

**RIGMAR GROUP (HOLDINGS) LIMITED**

**COMPANY NUMBER: SC483951**

**(THE "COMPANY")**

**MEMBERS' WRITTEN SPECIAL RESOLUTIONS**

**SPECIAL RESOLUTIONS**

In accordance with Sections 288 to 300 inclusive of the Companies Act 2006, we, being members of the Company who represent not less than 75% of each of (i) the voting rights of those members who would be entitled to vote on these resolutions and (ii) the voting rights of those members who would be entitled to vote on each class of shares in the Company, in each case on the circulation date hereof, agree that the following resolutions shall have effect as if passed by the Company in general meeting as special resolutions and passed by each class of shareholders at a separate general meeting of the holders of that class of shares and accordingly we resolve THAT:

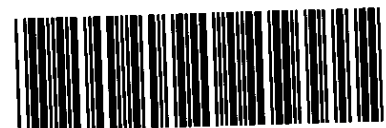
1. the Directors be and hereby are generally and unconditionally authorised for the purposes of Section 551 of the Companies Act 2006 to allot relevant shares and grant rights to subscribe for, or to convert any security into shares on the basis that:

a. the maximum amount of the relevant securities to be allotted pursuant to this authority shall be 400 Preferred Shares (as defined in the articles of association of the Company); and

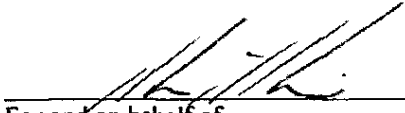
b. this authority shall expire, unless sooner revoked or varied, on the expiry of the period of five years from the date of the passing of this resolution,

but provided that the Directors may after such revocation, variation or expiry allot shares pursuant to an offer or agreement so to do made by the Company prior to such revocation or variation or expiry which the Company, by this authority, is allowed to make or enter into. This authority is in addition to all subsisting authorities.

2. the Company adopt new Articles of Association in the form of the draft Articles of Association attached to this special written resolution and signed for the purpose of identification by a director



2. the Company adopt new Articles of Association in the form of the draft Articles of Association attached to this special written resolution and signed for the purpose of identification by a director of the Company in substitution for and to the entire exclusion of the existing Articles of Association of the Company,

  
\_\_\_\_\_  
For and on behalf of  
Energy Growth Momentum GP Ltd.,  
as a general partner of  
**EGM Cayman L.P.**  
(as the sole holder of A Ordinary Shares of £1.00 each in  
the capital of the Company and a holder of Preferred  
Shares)

9 October 2017  
\_\_\_\_\_  
Date

\_\_\_\_\_  
**Gordon MacGregor** (in his capacity as a holder of B  
Ordinary Shares of £1.00 each in the capital of the  
Company and a holder of Preferred Shares)

\_\_\_\_\_  
Date

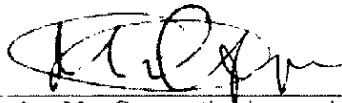
\_\_\_\_\_  
**Keith Wilfred Nelson** (in his capacity as a holder of B  
Ordinary Shares of £1.00 each in the capital of the  
Company, D Ordinary Shares of £1.00 each in the  
capital of the Company and a holder of Preferred  
Shares).

\_\_\_\_\_  
Date

of the Company in substitution for and to the entire exclusion of the existing Articles of Association of the Company.

For and on behalf of  
Energy Growth Momentum GP Ltd.,  
as a general partner of  
**EGM Cayman L.P.**  
(as the sole holder of A Ordinary Shares of  
£1.00 each in the capital of the Company and a  
holder of Preferred Shares)

Date



**Gordon MacGregor** (in his capacity as a  
holder of B Ordinary Shares of £1.00 each in  
the capital of the Company and a holder of  
Preferred Shares)

9 OCTOBER 2017  
Date

**Keith Wilfred Nelson** (in his capacity as a  
holder of B Ordinary Shares of £1.00 each in  
the capital of the Company, D Ordinary Shares  
of £1.00 each in the capital of the Company  
and a holder of Preferred Shares).

Date

2. the Company adopt new Articles of Association in the form of the draft Articles of Association attached to this special written resolution and signed for the purpose of identification by a director of the Company in substitution for and to the entire exclusion of the existing Articles of Association of the Company,

\_\_\_\_\_  
For and on behalf of  
Energy Growth Momentum GP Ltd.,  
as a general partner of  
**EGM Cayman L.P.**  
(as the sole holder of A Ordinary Shares of £1.00 each in  
the capital of the Company and a holder of Preferred  
Shares)

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Gordon MacGregor** (in his capacity as a holder of B  
Ordinary Shares of £1.00 each in the capital of the  
Company and a holder of Preferred Shares)

\_\_\_\_\_  
Date



\_\_\_\_\_  
**Keith Wilfred Nelson** (in his capacity as a holder of B  
Ordinary Shares of £1.00 each in the capital of the  
Company, D Ordinary Shares of £1.00 each in the  
capital of the Company and a holder of Preferred  
Shares).

\_\_\_\_\_  
06 OCTOBER 2017  
Date

**Company No. SC483951**

**RIGMAR GROUP (HOLDINGS) LIMITED**

**ARTICLES OF ASSOCIATION**

Adopted by special resolution passed on

9 OCTOBER 2017



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**ARTICLES OF ASSOCIATION**

**OF**

**RIGMAR GROUP (HOLDINGS) LIMITED**  
(the "Company")

(Adopted by special resolution passed on 9 OCTOBER 2017)

**PART 1: PRELIMINARY AND LIMITATION OF LIABILITY**

**1. REGULATIONS AND ARTICLES NOT TO APPLY**

No regulations or articles set out in any statute, or in any statutory instrument or other subordinate legislation made under any statute, concerning companies shall apply as the regulations or articles of the Company.

**2. DEFINITIONS AND INTERPRETATION**

**2.1** In these Articles, unless the context requires otherwise:

**"A Shareholders"** means the holders of A Shares from time to time and **"A Shareholder"** means any one of them;

**"A Shares"** means the A ordinary shares of £1.00 each in the capital of the Company having the rights, and being subject to the restrictions, contained in these Articles and **"A Share"** means any one of them;

**"Accepting Shareholder"** has the meaning given to it in Article 17.5;

**"Accounting Period"** means an accounting reference period of the Company beginning on 1 January and ending on the following 31 December, or such other date as is notified to the Registrar of Companies from time to time;

**"Acquisition Agreement"** means the sale and purchase agreement in the agreed form entered into or to be entered into on or around the Commencement Date between the Company and each of the IMSL Vendors (in respect of the IMSL Acquisition) and the Original Managers (in respect of the RSL Acquisition);

**"Acquisition Documents"** means together the Acquisition Agreement and all other agreements or documents to be entered into in connection with, or delivered under, either or both of the Acquisition Agreements;

**"Act"** means the Companies Act 2006;

**"Acting in Concert"** has the meaning given to it at the date of adoption of these Articles in the City Code on Takeovers and Mergers;

**"Additional Ordinary Shares"** has the meaning given in Article 6.6.2;

**"Additional Securities"** has the meaning given in Article 10.5.3;

**"Allocation Notice"** has the meaning given in Article 13.14;

**"Annual Business Plan"** means, in respect of any financial year, the annual business plan of the Group in respect of such financial year adopted in accordance with the provisions of paragraph 2.2 of schedule 8 of the Investment Agreement;

**"Appointor"** has the meaning given in Article 59.1;

**"Arrears"** means in relation to any Share, all accruals, deficiencies and arrears of any dividend payable in respect of such Shares together with all interest and other amounts payable thereon;

**"Articles"** means the Company's articles of association;

**"Auditors"** means the Company's incumbent auditors from time to time;

**"Authorised Bank"** means a clearing bank in the United Kingdom;

**"Authority"** means any supra-national, national or sub-national authority, commission, department, agency, regulator, regulatory body, securities exchange, court, tribunal or arbitrator in any jurisdiction including, for the avoidance of doubt, any Tax Authority;

**"B Shareholder Majority"** means the B Shareholders who collectively hold a majority in number of the issued B Shares at the relevant time;

**"B Shareholder Representative"** means a person appointed and notified to the Majority Investors in writing by the holder(s) of a majority in number of the issued B Shares from time to time as being authorised to represent the B Shareholders in respect of any matter to be determined in accordance with these Articles and the first such B Shareholder Representative shall be Gordon MacGregor;

**"B Shareholders"** means the holders of B Shares from time to time and **"B Shareholder"** means any one of them;

**"B Shares"** means the B ordinary shares of £1.00 each in the capital of the Company having the rights, and being subject to the restrictions, contained in these Articles and **"B Share"** means any one of them;

**"Bad Leaver"** means a Leaver who is not a Good Leaver other than a Defaulting Original Manager Leaver;

**"Bidco"** means Lionel Bidco Limited (Registered Number: SC484003);

**"Board"** means the board of Directors from time to time;

**"Business Day"** means a day (which for these purposes ends at 5.30pm) on which banks are open for commercial business in the City of London other than a Saturday or Sunday;

**"C Shares"** means the C ordinary shares of £1.00 each in the capital of the Company having the rights, and being subject to the restrictions, contained in these Articles and **"C Share"** means any one of them;

**"C Shareholders"** means the holders of C Shares from time to time and **"C Shareholder"** means any one of them;

**"Call"** has the meaning given in Article 25.1;

**"Call Notice"** has the meaning given in Article 25.1;

**"Cash Equivalent"** means, in relation to an Exit, any non-cash consideration received or receivable by the Company and/or the Shareholders (as applicable) in respect of such Exit provided that if the consideration is satisfied, wholly or partly, by or otherwise comprises:

- (a) an issue of listed securities, the value attributable to such securities shall be the average of the middle market prices of such securities at the close of dealing on each of the five dealing days prior to the Exit Date;
- (b) an issue of loan notes, loan stock or other debt instruments guaranteed unconditionally by an Authorised Bank, the value attributable to such securities shall be their face value;
- (c) an issue of unlisted securities or other instruments not guaranteed by an Authorised Bank, the value attributable to such securities shall be such amount as the Majority Investor(s) and the B Shareholder Representative agree to be the current fair market value of the same (or, in the absence of such agreement, as determined in accordance with Article 6.4);
- (d) future fixed payments, the value attributable to such payments shall be such amount as the Majority Investor(s) and the B Shareholder Representative agree to be the current fair market value of the same (or, in the absence of such agreement, as determined in accordance with Article 6.4); and
- (e) future contingent payments, the value attributable to such payments shall be nil;

**"Catch-up Issue"** means the allotment of Securities pursuant to a Catch-up Offer;

**"Catch-up Offer"** means an offer of Securities in accordance with Article 10.7;

**"Cessation Date"** means, in respect of a Leaver, the earlier of:

- (a) the date on which a Leaver ceases to be an employee and/or Consultant and/or director of a Group Company for any reason (including death or bankruptcy); or
- (b) the date on which a Leaver gives or is given notice of termination of his contract of employment or consultancy (as applicable) or the date of occurrence of a repudiatory breach by him of such contract;

**"Chairman"** has the meaning given in Article 46.1;

**"Chairman of the Meeting"** has the meaning given in Article 67.3;

**"Co-Investment Scheme"** means a scheme under which certain officers, employees or partners of an Investor or of its advisor or manager are entitled (as individuals or through a body corporate or any other vehicle) to acquire Shares;

**"Commencement Date"** means the date on which these Articles are adopted;

**"Companies Acts"** means every statute for the time being in force concerning companies (including any statutory instrument or other subordinate legislation made under any such statute), so far as it applies to the Company;

**"Company's Lien"** has the meaning given in Article 23.1;

**"Compulsory Sale Notice"** has the meaning given to it in Article 14.2;

**"Compulsory Sale Price"** has the meaning given to it in Article 14.6;

**"Compulsory Sale Shares"** has the meaning given to it in Article 14.2;

**"Compulsory Sellers"** has the meaning given to it in Article 14.2;

**"Connected Persons"** has the meaning given to it in section 1122 of the Corporation Tax Act 2010 and **"Connected"** or **"Connected with"** shall be construed accordingly;

**"Connected Shareholder"** means, in relation to an Original Manager or any Shareholder:

- (a) a Privileged Relation or trustee of a Family Trust of such Original Manager or Shareholder (as applicable) who has acquired (whether directly or indirectly) any Connected Shares from such Original Manager or Shareholder (as applicable); and
- (b) a Transmittee of such Original Manager or Shareholder;

**"Connected Shares"** means, in relation to:

- (a) a Privileged Relation or trustee of a Family Trust of an Original Manager or Shareholder, any Shares acquired by such Privileged Relation or trustee of a Family Trust from such Original Manager or Shareholder (as applicable) whether pursuant to a Permitted Transfer, or a series of two or more Permitted Transfers, in accordance with Article 12.7 and/or Article 12.8 or otherwise;
- (b) a Transmittee of an Original Manager or Shareholder, any Shares acquired by such Transmittee pursuant to a transfer in accordance with Article 20 (*Transmission of Shares*),

and **"Connected Share"** means any one of them;

**"Consultant"** means a consultant to the Company and/or any Member of the Group or person whose services are provided to the Company and/or any member of the Group pursuant to a consultancy agreement between, inter alia, the Company and a third party;

**"Controlling Interest"** in relation to a person means the ownership by that person and his or its connected persons of Shares carrying the right to more than 50 per cent of the total number of votes which may be cast on a poll at a general meeting of the Company;

**"Convertible Loan Note Instrument"** means the convertible loan note instrument of the Company originally dated 7 December 2016 and amended and restated on or around the date of adoption of these Articles constituting Convertible Loan Notes;

**"Convertible Loan Notes"** means the secured convertible secured loan notes due 2021 constituted by the Convertible Loan Note Instrument;

**"Cost Price"** means, in relation to any Shares, the amount credited as paid up on such Share;

**"D Shares"** means the D ordinary shares of £1.00 each in the capital of the Company having the rights, and being subject to the restrictions, contained in these Articles and **"D Share"** means any one of them;

**"D Shareholders"** means the holders of D Shares from time to time and **"D Shareholder"** means any one of them;

**"D Share LIBOR Rate"** means, in relation to any D Shares:

- (a) the applicable D Share Screen Rate; or
- (b) (if no D Share Screen Rate is available for the currency or the relevant D Share Return Period) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Company at its request quoted by Clydesdale Bank plc, Barclays Bank Plc, the Royal Bank of Scotland plc to leading banks in the London interbank market,

as at 11.00 am on the first Business Day of the relevant D Share Return Period for the offering of deposits in the currency of the D Shares and for a period comparable to the relevant D Share Return Period for the D Shares and, if any such rate is below zero, the D Share LIBOR Rate shall be deemed to be zero;

**"D Share Preferred Return"** means an amount accrued on a daily basis and calculated on the basis of the actual number of days elapsed and a 365 day year on the value credited as paid up on each D Share for the relevant D Share Return Period from the date of issue of the relevant D Share at the D Share LIBOR Rate until the date of a distribution of Equity Proceeds to the D Shareholders pursuant to Article 6:

- (a) the D Share Preferred Return shall not compound on any D Share Return Calculation Date; and
- (b) the D Share LIBOR Rate shall be determined by the Company as at the first Business Day of each D Share Return Period and such D Share LIBOR Rate shall prevail for the then following D Share Return Period commencing on the first day of such D Share Return Period and ending on the last day of such D Share Return Period;

