

**Company Number: SC420118**

**THE COMPANIES ACT 2006  
PRIVATE COMPANY LIMITED BY SHARES**

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**ARTICLES OF ASSOCIATION  
OF  
FREEFLOW TECHNOLOGIES  
LIMITED**

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(Adopted on 2023)

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**THE COMPANIES ACT 2006**  
**A PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**

(adopted by Written Resolution  
passed on \_\_\_\_\_ 2023)

-of-

**FREEFLOW TECHNOLOGIES LIMITED**

**1. INTRODUCTION**

1.1 The articles contained in the Model Articles apart from Articles 5 (Directors may delegate), 6 (Committees), 7 (Directors to take decisions collectively), 8 (Unanimous decisions), 10(1) and (2) (Participation in directors' meetings), 11(2) and (3) (Quorum for directors' meeting), 12 (Chairing of directors' meetings), 13 (Casting vote), 14 (Conflicts of interest), 17 (Methods of appointing directors), 19 (Directors Remuneration), 21 (All shares to be fully paid up), 22 (Powers to issue different classes of shares), 26(5) (Share transfers), 41 (Adjournment), 42 (Voting), 44(4) (Poll Votes), 49(3) and (4) (Company Seal), 50 (No right to inspect accounts and other records), 52 (Indemnity) and 53 (Insurance) shall apply to the Company except insofar as they are inconsistent with the following Articles.

1.2 In these Articles and the Model Articles 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.

**2. DEFINITIONS**

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

<b>“A Ordinary Shares”</b>	the A ordinary shares of £0.000001 each in the capital of the Company and having the rights ascribed thereto as set out in these Articles and <b>“A Ordinary Share”</b> shall be construed accordingly;
<b>“A Ordinary Shareholders”</b>	the holders for the time being of the issued A Ordinary Shares and <b>“A Ordinary Shareholder”</b> shall be construed accordingly;
<b>“Acceptance Period”</b>	the period during which an offer made under Article 11.7 is open for acceptance;
<b>“Adoption Date”</b>	the date of adoption of these Articles;
<b>“Asset Sale”</b>	the disposal by the Company of all or substantially all of its undertaking and assets;
<b>“Available Profits”</b>	profits available for distribution within the meaning of part 23 of the CA 2006;
<b>“Auditors”</b>	the auditors for the time being of the Company or such other firm of chartered accountants appointed in accordance with Article 11.4;

<b>“Bad Leaver”</b>	any person who was but has now ceased to be an Employee at any time and who is not a Good Leaver or a Very Bad Leaver;
<b>“Beneficial Owner”</b>	as defined in Article 10.3;
<b>“Board”</b>	the board of Directors of the Company;
<b>“Business Day”</b>	a day (other than a Saturday or Sunday or bank holiday) on which the clearing banks in the city of London are open for business;
<b>“CA 2006”</b>	the Companies Act 2006 and every statutory modification or re-enactment thereof for the time being in force;
<b>“company”</b>	includes any body corporate;
<b>“Company”</b>	Freeflow Technologies Limited, a private limited company incorporated in Scotland with the registered number SC420118;
<b>“Conflict Situation”</b>	any situation or matter (other than one which cannot reasonably be regarded as likely to give rise to a conflict of interest) in which any director has, or can have, a direct or indirect interest that conflicts, or possibly may conflict with the interests of the Company including (without limitation) any such situation or matter which relates to the exploitation of any property, information or opportunity (irrespective of whether the Company could take advantage of the property, information or opportunity);
<b>“Connected”</b>	as defined by Section 1122 of the Corporation Tax Act 2010;
<b>“Deed of Adherence”</b>	a deed of adherence to the terms of the Investment Agreement in such form as may be reasonably approved by an Investor Consent;
<b>“the Directors”</b>	the directors for the time being of the Company or (as the context shall require) any of them (each a <b>“Director”</b> ) acting as the Board of the Company;
<b>“the Drag Along Price”</b>	as defined in Article 16;
<b>“the Drag Along Right”</b>	as defined in Article 16;
<b>“Eligible Shareholders”</b>	as defined in Article 15.1.1;
<b>“Employee”</b>	an individual (other than an Investor Director) who: <ul style="list-style-type: none"> <li>(i) is employed by; and/or;</li> <li>(ii) is a director of,</li> </ul> the Company or any Member of the same Group of the Company.

<b>“Employee Member”</b>	any Employee who is a Member by virtue of their holding of Ordinary Shares (but specifically excluding Neil Edwards);
<b>“Employee Options”</b>	options granted over up to 755,364 Ordinary Shares (unless varied with Investor Consent on or after the Adoption Date) to the Company’s employees from time to time under an employee share option scheme approved by an Investor Consent;
<b>“Equity Gap”</b>	Equity Gap Limited (SC378060);
<b>“Equity Gap Investors”</b>	together (i) the Equity Gap Investors (as defined in the First Supplemental Investment Agreement); (ii) the 2021 Equity Gap Investors (as defined in the Second Supplemental Investment Agreement); (iii) the 2023 Equity Gap Investors (as defined in the Third Supplemental Investment Agreement); and (iv) and any other person who is recognised by Equity Gap as being a member of the investment syndicate managed by Equity Gap in accordance with their rules and procedures;
<b>“Equity Shareholders”</b>	the holders for the time being of issued Equity Shares and <b>“Equity Shareholder”</b> shall be construed accordingly;
<b>“Equity Shares”</b>	the A Ordinary Shares and Ordinary Shares in issue from to time;
<b>“equity share capital”</b>	shall have the meaning set out in sections 548 of the CA 2006;
<b>“Excess Shares”</b>	as defined in Article 11.8.1;
<b>“Excluded Person”</b>	<ul style="list-style-type: none"> <li>(i) any Member (or other person entitled to a Share in the manner set out in Article 12.1) whom the Directors are entitled under Article 10.5, Article 12.1 or Article 14 to require to give a Transfer Notice (but only throughout such time as the Directors are entitled to require him to give a Transfer Notice);</li> <li>(ii) any Member or other person who has been required to give a Transfer Notice under Article 10.5, Article 12.1 or Article 14 (whether or not that requirement has been complied with);</li> </ul>
<b>“Family Member”</b>	in relation to any person or deceased person, such person’s spouse or civil partner and parents and every child and remoter descendant of such person (including stepchildren and adopted children);
<b>“Family Trusts”</b>	in relation to any person or deceased person means trusts under which no immediate beneficial interest in any of the Equity Shares in question is for the time being vested in any person other than that person and/or a Family Member of that person. For these purposes a person shall be deemed to be beneficially interested in an Equity Share if that Share or the

	income derived from it is or may become liable to be transferred or paid or applied or appointed to or for the benefit of that person;
<b>“First Supplemental Investment Agreement”</b>	the supplemental investment agreement between the Company and others dated on or around 29 October 2020;
<b>“FMV”</b>	fair market value as agreed between the Employee Member and the Directors (subject to an Investor Consent) or as determined in accordance with Article 11.5;
<b>“Foresight”</b>	Foresight Fund Managers Limited (03135882);
<b>“Foresight Investor Director”</b>	such person as is appointed by Foresight as a director of the Company pursuant to Article 21.1.1;
<b>“Founder”</b>	Neil MacMartin;
<b>“Founder Shares”</b>	any Ordinary Shares held by the Founder and/or any of his Family Members and/or Family Trusts as at the Adoption Date;
<b>“Good Leaver”</b>	<p>any person who:</p> <ul style="list-style-type: none"> <li>(a) ceases to be an Employee at any time by reason of: <ul style="list-style-type: none"> <li>(i) death;</li> <li>(ii) permanent incapacity or serious illness (not caused by drug or alcohol dependence or abuse) which in the opinion of the Board and an Investor Consent is sufficiently serious to prevent or is reasonably likely to prevent him from carrying out normal duties in accordance with his contract of employment or consultancy agreement;</li> <li>(iii) retirement at an age agreed by the Board with Investor Consent;</li> <li>(iv) dismissal, where such dismissal is determined by a court or tribunal of competent jurisdiction (which decision is final and no longer appealable) as being or amounting to wrongful, unfair or constructive dismissal (save in the case that (with the exception of redundancy procedure) such constructive, unfair or wrongful dismissal is as a result of a procedural defect); or</li> </ul> </li> <li>(b) the Board (subject to an Investor Consent) determines in its absolute discretion, shall be a Good Leaver;</li> </ul>

