) require the Minority Members to (i) forthwith accept such Qualifying Offer, and (ii) transfer all of their shares free from all charges, liens, encumbrances and other third party rights to the Offeror at the same time as the Majority Members transfer all of their own shares to the Offeror. The Drag Along Notice shall specify the intended date of completion of the transfer of the shares pursuant to the Qualifying Offer, being a date not less than 15 Business Days following the date of the Drag Along Notice (the **"Drag Along Completion Date"**). The Majority Members shall also serve the Drag Along Notice on all Option Holders of the Company.
- 9.2 A Drag Along Notice is irrevocable but the Drag Along Notice and all obligations thereunder shall lapse if for any reason the sale of the shares of the Majority Members pursuant to Article 9.1 does not complete within 60 days after the date of the Drag Along Notice.
- 9.3 Upon any person, following the issue of a Drag Along Notice, becoming a member of the Company pursuant to the exercise of a pre-existing option to acquire shares in the Company or otherwise (a **"New Member"**), a Drag Along Notice shall be deemed to have been served upon the New Member on the same terms as the previous Drag Along Notice and the New Member shall thereupon be bound to sell and transfer all such shares acquired by him to the Offeror and the provisions of this Article 9 shall apply to the New Member (and the New Member shall be deemed to be a **"Minority Member"** for the purposes of this Article 9).
- 9.4 In the event that any Minority Member fails to accept such Qualifying Offer or having accepted such Qualifying Offer fails to execute and deliver any of the documents required to effect any transfer of shares pursuant thereto on or before the later of (i) 30 days after receipt or deemed receipt of the Qualifying Offer or (ii) the Drag Along Completion Date, such Minority Member shall be deemed to have irrevocably appointed any of the Directors to be his agents and attorneys for the purposes of accepting such Qualifying Offer and/or transferring all of that Minority Member's shares (as the case may) and executing and delivering any such documents. The provisions of Article 6.11 shall have effect as if such Minority Member was the Transferor and the Offeror was the purchaser.
- 9.5 For the purposes of this Article 9:

"Majority Members" means members holding shares conferring in aggregate more than the Qualifying Majority of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue (but excluding any shares held by a Founder and the Privileged Relations of that Founder which have voting rights suspended pursuant to Article 7) and conferring the right to

attend and vote at all general meetings of the members of the Company, and such group of members must include an Investor Majority;

“Qualifying Offer”

means an offer which:

- (i) is made on identical or substantially similar terms to all members (and Option Holders in the event that they become New Members) as to the price and terms and conditions as to the payment of price; and
- (ii) specifies a price which is not less than the Fair Value of each share; and
- (iii) is certified as complying with conditions (i) and (ii) above by an independent expert (acting as expert and not as arbitrator and whose decision shall be final and binding) acting at the expense of all the members of the Company (in proportion to their respective shareholdings) and nominated by the Majority Members or (in the event of disagreement as to nomination) appointed by the President for the time being of the Institute of Chartered Accountants of Scotland.

9.6 In determining whether an offer satisfies condition (i) of Article 9.5 above such independent expert shall take into account:

9.6.1 any differences in class rights between shares; and

9.6.2 any consideration (in cash or otherwise) received or receivable by any member 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 to that member including, without limitation, any increase in salary, any bonus or termination payment.

9.7 The determination of the Fair Value pursuant to condition (ii) of Article 9.5 may be referred by the Company to an independent expert (acting as an expert and not as an arbitrator and whose decision shall be final and binding) nominated by the President for the time being of the Institute of Chartered Accountants of Scotland and acting at the expense of the Company. In the event that the calculation of the Fair Value by the independent expert appointed pursuant to this Article 9.7 differs from the calculation of the Fair Value by the independent expert appointed pursuant to Article 9.5, then the Fair Value for the purposes of the Qualifying Offer shall be the average of such Fair Value calculations.

9.8 For the avoidance of doubt, the provisions of Article 6 do not apply in the event of any acquisition of shares pursuant to this Article 9.