**"D Share Return Calculation Date"** means 31 March, 30 June, 30 September and 31 December in each year, with the D Share Return Calculation Date in relation to any particular D Shares, being the first such date to fall after the date of issue of the relevant D Shares;

**"D Share Return Period"** means a period from and including a D Share Return Calculation Date to and excluding the next following D Share Return Calculation Date except that the first D Share Return Calculation Date in relation to any particular D Shares Notes shall commence on (and include) the date of issue of the relevant Notes and end on (but exclude) the first D Share Return Calculation Date and the final D Share Return Calculation Date shall end on (but exclude) the date of a distribution of Equity Proceeds to the D Shareholders pursuant to Article 6;

**"D Share Screen Rate"** means the British Bankers' Association Interest Settlement Rate for the currency and the relevant D Share Return Period displayed on the appropriate page of the

Reuters' screen. If the appropriate page is replaced or the service ceases to be available, the Lead Investor may specify another page or service displaying the appropriate rate;

**"Declined Securities"** has the meaning given to in in Article 10.6;

**"Deed of Adherence"** means a deed of adherence in the form required by the Investment Agreement;

**"Defaulting Original Manager Leaver"** means an Original Manager who becomes a Leaver and who breaches the restrictive covenants applicable to him in clause 12 of the Investment Agreement and which breach is not remedied to the satisfaction of the Majority Investor(s) (acting reasonably) within 10 Business Days following notification of such breach being served on the Original Manager by the Board and/or the Majority Investor(s);

**"Deferred Shares"** means deferred shares of £1.00 each in the capital of the Company having the rights, and being subject to the restrictions, contained in these Articles and **"Deferred Share"** means any one of them;

**"Deferred Shareholders"** means the holders of Deferred Shares from time to time and **"Deferred Shareholder"** means any one of them;

**"Directors"** means the Company's directors from time to time;

**"Disposal"** means any transaction or series of transactions whereby any person or connected persons or group of persons Acting in Concert purchases or otherwise acquires or obtains the whole or substantially the whole of the undertaking or assets of the Company or any other member of the Group which directly or indirectly owns all or substantially all of the business and assets of the Group but excluding, for the avoidance of doubt, a sale and leaseback of any assets of the Company or any other Group Company;

**"Drag Along Notice"** has the meaning given to it in Article 18.1;

**"Drag Buyer"** has the meaning given to it in Article 18.1;

**"Dragged Shareholders"** has the meaning given to it in Article 18.1;

**"Dragged Shares"** has the meaning given to it in Article 18.1;

**"Dragging Shareholders"** has the meaning given to it in Article 18.1;

**"Drag Completion Date"** means the date of completion of the sale and purchase of the Dragged Shares;

**"Eligible Director"** means:

- (a) in relation to a decision at a Directors' meeting, a Director who is able to be counted as participating for quorum and voting purposes in the decision at the meeting; and
- (b) in relation to a Directors' written resolution, a Director who would have been able to be counted as participating for quorum and voting purposes in the decision had the resolution or matter been proposed as a resolution at a Directors' meeting;

**"Emergency Issue"** means any allotment of Securities required by the Majority Investor(s) (acting by Investor Direction) where, in the reasonable opinion of the Majority Investor(s), the allotment of such Securities is required in order to satisfy an immediate funding requirement of the Company and/or any other member of the Group or where it is otherwise in the best commercial interests of the Company for such equity Securities to be issued;

**"Employee"** means an individual who is an employee and/or Consultant and/or director of any Group Member and **"employment contract"** shall be construed accordingly;

**"Employee Benefit Trust"** means any trust approved in writing by the Remuneration Committee (with Investor Consent) established principally for the benefit of the employees (which may include past employees) of the Company and/or any other member of the Group, and which satisfies the definition of an **"employees' share scheme"** set out in section 1166 of the 2006;

**"Enhanced Voting Event"** means any of the following:

- (a) any act, omission or event has occurred which constitutes an Event of Default;
- (b) any of the Managers are in material or persistent breach of any of these Articles or the Investment Agreement and such breach, if capable of being remedied, has not been remedied to the reasonable satisfaction of the Lead Investor within 20 Business Days of the date on which the breach was notified to the Company;
- (c) any Manager is guilty of fraud and/or gross negligence in relation to the operation of the Company or any other Group Member or any Manager knowingly conceals the commission of any fraud and/or gross negligence in relation to the operation of the Company or any other Group Member;
- (d) an Insolvency Event occurs in relation to any Group Company or the Lead Investor determines (acting reasonably) that an Insolvency Event will occur without the investment of additional funds in the Group; or
- (e) the Group Materially Underperforms in any financial year against the financial projections for such financial year set out in the relevant Annual Business Plan for such financial year;

**"Equity Proceeds"** means, in relation to an Exit, the gross aggregate consideration (whether in one or several instalments or from one or more transactions and including any Cash Equivalent consideration) received or receivable by the Shareholders in respect of such Exit including:

- (f) if the Exit is a Sale, the aggregate consideration receivable by the Shareholders in respect of all of the Shares sold pursuant to such Sale;
- (g) if the Exit is a Disposal, the aggregate amount distributed to or receivable by the Shareholders (whether by way of dividend, return of capital or otherwise) after deduction of amounts required to settle or make good:
  - (i) any liabilities of the Company and/or any other member of the Group to creditors; and
  - (ii) any taxation and/or other liabilities for which the Company and/or any other member of the Group is liable by reason of the Disposal;

- (h) if the Exit is a Liquidation, the surplus assets receivable by the Shareholders after payment of the Company's liabilities and the liabilities of any other member of the Group;
- (i) if the Exit is a Listing:
  - (i) to the extent the Shares the subject of the Listing are sold or placed, the aggregate consideration receivable by the relevant Shareholders on the sale or placement of such Shares; and
  - (ii) to the extent the Shares the subject of the Listing are not sold or placed, the value of such Shares as determined by the merchant bank or, if none, by the Company's broker assuming that all such Shares were sold or placed on the date of the Listing;

**"Equity Shareholders"** means the holders of Equity Shares from time to time and **"Equity Shareholder"** means any one of them;

**"Equity Shares"** means the issued Preferred Shares, A Shares, B Shares and C Shares at any time, and all shares derived from them (and any of them) whether by conversion, consolidation or sub-division or by way of rights or bonus issue or otherwise in issue;

**"Event of Default"** means any event or circumstance specified as such in any of the Finance Documents;

**"Excluded Shareholders"** means:

- (a) the Company when it holds Shares as treasury shares;
- (b) any Shareholder holding Shares to which Articles 11.6.4 to 11.6.8 (inclusive) apply; and
- (c) any Shareholder who has served or is deemed to have served a Transfer Notice or a Compulsory Sale Notice (as applicable) in respect of his entire holding of Shares and in respect of which the sale of such Shares has not then been concluded;

and **"Excluded Shareholder"** means any one of them;

**"Exit"** means the first to occur of a Sale, Disposal or Liquidation;

**"Extra Shares"** has the meaning given in Article 13.12;

**"Facilities Agreement"** means a facilities agreement originally dated 9 December 2016 and as amended by an amendment and restatement agreement dated 3 April 2017 and as further amended and by consent, waiver and amendment agreement dated on or around the date hereof between (1) the Company; (2) Bidco; (3) Clydesdale Bank plc and (4) the Obligors (as defined therein) the same may be supplemented, varied or amended;

**"Family Trust"** means, in relation to any Shareholder, a trust (whether arising under a settlement, declaration of trust, testamentary disposition or on an intestacy) under which the only persons being (or capable of being) beneficiaries are the individual beneficial owner of the Shares held in trust and/or his Privileged Relations, and in respect of which no power of control over the voting powers conferred by such Shares is exercisable at any time by or



subject to the consent of any person other than the trustees as trustees or such individual beneficial owner or his Privileged Relations;

**"FCA"** means the Financial Conduct Authority acting in its capacity as the competent authority for the purposes of Part VI of the Financial Services and Markets Act 2000 including, where the context so permits, any committee, employee, officer or servant to whom any function of the Financial Conduct Authority may for the time being be delegated;

**"Finance Documents"** means the Facilities Agreement and all other documents (including the Intercreditor Agreement and security documents) associated with it in the agreed form;

**"First Ranking M Shares"** means the class of M Shares with the lowest Hurdle Rate;

**"FSMA"** means the Financial Services and Markets Act 2000;

**"Fund"** means any person, entity or arrangement, whose principal business or purpose is to make or hold investments which are managed by a Fund Manager;

**"Fund Manager"** means a person whose principal business is to arrange, consult, make, manage or advise upon investments;

**"Fund Participant"** means any partner, unit holder, shareholder or other participant in or operator, manager or custodian of any Fund;

**"Good Leaver"** means a person who becomes a Leaver in any of the following circumstances:

- (a) death;
- (b) where he is an employee, retirement by virtue of him having reached the age of not less than 65;
- (c) where he is not an employee, his or the relevant third party terminating the contract for services to the Company or any member of the Group having reached the age of not less than 65;
- (d) whose contract of employment is terminated by the Company or any Member of the Group in circumstances constituting unfair dismissal (including a constructive dismissal) or whose relevant contract for services to the Company or any Member of the Group is terminated for reasons which, had the Consultant been an employee, would have constituted an unfair dismissal (including a constructive dismissal);
- (e) permanent physical or mental incapacity due to ill-health (except where such ill-health arises as a result of an abuse of drink or drugs) which an independent doctor appointed by the Company has confirmed in writing is sufficiently serious to prevent him from carrying out his normal duties; or
- (f) who does not fall within categories (a) or (b) above, but is determined by the Remuneration Committee (with Investor Consent) within three months of the Cessation Date to be a Good Leaver;

**"Group"** means the Company, any subsidiary or subsidiary undertaking of the Company, any holding company or parent undertaking of the Company and any subsidiary or subsidiary

undertaking of such holding company or parent undertaking and references to a **"member of the Group"** or **"Group Member"** or **"Group Company"**) shall be construed accordingly;

**"Hurdle Rate"** means the threshold value applicable to a particular class of M Shares determined by the Board (with Investor Consent) in accordance with Article 10.3 on or before the first allotment of such class of M Shares below which those M Shares so allotted have no right to participate in any Equity Proceeds;

**"IMSL"** means Interocean Marine Services Limited, a company incorporated in Scotland with registered number SC330887 and whose registered office is at Steadfast House, Greenwell Road, Aberdeen, AB12 3AX;

**"IMSL Acquisition"** means the acquisition by Bidco of the entire issued share capital of IMSL on the terms set out in the Acquisition Agreement;

**"IMSL Vendors"** means Shaun Johnson, Keith Nelson and Gordon MacGregor;

**"Independent Accountants"** has the meaning given in Article 16.1;

**"Insolvency Event"** means, in relation to a person, any of the following:

- (a) the convening of a meeting, presentation of a petition, making of an order or passing of a resolution for voluntary winding-up or dissolution of such person other than, in the case of any Group Company, for the sole purpose of an amalgamation, reconstruction or solvent reorganisation; or
- (b) the appointment of a liquidator, supervisor, receiver, administrator, receiver and manager or administrative receiver or similar officer in relation to the whole or any part of the business and assets, rights or revenues of such person; or
- (c) such person ceasing payment of or being or becoming unable to pay its debts within the meaning of section 123 (1)(e) of the Insolvency Act 1986; or
- (d) such person entering into any composition or arrangement with its creditors with a view to the deferral, rescheduling or other readjustment of all or a particular class of its creditors including (without prejudice to the generality of the foregoing) a voluntary arrangement within the meaning of part I of the Insolvency Act 1986 or a scheme of arrangement under Part 26 of the 2006 Act; or
- (e) any distress, execution or other process being levied against any of its assets which has not been satisfied in full; or
- (f) any other form of liquidation, receivership, administrative receivership, administration, bankruptcy, arrangement or scheme with creditors, moratorium, stay or limitation of creditors' rights, interim or provisional supervision by the court or by persons appointed by the court (or any equivalent or similar procedure under the laws of any jurisdiction in which the relevant person is incorporated, registered, domiciled or resident or carries on business or has assets) being commenced or otherwise in place or under way in relation to it, whether in or out of court;

**"Intercreditor Agreement"** means the intercreditor agreement dated 9 December 2016 between (1) the Company; (2) Midco; (3) Bidco; (4) Clydesdale Bank plc; and (5) the

Obligors, Intra-Group Debtors and Creditors (each as defined therein) as the same may be varied or amended from time to time;

**"Interest"** has the meaning given in Article 2.3.23.1;

**"Investment Agreement"** means the investment agreement dated 17 September 2014 and made between (1) the Company; (2) Midco; (3) Bidco; (4) the Original Managers; and (4) the Lead Investor;

**"Investment Documents"** means the Investment Agreement, these Articles, the Acquisition Documents, the Finance Documents and any other documents referred to therein as being in the agreed form;

**"Investor Associate"** means, in relation to an Investor:

- (a) each member of the Investor Group of such Investor (other than the Investor itself); or
- (b) any general partner, limited partner or other partner in, or trustee, nominee, custodian, operator or manager of, or Fund Manager to, that Investor or any member of its Investor Group; or
- (c) any member of the same group of companies as any general partner, limited partner or other partner or participant in, or member, trustee, nominee, custodian, operator or Fund Manager to, that Investor or any member of its Investor Group;
- (d) any Fund which has the same general partner, limited partner, other partner, participant, trustee, nominee, custodian, operator or Fund Manager as that Investor or any member of its Investor Group; or
- (e) any Fund in respect of which that Investor or any member of the Investor Group of such Investor, is a general partner, limited partner, other partner, member, trustee, nominee, Fund Participant or Fund Manager; and
- (f) any Co-Investment Scheme of that Investor or any member of its Investor Group and any undertaking which holds or is to hold shares for any Co-Investment Scheme;

**"Investor Consent"** or **"Investor Direction"** means the consent or approval (including any conditions to which such consent or approval is subject) or direction in writing of, or on behalf of, the Majority Investor(s);

**"Investor Director"** means any director appointed by the Lead Investor from time to time pursuant to Article 55.2;

**"Investor Director Consent"** or **"Investor Director Direction"** means the consent or approval (including any conditions to which such consent or approval is subject) or direction in writing of the Investor Director(s);

**"Investor Group"** means, in relation to an Investor, that Investor and/or its nominee(s), any other body corporate which is for the time being a holding company of such Investor or subsidiary of such Investor or a subsidiary of a holding company of such Investor and references to **"member"** or **"members of an Investor Group"** shall be construed accordingly;

**"Investor Observer"** means an observer appointed as such pursuant to Article 55.2.2;

**"Investor Warrants"** means warrants to subscribe for Shares issued to the Lead Investor on the terms set out in the Investor Warrant Instrument;

**"Investor Warrant Instrument"** means the warrant instrument, in the agreed form, entered into or to be entered into on or around the Commencement Date creating the Investor Warrants;

**"Investors"** means the Lead Investor and any other person holding A Shares who has agreed to adhere to the terms of the Investment Agreement as an Investor and **"Investor"** means any one of them;