<b>“Group”</b>	the Company and its subsidiaries from time to time and “Group Company” shall be construed accordingly;
<b>“Investment Agreement”</b>	the investment agreement between (1) the Investor, (2) the Foresight Group LLP (as defined therein), (3) the Executives (as defined therein) and (4) the Company entered into on 5 October 2018 as supplemented, varied or amended from time to time, including pursuant to the First Supplemental Investment Agreement, the Second Supplemental Investment Agreement and the Third Supplemental Investment Agreement;
<b>“Investors”</b>	together Foresight (for as long as it holds any Shares), the Kelvin Investors, the Equity Gap Investors, Scottish Enterprise (for so long as any member of the Scottish Enterprise Group holds any Shares), Seedrs Nominated Custodian (for as long as it holds any Shares) and any party who adheres to the Investment Agreement and is agreed therein to be an Investor;
<b>“Investor Consent”</b>	written consent of the Investor Majority;
<b>“Investor Majority”</b>	those Investors holding more than 50% of the Shares held by the Investors, which must include (i) Foresight; and (ii) a Kelvin Majority;
<b>“Investor Director(s)”</b>	together the Foresight Investor Director (if appointed), the Kelvin Investor Director (if appointed) and the Scottish Enterprise Investor Director (if appointed) (with each an <b>“Investor Director”</b> );
<b>“Investor Group”</b>	in relation to any corporate Investor, that Investor and its Associated Companies from time to time;
<b>“Issue Price”</b>	the aggregate price paid for the relevant Shares whether by purchase or subscription and including any premium paid on subscription;
<b>“ITEPA”</b>	means Income Tax (Earnings and Pensions) Act 2003;
<b>“Kelvin Investor”</b>	together (i) the Kelvin Investors (as defined in the First Supplemental Investment Agreement); (ii) the 2021 Kelvin Investors (as defined in the Second Supplemental Investment Agreement); (iii) the 2023 Kelvin Investors (as defined in the Third Supplemental Investment Agreement); and (iv) any other person who is recognised by Kelvin Capital as being a member of the investment syndicate managed by Kelvin Capital in accordance with their rules and procedures, provided that for these purposes each of the Founder, Martin McCourt, Kenneth Wiggins, Ed Young and Driven2Deliver Limited (SC415232) shall only be a Kelvin Investor in relation to those Shares for which they subscribed pursuant to the Third Supplemental Investment Agreement;
<b>“Kelvin”</b>	Kelvin Capital Limited (SC354243);

<b>“Kelvin Investor Director”</b>	such person as is appointed by Kelvin as a director of the Company pursuant to Article 21.1.2;
<b>“Kelvin Majority”</b>	those Kelvin Investors holding more than 50% of the Shares held by the Kelvin Investors in aggregate;
<b>“Mandatory Transfer Date”</b>	in respect of an Employee Member the earlier of the date of cessation of his employment or directorship and the date on which the Company gives notice to the Employee Member to terminate his employment or directorship;
<b>“Member”</b>	a holder of Equity Shares;
<b>“a Member of the same Group”</b>	as regards any company, a company which is for the time being a holding company or a subsidiary of that company or of any such holding company;
<b>“Model Articles”</b>	the model articles for private companies limited by shares contained in Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229);
<b>“Offer”</b>	<p>either:</p> <ul style="list-style-type: none"> <li>(i) an offer to purchase all the Equity Shares other than those already held by the Offeror and/or any persons acting in concert with him (as defined in the City Code on Take-overs and Mergers); or</li> <li>(ii) the entering into of one or more agreements which will result in any persons who are acting in concert (as defined above) acquiring all the Equity Shares, which agreements are unconditional or subject only to conditions in the sole control of any or all of the persons who are acting in concert;</li> </ul> <p>in each case being an offer or agreement which is approved by Investor Consent as being an offer or an agreement to which Articles 15 and 16 do not apply;</p>
<b>“the Offeror”</b>	as defined in Article 16;
<b>“Ordinary Shares”</b>	the ordinary shares of £0.000001 each in the capital of the Company and having the rights ascribed thereto as set out in these Articles and <b>“Ordinary Share”</b> shall be construed accordingly;
<b>“Other Shareholders”</b>	those persons who hold Ordinary Shares who are neither Investors nor the Founder;
<b>“the Prescribed Price”</b>	the price per Sale Share agreed or determined pursuant to Article 11.4 or determined pursuant to Article 11.5;
<b>“Proposing Transferee”</b>	as defined in Article 15.1.1;



<b>“Proposing Transferor”</b>	a Member proposing to transfer or dispose of Equity Shares or any interest therein;
<b>“Purchaser”</b>	a Member willing to purchase Equity Shares comprised in a Transfer Notice;
<b>“Relevant Interest”</b>	as defined in Article 15.3.1;
<b>“the Relevant Transaction”</b>	as defined in Article 15.1;
<b>“Remuneration Committee”</b>	as defined in the Investment Agreement;
<b>“Sale”</b>	completion of the transaction(s) which has arisen from an Offer;
<b>“the Sale Shares”</b>	all Equity Shares comprised in a Transfer Notice;
<b>“Scottish Enterprise”</b>	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
<b>“Scottish Enterprise Group”</b>	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;
<b>“Scottish Enterprise Investor Director”</b>	such person as is appointed by Scottish Enterprise as a director of the Company pursuant to Article 21.1.3;
<b>“Scottish Enterprise Successor”</b>	any party succeeding in whole or in part to the interests of Scottish Enterprise;
<b>“Second Supplemental Investment Agreement”</b>	the supplemental investment agreement between the Company and others dated on or around 22 December 2021;
<b>“Seedrs”</b>	Seedrs Limited, a limited company incorporated in England and Wales under No. 06848016 whose registered office is at Churchill House, 142-146 Old Street, London EC1V 9BW;
<b>“Seedrs Beneficial Owners”</b>	the beneficial owners set forth on the Seedrs Platform who, from time to time, have beneficial ownership in the Shares of which the Seedrs Nominated Custodian is the registered holder;
<b>“Seedrs Nominated Custodian”</b>	any person nominated by Seedrs to the Company to be the registered holder of the Shares as nominee for the Seedrs Beneficial Owners (being Seedrs Original Nominated Custodian as at the Adoption Date);

<b>“Seedrs Original Nominated Custodian”</b>	Seedrs Nominees Limited, a limited company incorporated in England and Wales under No. 08756825 whose registered office is at Churchill House, 142-146 Old Street, London EC1V 9BW;
<b>“Seedrs Secondary Market”</b>	means the market operated by the Seedrs Nominated Custodian in which Seedrs Beneficial Owners are able to sell and buy the beneficial interest in Shares held by the Seedrs Nominated Custodian on behalf of the Seedrs Beneficial Owners;
<b>“Seedrs Platform”</b>	the platform operated by Seedrs at <a href="http://www.seedrs.com">www.seedrs.com</a> ;
<b>“Shares”</b>	means issued shares in the capital of the Company;
<b>“Subsidiary” and “holding company”</b>	shall have the meanings set out in Sections 1159 to 1162 of the CA 2006;
<b>“Syndicate Investors”</b>	together the Kelvin Investors and the Equity Gap Investors;
<b>“Syndicate Majority”</b>	those Syndicate Investors holding more than 50% of the Shares held by the Syndicate Investors;
<b>“Tag Notice”</b>	a written notice served by a Member in accordance with Article 15.1 and Article 15.2;
<b>“Tax Act”</b>	the Income Tax Act 2007, as amended;
<b>“Third Supplemental Investment Agreement”</b>	the supplemental investment agreement between the Company and others dated on or around the Adoption Date;
<b>“Transfer Notice”</b>	a written notice served by a Member on the Company, in accordance with Article 11 or deemed to have been served pursuant to Article 13;
<b>“Transferee Company”</b>	a company for the time being holding Shares in consequence of a transfer or series of transfers of Shares between Members of the same Group (the relevant Transferor Company in the case of a series of transfers being the first transferor in that series);
<b>“Transferor Company”</b>	a company (other than a company which is also a Transferee Company in respect of the same Shares) which has transferred Shares to a Member of the same Group;
<b>“Very Bad Leaver”</b>	an Employee Member who ceases to be an Employee by reason of fraud or a criminal offence committed against the Company or which brings the Company into disrepute (other than minor road traffic offences); and
<b>“Warrant Instruments”</b>	together (i) the warrant instrument entered into by the Company on or around 29 October 2020; (ii) the warrant instrument entered into by the Company on or around 22 December 2021; and (iii) any other warrant instrument(s) entered into by the Company after 22 December 2021.

### **3. SHARE CAPITAL**

In these Articles, unless the context requires otherwise, references to Equity Shares shall include shares of those respective classes created and/or issued after the Adoption Date.

### **4. SHARE RIGHTS**

The Equity Shares shall have, and be subject to, the following rights and restrictions:

#### **4.1 Income**

- 4.1.1 The Company's Available Profits will be applied as set out in this Article 4.1.
- 4.1.2 The distribution of any profits of the Company shall require prior approval of a majority of the Investor Directors in office at that time.
- 4.1.3 The profits of the Company, which the Company may so resolve to distribute, shall be distributed amongst the holders of Equity Shares *pari passu* (as if the Equity Shares constituted one class of shares) in proportion to the number of Equity Shares held.
- 4.1.4 Model Article 30 to Model Article 35 (inclusive) shall be subject to this Article 4.1 and, in the event of any inconsistency, the provisions of this Article 4.1 shall prevail.