10. PROCEEDINGS AT GENERAL MEETINGS

10.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, and such meeting was convened on the requisition of members, then the chairman of the meeting must dissolve the meeting.

10.2 If the persons attending an adjourned general meeting within half an hour of the time at which the adjourned meeting was due to start do not constitute a quorum, then the members present shall be a quorum.

10.3 On a show of hands or on a poll, votes may be given either personally or by proxy, or if a corporation, by its Corporate Representative.

11. WRITTEN RESOLUTIONS

- 11.1 A proposed written resolution circulated to the members shall lapse if it is not passed by the requisite number of members before the expiration of three months from the Circulation Date stated on the proposed written resolution.

12. NUMBER OF DIRECTORS

- 12.1 Unless otherwise determined by ordinary resolution of the Company, the number of Directors shall not be subject to any maximum and the minimum number of directors shall be one.
- 12.2 A Director shall not be required to hold any share in the Company in order to qualify for office as a Director. A Director, whether or not the Director holds any share in the Company, shall be entitled to attend and speak at any general meeting, or any meeting of any class, of the members of the Company.

13. ALTERNATE DIRECTORS

- 13.1 Any Director (the “Appointor”) may appoint as an alternate any other Director, or any other person approved by resolution of the Directors, to exercise that Director’s powers and carry out that Director’s responsibilities, in relation to the taking of decisions by the Directors in the absence of the alternate’s Appointor.
- 13.2 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.
- 13.3 Any notice relating to an alternate must identify the proposed alternate and, 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.
- 13.4 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.
- 13.5 Except as the Articles specify otherwise, alternate Directors are deemed for all purposes to be Directors, are liable for their own acts and omissions, are subject to the same restrictions as their Appointors, are not deemed to be agents of their Appointors and, in particular (without limitation), each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his Appointor is a member.
- 13.6 A person who is an alternate Director but not a Director:
- 13.6.1 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);
- 13.6.2 may participate in a unanimous decision of the Directors (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate); and
- 13.6.3 shall not be counted as more than one Director for the purposes of Articles 13.6.1 and 13.6.2.
- 13.7 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.
- 13.8 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the alternate’s Appointor’s remuneration as the Appointor may direct by notice in writing made to the Company.

- 13.9 An alternate Director's appointment as an alternate terminates:
- 13.9.1 when the alternate's Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
 - 13.9.2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a Director;
 - 13.9.3 on the death of the alternate's Appointor; or
 - 13.9.4 when the alternate's Appointor's appointment as a Director terminates.

14. APPOINTMENT OF DIRECTORS AND TERMINATION OF APPOINTMENT

- 14.1 The Company may by ordinary resolution appoint a person who is willing to act as a Director, either to fill a vacancy or as an additional Director (but not to fill the vacancy of any Investor Director).
- 14.2 The Directors may appoint any person who is willing to act as a Director, either to fill a casual vacancy or as an additional Director (but not to fill the vacancy of any Investor Director).
- 14.3 An Archangel Investor Majority shall be entitled from time to time to nominate and appoint one person (an "**Archangel Director**") at any given time as director of the Company and remove from office any such person so appointed and to nominate and appoint another person in his place.
- 14.4 Scottish Enterprise shall be entitled from time to time to nominate and appoint one person (an "**SE Director**") at any given time as director of the Company or any Group Member of the Company and all meetings of any committee of the directors of the Company or any Group Member of the Company and remove from office any such person so appointed and to nominate and appoint another person or persons in his or their place.
- 14.5 An Investor Majority shall be entitled from time to time to nominate and appoint one person (an "**IM Director**") at any given time as director of the Company and remove from office any such person so appointed and to nominate and appoint another person or persons in his or their place.
- 14.6 An Investor Majority shall be entitled from time to time to appoint one of the Investor Directors as the chairman of the Board from time to time and remove from office any such person so appointed and to appoint another Investor Director in his place.
- 14.7 In the absence of an Investor Director holding office at the relevant time:
- 14.7.1 any provision in these Articles (other than Article 15.2) requiring the prior consent, approval or agreement of an Investor Director shall be deemed instead to refer to an Investor Majority; and
 - 14.7.2 any provision in these Articles requiring the notification of the Investor Directors shall be deemed instead to refer to Archangels and Scottish Enterprise.
- 14.8 In addition to any other ground of termination of a Director's appointment as may be set out in these Articles or in the Model Articles, the Board may also terminate a Director's appointment by reason of that person's mental health, as soon as a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have. For the avoidance of doubt, insofar as Article 14.8 relates to any appointment made pursuant to Article 14.3, termination of such appointment shall be a decision of the Investor Majority, rather than a decision of the Board.