**"Lead Investor"** means EGM Cayman L.P. (formerly First Reserve Momentum L.P.) for so long as it or any of its Investor Associates hold and Equity Shares;

**"Leaver"** means an Employee who:

- (a) ceases to be and is no longer continuing as an employee and/or Consultant and/or director of any Group Company or any reason (including death); or
- (b) continues to be an Employee but becomes eligible for benefits under a permanent health insurance policy of any Group Company;

**"Lien Enforcement Notice"** has the meaning given in Article 24.2;

**"Liquidation"** means the liquidation, dissolution or winding-up of the Company pursuant to the making of a winding-up order by the court or the passing of a resolution by the Shareholders or otherwise that the Company be wound up or dissolved (save for a solvent winding-up for the purpose of reconstruction or amalgamation previously approved by a resolution of the Shareholders (with Investor Consent));

**"Listing"** means any of:

- (a) the admission of all or any of the Equity Shares to trading on a market for listed securities operated by a recognised investment exchange (as that term is defined in the Financial Services and Markets Act 2000), together with the admission of such Equity Shares to the Official List of the FCA; or
- (b) the admission of all or any of the Equity Shares to trading on the Alternative Investment Market of the London Stock Exchange plc; or
- (c) if the Majority Investor(s), in their absolute discretion, so determine, the admission of all or any of the Equity Shares to, or to trading on, any other market wherever situated, together, if necessary, with the admission of such Equity Shares to listing on any official or otherwise prescribed list maintained by a competent or otherwise prescribed listing authority;

and **"Listed"** shall be construed accordingly;

**"Materially Underperforms"** means a failure by the Group at any time to achieve actual earnings before interest and tax ("EBIT") in respect of a period within a financial year which are at least 75 per cent. of the relevant EBIT target for such period as set out in the Annual Business Plan;

**"M1 Hurdle Rate"** means the Hurdle Rate determined by the Board (with Investor Consent) to apply to the M1 Shares at the date of first issue of such M1 Shares, which shall remain fixed and shall not be subsequently amended;

**"M2 Hurdle Rate"** means the Hurdle Rate determined by the Board (with Investor Consent) to apply to the M2 Shares at the date of first issue of such M2 Shares, which shall remain fixed and shall not be subsequently amended;

**"M3 Hurdle Rate"** means the Hurdle Rate determined by the Board (with Investor Consent) to apply to the M3 Shares at the date of first issue of such M3 Shares, which shall remain fixed and shall not be subsequently amended;

**"M1 Share"** means a M Share to which the M1 Hurdle Rate applies;

**"M1 Shareholder"** holders of M1 Shares from time to time and **"M1 Shareholder"** means any one of them;

**"M2 Share"** means a M Share to which the M2 Hurdle Rate applies;

**"M2 Shareholder"** holders of M2 Shares from time to time and **"M2 Shareholder"** means any one of them;

**"M3 Share"** means a M Share to which the M3 Hurdle Rate applies;

**"M3 Shareholder"** holders of M3 Shares from time to time and **"M3 Shareholder"** means any one of them;

**"Manager Observer"** means an observer appointed as such pursuant to Article 55.5.2;

**"Midco"** means Lionel Midco Limited (Registered Number: SC483981);

**"M Shares"** means the M1 Shares, M2 Shares and the M3 ordinary shares of £1.00 each in the capital of the Company having the rights, and being subject to the restrictions, contained in these Articles and **"M Share"** means any one of them;

**"M Shareholders"** means the holders of M Shares from time to time and **"M Shareholder"** means any one of them;

**"M Share Subscription Agreement"** means any agreement (howsoever named) or arrangement (in a form approved Investor Consent) between the Company and any person in respect of the subscription (whether conditional or otherwise) for M Shares and setting out the relevant Hurdle Rate for the M Shares that are being or may be subscribed for;

**"Majority Investor(s)"** means the holder(s) of a majority in number of the issued A Shares from time to time;

**"Management Incentive Shares"** means M Shares which may be allotted and issued pursuant to clause 7 of the Investment Agreement;

**"Managers"** means the Original Managers and any other person who has agreed to adhere to the terms of the Investment Agreement as a Manager under a Deed of Adherence, in each case for so long as he holds any Shares and **"Manager"** shall be construed accordingly;

**"Market Value"** means, in relation to any Shares, the fair market value of such Shares as agreed by the Board (with Investor Consent) and the relevant Shareholder and, in the event of any dispute, the Market Value shall be determined in accordance with the provisions of Article 0 (*Determination of Market Value*);

**"Non-Disclosable Interest"** has the meaning given in Article 53.3;

**"Non-Participants"** has the meaning given to in in Article 10.7.1;

**"Non-Vested M Shares"** means any M Shares registered in the name of an Original Manager or a Connected Shareholder of an Original Manager which are not Vested M Shares;

**"Original Managers"** means Gordon MacGregor and Keith Nelson and **"Original Manager"** means any one of them;

**"Original Manager Director"** means any director appointed by the from time to time pursuant to Article 55.5.1;

**"Original Manager Shareholder"** means an Original Manager provided he has B Shares registered in his name or in the name of a Connected Shareholder of his;

**"Other Shareholders"** has the meaning given to it in Article 17.2;

**"Permitted Issue"** means any of the following:

- (a) the allotment and issue of Shares, or the grant of rights to subscribe for Shares, pursuant to the Investment Agreement;
- (b) the issue of Additional Ordinary Shares pursuant to Article 6.6;
- (c) the allotment and issue of Shares to be issued following exercise of any RSL (EquityCo) Exchange Option;
- (d) an Emergency Issue;
- (e) a Catch-up Issue;
- (f) the allotment of any Management Incentive Shares;
- (g) the allotment of any Shares to be issued to the holder of any Investor Warrants on the exercise of such Investor Warrants in accordance with the Investor Warrant Instrument;
- (h) the issue of Convertible Loan Notes to the Lead Investor and Keith Nelson; and
- (i) the allotment of any Preferred Shares to be issued to any holder of Convertible Loan Notes on exercise of any such holder's right to convert the Convertible Loan Notes held by them into Preferred Shares in accordance with the Convertible Loan Note Instrument.

**"Permitted Transfer"** means a transfer of Shares which is permitted in accordance with Article 12 (*Permitted Transfers*);

**"Preferred Offeree"** has the meaning given to it in Article 13.5;

**"Preferred Offeree Allocation Notice"** has the meaning given to it in Article 13.7;

**"Preferred Shares"** means the Preferred Ordinary Shares of £1.00 each in the capital of the Company having the rights, and being subject to the restrictions, contained in these Articles and **"Preferred Share"** means any one of them;

**"Preferred Shareholders"** means the holders of Preferred Shares from time to time and **"Preferred Shareholder"** means any one of them;

**"Pre-emptive Offer"** has the meaning given to it in Article 10.4;

**"Privileged Relation"** means in relation to any Shareholder (being an individual), the Shareholder's spouse or civil partner (as defined in the Civil Partnership Act 2004) for the time being and such Shareholder's children and grandchildren (including any adopted and/or step children and grandchildren);

**"Proportionate Entitlement"** has the meaning given in Article 13.12;

**"Proposed Sale"** has the meaning given to it in Article 17.2;

**"Proposed Sellers"** has the meaning given to it in Article 17.2;

**"Proposed Transferee"** means a person to whom a Seller proposes to transfer Sale Shares;

**"Recognised Investment Exchange"** has the meaning given to it in section 285 of FSMA;

**"Relevant Offerees"** has the meaning given in Article 13.12;

**"Relevant Shareholder"** has the meaning given to it in Article 14.2;

**"Remuneration Committee"** means a committee of the company established by the Board comprising one of the Investor Directors, Gordon MacGregor (for so long as he is a Director) and the Chairman of the Company from time to time;

**"Retained Securities"** has the meaning given to it in Article 14.10;

**"RSL"** means Rigmar Services Limited, a company incorporated in Scotland with registered number SC327164 and whose registered office is at Union Plaza (6th Floor), 1 Union Wynd, Aberdeen, AB10 1DQ;

**"RSL Acquisition"** means the acquisition by Bidco of the entire issued share capital of RSL on the terms set out in the Acquisition Agreement;

**"RSL (EquityCo) Exchange Agreement"** means the agreement entered into or to be entered into on or about the Commencement Date between the Company and each of the RSL Vendors relating to the RSL (EquityCo) Exchange Options;

**"RSL (EquityCo) Exchange Options"** means the call options granted by each of the RSL Vendors to the Company, and the put options granted by the Company to each of the RSL Vendors, set out in the RSL (EquityCo) Exchange Agreement in relation to the sale by the RSL Vendors, and the purchase by the Company, of the nominal value of the RSL Midco Debt registered in each RSL Vendor's name;

**"RSL MidCo Debt"** means the fixed rate unsecured loan notes 2019 of Midco constituted by the RSL MidCo Debt Instrument or as the case may be, the amount thereof from time to time being outstanding;

**"RSL MidCo Debt Instrument"** means the deed entered into or to be entered into by Midco on or around the Commencement Date constituting the RSL Midco Debt;

**"RSL Vendor Debt"** means the fixed rate unsecured loan notes 2019 of the Company constituted by the RSL Vendor Debt Instrument or as the case may be, the amount thereof from time to time being outstanding;

**"RSL Vendor Debt Instrument"** means the deed entered into or to be entered into by the Company on or around the Commencement Date constituting the RSL Vendor Debt;

**"RSL Vendors"** means Gordon MacGregor, Robert Dalziel and Keith Nelson;

**"Sale"** means any transaction or series of related transactions whereby any person (together with its connected persons and any other persons with whom it is Acting in Concert) obtains the ownership of all of the issued Equity Shares (excluding any Equity Shares held as treasury shares);

**"Sale Shares"** has the meaning given to it in Article 13.2.1;

**"Second Ranking M Shares"** means the class of M Shares with the second lowest Hurdle Rate;

**"Securities"** means Shares or rights to subscribe for, or to convert securities into, Shares;

**"Selling Shareholder"** has the meaning given to it in Article 13.1;

**"Shares"** means the shares (of whatever class) in the capital of the Company and **"Share"** means any one of them;

**"Shareholders"** means the persons from time to time who are the holders of Shares and **"Shareholder"** means any one of them;

**"Tag Along Right"** means the right of a Shareholder to sell the Equity Shares held by such Shareholder pursuant to, and in accordance with the terms of, a Tag Offer;

**"Tag Buyer"** has the meaning given to it in Article 17.2;

**"Tag Offer"** has the meaning given to it in Article 17.2;

**"Tagged Shares"** has the meaning given to it in Article 17.2;

**"Tax"** means any form of taxation, duty, impost, contribution, levy or tariff of any nature whatsoever, whether of the United Kingdom or elsewhere, and includes any penalty, charge, surcharge, fine or interest payable in connection with any such taxation, duty, impost, contribution, levy or tariff;

**"Tax Authority"** means HM Revenue and Customs or any other Authority, whether of the United Kingdom or elsewhere, having power or authority or other function in relation to Tax;

**"Taxes Act"** means the Income Taxes Act 2007;



**"Third Ranking M Shares"** means the class of M Shares with the third lowest Hurdle Rate;

**"Total Transfer Condition"** means a condition in a Transfer Notice stipulating that such Transfer Notice is conditional upon all and not some only of the Sale Shares specified in it being sold;

**"Transfer Notice"** has the meaning given to it in Article 13.1;

**"Transfer Price"** has the meaning given in Article 13.4;

**"Transmittee"** means a person entitled to a Share (or any Interest therein) by reason of the death or bankruptcy of a Shareholder or otherwise by operation of law;

**"Valuation"** means, in respect of a Listing, the valuation (in pounds sterling) placed upon the whole of the issued equity share capital of the Company as shown in the prospectus or listing particulars published in connection with such Listing less the gross amount of any new shares issued by the Company at the time of and in connection with such Listing;

**"Vested M Shares"** means any M Shares registered in the name of a Shareholder which are treated as having vested in accordance with Article 15.

2.2 In these Articles (unless the context requires otherwise):

2.2.1 **"equity securities", "company", "body corporate", "subsidiary", "holding company", "undertaking", "subsidiary undertaking", "parent undertaking" and "group undertaking"** have the meanings given to them in the Act except that, when used in connection with an entity which is a limited liability partnership, the words **"parent undertaking"** and **"subsidiary undertaking"** shall have the meanings given in section 1162 of the 2006 Act as modified by the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008;

2.2.2 an undertaking shall be deemed to be in the same group as another undertaking if the second undertaking is a subsidiary undertaking or parent undertaking of the first undertaking, or it is a subsidiary undertaking of any such parent undertaking;

2.2.3 **"including", "to include" or "includes"** means including, to include or includes without limitation; and

2.2.4 other words or expressions contained in these Articles but not defined in them shall have the same meaning as in the Companies Acts as in force on the Commencement Date.

2.3 In these Articles (unless the context requires otherwise), any reference to:

2.3.1 numbered **"Articles"** are references to numbered provisions in these Articles;

2.3.2 these Articles, the Investment Agreement and the Finance Documents shall be deemed to be a reference to such documents as amended, waived, restated, modified or supplemented from time to time with all the requisite consents under that document and, where relevant, these Articles;

2.3.3 any consent or approval or direction given by the Lead Investor, the Investors, the Majority Investor(s) or by the Investor Director(s) hereunder may be given upon

such terms and subject to such qualifications (if any) as the Lead Investor, the Investors, Majority Investor(s) or Investor Directors(s) (as applicable) may in their absolute discretion determine and may be given retrospectively;

- 2.3.4 the day on which a notice is given is to the day on which the notice is deemed received in accordance with Article 83 (*Service of Notices on Shareholders and Directors*);
- 2.3.5 a statute or a statutory provision includes reference to:
  - 2.3.5.1 the statute or statutory provision as modified, amended, consolidated, re-enacted or replaced from time to time except to the extent that any modification, amendment, consolidation, re-enactment or replacement after the Commencement Date would increase the liability of the Company; and
  - 2.3.5.2 any subordinate legislation made under the statute or statutory provision (as modified, amended, consolidated, re-enacted or replaced as set out (but subject to the exception) in Article 2.3.5.1;
- 2.3.6 statutory obligations shall include obligations arising under articles of the Treaty establishing the European Community, and regulations, directives and decisions of the European Union as well as United Kingdom Acts of Parliament and subordinate legislation;
- 2.3.7 any gender includes all genders and any reference to the singular includes the plural (and *vice versa*);
- 2.3.8 "**bankruptcy**" includes individual insolvency proceedings in a jurisdiction other than Scotland, England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
- 2.3.9 "**credited as paid up**" means amounts paid up or credited as paid up on a Share including both the nominal value and any share premium;
- 2.3.10 "**distribution recipient**" has the meaning given in Article 31.2;
- 2.3.11 "**electronic form**" and "**electronic means**" have the meanings given to them in section 1168 of the Act;
- 2.3.12 "**fully paid**" in relation to a Share means that the nominal value and any premium to be paid to the Company in respect of that Share have been paid to the Company;
- 2.3.13 "**hard copy form**" has the meaning given in section 1168 of the Act;
- 2.3.14 "**holder**" in relation to any Share means the person whose name is entered in the register of members as the holder of that Share;
- 2.3.15 "**ordinary resolution**" has the meaning given in section 282 of the Act;
- 2.3.16 "**participate**", in relation to a Directors' meeting, has the meaning given in Article 44 (*Participation in Directors' Meetings*);