#### **4.2 Proceeds of Sale**

The proceeds of any Sale shall be distributed amongst the holders of Equity Shares as follows:

- 4.2.1 first, each holder of Equity Shares shall be entitled to 1 (one) times the Issue Price paid thereon or, in circumstances where the proceeds of Sale are insufficient to fully return 1 (one) times the Issue Price, the rateable proportion of such Issue Price according to the number of Equity Shares held; and
- 4.2.2 second, any remaining balance of such sale proceeds shall be distributed amongst the holders of the Equity Shares (as if they were one and the same class) according to the number of Equity Shares held.

#### **4.3 Return of Capital**

On a return of assets on a liquidation or capital reduction or similar, the assets of the Company remaining after the payment of its liabilities shall be distributed in the same manner and priority as Article 4.2 as if the assets available were the proceeds of a Sale.

#### **4.4 Asset Sale**

On an Asset Sale the assets of the Company remaining after the payment of its liabilities shall be distributed in the same manner and priority as Article 4.2 as if the assets available were the proceeds of Sale.

#### **4.5 Voting**

- 4.5.1 Subject to the provisions of Article 12.7 and the remainder of this Article 4.5:
  - a) on a show of hands every holder of Equity Shares who (being an individual) is present in person or (being a corporation) is present by a representative shall have one vote; and

- b) on a poll every holder of Equity Shares who is present in person or by a proxy or (being a corporation) by a representative shall have one vote for every Equity Share of which he is the holder.
- 4.5.2 Subject to Article 4.5.4, 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%.
- 4.5.3 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.
- 4.5.4 The operation of Article 4.5.2 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 4.5.2. Immediately upon receipt of such notice, the provisions of Article 4.5.2 shall be suspended or cancelled accordingly. Votes taken by the Company during the period of operation of any suspension or cancellation under Article 4.5.2 shall not be affected by any such suspension or cancellation.
- 4.5.5 Notice given by Scottish Enterprise (and/or the Scottish Enterprise Group) in terms of Article 4.5.2 shall be given by the Company to all shareholders whose rights to vote are affected by the operation of such Article.

## 5. ISSUE OF NEW SHARES: PRE-EMPTION

- 5.1 Subject to Articles 5.3 and 6.3, the following pre-emption process shall apply before any new Equity Shares are issued:
  - 5.1.1 Any new Equity Shares from time to time created shall before they are issued to any third party be offered to the holders of Equity Shares *pro rata* in proportion to the number of Equity Shares held (**"Pre-Emption Offer"**).
  - 5.1.2 The Pre-Emption Offer shall be made by notice in writing specifying:
    - a) the number and class of shares offered (**"Relevant Securities"**);
    - b) the price per share (which shall be the same price per share), and

stating a time (not being less than 30 days or greater than 42 days) within which the offer, if not accepted, will be deemed to be declined and stipulate that any offeree who wishes to subscribe for a number of Relevant Securities in excess of the number to which he is entitled under Article 5.1 shall, in his acceptance, state the number of excess Relevant Securities (**"Excess Securities"**) for which he wishes to subscribe.
- 5.2 Any Relevant Securities not accepted by offerees pursuant to an offer made in accordance with Article 5.1 and Article 5.1.2 shall be used to satisfy any requests for Excess Securities.

- If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants in the respective proportions that the number of Equity Shares held by each such applicant bears to the total number of Equity Shares held by all applicants (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any Equity Shareholder beyond that applied for by him).
- 5.3 The provisions of Article 5.1 shall not apply to the issue of shares pursuant to the exercise of Employee Options and/or the Investment Agreement and/or pursuant to the Warrant Instruments and may in any event be disapplied in relation to any class of shares by together a special resolution (subject to Article 6.3.9) and Investor Consent (which, for the purposes of this Article 5.3 only, must include Scottish Enterprise (for as long as any member of the Scottish Enterprise Group holds any Shares)).
- 5.4 **Emergency Fundraising**
- 5.4.1 If in the reasonable opinion of the Board (acting with the consent of a majority of the Investor Directors in office at that time), the Company resolves that it needs to raise emergency funds by way of subscription for Shares (having regard to the financial position of the Group for the next three months) ("**Emergency Funding Requirement**"), the provisions of this Article 5.4 shall apply unless both a special resolution has been passed to the contrary and Investor Consent to the contrary has been obtained.
- 5.4.2 Where the Board has resolved that there is an Emergency Funding Requirement in accordance with Article 5.4.1, prior to allotting any shares to any person, the Company shall first make an offer to its Members in accordance with Article 5.1, save that the first time period in Article 5.1 of thirty days shall be replaced with ten days and if Members do not accept the offer and take up their *pro rata* share within ten days, the issue of Equity Shares to the Members who have accepted or any willing third party shall proceed regardless ("**Emergency Funding Shares**") ("**Initial Emergency Funding Round**").
- 5.4.3 Following the completion of the Initial Emergency Funding Round, all Members who did not take up their *pro rata* entitlement to the Emergency Funding Shares pursuant to Article 5.4.2 shall have the right to subscribe for such number of Equity Shares that would maintain their percentage shareholding in the Company at the level it was immediately prior to the issue of the Emergency Shares and shall be entitled to a further twenty-one days (or such longer period agreed by the Board with the consent of a majority of the Investor Directors in office at that time) in which to complete such subscription following the close of the Initial Emergency Funding Round ("**Emergency Funding Catch-up Right**"). For the avoidance of doubt, the valuation of such Shares shall be the same as those offered as part of the Initial Emergency Funding Round.
- 5.4.4 Where some but not all Members participate in the Initial Emergency Funding Round ("**Emergency Funding Round Participants**") and some Members who do not participate in the Initial Emergency Funding Round exercise their Emergency Funding Catch-up Right under Article 5.4.3, all Emergency Funding Round Participants will have the right to subscribe for such additional number of Equity Shares that would maintain their percentage shareholding in the Company at the level it was immediately prior to the issue of the Emergency Funding Shares and shall be entitled to a further twenty-one days (or such longer period agreed by the Board with the consent of a majority of the Investor Directors in office at that time) in which to complete such subscription from the close of the last subscription pursuant to the Emergency Funding Catch-up Right. For the avoidance of doubt, the valuation of such Shares shall be the same as those offered as part of the Initial Emergency Funding Round.
- 5.4.5 It is a principle of these Articles that unless a special resolution is passed to the contrary, no Member shall be diluted by the operation of an Initial Emergency

Funding Round without having had the opportunity to avoid such dilution whether by participating in the Initial Emergency Funding Round itself, exercising their Emergency Funding Catch-up Right or exercising their further catch-up right pursuant to Article 5.4.4 provided that such subscription rights are exercised within the requisite timeframes.

- 5.5 Subject to this Article 5.5 and Articles 5.1 and 5.3, and for the purposes of sections 549 and 551 of the CA 2006, the shares in the capital of the Company shall be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper, provided that:
- 5.5.1 no shares shall be issued at a discount to their nominal value;
  - 5.5.2 the allotment or grant to that person must be approved by an Investor Consent;
  - 5.5.3 no shares to which Articles 5.1 applies shall be issued more than three months after the expiry of the period for acceptance of the last offer of such shares made under Article 5.1 unless the procedure set out in Article 5.1 is repeated in respect of such shares (and so that the time limit set out in this Article 5.5.3 shall apply equally to any repetition of that procedure);
  - 5.5.4 no shares shall be issued at a price less than that at which they were offered to the Members in accordance with Article 5.1 and if the Directors are proposing to issue such shares wholly or partly for a non-cash consideration the cash equivalent of such consideration for the purposes of this sub-paragraph shall be as reasonably determined by the Auditors who shall act as experts and not as arbitrators and whose determination shall be final and binding on the Company and each of its members. For the avoidance of doubt this Article 5.5.4 shall not apply to the issue of any shares pursuant to Employee Options and/or the Investment Agreement;
  - 5.5.5 no Equity Shares shall be allotted to any person who is not already a party to the Investment Agreement unless that person has first executed and delivered to the Company a Deed of Adherence or unless it is otherwise agreed by the Investors that a Deed of Adherence is not required; and
  - 5.5.6 no Equity Shares shall be allotted to any employee, director, prospective employee or prospective director unless such person has entered into a joint section 431 ITEPA election with the Company or unless this requirement is waived by the Board subject to an Investor Consent.
- 5.6 The provisions of Section 561(1) and 562(1) to (6) inclusive and 568(3) CA 2006 shall not apply to the allotment of equity securities made by the Company.
- 5.7 Any Investor shall be entitled to offer any right (in whole or in part) under this Article 5 to subscribe for Equity Shares:
- 5.7.1 to any venture capital trust, venture capitalist, investment trust, investment company, limited partnership, EIS fund (approved or unapproved) or other such like entity advised or managed by the same investment adviser/manager to the relevant Investor;
  - 5.7.2 in the case of a Syndicate Investor, to any Family Member or Family Trust of such Syndicate Investor; and
  - 5.7.3 in the case of any member of the Scottish Enterprise Group, to any member of the Scottish Enterprise Group.