15. PROCEEDINGS OF DIRECTORS

- 15.1 A sole Director shall have and may exercise all the powers of, and the full authority conferred on, the Directors in terms of these Articles, and all references to the Directors in the Articles and Model Articles shall be construed accordingly.
- 15.2 The quorum for the transaction of business of the Directors shall be two Directors, of which at least one must be an Investor Director or his alternate, except when the Director in question, in respect of his attendance or that of his alternate, has waived such requirement. In the absence of any person holding the office of Investor Director, the quorum shall be two, except in the case of a sole Director, when the quorum shall be one.
- 15.3 If at any Directors' meeting the numbers of votes cast for and against a proposal are equal, the chairman of the Board (or other Director chairing the meeting) shall not have a casting vote and Article 13 of the Model Articles is amended accordingly.

16. DIRECTORS' CONFLICT OF INTEREST

- 16.1 The Directors may, in accordance with the requirements set out in this Article, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director breaching his duty under Section 175 of the Act to avoid conflicts of interest (a "**Conflict**").
- 16.2 Any authorisation under this Article will be effective only if:
 - 16.2.1 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;
 - 16.2.2 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
 - 16.2.3 the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.
- 16.3 Any authorisation of a Conflict under this Article may (whether at the time of giving the authorisation or subsequently):
 - 16.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
 - 16.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the Directors may determine; and
 - 16.3.3 be terminated or varied by the Directors at any time.
- 16.4 This will not affect anything done by the Director prior to such termination or variation in accordance with the terms of the authorisation.
- 16.5 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:
 - 16.5.1 disclose such information to the Directors or to any Director or other officer or employee of the Company; or
 - 16.5.2 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.

- 16.6 Where the Directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the Director:
- 16.6.1 is excluded from discussions (whether at meetings of Directors or otherwise) related to the Conflict;
 - 16.6.2 is not given any documents or other information relating to the Conflict; and
 - 16.6.3 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.
- 16.7 Where the Directors authorise a Conflict:
- 16.7.1 the Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict; and
 - 16.7.2 the Director will not infringe any duty he owes to the Company by virtue of Sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the Directors impose in respect of its authorisation.
- 16.8 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.
- 16.9 For the purposes of section 175 of the Act, any Investor Director appointed in accordance with Article 14.3 may be expressly authorised to have interests which arise from or are connected with their having a relationship (as employees or otherwise) with and acting as appointed representatives of, the Investors ("**Investor-related interests**"), notwithstanding that their Investor-related interests may directly or indirectly conflict, or have the potential to conflict, with the interests of the Company.
- 16.10 Each Investor Director so appointed shall:
- 16.10.1 be at liberty from time to time to make such disclosure to the Investors concerning the Company as he shall think fit, subject always to the requirement that prior to making any such disclosure, the Investor Director shall ensure that the intended Investor recipients have entered into a binding confidentiality arrangement in respect of the Company's confidential information;
 - 16.10.2 be entitled to keep confidential and not to disclose to the Company any information which comes into his possession as a result of his Investor-related interests where such information is confidential as regards the Investors or third parties; and
 - 16.10.3 in relation to any meeting at which Investor-related interests may directly or indirectly conflict, or have the potential to conflict, with the interests of the Company, be entitled to receive notice thereof (including all relative papers), attend, count in the quorum and vote.