- 2.3.17 **"partly paid"** in relation to a Share means that part of that Share's nominal value or any premium at which it was issued has not been paid to the Company;
- 2.3.18 **"person"** includes natural persons, companies, bodies corporate, unincorporated associations, trusts, partnerships and Authorities (in each case wherever the same shall be resident, established or incorporated and whether or not having separate legal personality);
- 2.3.19 **"proxy notice"** has the meaning given in Article 73.1;
- 2.3.20 **"special resolution"** has the meaning given in section 283 of the Act;
- 2.3.21 **"writing"** and **"written"** means all methods or combination of methods of representing or reproducing words, symbols or other information in a visible and legible form and whether sent or supplied in electronic form or otherwise;
- 2.3.22 the **"allotment"** of Securities, or any similar expression, includes the grant of a right to subscribe for, or to convert any securities into, Shares but excludes the allotment of Shares pursuant to any such right;
- 2.3.23 subject to Article 2.3.24, a **"transfer"** of Shares or any similar expression shall mean the transfer of either or both of the legal and beneficial ownership in such Share and/or the grant of an option to acquire either or both of the legal and beneficial ownership in such Share and, without limitation, the following shall be deemed to be a transfer of a Share:
- 2.3.23.1 any sale, assignment or other disposition of the legal or equitable interest or any other right or interest in a Share (including any voting right attached to a Share) (**"Interest"**);
- 2.3.23.2 any direction (by way of renunciation or otherwise) by a person entitled to an allotment, issue or transfer of any Share that such Share be allotted, issued or transferred to some person other than himself;
- 2.3.23.3 the creation or granting of a legal or equitable mortgage, charge, pledge or other encumbrance or security interest over any Interest in any Share; and
- 2.3.23.4 the making of any derivative or other contract or arrangement having a similar economic effect as a transfer of the Interest in a Share or any of the foregoing,
- in each case whether effected by a Shareholder or otherwise, whether for consideration or otherwise and whether effected by an instrument in writing or otherwise;
- 2.3.24 notwithstanding the provisions of Article 2.3.23, any transfer by any Fund Participant (or by any trustee or nominee for any such Fund Participant) of any interest in such Fund to any person who is, or as a result of the transfer becomes, a Fund Participant, shall not, and shall not be deemed to be, a transfer of Shares for any purpose under these Articles.
- 2.4 The contents list and headings in these Articles are included for convenience only, and shall not affect the meaning of these Articles.

- 2.5 Where, for any purpose, an ordinary resolution of the Company is required, a special resolution is also effective for that purpose.

### **3. LIABILITY OF MEMBERS**

The liability of the members of the Company is limited to the amount, if any, unpaid on the Shares held by them.

## **PART 2: SHARES AND DISTRIBUTIONS**

### **4. SHARE RIGHTS - GENERAL**

- 4.1 The rights and restrictions attaching to the Preferred Shares, the A Shares, the B Shares, the C Shares, the D Shares, the M Shares and Deferred Shares are set out in full in these Articles.
- 4.2 Except as otherwise provided in these Articles, the Preferred Shares, the A Shares, the B Shares, the C Shares, the D Shares, each class of the M Shares and the Deferred Shares shall rank *pari passu* but shall constitute separate classes of shares for the purposes of the Act.

### **5. SHARE RIGHTS - INCOME**

- 5.1 The M Shares and Deferred Shares shall not entitle the holders thereof to receive or participate in any way in any dividends.
- 5.2 Subject to the Board (with Investor Consent) recommending payment of the same, the profits of the Company which are available for lawful distribution in respect of each Accounting Period shall be allocated between the holders of the Equity Shares (treating the Equity Shares as a single class of Shares) *pro rata* in proportion to the amount credited as paid up on such Shares.
- 5.3 Any such dividend will be paid in cash and will belong to and be paid to the holders of the Shares in respect of which it is payable *pro rata* according to their holdings of such Shares.

### **6. SHARE RIGHTS - RETURN OF CAPITAL, EXIT AND LISTING**

- 6.1 On a return of capital of the Company on a Liquidation or otherwise (other than a redemption of Shares or the purchase by the Company of its own Shares), or in the event of any other Exit, the Equity Proceeds available for distribution among the Shareholders shall be applied in the following order and priority:
- 6.1.1 first, in paying to each Preferred Shareholder an aggregate amount equal to the Cost Price in respect of all of the Preferred Shares held by such Preferred Shareholder;
- 6.1.2 second, in paying to each A Shareholder an aggregate amount equal to the Cost Price in respect of all of the A Shares held by such A Shareholder;
- 6.1.3 third, in paying to each B Shareholder and C Shareholder an aggregate amount equal to the Cost Price in respect of all of the B Shares and/or C Shares (as applicable) held by such Shareholder;
- 6.1.4 fourth, in paying to each D Shareholder an aggregate amount equal to the Cost Price together with the D Share Preferred Return in respect of all of the D Shares held by such D Shareholder;

- 6.1.5 then, in distributing the balance (if any) of the Equity Proceeds after any payments required pursuant to Articles 6.1.1 to 6.1.4 (inclusive) to the Equity Shareholders and M Shareholders in the following order and priority:

Priority	Class of Share/Shareholder	Amount to be paid
1	Equity Shares (treating the Equity Shares and as a single class of share) <i>pro rata</i> as near as possible in proportion to the number of Equity Shares held by them respectively	Any balance of such Equity Proceeds up to and including the Hurdle Rate of the First Ranking M Shares
2	Equity Shares and First Ranking M Shares (treating the Equity Shares and First Ranking M Shares as a single class of share) <i>pro rata</i> as near as possible in proportion to the number of Equity Shares and First Ranking M Shares held by them respectively	Any balance of such Equity Proceeds in excess of the Hurdle Rate of the First Ranking M Shares up to and including the Hurdle Rate of the Second Ranking M Shares
3	Equity Shares, First Ranking M Shares and Second Ranking M Shares (treating the Equity Shares, First Ranking M Shares and Second Ranking M Shares as a single class of share) <i>pro rata</i> as near as possible in proportion to the number of Equity Shares, First Ranking M Shares and Second Ranking M Shares held by them respectively	Any balance of such Equity Proceeds in excess of the Hurdle Rate of the Second Ranking M Shares up to and including the Hurdle Rate of the Third Ranking M Shares
4	Equity Shares, First Ranking M Shares Second Ranking M Shares and Third Ranking M Shares (treating the Equity Shares, First Ranking M Shares Second Ranking M Shares and Third Ranking M Shares as a single class of share) <i>pro rata</i> as near as possible in proportion to the number of Equity Shares, First Ranking M Shares Second Ranking M Shares and Third Ranking M Shares held by them respectively	(subject to Article 6.1.6) any balance of such Equity Proceeds in excess of the Hurdle Rate of the Third Ranking M Shares.

- 6.1.6 finally, in distributing to the holders of the Deferred Shares £1.00 per share after payment of an amount of no less than £10,000,000 on each of the Equity Shares and M Shares.

- 6.2 As soon as practicable after the Directors consider that an Exit is likely to occur:

- 6.2.1 they shall give notice in writing of that circumstance to the Shareholders ("Exit Notice"); and

- 6.2.2 subject to Article 6.4, the Majority Investor(s) and the B Shareholder Representative shall agree the amount of the Equity Proceeds (including, for the avoidance of doubt, the value of any Cash Equivalent consideration) which it is *anticipated will result from the Exit on the basis of the terms of such Exit as are then known to the Directors.*
- 6.3 Subject to Article 6.4, in the event that, prior to completion of an Exit, the terms applying to such Exit change such that the amount of the Equity Proceeds agreed in accordance with Article 6.2.2, is unlikely to be achieved or the actual figure is likely to exceed the figure agreed in accordance with Article 6.2.2, the Directors shall give notice in writing of such change to the Shareholders ("**Amended Exit Notice**") following which the Majority Investor(s) and the B Shareholder Representative shall agree the revised amount of the Equity Proceeds on the basis of the revised terms of such Exit.
- 6.4 In the event that the Majority Investor(s) and the B Shareholder Representative are unable to agree the amount of the Equity Proceeds in relation to any Exit, including, without limitation, the amount of any Cash Equivalent consideration, in accordance with Articles 6.2.2 and/or 6.3 within five Business Days of the date of service of an Exit Notice or Amended Exit Notice (as applicable), such matter shall be referred to the Independent Accountants (as applicable) for final determination in accordance with the provisions of Articles 6.5 and 0.
- 6.5 For the purposes of Article 6.4:
- 6.5.1 the Independent Accountants (as applicable) shall be instructed to notify the Investors and the B Shareholder Representative of its determination of the amount of the Equity Proceeds within 10 Business Days of the date of referral of such matter to it;
- 6.5.2 the Investors and the B Shareholder Representative shall be entitled to make written submissions to the Independent Accountants but, subject to those rights, the Independent Accountants shall have power to determine the procedure to be followed in relation to the determination of any matter;
- 6.5.3 in making any such submissions the Investors and the B Shareholder Representative shall state their respective best estimates of any monetary amounts referred for determination; and
- 6.5.4 the Investors and the B Shareholder Representative shall provide, or procure that the Company shall provide, the Independent Accountants with access at all reasonable times to all relevant personnel, information and records for the purpose of determining the matter in question.
- 6.6 As soon as practicable after the Directors consider that a Listing is likely to occur they shall give notice in writing of that circumstance to the Shareholders. If a Listing is proposed then immediately prior to and conditional on the Listing taking place, the Company shall:
- 6.6.1 convert such number of Equity Shares and/or D Shares and/or M Shares into Deferred Shares; or
- 6.6.2 allot and issue to each holder of Equity Shares and/or D Shares and/or M Shares such number of Equity Shares and/or M Shares of the same class as the Equity Shares and/or M Shares held by that Shareholder ("**Additional Ordinary Shares**"),

such that the percentage of the equity share capital of the Company by number of shares held by each holder of Equity Shares, D Shares and M Shares following completion of such issue or conversion equals the percentage of the Equity Proceeds that such holder of Shares would have received in accordance with Article 6.1 were the Listing to be an Exit (and assuming the Valuation immediately prior to the Listing constitutes the Equity Proceeds).

- 6.7 Any Additional Ordinary Shares allotted and issued pursuant to Article 6.6 shall be issued at par and, to the extent permitted by law, fully paid by the capitalisation of any amounts standing to the credit of the share premium account or other available reserve of the Company and shall not require any subscription monies to be paid by such holders of the Equity Shares, D Shares or M Shares.
- 6.8 Notwithstanding anything to the contrary in the terms and conditions governing any Exit, at the request of the Majority Investor(s), the Shareholders shall procure that any Equity Proceeds received or receivable by any Shareholder from time to time in respect of such Exit shall be paid into a designated interest bearing trustee account and shall be distributed as soon as reasonably practicable in the same order of priority and on the same terms as set out in Article 6.1.
- 6.9 Subject to the Act but notwithstanding any other provision of these Articles, any holder of M2 Shares may at any time within 90 days of the issue of such M2 Shares, by notice in writing to the Company, require the Company to redeem all (but not some) of the M2 Shares held by him at the follow price ("**Redemption**"):

<b><u>Number of M2 Shares to be redeemed</u></b>	<b><u>Price for all M2 Shares to be redeemed</u></b>
1 – 50 (inclusive)	£2,250
51 – 100 (inclusive)	£2,500
101-150 (inclusive)	£2,750

Any Redemption is subject to the Company having sufficient profits available for distribution within the meaning of part 23 of the Act. If, on the date of the notice to the Company in accordance with this Article, the Company has insufficient profits available for distribution to pay for the Redemption in full, then it shall not be required to redeem any of the M2 Shares until such time as it has sufficient profits for distribution to pay for the Redemption, but the Company shall be required to pay for the Redemption as soon as it has sufficient profits to do so. When serving notice on the Company in accordance with this Article, the holder of M2 Shares shall enclose his share certificate for the M2 Shares for surrender.

## **7. SHARE RIGHTS - VOTING**

- 7.1 The voting rights of Shareholders as stated in the Act are subject to Articles 7.2 and 7.3 and the voting rights of Shareholders as stated in the Act and in Article 7.3 are subject to:
- 7.1.1 Article 8 (*Voting - Enhanced Voting Events and Defaulting Shareholders*);
- 7.1.2 Articles 11.6.4 and 11.6.5;

- 7.1.3 Article 14.4; and
- 7.1.4 Article 76 (*No Voting Of Shares On Which Money Due And Payable To The Company*).
- 7.2 The C Shareholders and the M Shareholders and the Deferred Shareholders shall be entitled to receive notice of, attend and speak at general meetings of the Company but neither the C Shares nor the M Shares nor the Deferred Shares shall entitle the holders thereof to vote at any such meetings or to vote on any written resolution of the Company.
- 7.3 Subject to Article 7.1:
  - 7.3.1 The Preferred Shareholders, the A Shareholders, the B Shareholders and the D Shareholders shall be entitled to receive notice of, and to attend, speak and vote at, general meetings of the Company and to vote on any written resolution of the Shareholders; and
  - 7.3.2 upon any resolution proposed at a general meeting of the Company:
    - 7.3.2.1 on a show of hands, every Preferred Shareholder, A Shareholder, B Shareholder and D Shareholder who is present in person or by proxy shall have one vote; and
    - 7.3.2.2 on a poll, every Preferred Shareholder, A Shareholder, B Shareholder and D Shareholder who is present in person or by proxy shall have one vote in respect of each A Share, B Share and D Share registered in his name; and
  - 7.3.3 on a vote on a written resolution of the Shareholders, every Preferred Shareholder, A Shareholder, B Shareholder and D Shareholder shall have one vote in respect of each A Share, B Share and D Share registered in his name.

## 8. VOTING - ENHANCED VOTING EVENTS AND DEFAULTING SHAREHOLDERS

- 8.1 If an Enhanced Voting Event has occurred and the Lead Investor serves notice in writing to that effect on the Company, then notwithstanding any other provisions of these Articles, with effect from when the notice is received by the Company until such notice is withdrawn by a further notice in writing from the Lead Investor:
  - 8.1.1 the A Shares shall, on a show of hands or on a poll or on a written resolution, together represent 75 per cent of the voting rights attaching to all Shares after the application of this Article and such voting rights shall be allocated to each A Shareholder *pro rata* as near as possible in proportion to the number of A Shares held by them respectively; and
  - 8.1.2 the quorum for any such general meetings of the Company shall be one A Shareholder *present in person or by proxy*.
- 8.2 Without prejudice to Article 8.1, if any B Shareholder and/or D Shareholder ("**Defaulting Shareholder**") is:
  - 8.2.1 in material breach of any provision of these Articles, the Investment Agreement or any service or consultancy agreement between such Shareholder and the Company or any other member of the Group and such breach has been notified in



writing to such Defaulting Shareholder by an Investor Director and the same is not remedied to the satisfaction of the Majority Investors (acting reasonably) within a period not exceeding 10 Business Days from the date of such notification; or

- 8.2.2 guilty of fraud in relation to the operation of the Company or any other Group Company or knowingly conceals the commission of any fraud in relation to the operation of the Company or any other Group Company and fails to disclose it to the Investor Directors,

then the Majority Investor(s) (acting by Investor Direction) may specify by notice in writing to the Company that any Preferred Shares, B Shares and D Shares from time to time registered in the name of such Defaulting Shareholder, and any Connected Shareholder of such Defaulting Shareholder, shall immediately cease to entitle such Defaulting Shareholder and/or such Connected Shareholder (as applicable) to receive notice of, attend and vote at any general meetings of the Company or to vote on a written resolution of the Shareholders.