## **6. VARIATION OF CLASS RIGHTS**

- 6.1 Whenever the capital of the Company is divided into different classes of shares the special rights attached to any class may be varied or abrogated, either whilst the Company is a going concern or during or in contemplation of a winding-up:
- 6.1.1 in the case of the A Ordinary Shareholders, by way of an Investor Consent or with the sanction of a unanimous resolution passed at a separate meeting of the holders of the A Ordinary Shares;
  - 6.1.2 in the case of the Ordinary Shares, with both:
    - a) an ordinary resolution passed at a separate meeting of the holders of the Ordinary Shares; and
    - b) the consent of a Syndicate Majority, Seedrs Nominated Custodian (for as long as Seedrs Nominated Custodian holds any Shares) and Scottish Enterprise (for as long as any member of the Scottish Enterprise Group holds any Shares).
- 6.2 To every such separate meeting all the provisions of these Articles relating to general meetings of the Company shall apply (*mutatis mutandis*) except that:
- 6.2.1 the necessary quorum shall be at least two persons holding or representing by proxy at least one-third in nominal amount of the issued shares of the class, but so that at any adjourned meeting of such holders at which such a quorum is not present the holder or holders present shall be a quorum; and
  - 6.2.2 the holders of shares of the class in question shall on a poll have one vote in respect of every share of the class held by them respectively
- 6.3 Without prejudice to the generality of this Article, the following events shall be deemed to be an attempted variation of the rights attaching to the A Ordinary Shares and the Ordinary Shares such shares and shall therefore require class consent in accordance with Article 6.1.1 and 6.1.2:
- 6.3.1 any alteration or variation of any of the rights attached to any of the shares for the time being in the capital of the Company;
  - 6.3.2 any resolution to wind-up the Company or any subsidiary of the Company;
  - 6.3.3 any increase in the issued capital of the Company, save for the Employee Options or pursuant to the Investment Agreement;
  - 6.3.4 any reduction or sub-division or consolidation of the issued share capital of the Company;
  - 6.3.5 the grant by the Company of a right to subscribe for or to convert securities into Shares, save for Employee Options, pursuant to the Investment Agreement;
  - 6.3.6 the application by way of capitalisation of any sum in or towards paying up any debenture or debenture stock of the Company;
  - 6.3.7 the redemption of any Shares or the entering into of a contract by the Company to purchase any of its Shares;
  - 6.3.8 any alteration of the Company's memorandum or articles of association;
  - 6.3.9 the passing of any special resolution pursuant to Article 5.3;
  - 6.3.10 the calling of a meeting of the Company to effect or approve any matter which would by virtue of this Article 6 be a variation of such class rights;

- 6.3.11 registration as a public company;
- 6.3.12 the subscription for or other acquisition of shares in any company, the acquisition of all or substantially all of the assets of any other company or of any unincorporated business, the disposal of any share in any other company, the disposal of the Company's undertaking and assets or any substantial part thereof or the making of any capital investment in any partnership or the disposal of any such interest; or
- 6.3.13 any act or transaction committed or proposed to be committed by a Director within the terms of Article 22.

## **7. LIEN**

- 7.1 The Company shall have a first and paramount lien on every Share, which is not fully paid, for all and any indebtedness of any holder thereof to the Company (whether a sole holder or one of two or more joint holders) in respect of the Shares concerned.
- 7.2 The Company's lien over a Share takes priority over any third party's interest in that Share and extends to any dividend or other money payable by the Company in respect of that Share, and (if the lien is enforced and the Share is sold by the Company) the proceeds of sale of that Share.
- 7.3 The Directors (subject to an Investor Consent) may at any time decide that a Share, which is or would otherwise be subject to the Company's lien will not be subject to it, either wholly or in part.

## **8. REGISTRATION OF TRANSFERS**

- 8.1 Subject to Article 8.2, the Directors shall be required to register promptly any transfer of Shares made in accordance with the provisions of these Articles provided in all cases (other than a transfer pursuant to Article 10.2.4(a)) that where the transferee is not already a party to the Investment Agreement, a Deed of Adherence duly executed by all relevant parties is laid before the meeting at which the transfer is to be approved (unless such requirement has been waived by an Investor Consent), but shall not register any transfer of shares otherwise.
- 8.2 The Directors may refuse to register a transfer of a Share:
  - 8.2.1 which is not fully paid up (as to nominal value or premium) or a transfer of a Share on which the Company has a lien;
  - 8.2.2 if it is in favour of more than four transferees;
  - 8.2.3 unless it is lodged at the registered office or such other place as the Directors may determine and is accompanied by the certificate for the Shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer; and
  - 8.2.4 unless it is in respect of one class of Share only.
- 8.3 In addition the Directors may refuse to register a transfer of a Share to a bankrupt, a minor or a person who is unable to make a decision as set out in section 3 of the Mental Capacity Act 2005 (and any consequent statutory modification, consolidation or re-enactment thereof).

## **9. TRANSFERS PURSUANT TO OFFERS MADE UPON A CHANGE OF CONTROL OR WITH INVESTOR CONSENT**

Any Shares may at any time be transferred by any Member and the Directors shall (save subject to Article 8.2) register such transfer:



- 9.1 pursuant to Article 10 (Permitted Transfers);
- 9.2 pursuant to acceptance of any offer made to that Member under the requirements of Article 15 (Tag Along);
- 9.3 pursuant to Article 16 (Drag Along); or
- 9.4 with Investor Consent.

## 10. PERMITTED TRANSFERS

- 10.1 Subject to the provisions of Article 8, any Share (other than any Equity Share in respect of which the holder shall have been required by the Directors under these Articles to give a Transfer Notice or shall be deemed to have given a Transfer Notice) may at any time be transferred:
  - 10.1.1 by an individual Member (subject to the provisions of Article 12 in respect of Employee Members) to trustees to be held on Family Trusts of such a Member, or to a Family Member of such Member;
  - 10.1.2 in the event of the death of any Member (subject to the provisions of Article 12 in respect of Employee Members) by his personal representative to trustees to be held on Family Trusts of such Member, or to a Family Member of such Member;
  - 10.1.3 by any Member, being a company, to a Member of the same Group as such Member, save that the transferee can only hold the Shares for so long as it is a member of the same Group as the original Member and on the transferee ceasing to be a member of that Group the transferee will transfer the Shares back to the original Member.
- 10.2 Any Investor may transfer any Shares (without restriction as to price or otherwise):
  - 10.2.1 to another party who is a venture capital trust, venture capitalist, investment trust, investment company, limited partnership, EIS Fund (approved or unapproved) or such like entity manager or advised by the same investment manager or adviser, an Investor, an acquirer of an Investor, the fund manager/adviser to an Investor or an employee, member or partner of the fund manager/adviser to an Investor;
  - 10.2.2 in the case of a Syndicate Investor, to any Family Member or Family Trust of such Syndicate Investor;
  - 10.2.3 in the case any member of the Scottish Enterprise Group, to any member of the Scottish Enterprise Group; or
  - 10.2.4 in the case of Seedrs Nominated Custodian:
    - a) to any Seedrs Beneficial Owners (subject to Article 10.6) without any restriction of any kind, including any requirement to enter into a Deed of Adherence; or
    - b) any replacement Seedrs Nominated Custodian.
- 10.3 Any Shares held by a nominee for their beneficial owner ("**the Beneficial Owner**") may be transferred by the nominee to the Beneficial Owner or to another person shown to the reasonable satisfaction of the Directors to be a nominee for the Beneficial Owner only. Any Shares may be transferred by the Beneficial Owner to a person shown to the reasonable satisfaction of the Directors to be a nominee for the Beneficial Owner only. Where any person to whom any Shares have been transferred as a nominee ceases to hold such Shares as nominee for the Beneficial Owner only he shall forthwith transfer such Shares to the Beneficial Owner or to another person shown to the reasonable satisfaction of the