17. OBSERVERS

- 17.1 Archangels shall be entitled from time to time to appoint a person to attend all meetings of the Directors and all meetings of any committee of the Directors as an observer and any person so appointed shall be given (at the same time as the Directors) notice of all meetings of the Directors and all agendas, minutes and other papers pertaining to such meetings and to speak and place items on the agenda for discussion but not to vote.

- 17.2 Scottish Enterprise shall be entitled from time to time to appoint a person to attend all meetings of the Directors and all meetings of any committee of the Directors as an observer and any person so appointed shall be given (at the same time as the Directors) notice of all meetings of the Directors and all agendas, minutes and other papers pertaining to such meetings and to speak and place items on the agenda for discussion but not to vote.

18. REPRESENTATION OF CORPORATIONS

- 18.1 Any corporation which is a member or Director (in this Article called the **"Corporate Appointor"**) may, by resolution of its directors or other governing body, authorise any person to act as its representative (a **"Corporate Representative"**) at, in the case of a member, any general meeting of the Company or at any separate meeting of the holders of any class of shares or, in the case of a Director, at any meeting of the Directors.
- 18.2 The Company may require a certified copy of such a resolution to be delivered at the meeting to the chairman of the meeting or secretary, and unless such certified copy of such resolution is so delivered the authority granted by such resolution may at the discretion of the Board not be treated as valid. The authority granted by any such resolution shall, unless the contrary is stated in the certified copy thereof delivered to the Company pursuant to this Article, be treated as valid for any adjournment of any meeting at which such authority may be used as well as at such meeting.
- 18.3 For the purposes of these Articles, the Corporate Appointor shall be deemed to be present personally at any meeting at which a Corporate Representative is present.
- 18.4 A vote given or, in the case of a general meeting of the Company, poll demanded by a Corporate Representative shall be valid notwithstanding that he is no longer authorised to represent the Corporate Appointor unless notice of the termination was delivered in writing to the Company not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the Corporate Representative proposes to vote.

19. THE SEAL

- 19.1 The Company shall not have a seal.

20. INDEMNITY

- 20.1 Without prejudice to any indemnity to which any person referred to in this Article 20 may otherwise be entitled, every present and former Director, alternate Director, secretary or other officer of the Company (excluding any present or former Auditors) (an **"Indemnified Person"**) shall be indemnified by the Company against all liabilities, costs, charges and expenses incurred by him in the execution and discharge of his duties to the Company and any Associated Company, including any liability incurred by any Indemnified Person in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to be done or omitted by him as an officer or employee of the Company or an Associated Company provided that such indemnity shall not extend to any liability arising out of the fraud or dishonesty of the relevant Indemnified Person (or the obtaining of any personal profit or advantage to which the relevant Indemnified Person was not entitled) and no Indemnified Person shall be entitled to be indemnified for:
- 20.1.1 any liability incurred by him to the Company or any Associated Company of the Company as above defined;

- 20.1.2 any fine imposed in any criminal proceedings;
- 20.1.3 any sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature howsoever arising;
- 20.1.4 any amount for which he has become liable in defending any criminal proceedings in which he is convicted and such conviction has become final;
- 20.1.5 any amount for which he has become liable in defending any civil proceedings brought by the Company or any Associated Company in which a final judgment has been given against him;
- 20.1.6 any amount for which he has become liable in connection with any application under sections 661(3) or (4) or 1157 of the Act in which the court refuses to grant him relief and such refusal has become final; and
- 20.1.7 any liability incurred by a Director or other officer of the Company pursuant to the Investment Agreement, any future investment or subscription agreement or pursuant to any other claim made by the Investors from time to time.

21. INSURANCE

- 21.1 The Company shall have power to purchase and maintain for (i) any Indemnified Person (as defined in Article 20), (ii) any director, secretary or other officer (other than any present or former auditors) or employee of an Associated Company and (iii) any persons who are or were at any time trustees of any pension fund or employees' share scheme in which employees of any Associated Company are interested, insurance against any liability incurred by him in connection with any negligence, default, breach of duty or breach of trust (actual or purported) by him in relation to the Company or any Associated Company or any such pension fund or employees' share scheme or otherwise in connection with his duties, powers or office.