- 8.3 The provisions of Article 8.2 shall continue:

- 8.3.1 in the case of Article 8.2.1, for so long as such material breach has been notified and remains unremedied and unwaived; or
- 8.3.2 in the case of Article 8.2.2, until such time as such person ceases to be employed by, or a director of, any Group Company.

## **9. VARIATION OF SHARE RIGHTS**

- 9.1 The rights attached to the Preferred Shares, the A Shares, the B Shares, the C Shares, the D Shares and the M Shares may, in each case, be altered or abrogated (whether or not the Company is being wound up) only with the prior consent of the holders of the Shares of that class given in accordance with Article 9.2.

- 9.2 Subject to Article 11.6.5, the consent of the holders of a class of Shares may be given by:

- 9.2.1 a special resolution passed at a separate general meeting of the holders of that class in accordance with Article 78 (*Class Meetings*); or
- 9.2.2 a written resolution in any form signed by or on behalf of the holders of not less than 75 per cent in nominal value of the issued Shares of that class.

- 9.3 Unless the Majority Investor(s) shall give notice to the Company to the contrary:

- 9.3.1 any Share (other than a Preferred Share, M Share or a D Share) allotted and issued (or transferred) to a Shareholder holding A Shares shall (without further authority than is herein contained being necessary) forthwith on such allotment (or transfer) be deemed to have been converted into an A Share having all the rights, privileges and restrictions attaching to the A Shares held by such Shareholder; and
- 9.3.2 any Share (other than a Preferred Share, M Share, C Share or a D Share) allotted and issued (or transferred) to a Shareholder holding B Shares shall (without further authority than is herein contained being necessary) forthwith on such allotment (or transfer) be deemed to have been converted into a B Share having

all the rights, privileges and restrictions attaching to the B Shares held by such Shareholder.

## **10. ISSUE AND ALLOTMENT OF NEW SECURITIES**

- 10.1 Subject to these Articles, but without prejudice to the rights attached to any existing Share, the Company may issue Shares with such rights or restrictions as shall be set out in these Articles.
- 10.2 The Company may issue Shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder. The terms, conditions and manner of redemption of any such Shares shall be set out in these Articles.
- 10.3 The Board shall, with Investor Consent, prior to the first issue of M Shares of a particular class, determine the Hurdle Rate which shall apply to that class of M Shares to be so issued and accordingly whether such Shares shall be issued as M1 Shares, M2 Shares or M3 Shares. Such Hurdle Rate shall remain fixed and shall be documented in the relevant M Share Subscription Agreement and/or in such other way as the Board with Investor Consent may determine.
- 10.4 Except for any Permitted Issue, any Securities proposed to be allotted shall be offered by the Company at the same price and on the same terms to the Equity Shareholders, other than any Excluded Shareholders, pro rata to their holdings of Equity Shares (as nearly as possible without involving fractions) ("**Pre-emptive Offer**").
- 10.5 The Pre-emptive Offer shall:
  - 10.5.1 if the Majority Investor(s) so direct the Company in writing, be conditional upon the relevant Equity Shareholders also subscribing for the same proportion of any other securities in any Group Company (including loan notes, deep discount bonds or other debt instruments) to be issued in connection with the allotment of the Securities (as nearly as possible without involving fractions) as the Securities actually to be granted or allotted to the relevant Equity Shareholder pursuant to the Pre-emptive Offer bears to the total number of Securities actually to be granted or allotted pursuant to the Pre-emptive Offer;
  - 10.5.2 be made by notice specifying the Securities offered, the price for them, a time (being not less than 10 Business Days) within which the offer, if not accepted, shall be deemed to be declined and any other terms; and
  - 10.5.3 invite each relevant Equity Shareholder to state in his acceptance the number of any Securities in excess of those offered to him ("**Additional Securities**") that he wishes to apply for.
- 10.6 Any Securities not accepted (or deemed to be declined) under the Pre-emptive Offer ("**Declined Securities**") shall be used to satisfy applications for Additional Securities. If there are insufficient Declined Securities to satisfy all such applications for Additional Securities, then such Declined Securities shall be allotted to the applicants of the Additional Securities (as nearly as possible without involving fractions) as follows:
  - 10.6.1 pro rata to their holdings of Equity Shares immediately prior to the Pre-emptive Offer (as nearly as possible without increasing the number of Declined Securities allotted to any Shareholder beyond the number of Additional Securities applied for by him);

- 10.6.2 any Declined Securities remaining after the allotment of Declined Securities referred to in Article 10.6.1 shall:
- 10.6.2.1 be allotted to such applicants who have not yet been allotted the maximum number of Additional Securities applied for by them pro rata to their holdings of Equity Shares immediately prior to the Pre-emptive Offer (as nearly as possible without increasing the number of Declined Securities allotted to any Shareholder beyond the number of Additional Securities applied for by him); and
- 10.6.2.2 continue to be allotted on the basis of this Article 10.6.2 until all Declined Securities have been allotted.
- 10.7 If an Emergency Issue is made, the Company shall within 20 Business Days of the Emergency Issue make an offer of Securities on the following basis:
- 10.7.1 all Equity Shareholders, other than any Excluded Shareholders, who did not participate in the Emergency Issue ("**Non-Participants**") shall be offered the opportunity to subscribe for such number of additional Securities (as nearly as possible without involving fractions) as would mean that, if fully taken up, the Non-Participants would each have the same proportion (as nearly as possible) of Securities as they had immediately prior to the Emergency Issue;
- 10.7.2 such Securities shall be offered to the Non-Participants on the same terms and at the same price per Security as the Securities were allotted pursuant to the Emergency Issue;
- 10.7.3 if the Majority Investor(s) so direct the Company in writing, the offer shall be conditional on such Non-Participants also subscribing for the same number of other securities in any Group Member (including loan notes, deep discount bonds or other debt instruments) (as nearly as possible without involving fractions) per Equity Share held by them as the relevant participants of the Emergency Issue (and/or, where such relevant participants are Investors, their Investor Associate(s)) subscribed for per Equity Share held by such participants immediately prior to the relevant Emergency Issue and on the same terms as such participants (and/or, where such participants are Investors, their Investor Associate(s)) subscribed for such securities pursuant to the Emergency Issue; and
- 10.7.4 the offer shall be open for acceptance for at least 10 Business Days.
- 10.8 The Directors may (with Investor Consent) round up or down fractional entitlements under any Pre-emptive Offer or Catch-up Offer, provided that the number of Securities allotted does not exceed the total number of Securities offered and such rounding does not result in:
- 10.8.1 an Equity Shareholder being allotted more Securities than he has indicated he is willing to accept; or
- 10.8.2 in the case of a Catch-up Offer, the Non-Participants as a whole being offered such number of additional Securities as would mean that, if fully taken up, the Non-Participants would as a whole have a greater proportion of Securities than they had immediately prior to the Emergency Issue.
- 10.9 Any Securities not taken up at the end of the procedures set out in Articles 10.4 to 10.7 for a Pre-emptive Offer or under a Catch-up Offer may (with Investor Consent), within the period

of three months from the end of the period for acceptance of the relevant Pre-emptive Offer or Catch-up Offer, be offered by the Company to any other person(s) at no lesser price and on no more favourable terms than those on which they were offered under the relevant Pre-emptive Offer or Catch-up Offer.

- 10.10 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 (within the meaning of section 560 of the Act) by the Company.

## **11. PROHIBITED TRANSFERS**

- 11.1 The Directors shall not register any transfer of Shares:

11.1.1 subject to Article 11.2, to any person who, in the reasonable opinion of the Board:

11.1.1.1 is carrying on business directly or indirectly in competition with the Company or any member of the Group or who has a material interest in any business directly or indirectly in competition with the Company or any member of the Group (or a nominee of either); or

11.1.1.2 would adversely affect the value or business of the Company or any member of the Group (whether in connection with damage to its or their reputation or otherwise) as a result of any association with such person or any person connected with such person;

11.1.2 to any person who does not have legal capacity to hold and/or transfer such Shares without let, hindrance or court order or otherwise to comply fully with the provisions of these Articles.

- 11.2 The restrictions in Article 11.1 will not apply:

11.2.1 in relation to any transfer where the proposed transferee is a Fund and such transferee has an interest (whether direct or indirect (including, without limitation, where such interest is held as trustee, nominee, custodian, operator or manager of any Fund) and whether beneficial or otherwise) in any business or company which is directly or indirectly in competition with any member of the Group;

11.2.2 in the event that any such transfer is agreed by the Board (acting reasonably) with Investor Consent; or

11.2.3 to any transfer of Shares in circumstances where the Tag Along Rights are being exercised pursuant to Article 17 (*Tag Along Rights*) or the Drag Along Right is being exercised pursuant to Article 18 (*Drag Along Rights*).

- 11.3 Save in relation to any transfer pursuant to Article 17 (*Tag Along Rights*) and Article 18 (*Drag Along Rights*), the Directors shall not register a transfer of Shares:

11.3.1 to any person who is bankrupt, is less than 18 years of age and/or does not have (or whom the Directors reasonably believe does not have) legal capacity to hold and/or transfer such Shares or to comply with these Articles; and

11.3.2 unless:

- 11.3.2.1 the transfer is permitted by Article 12 (*Permitted Transfers*) or has been made in accordance with Article 13 (*Pre-emption*) or Article 14 (*Compulsory Transfers*); and
  - 11.3.2.2 the instrument of transfer is duly stamped (or it is duly certified or otherwise shown to the satisfaction of the Directors to be exempt from stamp duty); and
  - 11.3.2.3 (except with Investor Consent) the transferee (if such person is not already a party to the Investment Agreement (whether as an original party or by having executed a Deed of Adherence)) has, in a legally binding manner, entered into and delivered to the Company, a Deed of Adherence.
- 11.4 Subject to Article 12.7 and 12.8, and save for any transfer of any Shares required or permitted by Articles 14 (*Compulsory Transfers*), 17 (*Tag Along Rights*) or 18 (*Drag Along Rights*), no Interest in any Preferred Shares, B Shares, C Shares, the D Shares or M Shares may be transferred without Investor Consent.
- 11.5 For the purpose of ensuring that a transfer of Shares is permitted under these Articles, or that no circumstances have arisen whereby a Transfer Notice or a Compulsory Sale Notice is required to be or ought to have been given, and to enable the Company to comply with all applicable laws, including anti-money laundering laws:
- 11.5.1 the Board may (and shall if so requested by the Investor Director(s)), as a condition of approving any transfer of Shares, require any Shareholder by notice in writing to procure that any person whom the Board or the Investor Director(s) reasonably believes to have information and evidence relevant to such purpose, provides the Company with such information and evidence as the Board thinks fit; and
  - 11.5.2 pending the provision of such information the Board shall be entitled to refuse to register any relevant transfer.
- 11.6 If a Shareholder fails to provide any information or evidence required pursuant to Article 11.5.1 to the reasonable satisfaction of the Board (with Investor Director Consent), or if as a result of such information and evidence the Board (with Investor Director Consent) is reasonably satisfied that:
- 11.6.1 a transfer of Shares has taken place which is not permitted under these Articles;
  - 11.6.2 circumstances have arisen whereby in accordance with these Articles a Compulsory Sale Notice is required to be or ought to have been given, and has not been given; or
  - 11.6.3 circumstances have arisen whereby the provisions of Article 17 (*Tag Along Rights*) are required to be or ought to have been complied with, but a Tag Offer has not been made, and/or the provisions of Article 17 (*Tag Along Rights*) have not been complied with,

then, until such time as the relevant information and evidence is provided to the Company, or the Shares are transferred pursuant to a Compulsory Sale Notice, or a Tag Offer is made, the relevant Shares shall cease to confer on the holder any rights:

- 11.6.4 to receive notice of and to attend and speak at any general meeting of the Company or any separate meeting of the holders of the class of Shares in question;
  - 11.6.5 to vote (either in person or by proxy and whether on a show of hands or on a poll) at a general meeting of the Company or at any separate meeting of the holders of the class of Shares in question or on a written resolution of the Shareholders or of the class of Shareholders in question and the relevant Shares shall not be counted in determining the total number of votes which may be cast at any such meeting or on any such resolution or for the purpose of any other consent required under these Articles or the Investment Agreement;
  - 11.6.6 to receive dividends or other distributions (other than the amount credited as paid up on the relevant Shares upon a return of capital);
  - 11.6.7 to participate in any further issues or transfers of Securities in respect of such Shares or in pursuance of an offer made to the relevant holder of such Shares; or
  - 11.6.8 otherwise attaching to such Shares.
- 11.7 The rights referred to in Article 11.6.4 to 11.6.8 (inclusive) shall be reinstated by the Board (with Investor Director Consent) once the failure to provide the information or evidence or to remedy the situation referred to in Article 11.6 is remedied or, if earlier, upon completion of a transfer of any relevant Shares.
- 11.8 Any transfer of Shares made in breach of these Articles shall be void.

## **12. PERMITTED TRANSFERS**

- 12.1 Where any Shares are the subject of a Transfer Notice or a Compulsory Transfer Notice, no transfers of any such Shares shall be permitted pursuant to this Article 12, except transfers to a Drag Buyer or Tag Buyer pursuant to Article 17 (*Tag Along Rights*) or Article 18 (*Drag Along Rights*) (as applicable).
- 12.2 Subject to Articles 11 (*Prohibited Transfers*) and 12.1, any Share may be transferred:
- 12.2.1 to a Drag Buyer or Tag Buyer pursuant to Article 17 (*Tag Along Rights*) or Article 18 (*Drag Along Rights*) (as applicable);
  - 12.2.2 in accordance with Article 13 (*Pre-emption*);
  - 12.2.3 when required by, and in accordance with, Article 14 (*Compulsory Transfers*); or
  - 12.2.4 if held by an Employee Benefit Trust, to any beneficiary of that trust or to any replacement trustee(s) or into the joint name of the existing and any new or additional trustee(s).