- Directors to be a nominee for the Beneficial Owner only and in default of doing so he shall be deemed to have given a Transfer Notice in respect of all such Shares.
- 10.4 Where Shares have been transferred to trustees under Article 10.1.1 or 10.1.2, on any change of trustees, the Relevant Shares (as defined below) may be transferred to the trustees for the time being of the trust concerned.
- 10.5 In the event that:
- 10.5.1 a Family Member holding Relevant Shares ceases to be a Family Member of the Member from which (whether directly or by a series of transfers under Article 10.1.1) the Relevant Shares were derived;
  - 10.5.2 a Transferee Company holding Relevant Shares ceases to be a Member of the same Group as the Transferor Company from which (whether directly or by a series of transfers under Article 10.1.3) the Relevant Shares were derived; or
  - 10.5.3 any Relevant Shares held by trustees cease to be held on a Family Trust of the Member;
- the Member holding the Shares shall immediately notify the Directors in writing that such an event has occurred and such Member shall be bound, if and when required in writing by the Directors to do so, to give a Transfer Notice in respect of the Relevant Shares (but without specifying a proposed Prescribed Price (so that the Prescribed Price shall be determined pursuant to Article 11.4 and Article 11.5) and so that the right of revocation conferred by Article 11.9 shall not apply).
- For this purpose the expression "**the Relevant Shares**" means (so far as the same remain held by the trustees of a Family Trust or by any Transferee Company or any Family Member) the shares originally transferred to the trustees or to the Transferee Company or to the Family Member and any additional shares issued to such trustees or Transferee Company or Family Member by way of a capitalisation or acquired by such trustees or Transferee Company or Family Member in exercise of any right or option granted or arising by virtue of the holding of the Relevant Shares or any of them or the membership thereby conferred.
- 10.6 Any transfer of Shares pursuant to Article 10.2.4(a) shall only be permitted if each of the following criteria have been met:
- a) each of Seedrs and Seedrs Original Nominated Custodian are unable to continue acting as the nominee of the Seedrs Beneficial Owners of such Shares due to either (i) a change in law or regulation; or (ii) an insolvency event; and
  - b) Seedrs and Seedrs Nominated Custodian, having used all reasonable endeavours have been unable to locate a suitable replacement Seedrs Nominated Custodian to whom a transfer of Shares may be made in accordance with Article 10.2.4(b).
- 10.7 The Shares held by the Seedrs Nominated Custodian may be listed on the Seedrs Secondary Market with written prior notice to the Company, provided that:
- a) the price per share at which the Shares are listed on the Seedrs Secondary Market will be fixed at not less than the price at which the last funding round was completed; and
  - b) there shall be no variable pricing mechanism with respect to Shares.
- 10.8 Any Seedrs Beneficial Owner may transfer his or her beneficial interest in any Shares to any person, without notice to the Company and at any time, so long as Seedrs and the Seedrs Nominated Custodian retain legal title in respect of such Shares immediately after such transfer. If a transfer is made pursuant to this Article 10.8, the new Seedrs Beneficial Owner shall be treated as the Seedrs Beneficial Owner for the purposes of these Articles.

## 11. PRE-EMPTION RIGHTS

- 11.1 The right to transfer Shares or any interest therein shall, subject to and without prejudice to the provisions of Article 9 (Change of Control) and Article 10 (Permitted Transfers) be subject to the following restrictions, save that such restrictions shall not apply to any transfer of Shares pursuant to Article 9.1, the acceptance of an offer made pursuant to Article 15 (Tag Along) or to the proposed sale pursuant to Article 16 of the Shares for the time being in issue where the Vendors (as defined in Article 16 (Drag Along) comply with their obligations under Article 16).
- 11.2 Before transferring or disposing of any Shares (or any interest in Shares) the Proposing Transferor shall serve a notice on the Company specifying the number and class of Shares in question and the proposed price for such Shares, and the Transfer Notice shall constitute the Company his agent for the sale of those Shares at the Prescribed Price to any Member or Members. Except as provided in this Article, a Transfer Notice once given or deemed to be given shall be revocable only where no purchaser is found for such Shares pursuant to Article 11.10 and otherwise only with the consent of the Directors (subject to an Investor Consent).
- 11.3 A Transfer Notice may comprise Shares of more than one class and shall, if the Proposing Transferor has received any offer to purchase Shares (whether or not an offer capable of becoming legally binding upon acceptance) within the period of three months prior to service of the Transfer Notice, give the name of the offeror, the number and class of Shares concerned and the price offered in respect of each such Equity Share. A Transfer Notice may not be given by an Excluded Person or an Employee Member unless required by the Directors under Article 10.5 or Article 16.
- 11.4 The Directors will endeavour to agree a price per Share for the Shares the subject of the Transfer Notice (based upon the criteria set out in Article 11.5) (the "**Prescribed Price**") with the Proposing Transferor. If the Directors fail to agree the Prescribed Price with the Proposing Transferor within 14 days of receipt of the Transfer Notice by the Company or, as applicable, a Transfer Notice having been deemed to have been served, the Directors shall request the Auditors (or if they are unable or decline to act, an independent firm of chartered accountants appointed by the Directors or, in the event of disagreement appointed on the application of the Proposing Transferor or by the Directors by the President of the Institute of Chartered Accountants in England & Wales and the provisions relating to Auditors in this Article 11 shall apply to such independent firm of chartered accountants (acting as experts and not as arbitrators)) to certify the Prescribed Price.
- 11.5 The Auditors shall (acting as experts and not arbitrators) within 14 days of such a request certify to the Company the Prescribed Price, being the value of each Sale Share (or, where appropriate of each Sale Share of each class) calculated on the following basis:
- 11.5.1 by determining the sum which a willing purchaser would offer to a willing vendor for all the issued Shares;
  - 11.5.2 if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
  - 11.5.3 that the Sale Shares are capable of being transferred without restriction;
  - 11.5.4 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 Shares which they represent;
  - 11.5.5 not taking into account any suspension of rights pursuant to Article 12;
  - 11.5.6 reflect any other factors which the Auditors reasonably believe should be taken into account provided that such factors shall not override the above assumption and bases; and

- 11.5.7 by dividing the resultant figure between the holders of Shares by applying the provisions of Article 4.2 as if that sum were the proceeds of a Sale.
- 11.6 The Auditors' certificate as to the Prescribed Price shall be final and binding, save in the event of manifest error.
- 11.7 Within 21 days following receipt of the Transfer Notice or (where relevant) the date on which the Transfer Notice is deemed to have been given (or, where the Prescribed Price is certified by the Auditors the date of certification of the Prescribed Price), the Company shall offer the Sale Shares to each Member (other than the Proposing Transferor and any Excluded Person) holding Shares of the same class as the transferor in accordance with the provisions of Article 11.8 for purchase at the Prescribed Price. All offers shall be made by notice in writing and state a time (being between 30 and 42 days inclusive following the date of such notice) within which the offer must be accepted or, in default, will be deemed to have been declined ("**Acceptance Period**"). A copy of such offer shall at the same time be sent by the Company to the Proposing Transferor.
- 11.8 The Sale Shares shall be offered on the following basis:
- 11.8.1 any Member to whom the Sale Shares are offered may accept all or some only of the Sale Shares offered to him, and shall be invited to indicate whether, if he accepts all such Sale Shares, he wishes to purchase any Sale Shares which other Members decline to accept ("**Excess Shares**") and, if so, the maximum number of Excess Shares which he wishes to purchase;
- 11.8.2 any Excess Shares shall be allocated between the Members who have indicated that they wish to purchase Excess Shares *pro rata* to the proportion of the total number of Shares held by those Members but so that no Member shall be required or entitled to receive more than the maximum number indicated by him pursuant to Article 11.8.1;
- 11.8.3 subject to the provisions of Article 11.7, the Purchasers shall be bound to purchase the Sale Shares properly allocated to them at the Prescribed Price in accordance with the provisions of Article 11;
- 11.8.4 in the event that there are Shares which remain unallocated following the application of Article 11.8 to the members of the same class as the transferor such shall then be offered to members of the other class of Shares applying the provisions of Articles 11.7 and 11.8 thereto *mutatis mutandis*.
- 11.9 Not later than 7 days following the expiration of the Acceptance Period the Company shall give written notice to the Proposing Transferor stating:
- 11.9.1 if it is the case, that no Member has sought to purchase any of the Sale Shares; or, otherwise
- 11.9.2 the number of Sale Shares which Members have sought to purchase, giving the name and address of each Purchaser and the number of Sale Shares to be purchased by him.
- 11.10 If within the Acceptance Period, Purchasers have been found for only some of the Sale Shares or if no Purchaser has been found for any of the Sale Shares, the Proposing Transferor may within 7 days of service on him of notice under this Article revoke his Transfer Notice by written notice to the Company.
- 11.11 If the Proposing Transferor is given notice under Article 11.9 (and subject to his not revoking his Transfer Notice in accordance with Article 11.10) he shall be bound on payment of the Prescribed Price to transfer the Sale Shares in question to the respective Purchasers. The sales and purchases shall be completed at the registered office of the Company during