22. NOTICES

- 22.1 Subject to Article 22.2 anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company.
- 22.2 Any notice required or permitted to be given by the Company to a member shall be sufficiently given to that member if sent in a legible form by first class or express registered post ("post"), or airmail, or by personal delivery, including courier delivery, to the registered address of the member, or by electronic mail ("e-mail") to the e-mail address of the member notified to the Company. A notice shall be deemed to have been received: (i) in the case of post, thirty-six hours from midnight (00.00 hrs) on the date of posting, postage prepaid, evidenced by the relevant proof of posting; (ii) in the case of airmail, on the seventh Business Day following mailing, if mailed by airmail, postage prepaid, evidenced by the relevant proof of posting; (iii) in the case of personal delivery, thirty minutes after the time of delivery, evidenced, where appropriate, by the courier's receipt duly counter-signed for or on behalf of the addressee and (iv) in the case of e-mail, when a successful delivery receipt is generated during that or the next Business Day. Where the deemed day of receipt of a notice is not a Business Day or where deemed receipt occurs at the place of delivery on a Business Day but after 1800hrs, that notice shall be deemed to have been received at 0930hrs on the next Business Day. For the avoidance of doubt and notwithstanding the foregoing, notice shall not be validly served if sent to Scottish Enterprise by fax. Any notice to be served on Scottish Enterprise shall require to be addressed to "The Head of Transactions" with a copy of the

notice also being sent at the same time to "The Head of Portfolio Management" at Scottish Enterprise Investments.

- 22.3 Subject to the Articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being.
- 22.4 A Director may agree with the Company that notices or documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than as expressly required in these Articles.

23. VOTING RIGHTS OF SCOTTISH ENTERPRISE

- 23.1 Subject to Article 23.3, in the event that as a result of the buyback, redemption, conversion, cancellation, forfeiture of any shares or the disenfranchisement of voting rights of any part of the share capital of the Company (or any other event having similar effect), the rights attributable to Scottish Enterprise (and/or the Scottish Enterprise Group) pursuant to these Articles would otherwise operate in such a manner as to give Scottish Enterprise (and/or the Scottish Enterprise Group) control of the exercise of 30% or more of the votes at a General Meeting of the Company (a "Trigger Event"), the voting rights of Scottish Enterprise (and / or any member of the Scottish Enterprise Group) applicable to their shareholding on any resolution proposed at a General Meeting shall be deemed to be restricted to 29.99% of the votes cast on any poll and the votes cast by any other holder of voting shares shall be deemed to be proportionately increased such that the aggregate voting rights of all other holders of voting shares for the purpose of any vote shall equal 70.01%.
- 23.2 The Company shall give notice to Scottish Enterprise immediately upon becoming aware of the occurrence or anticipated occurrence of any event which could reasonably be expected to constitute a Trigger Event.
- 23.3 The operation of Article 23.1 may be cancelled or suspended at any time or times either prior to the occurrence of any Trigger Event or subsequent to such provisions taking effect by Scottish Enterprise (and/or the Scottish Enterprise Group) in its sole discretion providing written notice to the Company of its intention to cancel or suspend the operation of Article 23.1. Immediately upon receipt of such notice, the provisions of Article 23.1 shall be suspended or cancelled accordingly. Votes taken by the Company during the period of operation of any suspension or cancellation under Article 23.1 shall not be affected by any such suspension or cancellation.
- 23.4 Notice given by Scottish Enterprise (and/or the Scottish Enterprise Group) in terms of Article 23.3 shall be given by the Company to all shareholders whose rights to vote are affected by the operation of such Article.

24. GOVERNING LAW

These Articles shall be governed by, and construed in accordance with, the Law of Scotland and the Company, its officers and its members, from time to time, prorogate the non-exclusive jurisdiction of the Scottish Courts.