- 12.3 Without prejudice to Article 12.2 and subject to Article 12.4, any Investor and/or any Investor Associate of such Investor shall be entitled to transfer any Shares registered in its name at any time to:
- 12.3.1 any Investor Associate of such Investor;
  - 12.3.2 where the Investor or Investor Associate (as applicable) holds the Shares as a trustee or nominee, the beneficial owner of such Shares, another trustee or nominee of such beneficial owner and/or any other person(s) to whom the beneficial owner could have transferred any Shares under this Article 12 if it had been an Investor;
  - 12.3.3 where the Investor holds the Shares as a result of permitted transfer(s) under this Article 12, the transferor(s) of such Shares and/or any other person(s) to whom the transferor(s) could have transferred any Shares under this Article 12 if they had remained Investors;
  - 12.3.4 any person, entity or arrangement which is entitled or permitted to hold or participate in Shares under a Co-Investment Scheme of that Investor or any member of the Investor Group of such Investor (or its trustee or nominee);
  - 12.3.5 as a distribution in kind or otherwise under the relevant partnership agreement or trust deed or other constitutive document(s) of a Fund, the partners (including any person to whom such partner may have assigned its partnership interest or any interest therein) of a limited partnership (or their nominees) or to the holders of units in a unit trust (or their nominees) or to the shareholders of, participants in, or holders of any other interest in any Fund;
  - 12.3.6 any person who shall acquire the whole or substantially the whole of the business and assets of such Investor; or
  - 12.3.7 any other person provided the provisions of Article 17 (*Tag Along Rights*) apply,
- and for the avoidance of doubt, the provisions of Articles 13 (*Pre-emption*), 17 (*Tag Along Rights*) or 18 (*Drag Along Rights*) shall not apply to any transfer made pursuant to Articles 12.3.1 to 12.3.6 (inclusive).
- 12.4 Without prejudice to Article 12.2 or Article 11.2.1, an Investor and/or any Investor Associate shall not be entitled to transfer any Shares in accordance with Article 12.3 to a Fund portfolio company:
- 12.4.1 carrying on business directly or indirectly in competition with the Company or any member of the Group; or
  - 12.4.2 which has a material interest in any business directly or indirectly in competition with the Company or any member of the Group.

12.5 Any Share held by the Company as a treasury share may be sold or transferred to any person or cancelled, in each case, in accordance with the Act and with Investor Consent.

12.6 Any Co-Investment Scheme which holds Shares through another undertaking may transfer such Shares to:

12.6.1 to another undertaking which holds or is to hold the Shares for the Co-Investment Scheme; or

12.6.2 to any officer, employee or partner entitled to the Shares under the Co-Investment Scheme,

and, for the avoidance of doubt, the provisions of Article 17 (*Tag Along Rights*) and Article 18 (*Drag Along Rights*) shall not apply to any such transfer.

12.7 Subject to Articles 11.5 and 11.6, any Shareholder may, transfer up to 49 per cent calculated by par value of the Preferred Shares, the B Shares, C Shares, D Shares and M Shares registered in his name to a Privileged Relation and/or trustee of a Family Trust of such Shareholder ("**Permitted Transferee**") provided that:

12.7.1 in the event that any such Permitted Transferee of such transferor shall at any time cease to be a trustee of a Family Trust or Privileged Relation of such transferor (as applicable) then, immediately prior to such cessation, such Permitted Transferee shall transfer all shares registered in its name to another then current trustee of a Family Trust or Privileged Relation of such transferor; and

12.7.2 prior to and as a condition of such Transfer, the transferor shall procure that such Permitted Transferee shall enter into a power of attorney in a form approved by the Majority Investor(s) (acting reasonably) appointing the transferor as attorney of such Permitted Transferee to attend, vote and otherwise take part as the proxy of such Permitted Transferee at any general meeting of the members of the Company or separate class meeting of any class of members in respect of the Shares being Transferred and otherwise generally to exercise all rights and privilege attaching to such Shares on behalf of such Permitted Transferee,

and, for the avoidance of doubt, the provisions of Article 13 (*Pre-Emption*) and Article 17 (*Tag Along Rights*) shall not apply to any such transfer.

12.8 Where any Shares have been transferred pursuant to Article 12.7, the relevant Permitted Transferee may transfer any such Shares to:

12.8.1 a person or persons shown to the reasonable satisfaction of the Majority Investor(s) to be the trustee or trustees for the time being (on a change of trustee) of the Family Trust in question; and/or

12.8.2 the original transferor from whom such Permitted Transferee acquired its Shares under a transfer pursuant to Article 12.7 or any Privileged Relation of such original transferor.



- 12.9 If a Shareholder fails or refuses to execute and deliver any transfer in respect of any Shares pursuant to its obligations under Article 12.7.1, the Board may (and will if requested by the Investor Director(s)) irrevocably appoint any person with full power and authority to:

12.9.1 execute and complete the necessary instrument of Transfer(s) on the defaulting Shareholder's behalf to give effect to the Transfer of the relevant Shares; and

12.9.2 against receipt by the Company of the purchase money (if any) payable for the relevant Shares (to be held on trust for the defaulting Shareholder without interest) (such receipt being a good discharge to the transferee who shall not be bound to see to the application thereof) deliver such instrument(s) of transfer to the relevant transferee,

and the Directors shall authorise the registration of the transfer(s) and of the transferee as the holder of the relevant Shares once appropriate stamp duty (if any) has been paid. After registration, the title of the transferee as registered holder of the relevant Shares shall not be affected by any irregularity in, or invalidity of, such proceedings, which shall not be questioned by any person. The defaulting Shareholder shall in such case be bound to deliver up its certificates (or an indemnity in a form reasonably satisfactory to the Board (with Investor Director Consent) for any lost share certificates) for the relevant Shares to the Company whereupon the defaulting Shareholder shall be entitled to receive the purchase money payable for the relevant Shares.

### 13. PRE-EMPTION

- 13.1 Except in the case of a transfer pursuant to Article 12 (*Permitted Transfers*) or where the provisions of Article 14 (*Compulsory Transfers*) or Article 18 (*Drag Along Rights*) apply, and subject to the prohibitions on transfers set out in Article 11 (*Prohibited Transfers*), any Preferred Shareholder, B Shareholder, C Shareholder, D Shareholder or M Shareholder wishing to transfer all or any Shares held by him ("**Selling Shareholder**") shall first give a notice ("**Transfer Notice**") in writing to the Company copied to the Investor Director(s).

- 13.2 A Transfer Notice shall relate to one class of Shares only and shall specify:

13.2.1 the number and class of the Shares he wishes to transfer ("**Sale Shares**");

13.2.2 the name of the third party (if any) to whom he proposes to transfer the Sale Shares ("**Proposed Transferee**") (if any);

13.2.3 the price per Share at which the Selling Shareholder wishes to Transfer the Sale Shares; and

13.2.4 whether or not the Transfer Notice is subject to a Total Transfer Condition. In the absence of any such stipulation it shall be deemed not to be so conditional.

- 13.3 No Transfer Notice will be capable of variation or cancellation without Investor Consent unless the Independent Accountants (as applicable) subsequently determine the Market Value of the Sale Shares to be less than the price specified in the Transfer Notice in which case the Selling Shareholder shall have the right (by notice in writing to the Company) to withdraw the Transfer Notice within seven days of the receipt of such determination).

- 13.4 The Transfer Notice will constitute the Company as the agent of the Selling Shareholder for the Transfer of the Sale Shares in accordance with this Article 13 at the following price ("**Transfer Price**"):
- 13.4.1 if agreed by the Board (with Investor Consent), the price specified in the Transfer Notice; or
  - 13.4.2 such other price as may be agreed between the Selling Shareholder and the Board (with Investor Consent) within 10 Business Days after the date of service of the Transfer notice; or
  - 13.4.3 in default of agreement under Articles 13.4.1 or 13.4.2 the lower of:
    - 13.4.3.1 the price per Share specified in the Transfer Notice; and
    - 13.4.3.2 if the Board elects (and the Board will so elect if requested by the Majority Investor(s)) within 20 Business Days after the date of service of the Transfer Notice to instruct the Independent Accountant for the purpose of determining the Market Value of the Sale Shares as at the date of service of the Transfer Notice in accordance with Article 0, the Market Value of such Sale Shares as so determined.
- 13.5 Where the Sale Shares are M Shares, within 10 Business Days after the later of:
- 13.5.1 the receipt (or deemed receipt) by the Company of a Transfer Notice; and
  - 13.5.2 the determination of the Transfer Price,
- the Remuneration Committee may direct:
- 13.5.3 the Selling Shareholder to transfer some or all of the Sale Shares which are M Shares ("**M Sale Shares**") to the Company at the Transfer Price, such Sale Shares to be either cancelled or held in treasury as specified by the Majority Investor(s), provided that no M Sale Shares may be purchased by the Company until the terms of the purchase have been authorised by a resolution of the Company in accordance with Chapter 4 of Part 18 of the 2006 Act; and/or
  - 13.5.4 the Company (in its capacity as agent for the Selling Shareholder) immediately to offer at the Transfer Price such number of the M Sale Shares as they may determine to:
    - 13.5.4.1 any person who will hold such M Sale Shares for the benefit of existing or future employees or directors of any Group Member (excluding the Investor Directors and the Chairman) including (without limitation), any Employee Benefit Trust of any Group Member; and/or
    - 13.5.4.2 an employee or director or a prospective employee or director of any Group Member (excluding the Investor Directors and the Chairman and any Excluded Shareholder),
- (together being "**Preferred Offerees**" and each being a "**Preferred Offeree**").

13.6 An offer of M Sale Shares to any Preferred Offeree pursuant to Article 13.5.4 shall be open for acceptance for 20 Business Days following the date of such offer following which such offer shall lapse.

13.7 If any Preferred Offeree applies for any of the M Sale Shares offered to it pursuant to Article 13.5.4 the Company shall give notice to the Selling Shareholder and each Preferred Offeree to whom any M Sale Shares are to be transferred ("**Preferred Offeree Allocation Notice**") specifying:

13.7.1 the number of M Sale Shares to be acquired by such Preferred Offeree; and

13.7.2 the date (being not later than 20 Business Days after the date of the Preferred Offeree Allocation Notice) on, and place at, which the sale and purchase of the relevant M Sale Shares shall be completed,

and the provisions of Article 13.15 shall apply in relation to completion of the sale and purchase of such M Sale Shares.

13.8 If:

13.8.1 the Board fails to make a direction in accordance with Article 13.5; or

13.8.2 none or some only of the M Sale Shares are transferred to the Company and/or purchased by Preferred Offerees (as applicable) pursuant to Articles 13.5, 13.6 and 13.7 (as applicable)

the provisions of Articles 13.9 to 13.17 will have effect such that reference to Sale Shares includes those M Sale Shares not transferred and/or purchased in accordance with Articles 13.5 and 13.6.

13.9 Subject to Articles 13.5, 13.6 and 13.7, within 15 Business Days after:

13.9.1 the later of:

13.9.1.1 receipt or deemed receipt of a Transfer Notice;

13.9.1.2 determination of the Transfer Price;

13.9.1.3 the expiry of the period of 10 Business Days referred to in Article 13.5; and

13.9.1.4 completion of the transfer of any M Sale Shares to the Company and/or any Preferred Offerees pursuant to Articles 13.5 and 13.7,

in respect of M Sale Shares; or

13.9.2 the later of:

13.9.2.1 receipt or deemed receipt of a Transfer Notice;

13.9.2.2 determination of the Transfer Price;

any Sale Shares which are not M Shares,

the Company shall (as agent for the Selling Shareholder) by notice in writing ("**Sale Notice**") offer any remaining Sale Shares to each of the Preferred Shareholders and/or A Shareholders, B Shareholders and/or C Shareholders and/or D Shareholders (as applicable) (other than the Selling Shareholder and any B Shareholders and/or C Shareholders and/or D Shareholders who are Excluded Shareholders) in accordance with Articles 13.10, 0 and 13.12.

13.10 It will be a term of any offer made pursuant to Article 13.9 that, if Shareholders holding Shares of more than one class apply for some or all of the Sale Shares, the Sale Shares of a particular class specified in column (1) in the table below will be treated as offered:

13.10.1 in the first instance to all persons in the category set out in the corresponding line in column (2) in the table below; and

13.10.2 to the extent not accepted by persons in column (2) (whether as part of their Proportionate Entitlement or as Extra Shares), to all persons in the category set out in the corresponding line in column (3) in the table below; and

13.10.3 to the extent not accepted by persons in columns (2) and (3) (whether as part of their Proportionate Entitlement or as Extra Shares), to all persons set out in the corresponding line in column (4) in the table below:

(1) Class of Shares	(2) First priority	(3) Second priority	(4) Third priority
Preferred Shares	Preferred Shareholders	Equity Shareholders	-
B Shares	B Shareholders	C Shareholders	Equity Shareholders
C Shares	C Shareholders	B Shareholders	Equity Shareholders
D Shares	Equity Shareholders	-	-
M Shares	Equity Shareholders	-	-

13.11 The Sale Notice shall specify that the Shareholders to whom the Sale Shares are being offered pursuant to Articles 13.9 and 13.10 shall have a period of up to 20 Business Days from the date of the Sale Notice within which to apply for some or all of the Sale Shares after which the offer will lapse.

13.12 It will be a term of any offer made pursuant to Article 13.9 that, if there is competition among any class of Shareholders for the Sale Shares offered to that class of Shareholder, such Sale Shares will be treated as offered among the persons who have accepted the offer ("**Relevant Offerees**" and "**Relevant Offeree**" shall mean any one of them) in proportion (as nearly as possible) to their existing holdings of the relevant class of Shares ("**Proportionate Entitlement**"). The offer will also invite the Relevant Offerees to indicate in their applications for Sale Shares, whether they would be willing to buy Sale Shares in excess of

their Proportionate Entitlement should any such Shares be available and, if so, how many ("Extra Shares").

13.13 After the expiry of the offer period specified in Article 0 (or, if sooner, upon valid applications being received for all of the Sale Shares in accordance with that Article), the Board will (subject to Article 13.16) allocate the Sale Shares as follows:

13.13.1 if the total number of Sale Shares applied for (including Extra Shares) is equal to or less than the available number of Sale Shares, each Relevant Offeree will be allocated the number applied for in accordance with his application; or

13.13.2 if the total number of Sale Shares (including the Extra Shares) applied for is greater than the available number of Sale Shares, each Relevant Offeree will be allocated his Proportionate Entitlement, or, if less, the number of Sale Shares which he has applied for; and

13.13.3 applications for Extra Shares will be allocated in accordance with such applications or, in the event of competition, among the Relevant Offerees applying for Extra Shares in such proportions as are equal (as nearly as possible) to the proportions of the relevant class of Shares held by such Relevant Offerees.

13.14 Allocations of Sale Shares made by the Company pursuant to this Article 13 shall constitute the acceptance by the persons to whom they are allocated of the offer to purchase those Sale Shares on the terms offered to them, provided that no person shall be obliged to take more than the maximum number of Sale Shares which he has indicated to the Company he is willing to purchase. The Company shall immediately upon allocating any Sale Shares give notice in writing ("**Allocation Notice**") to the Selling Shareholder and to each Relevant Offeree to whom Sale Shares have been allocated specifying:

13.14.1 the number of Sale Shares so allocated;

13.14.2 the aggregate price payable for them;

13.14.3 any additional information required by Article 13.16.1 (if applicable); and

13.14.4 subject to Article 13.16.1 (if applicable), the place and time (being not later than five Business Days after the date of the Allocation Notice) at which the sale and purchase of the Sale Shares shall be completed.