- normal business hours on the first Business Day after the expiry of 14 days following the date of service of notice by the Company under Article 11.9.
- 11.12 If a Proposing Transferor fails to transfer any Sale Shares to a Purchaser after becoming bound to do so, the Directors may authorise any person to execute on behalf of and as attorney for the Proposing Transferor any necessary instruments of transfer and shall register the Purchaser as the holder of the relevant Sale Shares. The Company's receipt of the purchase money shall be a good discharge to the Purchaser and the Company shall thereafter hold the purchase money on trust for the Proposing Transferor. After the name of the Purchaser has been entered in the Register of Members in purported exercise of these powers, the validity of the proceedings shall not be questioned by any person.
- 11.13 If the Company fails before the end of the Acceptance Period to find a Purchaser or Purchasers for any of the Sale Shares, the Proposing Transferor may (subject to Articles 8 and 11.15) sell all or any of the Sale Shares to any third party/parties.
- 11.14 If before the end of the Acceptance Period the Company finds a Purchaser or Purchasers for some (but not all) of the Sale Shares and serves notice accordingly under Article 11.9 the Proposing Transferor may (subject to Articles 8 and 11.15) sell all or any of the Sale Shares for which no Purchaser has been found to any third party/parties unless he revokes his Transfer Notice pursuant to Article 11.10 in which case he may sell all (but not some only) of the Sale Shares to any third party/parties.
- 11.15 The right of the Proposing Transferor to sell Sale Shares pursuant to Article 11.13 or Article 11.14 shall be subject to the following restrictions:
- 11.15.1 Sale Shares may not be sold after the expiry of three months after the date on which notice is given by the Company under Article 11.9;
- 11.15.2 Sale Shares must be sold on a *bona fide* sale at a price not less than the Prescribed Price and without any deduction, rebate or allowance whatsoever to the Purchaser;
- 11.15.3 the provisions of Article 15 (if applicable); and
- 11.15.4 no Shares may be transferred, or disposed of, pursuant to this Article 11.15 by any person who is an Excluded Person unless the Directors resolve to approve such transfer or disposal.
- 11.16 The costs of the Auditors shall be borne as they direct.
- 11.17 The restrictions imposed by this Article 10.7 may be waived in relation to any proposed transfer of Shares with the consent of all Members who, but for such waiver, would or might have been entitled to have such shares offered to them in accordance with Article 11.8.
- 11.18 For the purposes of Article 11.15.2 and calculating whether or not a price to be paid for the Sale Shares is more or less than the Prescribed Price, then the cash value of any non-cash consideration shall be that agreed between the Proposing Transferor and the Company, or if the Proposing Transferor and the Company fail to agree such cash value within 15 Business Days following the earlier of any request by the Proposing Transferor to so value any non-cash consideration and the submission to the Company of the relevant stock transfer form(s) relating to a transfer of the Sale Shares for non-cash consideration, the cash value shall be the amount certified as such as at the date of the earlier of the request for valuation and the purported transfer of the Sale Shares at the request of the Directors, by the Auditors (acting as experts and not arbitrators). Their certificate shall be final and binding.
- 11.19 Any Investor shall be entitled to offer any right (in whole or in part) under this Article 11 to subscribe for or acquire Shares to:

- 11.19.1 any venture capital trust, venture capitalist, investment trust, investment company, limited partnership, EIS fund (approved or unapproved) or other such like entity advised or managed by the same investment adviser/manager to the relevant Investor or to any company in which the Investor is a shareholder;
- 11.19.2 in the case of a Syndicate Investor, to any Family Member or Family Trust of such Syndicate Investor; or
- 11.19.3 in the case any member of the Scottish Enterprise Group, to any member of the Scottish Enterprise Group.

## **12. MANDATORY TRANSFERS**

- 12.1 A person entitled to a Share in consequence of the bankruptcy, administration, receivership or liquidation ("**Insolvency Event**") of a Member shall be bound if required in writing to do so by the Directors or an Investor Consent to give a Transfer Notice in respect of all the Shares (other than Founder Shares) then registered in the name of the Member subject to the Insolvency Event, within 2 weeks of receipt of the relevant request.
- 12.2 A Director shall be entitled to give a Transfer Notice in respect of all the Shares (other than Founder Shares) then registered in the name of the Member subject to the Insolvency Event.
- 12.3 If a Transfer Notice is given or deemed to have been given pursuant to Article 12.1, 12.2 or 12.4 (as the context shall require) the Sale Shares shall be offered in accordance with the provisions of Article 11.8 (as the context shall require) and in such circumstances the Sale Shares shall be transferred at the Prescribed Price.
- 12.4 If an Employee Member ceases to be an Employee at any time then he (and, any person to whom he has directly or indirectly transferred Shares pursuant to Article 10.1 as at the Mandatory Transfer Date) shall be deemed to have given a Transfer Notice at the date on which they ceased to be an Employee in respect of 100% of the Shares registered in the name of the Employee Member (and any person to whom he has directly or indirectly transferred Shares pursuant to Article 10.1 as at the Mandatory Transfer Date) and 100% of all Shares which may be capable of being issued as the result of any options granted to the Employee Member and vested in the Employee Member as at the Mandatory Transfer Date.
- 12.5 The Prescribed Price for Sale Shares under Articles 12.1, 12.2 and 12.4 shall be:
  - 12.5.1 where the relevant Employee Member ceases to be an Employee by reason of being a Good Leaver, the Prescribed Price shall be the FMV of the relevant Shares; or
  - 12.5.2 where the relevant Employee Member ceases to be an Employee by reason of being a Bad Leaver or a Very Bad Leaver, the Prescribed Price shall be the lower of FMV and the Issue Price of the relevant Shares.
- 12.6 If the Employee Member who is deemed to have given the Transfer Notice fails to complete the sale of the Shares in question, the Directors may authorise any person to execute on behalf of and as attorney for the Employee Member who is deemed to have given the Transfer Notice an appropriate contract and, in the absence of the relative share certificate, any indemnity in respect thereof requested by the Directors and may deliver it or them on his behalf. The Company shall send a cheque in respect of the Prescribed Price to the Employee Member who is deemed to have given the Transfer Notice at his registered address and after appropriate entries have been made in the Register of Members in purported exercise of this power, the validity of the proceedings shall not be questioned by any person.
- 12.7 Notwithstanding any other provision of these Articles, as from the Mandatory Transfer Date in relation to an Employee Member:

12.7.1 he shall cease to have the right to attend or to vote at general meetings or to vote on a written resolution (unless otherwise determined by the Directors (subject to an Investor Consent) and all voting rights conferred by his Shares (including, for the avoidance of doubt, the balance of any Shares retained by him) shall be exercised by the Board (subject to Investor Consent); and

12.7.2 he shall cease to have the right to participate in any future issue of Shares issued in respect of those Shares

provided always that such rights shall be re-instated on a transfer of any such Shares in accordance with this Article 12.

12.8 If a former Employee Member (or his personal representatives) acquires Shares pursuant to an employee share option scheme he shall be deemed to have given a Transfer Notice pursuant to the provisions of Article 12.3 at the acquisition date of the Shares (or such later date as the Board determines in writing subject to an Investor Consent).

### 13. EVIDENCE OF COMPLIANCE

In any case where the Directors require a Transfer Notice to be given by an Employee Member and it is not duly given within a period of two weeks of notice being given requiring the Transfer Notice to be given, a Transfer Notice in respect of the Shares in question shall be deemed to have been given at the expiration of that period. Any Transfer Notice deemed to have been given or required to be given under any provision of these Articles shall not be capable of revocation and (notwithstanding any of the provisions of these Articles) shall extend not just to the Shares registered in the name of the Member concerned but to any person Connected to him and/or to whom he has directly or indirectly transferred Shares pursuant to Article 10.1.

### 14. EVIDENCE OF AUTHORISATION

For the purpose of ensuring that a transfer of Shares is duly authorised under these Articles or that no circumstances have arisen requiring a Transfer Notice to be given, the Directors may require any Member or the personal representatives or trustee in bankruptcy, receiver administrator or liquidator of any Member or any person named as transferee in any instrument of transfer lodged for registration to provide to the Company such information as the Directors reasonably think fit regarding any matter which they consider relevant. If such information is not provided to the reasonable satisfaction of the Directors within a reasonable time after request, the Directors shall be entitled to refuse to register the transfer in question or (in case no transfer is in question) to require by notice in writing that a Transfer Notice be given in respect of the Shares concerned. If the information discloses (in the reasonable opinion of the Directors) that a Transfer Notice ought to have been given in respect of any Shares the Directors may by notice in writing require that a Transfer Notice be given in respect of the Shares concerned.