13.15 Subject to Article 13.16, completion of the sale and purchase of Sale Shares in accordance with a Preferred Offeree Allocation Notice or an Allocation Notice (as applicable) shall take place at the place and time specified in the relevant Preferred Offeree Allocation Notice or Allocation Notice when the Selling Shareholder shall, upon payment of the Transfer Price due in respect of the Sale Shares specified in the relevant Preferred Offeree Allocation Notice or Allocation Notice, transfer those Sale Shares and deliver the relevant share certificates (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificates) to the persons to whom they have been allocated.

13.16 If the Transfer Notice included a Total Transfer Condition and the total number of Sale Shares applied for is less than the number of Sale Shares:

13.16.1 the Allocation Notice shall refer to such Total Transfer Condition and shall contain a further offer, open for 20 Business Days from the date of the Allocation

Notice, to those persons to whom Sale Shares have been allocated to apply for further Sale Shares; and

- 13.16.2 completion of the transfer in accordance with this Article 13 shall be conditional upon all such Sale Shares being so allocated and shall take place no later than five Business Days after notice by the Company to the Seller that the Total Transfer Condition has been satisfied.
  - 13.17 If the Selling Shareholder fails to execute and deliver duly executed share transfer instruments and share certificates (if any) in respect of any of the Sale Shares which he is due to transfer pursuant to this Article 13 (including, without limitation, any transfer of Sale Shares to the Company pursuant to Article 13.5.3), the Company may (and shall if directed by the Majority Investor(s)) use its powers under the power of attorney in clause 18 of the Investment Agreement (if applicable) or act as agent with full power and authority to:
    - 13.17.1 execute, complete and deliver the necessary share transfer instruments on the Selling Shareholder's behalf to give effect to the transfer of the Sale Shares; and
    - 13.17.2 against receipt by the Company of the Transfer Price payable by any Preferred Offeree(s) and/or Relevant Offeree(s) for the relevant Sale Shares (to be held on trust for the Selling Shareholder without interest) (such receipt being a good discharge to the Preferred Offeree(s) and/or Relevant Offeree(s) (as applicable) who shall not be bound to see to the application thereof), deliver such instrument(s) of transfer to the Preferred Offerees and/or Relevant Offeree(s),
- and the Directors shall, notwithstanding the failure of the Selling Shareholder to deliver up its certificate (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificates) for the relevant Sale Shares, authorise
- 13.17.3 the cancellation of, or registration of the Company as the holder of, any Sale Shares to be transferred to the Company; and/or
  - 13.17.4 the registration of the Preferred Offerees and/or Relevant Offeree(s) (as applicable) as the holder(s) of any Sale Shares to be transferred to such Preferred Offerees and/or Relevant Offeree(s), once appropriate stamp duty (if any) has been paid.

The cancellation of any Sale Shares, or the registration of the relevant transferee(s) (or, where relevant, the Company) as the registered holder of such Sale Shares, shall not be affected by any irregularity in, or invalidity of, such proceedings, which shall not be questioned by any person.

- 13.18 The authority given pursuant to Article 13.17 shall be irrevocable and is given by way of security for the performance of the obligations of the Selling Shareholder under this Article 13.
- 13.19 Immediately after the exhaustion of any pre-emption process followed in accordance with these Articles, if any Sale Shares remain unallocated, the Company will notify the Selling Shareholder of that fact. The Selling Shareholder may, at any time within one calendar month after receiving such notice (but not otherwise unless the pre-emption procedure set out in these Articles is repeated), transfer any unsold Sale Shares to the Proposed Transferee at any price which is not less than the Transfer Price, provided that:
- 13.19.1 the Board will refuse registration of any transfer to any Proposed Transferee who is a person to whom Shares may not be transferred by virtue of Articles 11.1.1 or 11.1.2;
  - 13.19.2 if any such transfer would, if made and registered, result in any Proposed Transferee obtaining or increasing a Controlling Interest, the Board shall refuse registration of such transfer until such time as a Tag Offer has been made and the provisions of Article 17 (*Tag Along Rights*) complied with;
  - 13.19.3 if the Seller included a Total Transfer Condition in the Transfer Notice which has not been satisfied, the Seller shall only be entitled to transfer all (but not some only) of the Sale Shares; and
  - 13.19.4 any such transfer must be in good faith and the Board may require to be satisfied (in such manner as it may reasonably think fit) that the Sale Shares are being sold at a price which is not less than the Transfer Price without any deduction, rebate or allowance whatsoever. If not so satisfied, the Board may, and will on receipt of an Investor Direction, refuse to register the transfer.

#### **14. COMPULSORY TRANSFERS AND LEAVERS' SHARES**

- 14.1 In this Article 14, a "**Transfer Event**" occurs, in relation to:
- 14.1.1 any Shareholder, if that Shareholder, being an individual, has a bankruptcy order made against him or is declared bankrupt by any court of competent jurisdiction or, being a body corporate, is subject to or enters into any similar insolvency related procedure and in each case either the Majority Investor(s) notify the Company by Investor Direction, or the Remuneration Committee (with Investor Consent) so resolves, that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 14;
  - 14.1.2 any Shareholder, if that Shareholder, or any Connected Shareholder of such Shareholder, shall attempt to deal with or dispose of any Share or any interest in it otherwise than in accordance with Article 12 (*Permitted Transfers*) and this Article 14 and either the Majority Investor(s) notify the Company by Investor Direction, or the Remuneration Committee (with Investor Consent) so resolves, that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 14; or
  - 14.1.3 any Shareholder (other than an Original Manager), if that Shareholder, or any Privileged Relation of such Shareholder, or any person from whom such Shareholder has acquired any Shares pursuant to a Transfer in accordance with Article 12.7 or Article 12.8, becomes a Leaver and either the Majority Investor(s)

notify the Company by Investor Direction, or the Remuneration Committee (with Investor Consent) so resolves, that such event is a Transfer Event in relation to that Shareholder for the purposes of this Article 14; or

14.1.4 any Original Manager if:

14.1.4.1 that Original Manager becomes a Bad Leaver and either the Majority Investor(s) notify the Company by Investor Direction, or the Remuneration Committee (with Investor Consent) so resolves, that such event is a Transfer Event in relation to that Original Manager for the purposes of this Article 14; or

14.1.4.2 that Original Manager becomes a Defaulting Original Manager Leaver and either the Majority Investor(s) notify the Company by Investor Direction, or the Remuneration Committee (with Investor Consent) so resolves, that such event is a Transfer Event in relation to that Original Manager for the purposes of this Article 14.

14.2 Upon the giving of an Investor Direction or passing of a Board resolution under Article 14.1 that the same is a Transfer Event:

14.2.1 each Shareholder or Original Manager (as applicable) in respect of whom it is a Transfer Event ("**Relevant Shareholder**") together with any Connected Shareholder who has acquired any Connected Shares from such Relevant Shareholder (the Relevant Shareholder and each Connected Shareholder together being the "**Compulsory Sellers**" and each a "**Compulsory Seller**") shall each be deemed to have immediately given a notice ("**Compulsory Sale Notice**") to the Company intimating that he wishes to transfer the number and class of Shares registered in his name set out in Article 14.3 (such Shares being together the "**Compulsory Sale Shares**"); and

14.2.2 all B Shares registered in the name of the Relevant Shareholder, and any B Shares which have been acquired from the Relevant Shareholder by any Connected Shareholder of such Relevant Shareholder, shall forthwith, and without any further notice or resolution, convert into C Shares at the rate of one C Share for one B Share which C Shares shall, as from the date of such conversion, have the rights, and be subject to the restrictions, attaching to C Shares as set out in these Articles.

14.3 For the purposes of Article 14.2:

14.3.1 in the event of the occurrence of a Transfer Event falling within Article 14.1.1, 14.1.2 or 14.1.3 each:

14.3.1.1 Relevant Shareholder shall be deemed to have given a Compulsory Sale Notice in respect of all of the Shares then registered in his name; and

14.3.1.2 each Connected Shareholder of the Relevant Shareholder shall be deemed to have given a Compulsory Sale notice in respect of all of the Connected Shares registered in its name which were acquired by the Connected Shareholder from the Relevant Shareholder together with any Shares which were derived from, or allotted and issued to



the Connected Shareholder by way of a bonus or capitalisation issue in respect of, such Connected Shares;

14.3.2 in the event of a Transfer Event falling within Article 14.1.4.1:

14.3.2.1 the relevant Original Manager shall be deemed to have given a Compulsory Sale Notice in respect of all of the M Shares registered in his name which are Non-Vested M Shares together with any Shares which were derived from, or allotted and issued to the Original Manager by way of a bonus or capitalisation issue in respect of, such Non-Vested M Shares; and

14.3.2.2 each Connected Shareholder of the relevant Original Manager shall be deemed to have given a Compulsory Sale Notice in respect of all of the M Shares registered in his name which were acquired by the Connected Shareholder from the relevant Original Manager and which are Non-Vested M Shares together with any Shares which were derived from, or allotted and issued to the Connected Shareholder by way of a bonus or capitalisation issue in respect of, such Non-Vested M Shares; and

14.3.3 in the event of a Transfer Event falling within Article 14.1.4.2:

14.3.3.1 the relevant Original Manager shall be deemed to have given a Compulsory Sale Notice in respect of all of the Shares then registered in his name; and

14.3.3.2 each Connected Shareholder of the relevant Original Manager shall be deemed to have given a Compulsory Sale Notice in respect of all Shares registered in its name which were acquired by the Connected Shareholder from the relevant Original Manager together with any Shares which were derived from, or allotted and issued to the Connected Shareholder by way of a bonus or capitalisation issue in respect of, such Shares.

14.4 Notwithstanding any other provision of these Articles, unless the Majority Investor(s) direct otherwise, any Shareholder holding Shares in respect of which a Compulsory Sale Notice is deemed given shall not be entitled to exercise any voting rights in respect of those Shares (whether at general meetings of the Company or in relation to a written resolution of the Shareholders) on and from the date of the relevant Compulsory Sale Notice until the entry in the Register of Members of the Company of another person as the holder of those Shares.

14.5 Each Compulsory Sale Notice shall:

14.5.1 constitute the Company as the agent of the Compulsory Seller(s) for the sale of the Compulsory Sale Shares on the terms of this Article 14;

14.5.2 be irrevocable; and

14.5.3 shall not be conditional upon all (and not part only) of the Compulsory Sale Shares being sold pursuant to the following provisions of this Article 14 and the Compulsory Seller(s) shall be entitled to retain any Compulsory Sale Shares for which a purchaser is not found.

- 14.6 The Compulsory Sale Shares shall be sold together with all rights attaching thereto as at the date on which the relevant Investor Direction was given, or the Board resolution passed, under Article 14.1 (including the right to any dividend declared or payable on those Shares after that date), and, subject to Article 14.9, shall be offered for sale in accordance with this Article 14 at a price per Sale Share ("**Compulsory Sale Price**") determined in accordance with Article 14.7.
- 14.7 The Compulsory Sale Price for any Compulsory Sale Shares which are the subject of a Compulsory Sale Notice given as a consequence of:
- 14.7.1 a Transfer Event falling within Article 14.1.1, shall be the lower of Cost Price and their Market Value on the date that a bankruptcy order was made against the Relevant Shareholder or such Relevant Shareholder is declared bankrupt or becomes subject to any similar insolvency related procedure;
  - 14.7.2 a Transfer Event falling within Article 14.1.2, shall be lower of Cost Price and their Market Value on the date of the relevant dealing or disposition; and
  - 14.7.3 a Transfer Event falling within Article 14.1.3 or 14.1.4.1, shall be:
    - 14.7.3.1 if the Leaver is a Good Leaver, their Market Value on the Cessation Date; or
    - 14.7.3.2 if the Leaver is a Bad Leaver, the lower of their Market Value on the Cessation Date and the Cost Price of such Compulsory Sale Shares;
  - 14.7.4 a Transfer Event falling within Article 14.1.4.2, shall be the lower of their Market Value on the Cessation Date and the Cost Price, in each case subject to a discount of 20 per cent.,

and for these purposes the Market Value of any Compulsory Sale Shares will be agreed between the Compulsory Seller(s) and the Board (with Investor Consent) or, failing such agreement within 15 Business Days of the date of service or deemed service of the Compulsory Sale Notice, the price determined by the Independent Accountants to be the Market Value of such Compulsory Sale Shares determined in accordance with Article 0 (*Determination of Market Value*).

- 14.8 All Compulsory Sale Shares the subject of a Compulsory Sale Notice under this Article 14 shall be offered for sale in accordance with the provisions of Articles 13.5 to 13.17 (inclusive) which shall apply *mutatis mutandis* (as if references in Article 13 (*Pre-Emption*) to Sale Shares were replaced by references to Compulsory Sale Shares, references to the Transfer Notice were replaced by references to a Compulsory Sale Notice and references to the Transfer Price were replaced by references to the Compulsory Sale Price) save that a Compulsory Sale Notice will not be deemed to include a Total Transfer Condition. For the avoidance of doubt, Article 13.18 shall not apply in relation to any Compulsory Sale Shares which remain unallocated following the exhaustion of the pre-emption process followed pursuant to this Article 14.8 and Article 14.10 shall apply in relation to any such Retained Securities.
- 14.9 If a Compulsory Sale Notice is deemed served in accordance with Article 14.2, no further Transfer Notice shall be issued in respect of any Compulsory Sale Shares the subject of such Compulsory Sale Notice and the Board, with Investor Consent, may also determine in its absolute discretion to revoke any Transfer Notice (save in relation to Sale Shares the sale of

which has already been completed) previously given or deemed to have been given by any of the Compulsory Sellers.

- 14.10 Notwithstanding any other provision herein contained, if a Relevant Shareholder or any other Shareholder referred to in Article 14.2 retains any Shares ("**Retained Securities**") he will have all the rights of and shall rank *pari passu* with the other holders of the same class of Shares save that he shall be deemed to vote (whether on a poll or on a show of hands at any general meeting of the Company or at any separate meeting of the holders of any class of Shares or on a written resolution of the Shareholders or of a class of Shareholders) as the Majority Investor(s) shall direct and shall be deemed to grant any consent in respect of any matters to be consented to in respect of any such meeting as directed by the Majority Investor(s) and shall not otherwise be entitled to vote at any such meeting or to vote on any such written resolution. The provisions of this Article 14.10 shall apply to the Retained Securities and to any subsequent holder of Retained Securities as if such person were the Relevant Shareholder but for the avoidance of doubt the operation of this Article 14.10 shall not affect the economic value of the Retained Securities (whether on an Exit or otherwise).

## 15. VESTING OF M SHARES

For the purposes of Article 14.3.2, the M Shares registered in the name of an Original Manager or a Connected Shareholder of such Original Manager (as applicable) on the relevant date shall be treated as being Vested M Shares or Non-Vested M Shares (as applicable) as follows:

Date of becoming a Bad Leaver:	Proportion of M Shares which are Vested M Shares	Proportion of M Shares which are Non-Vested M Shares
On or prior to 17 September 2015 (" <b>First Anniversary</b> ")	0%	100%
After the First Anniversary but on or prior to 17 September 2016 (" <b>Second Anniversary</b> ")	33.33%	66.37%
After the Second Anniversary but on or prior to 17 September 2017 (" <b>Third Anniversary</b> ")	66.37%	33.33%
After the Third Anniversary	100%	0%.