### 15. TAG ALONG

15.1 Notwithstanding the provisions of Article 10 no sale or transfer of the legal or beneficial interest in any Shares ("**the Relevant Transaction**") (other than one made pursuant to Article 9) may be made or validly registered if as a result of such sale or transfer a Relevant Interest is obtained by a person (or persons acting in concert) where such person(s) did not have a Relevant Interest immediately prior to the Relevant Transaction, unless the Proposing Transferor:

15.1.1 shall have procured a written offer complying with the provisions of Article 15.4 to have been made by the proposed transferee (or any person or persons acting in concert with it) ("**the Proposing Transferee**") to the holders of all the other issued Shares to acquire their entire holding of Shares (the "**Eligible Shareholders**"); and

- 15.1.2 shall have served a notice on the Eligible Shareholders in respect of such proposed offer (the "**Tag Notice**").
- 15.2 The Tag Notice will specify:
- 15.2.1 that Eligible Shareholders are entitled to transfer all of their shareholdings to the Proposing Transferee;
  - 15.2.2 the terms of sale to which the Eligible Shareholders are required to adhere and enclose copies of the tag along documents (if any) relating to the sale;
  - 15.2.3 the identity of the proposed purchaser;
  - 15.2.4 the Specified Price and/or type of consideration being offered (including non-cash consideration) for each class of Shares held by the Eligible Shareholders; and
  - 15.2.5 the proposed place, date and time of completion.
- 15.3 For the purpose of this Article 15:
- 15.3.1 the expression a "Relevant Interest" shall mean an interest in more than 50% of the Equity Shares in issue for the time being;
  - 15.3.2 the expressions "transfer" and "transferee" shall include respectively the renunciation of a renounceable letter of allotment and the renouncement under any such letter of allotment; and
  - 15.3.3 the expression "acting in concert" shall bear the meaning ascribed to it in the City Code on Take-overs and Mergers (as amended from time to time).
- 15.4 The offer referred to in Article 15.1 above shall be on arms-length terms including that:
- 15.4.1 it will be open for acceptance in the United Kingdom for a period of at least 28 days following the making of the offer;
  - 15.4.2 each Member to whom it is made shall be entitled to receive for each of the Shares held by him a sum per Share equal to the Specified Price (or otherwise on the same terms for non-cash consideration where relevant);
  - 15.4.3 the purchase of any Shares in respect of which such offer is accepted shall be completed at the same time as the Relevant Transaction;
  - 15.4.4 and otherwise on the same terms for all members (and for this purpose any offer which provides for any warranties or indemnities (other than warranties as to title and capacity) or restrictive covenants from some, but not all, Members shall be deemed to comply with this Article 15.4);
- 15.5 The expression "**the Specified Price**" shall mean:
- 15.5.1 a price per Share which shall be determined by valuing the entire issued share capital of the Company (the "**Sale Value**") by reference to the aggregate of:
    - a) the amount offered or paid or payable by the proposed transferee or transferees or his or their nominees respectively for each of the Shares comprised in the Relevant Interest to the holder or holders thereof or, if higher, the highest amount paid or payable for an Equity Share in any related or previous transaction within the 12 months preceding the offer by the same purchaser or any person acting in concert with the Proposing Transferee; and



- b) an amount equal to the relevant proportion of any other consideration (in cash or otherwise) received or receivable by the holder or holders of the Shares comprised in the Relevant Interest 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 Relevant Interest (and, for the avoidance of doubt and without prejudice to the generality of the foregoing, any additional consideration which is linked to future profits, turnover or some other measure of the future performance of the Company shall be regarded as consideration which is an addition to the price paid or payable for the Relevant Interest); and

15.5.2 the Specified Price which each Member shall be entitled to receive in respect of each Share held by him shall then be determined by applying the provisions of Article 4.2 as if the Sale Value were the proceeds of a Sale.

15.6 Any disagreement as to the calculation of the Specified Price which each Member is entitled to receive in respect of each Share held by him for the purposes of this Article shall be referred to the Auditors or if a Member objects or they are unable to act or decline to act, an independent firm of chartered accountants appointed by the Directors, or in the event of disagreement, appointed on the application of the Proposing Transferor or the Directors by the President of the Institute of Chartered Accountants in England and Wales and the provisions relating to the Auditors in this Article 15 shall apply to such independent firm of chartered accountants (acting as experts and not arbitrators) whose decision shall be final and binding (in the absence of manifest error) and the costs of the Auditors shall be borne by the Company.

## 16. DRAG ALONG

16.1 If at any time one or more Members holding between them 66% or more of the Company's voting rights for the time being in issue (and subject to Investor Consent) propose to sell the legal or beneficial interest in their entire holdings of Shares (the "**Vendors**") to a person with whom none of them is Connected or one or more such persons acting in concert (the "**Offeror**") then the Vendors shall have the right to require the holders of all other issued Shares (the "**Called Shareholders**") to sell and transfer their entire holdings of Shares (for the same consideration as the Vendors whether this be cash or non-cash consideration) to the Offeror (or as the Offeror shall direct) in accordance with this Article 16.1 (the "**Drag Along Right**") at a price (the "**Drag Along Price**") to be determined on the basis set out in Article 15.5 (or if the cash is non-cash consideration having a value equal to the Drag Along Price) and otherwise on the terms specified in Article 16 (as if the Vendors' proposed sale was a Relevant Transaction).

16.2 The Drag Along Right may be exercised by the Vendors serving written notice to that effect (a "**Drag Along Notice**") on the Called Shareholders at any time before the transfer of the Vendors' Shares to the Offeror.

16.3 A Drag Along Notice shall specify that the Called Shareholders are, or will in accordance with this Article 16 be, required to sell and transfer their Shares to the Offeror on or about the date specified in the Drag Along Notice (which shall be not less than 7 days after the date of the Drag Along Notice or (if no such date is specified in the Drag Along Notice) on or about such date as the Vendors may subsequently specify by notice in writing to the Called Shareholders (which shall be not less than 7 days after the date of the Drag Along Notice).

16.4 A Drag Along Notice once given shall be irrevocable but shall lapse (and the obligations thereunder shall lapse) in the event that for any reason the Vendors do not transfer their entire holdings of Shares to the Offeror or the Offeror's nominee not later than the date specified as the date for completion of the sale and purchase of Shares pursuant to exercise of the Drag Along Right.

16.5 Upon any person, following the giving of a Drag Along Notice, becoming a Member pursuant to the exercise of a pre-existing option to subscribe for or otherwise acquire Shares (a "**New**

**Member**”), a Drag Along Notice shall be deemed to have been given to the New Member forthwith 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 or as the Offeror may direct and the provisions of this Article shall apply *mutatis mutandis* to the New Member save that completion of the sale of such Shares shall take place forthwith upon the Drag Along Notice being deemed to have been given to the New Member.

- 16.6 If the Vendors exercise the Drag Along Right, it shall not be necessary for them first to have given Transfer Notices pursuant to Article 10.7.

## **17. PROCEEDINGS AT GENERAL MEETINGS**

- 17.1 Save as herein otherwise provided three Equity Shareholders present in person or by proxy (or, being a corporation, by representative), one of whom must be a proxy or duly authorised representative of the Investors holding A Ordinary Shares, one of whom must be a Kelvin Investor or their proxy and one of whom be Scottish Enterprise or their proxy, shall be a quorum.

- 17.2 If a quorum is not present within half an hour from the time appointed for a general meeting or ceases to be present the general meeting shall stand adjourned to the same day in the next week at the same time and place or to such other day and at such other time and place as the Directors may determine.

- 17.3 If at any adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the Members present shall form a quorum.

- 17.4 In the case of any equality of votes at a general meeting, whether on a show of hands or on a poll, the chairman of the meeting shall not be entitled to a second or casting vote.

## **18. ALTERNATE DIRECTORS**

No meeting of the Directors shall be invalid because notice thereof or of any business to be transacted at that meeting was not given to any alternate director if his appointer attends such meeting.

## **19. APPOINTMENT AND RETIREMENT OF DIRECTORS**

- 19.1 The Directors shall not be required to retire by rotation.

- 19.2 The Company may by ordinary resolution appoint any person who is willing to act to be a director, either to fill a vacancy or as an additional director (but not to fill the vacancy of an Investor Director).

- 19.3 The Directors may appoint a person who is willing to act to be a Director, either to fill a vacancy or as an additional Director, provided that the appointment does not cause the number of Directors to exceed any number fixed by or in accordance with these Articles as the maximum number of directors.

## **20. PROCEEDINGS OF THE DIRECTORS**

- 20.1 The number of Directors shall not be less than two or more than eight.

- 20.2 Subject to Article 20.5, the quorum necessary for the transaction of business of the Directors shall be four, but must include a majority of any Investor Directors in office at the time of the meeting.

- 20.3 At any meeting of the Directors each Director (or his alternate director) present at the meeting shall be entitled to one vote.

- 20.4 In the case of an equality of votes at any meeting of the Directors the chairman of such meeting shall not be entitled to a second or casting vote.
- 20.5 Any Director including an alternate Director may participate in a meeting of the Directors or a committee of the Directors of which he is a member by means of a conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and participation in a meeting in this manner shall be deemed to constitute presence in person at such meeting and, subject to these Articles and the CA 2006, he shall be entitled to vote and be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the chairman of the meeting then is.
- 20.6 Model Article 9(3) and 9(4) shall be deleted and replaced with:
- “Notice of every meeting of the directors shall be given to each director and his alternate, including directors and alternate directors who may for the time being be absent from the United Kingdom and have given the Company an address within the United Kingdom or an e-mail address or a facsimile number outside the United Kingdom for service”.

## **21. INVESTOR DIRECTOR AND OBSERVER**

- 21.1 Notwithstanding any other provisions of these Articles:
- 21.1.1 so long as Foresight are holders(s) of any Share(s), Foresight shall have the right (but shall not be obliged) to appoint one person as a Director of the Company (and in their absolute discretion as a member of each and any committee of the Company, including the Remuneration Committee) and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place;
- 21.1.2 so long as any Kelvin Investor is the holder of any Share(s), Kelvin shall have the right (but shall not be obliged) to appoint one person as a Director of the Company (and in their absolute discretion as a member of each and any committee of the Company, including the Remuneration Committee) and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place; and
- 21.1.3 so long as any member of the Scottish Enterprise Group is the holder of any Share(s), Scottish Enterprise shall have the right (but shall not be obliged) to appoint one person as a Director of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place.
- 21.2 An Investor Director shall not be required to hold any Shares.
- 21.3 Any appointment or removal of an Investor Director shall be by notice in writing from the appointer to the Company which will take effect on delivery at the registered office of the Company.
- 21.4 For so long as Foresight are the holders of any Shares, on any resolution to remove a Foresight Investor Director the Shares held by the A Ordinary Shareholders who appointed such director shall together carry at least one vote in excess of 75% of the votes exercisable in respect of that resolution at the general meeting at which such resolution is to be proposed and if any such director is removed pursuant to Section 168 of the CA 2006 the A Ordinary Shareholders who appointed such director may reappoint him or any other person as a Foresight Investor Director.
- 21.5 For so long as any Kelvin Investor is the holder of any Share(s), on any resolution to remove a Kelvin Investor Director the Share(s) held by the Kelvin Investor(s) shall together carry at least one vote in excess of 75% of the votes exercisable in respect of that resolution at the

- general meeting at which such resolution is to be proposed and if any such director is removed pursuant to Section 168 of the CA 2006 Kelvin may reappoint him or any other person as a Kelvin Investor Director.
- 21.6 For so long as any member of the Scottish Enterprise Group is the holder of any Share(s), on any resolution to remove a Scottish Enterprise Investor Director the Share(s) held by the members of the Scottish Enterprise Group shall together carry at least one vote in excess of 75% of the votes exercisable in respect of that resolution at the general meeting at which such resolution is to be proposed and if any such director is removed pursuant to Section 168 of the CA 2006 Scottish Enterprise may reappoint him or any other person as a Scottish Enterprise Investor Director.
- 21.7 Notwithstanding any other provisions of these Articles:
- 21.7.1 so long as Foresight are holders of any Share(s), Foresight shall have the right to appoint one person as an observer at board meetings of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place;
- 21.7.2 so long as any Kelvin Investor is the holder of any Share(s), Kelvin shall have the right to appoint one person as an observer at board meetings of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place; and
- 21.7.3 so long as any member of the Scottish Enterprise Group is the holder of any Share(s), Scottish Enterprise shall have the right to appoint one person as an observer at board meetings of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place.
- 21.8 Any such observer(s) shall be entitled to receive the same information concerning the business and affairs of the Company, as the Directors of the Company receive, and at the same time, but shall not be entitled to vote at meetings of the Directors and shall not be counted towards the quorum.
- 21.9 Any appointment or removal of such observers shall be by notice in writing from the appointer to the Company which will take effect on delivery at the registered office of the Company.
- 21.10 Notwithstanding any other provisions of these Articles, the Other Shareholders shall, for so long as they hold not less than 20% of the Shares have the right to appoint one person as an observer at board meetings of the Company and to remove from office any person so appointed and (subject to such removal) to appoint another person in his place. The provisions of Articles 21.8 and 21.9 shall apply equally to such an observer.
- 22. DIRECTORS' CONFLICTS OF INTEREST**
- 22.1 If a proposed decision of the Directors is concerned with an actual or proposed transaction or arrangement with the Company in which a Director is in any way directly or indirectly interested, that Director shall be counted as participating in the decision making process for quorum and voting purposes provided that the relevant interest either:
- 22.1.1 has been duly declared in accordance with section 177 or section 182 CA 2006, as the case may require, or
- 22.1.2 is not required by the terms of either of those sections to be declared.
- 22.2 So long as the relevant interest falls within Article 21.1 or 21.2, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction with the Company:

- 22.1.3 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
  - 22.1.4 shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) or participate in any unanimous decision, in respect of any such matter or proposed matter in which he is interested;
  - 22.1.5 may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director; and
  - 22.1.6 may be a Director, or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested.
- 22.3 The Directors are hereby empowered for the purposes of section 175 of the CA 2006 to authorise any Conflict Situation that may arise and to amend or vary any such authorisation so given. Any such authorisation, amendment or revocation shall be given by resolution of the directors made in accordance with these Articles and, in the case of such authorisation, that section. The Directors may give any such authorisation subject to such terms as they shall consider appropriate and reasonable in the circumstances.
- 22.4 For the purposes of sections 175 and 180(4) of the CA 2006 and for all other purposes, it is acknowledged that an Investor Director may be or become subject to a Conflict Situation or Conflict Situations as a result of his also being or having been or being party to an agreement or understanding or circumstances under which he may become an employee, director, trustee, member, partner, officer or representative of, or a consultant to, or a director or indirect investor in and/or otherwise commercially involved with or economically interested in any of the following:
- 22.4.1 an Investor; and/or
  - 22.4.2 any Investor affiliate, which for these purposes means any person who or which, as regards any Investor or any other Investor affiliate of that Investors:
    - a) is a company or entity which is a member of the Investor Group; and/or
    - b) is an investment manager or investment adviser to or of it and/or another Investor affiliate; and/or
    - c) is a Person in which the Investor and/or any Investor affiliated may have or acquire a direct or indirect economic interest, including without limitation any portfolio company investee; and/or
    - d) controls or is controlled, managed, advised (in an investment adviser capacity) or promoted by the Investor and/or such Investor affiliate; and/or
    - e) is a trustee, manager, beneficiary, shareholder, partner, unit holder or other financier or any participant in or of it and/or that Investor affiliate, and/or
    - f) is holder of any carried interest or similar incentive arrangement associated with any Person or arrangement referred to in paragraph 22.4.1 or 22.4.2 of this Article,
- where for these purposes "Person" shall mean any individual, body corporate, fund, trust, partnership or other entity whether or not having separate legal status.

22.4.3 An Investor Director's duties to the Company arising from his holding office as director shall not be breached or infringed as a result of any Conflict Situation envisaged by this Article 22.4 and he shall be entitled to:

- a) receive notice (including any relevant board papers) of, attend, count in the quorum towards and vote at board meeting relating in any way to, and deal generally with, matters concerning, connected with or arising from the Conflict Situation concerned; and
- b) keep confidential and not disclose to the Company any information which comes into his possession as a result of such Conflict Situation where such information is confidential as regards any third party.

## **23. DIRECTORS' BORROWING POWERS**

23.1 Subject as hereinafter provided, and as set out in the Investment Agreement, the Directors may exercise all the powers of the Company (whether express or implied) of borrowing or securing the payment of money, of guaranteeing the payment of money and the fulfilment of obligations and the performance of contracts, and of mortgaging or charging the undertaking, property, assets and uncalled capital of the Company and (subject to Section 551 of the CA 2006) of issuing debentures.

23.2 Subject to an Investor Consent, no mortgage or charge shall be created on any part of the undertaking, property, assets or uncalled capital of the Company or any subsidiary of the Company except for the purpose of securing money borrowed from bankers together with interest thereon and costs and expenses relating thereto.

## **24. INDEMNITY**

24.1 Subject to the provisions of the CA 2006 every Director (including an alternate Director) or other officer of the Company shall be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the lawful execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court, and no Director (including an alternate 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 lawful execution of the duties of his office or in relation thereto.

24.2 The Directors shall have power to purchase and maintain for any Director (including an alternate Director), officer or auditor of the Company, insurance against any liability which may attach to him or loss or expenditure which he may incur in relation to anything done or alleged to have been done or omitted to be done as a Director (including as an alternate Director), officer or auditor.

24.3 The Directors may authorise the directors of companies within the same group of companies as the Company to purchase and maintain insurance at the expense of the Company for the benefit of any director (including an alternate director), other officer or auditor of such company in respect of such liability, loss or expenditure as is referred to in Article 24.2.

## **25. NOTICES**

25.1 Any notice or other communication in connection with these Articles shall be in writing and may be delivered by hand, pre-paid first class post (or airmail if overseas) to the address of such party which the recipient has notified in writing to the sender, marked for the attention of the recipient provided that in the case of a notice or other communication being sent or delivered to Scottish Enterprise it must be marked for the attention of "The Head of Transactions" and copied to "The Head of the Portfolio Management". No notice or other communication in connection with these Articles may be sent by fax or email and any such notice or communication sent by fax or email shall be invalid.

- 25.2 Any such notice or other communication will be deemed to have been duly served if delivered by hand, at the time of delivery and if delivered by first class post, 2 Business Days after being posted or, in the case of airmail, 5 Business Days after being posted.
- 25.3 The Kelvin Investors confirm that notices or other communications to be served upon them will be sent to them at the registered office of Kelvin Capital from time to time.