## 16. DETERMINATION OF EQUITY PROCEEDS AND MARKET VALUE

- 16.1 Unless it is specifically stated otherwise, any dispute in accordance with these Articles as to:
- 16.1.1 the amount of the Equity Proceeds in relation to any proposed Exit; or
  - 16.1.2 the Market Value of any Shares (whether under Article 13.4.3.2 or otherwise)

shall, subject to Article 16.2, be referred immediately to for final determination an independent firm of chartered accountants ("**Independent Accountants**"), subject to Article 16.2, agreed and appointed, and, subject to Article 16.2, whose terms of appointment shall be agreed and executed, for the purpose by each of the parties concerned.

16.2 In the absence of agreement between the parties concerned in relation to:

16.2.1 the identity of the Independent Accountants within five Business Days, the identity of the Independent Accountants shall be agreed for the purpose by the incumbent president or other senior officer of the Institute of Chartered Accountants in England and Wales;

16.2.2 the terms of appointment of the Independent Accountants within five Business Days after the identity of the Independent Accountants has been agreed (whether by each of the parties concerned or in accordance with Article 16.2.1), the terms of appointment shall be agreed with the Independent Accountants and the Independent Accountants shall be appointed for the purpose by any Director (with Investor Consent) acting on behalf of each of the parties concerned,

and in the absence of all the parties concerned executing the terms of appointment agreed with the Independent Accountants within five Business Days after the Independent Accountants' terms of appointment have been agreed (whether by each of the parties concerned or in accordance with Article 16.2.2), any Director (with Investor Consent) may execute, complete and deliver the agreed terms of appointment on behalf of each of the parties concerned that have not executed them and such terms of appointment, when executed by or on behalf of each of the parties concerned in accordance with this Article 16.2, shall be binding on the parties concerned.

16.3 The Independent Accountants shall act as an expert. The written certificate of the Independent Accountants shall be conclusive and binding on the Company and the Shareholders (except in the case of fraud or manifest error).

16.4 Subject to Article 16.5, the costs and expenses of the Independent Accountants for reporting on their opinion of the amount of the Equity Proceeds in relation to an Exit, or the Market Value of any Shares, will be borne by the Company.

16.5 In the event that the Market Value of any Sale Shares determined by the Independent Accountants is twenty per cent or more (20%+) lower than the price specified in the relevant Transfer Notice, and the Seller revokes the Transfer Notice under Article 13.3, the Seller will pay all costs and expenses of the Independent Accountants for reporting on their opinion of the Market Value of such Shares.

16.6 If the Independent Accountants are required to determine Market Value, the provisions of Articles 16.7 and 16.8 shall apply.

16.7 Market Value shall be determined by the Independent Accountants, by first valuing the Company as a whole:

16.7.1 assuming, if the Company is then carrying on business as a going concern, that it will continue to do so;

16.7.2 assuming that the entire issued share capital of the Company is being sold as between a willing buyer and a willing seller by arm's-length private treaty for cash payable in full on completion;

- 16.7.3 in the event that any options have been issued by the Company, taking account of any Shares which may be allotted pursuant to options which have been issued by the Company and which are still outstanding and exercisable; and
- 16.7.4 taking account of any *bona fide* offer for the Company received from an unconnected third party within six months prior to the Transfer Notice being served or deemed to have been served.
- 16.8 Having valued the Company as a whole, the Auditors or, as the case may be, the Independent Accountants shall then determine the Market Value of the Shares concerned disregarding whether the Shares concerned represent a majority or a minority interest.

## **17. TAG ALONG RIGHTS**

- 17.1 This Article shall 17 shall not apply to any transfer of Shares pursuant to Article 12 (*Permitted transfers*), Article 13 (*Pre-emption*), Article 14 (*Compulsory Transfers*) and Article 18 (*Drag Along Rights*).
- 17.2 If one of more Shareholders ("**Proposed Sellers**") proposes to transfer to any person any Shares which would, if registered, result in such person (together with its Connected Persons and any other persons with whom it is Acting in Concert) (together the "**Tag Buyer**") obtaining or increasing an Interest ("**Proposed Sale**"), the Proposed Sellers shall not be entitled to transfer such Shares, and no such Shares shall be capable of being purchased or transferred, unless the Tag Buyer (or the Company in its capacity as agent for the Tag Buyer) shall have offered ("**Tag Offer**") in accordance with this Article 17 to purchase from each of the other Shareholders (not being a Tag Buyer) other than the Company when it holds Shares as treasury shares ("**Other Shareholders**") such proportion of the Shares registered in their name ("**Tagged Shares**") as is equal to the proportion which the Shares that the Proposed Sellers are proposing to transfer to the Tag Buyer bears to the Proposed Sellers' total holding of Shares.
- 17.3 A Tag Offer shall be made by notice specifying:
- 17.3.1 the identity of the Tag Buyer;
  - 17.3.2 the number of Shares that the Proposed Sellers are proposing to transfer to the Tag Buyer and the proportion that this bears to the Proposed Sellers' total holding of Shares and the number of Shares that the Tag Buyer is therefore offering to purchase from the Other Shareholders;
  - 17.3.3 the amount and form of consideration and the proportion of cash and/or securities that the Tag Buyer is proposing to pay for each of those Shares (determined in accordance with Article 17.4);
  - 17.3.4 the proposed, place, date and time of transfer;
  - 17.3.5 a time (being not less than 10 Business Days) within which the offer, if not accepted, shall be deemed to be declined; and
  - 17.3.6 to the extent not set out in the accompanying documents, any other terms and conditions of sale on which the Tag Buyer is proposing to purchase the Proposed Sellers' and the Accepting Shareholders' Shares,

and shall be accompanied by all documents required to be executed by the Other Shareholders if they accept the Tag Offer.

- 17.4 The amount and form of consideration and the proportion of cash and/or securities which the Tag Buyer shall offer and is proposing to pay for each of the Tagged Shares shall be the same as that offered and to be paid for each of the Proposed Sellers' Shares of the relevant class being transferred to the Tag Buyer pursuant to the Proposed Sale, save that the provisions of Article 6 (Share Rights - Return of Capital and Exit) shall apply to any transfer of Shares made pursuant to, and in accordance with, this Article 17 (and therefore the actual amount (if any) of consideration which each of the Proposed Sellers and the Accepting Shareholders shall receive for the Shares they are transferring shall be that to which they would be entitled if the aggregate value of the total consideration as a whole to be paid by the Tag Buyer for such Shares was allocated to the Proposed Sellers and the Accepting Shareholders in the order of priority set out in Article 6.
- 17.5 Each Other Shareholder who accepts the Tag Offer within the offer period ("**Accepting Shareholder**") shall be required to:
- 17.5.1 transfer the legal and beneficial title to all of his Tagged Shares to the Tag Buyer free from all liens, charges and encumbrances and together with all rights attaching to them and with full title guarantee;
  - 17.5.2 subject to Article 17.4, sell his Tagged Shares on the same terms and conditions (including the same representations, warranties, covenants, undertakings, indemnities and requirements relating to contributing to any retention) as are to be given to and by the Proposed Sellers pursuant to the Proposed Sale;
  - 17.5.3 deliver to the Tag Buyer the share certificates for his Tagged Shares (or an indemnity in a form reasonably satisfactory to the Directors for lost certificates) and a duly executed sale agreement (in a form agreed by the Proposed Sellers) setting out the relevant terms and conditions of sale; and
  - 17.5.4 pay his proportionate share of such fees, costs and expenses that are to be borne by the Accepting Shareholders pursuant to Article 17.8.
- 17.6 Completion of the sale and purchase of any Tagged Shares in respect of which the Tag Offer has been accepted shall be conditional upon, and shall take place on the same date and at the same time and place as, the completion of the Proposed Sale (unless any of the Accepting Shareholders and the Tag Buyer (with Investor Consent) agree otherwise), save that if any Accepting Shareholder fails to comply with his obligations under Article 17.5 on or before the completion of the Proposed Sale:
- 17.6.1 the completion of the Proposed Sale may be made without the completion of the sale and purchase of that Accepting Shareholder's Tagged Shares (provided that it shall be on no more favourable terms and conditions to the Proposed Sellers than those stated in the original Tag Offer); and
  - 17.6.2 the Tag Buyer shall not be under any further obligation to purchase those Tagged Shares.
- 17.7 If some or all of the Other Shareholders do not accept the Tag Offer within the offer period, the completion of the Proposed Sale may be made within three months of the end of that period (provided that it shall be on no more favourable terms and conditions to the Proposed Sellers than those stated in the original Tag Offer).

- 17.8 The reasonable transaction fees, costs and expenses incurred by the Proposed Sellers and the Accepting Shareholders that (as determined by the Investor Majority) are attributable to the transfer of Shares made in accordance with this Article 17 shall be borne by each of the Proposed Sellers and the Accepting Shareholders pro rata to their holdings of Shares being transferred.

## **18. DRAG ALONG RIGHTS**

- 18.1 If the Majority Investor(s) ("**Dragging Shareholder**") wish to transfer (whether through a single transaction or a series of related transactions) all of the Shares registered in their name to a bona fide arm's length third party purchaser and/or to any of its Connected Persons and/or to any other persons with whom it is Acting in Concert (together the "**Drag Buyer**"), the Majority Investor(s) shall have the right by notice ("**Drag Along Notice**") to each of the other Shareholders, other than the Company when it holds Shares as treasury shares, ("**Dragged Shareholders**") to require all such Dragged Shareholders to sell and transfer the legal and beneficial title to all of the Shares registered in their name ("**Dragged Shares**") (free from all liens, charges and encumbrances and together with all rights attaching to them and with full title guarantee) to the Drag Buyer (or as the Drag Buyer may direct) in accordance with the provisions of this Article 18.

- 18.2 A Drag Along Notice may be given to the Dragged Shareholders at any time before the completion of the transfer of the Dragging Shareholder(s) Shares to the Drag Buyer (or as the Drag Buyer may direct). It shall specify:

- 18.2.1 that the Dragged Shareholders are required to transfer all their Shares pursuant to this Article 18;
- 18.2.2 the identity of the Drag Buyer (and, if relevant, the transferee(s) to whom the Drag Buyer directs the Dragged Shares are to be transferred);
- 18.2.3 the amount (if any) and form of consideration for which the Dragged Shares are to be transferred (determined in accordance with Articles 18.4 to 18.5);
- 18.2.4 the proposed, place, date and time of transfer; and
- 18.2.5 the other terms and conditions of sale to which the Dragged Shareholders are required to adhere (determined in accordance with Article 18.8,

and shall be accompanied by all documents required to be executed by the Dragged Shareholders to give effect to the relevant transfer and, (if relevant) a form of election for any alternative consideration offered by the Drag Buyer (with Investor Consent) pursuant to Article 18.7.

- 18.3 A Drag Along Notice may be revoked by the Majority Investor(s) at any time prior to the completion of the sale and purchase of the Dragged Shares by notice to the Dragged Shareholders.
- 18.4 The amount (if any) of consideration for which the Dragged Shareholders shall be obliged to sell each of their Dragged Shares shall be that to which they would be entitled if the aggregate value of the total consideration to be paid by the Drag Buyer for all of the Dragging Shareholder(s) Shares and the Dragged Shares as a whole was allocated to the Dragging Shareholder(s) and the Dragged Shareholders in the order of priority set out in Article 6 (*Share Rights - Return of Capital and Exit*). If any of the consideration to be paid by the Drag Buyer is to be deferred or is otherwise not payable until after completion of the sale of the

Dragging Shareholder(s) Shares and the Dragged Shares to the Drag Buyer (or as the Drag Buyer may direct), any initial consideration to be paid at the time of such completion shall be allocated to the Dragging Shareholder(s) and the Dragged Shareholders in the order of priority set out in Article 6 (*Share Rights - Return of Capital and Exit*) and if, and to the extent that, any deferred or other consideration is subsequently to be paid by the Drag Buyer it shall be allocated to the Dragging Shareholder(s) and the Dragged Shareholders in the order of priority set out in Article 6 (*Share Rights - Return of Capital and Exit*) after taking into account any prior allocations of consideration that have already taken place.

- 18.5 For the avoidance of doubt, "**total consideration**" for the purposes of Article 18.4 shall be construed as meaning the value or worth of the total consideration regardless of the form of the total consideration and shall exclude any offer to subscribe for or acquire any share, debt instrument or other security in the capital of any Drag Buyer (or any group undertaking of the Drag Buyer) made to a Shareholder in the nature of "*sweet equity*" or a "*roll-over investment*" which is in addition to the consideration proposed to be paid by the Drag Buyer for all the Shares.
- 18.6 The amount of consideration (if any) to be paid by the Drag Buyer for the Dragged Shares (as determined in accordance with Article 18.4) shall be paid in cash or in such other form of non-cash consideration with an equivalent cash value as shall be elected by the Drag Buyer (with Investor Consent) provided that:
- 18.6.1 the form of any non-cash consideration and the proportion of cash and/or any non-cash consideration to be paid for the Dragged Shares shall be the same for each Dragged Shareholder;
- 18.6.2 the form of any non-cash consideration to be paid for the Dragged Shares shall be:
- 18.6.2.1 where there are Dragging Shareholder(s) with the same class of Shares as the holder of the relevant Dragged Shares, the same as the form of any non-cash consideration to be paid for those Dragging Shareholder(s) Shares of the same class;
- 18.6.2.2 where there are no Dragging Shareholders with the same class of Shares as the holder of the relevant Dragged Shares, the same as the form of any non-cash consideration to be paid for the Majority Investor(s)'s Equity Shares; and
- 18.6.3 the proportion of cash and/or any non-cash consideration to be paid for the Dragged Shares shall be:
- 18.6.3.1 where there are Dragging Shareholders with the same class of Shares as the holder of the relevant Dragged Shares, the same as, or a greater proportion of cash than, the proportion of cash and/or any non-cash consideration to be paid for those Dragging Shareholders' Shares of the same class; and
- 18.6.3.2 where there are no Dragging Shareholders with the same class of Shares as the holder of the relevant Dragged Shares, the same as, or a greater proportion of cash, than the proportion of cash and/or any non-cash consideration to be paid for the Majority Investor(s)'s Equity Shares.



- 18.7 The Drag Buyer (with Investor Consent) may also offer all of the Dragged Shareholders another form of consideration and a different proportion of cash and/or non-cash consideration which they may elect to receive as an alternative in whole or in part to the consideration set out in the Drag Along Notice.
- 18.8 Subject to Articles 18.4 to 18.7, the Dragged Shares shall be acquired on the same, or no more onerous, terms and conditions (including the same, or no more onerous, representations, warranties, covenants, undertakings, indemnities and requirements relating to contributing to any retention (if any)) for which:
- 18.8.1 where, in addition to the Dragging Shareholder, there are other Shareholders who have agreed to sell their Shares ("**Cooperating Shareholders**") with the same class of Shares as the holder of the relevant Dragged Shares, those Cooperating Shareholders and, if applicable, any Dragging Shareholders with the same class of Shares as the holder of the relevant Dragged Shares; or
- 18.8.2 otherwise, the Investors,
- are selling their Shares, disregarding any terms and conditions which are not directly related to the sale of the Dragging Shareholder(s) Shares.
- 18.9 Completion of the sale and purchase of the Dragged Shares shall take place on the same date and at the same time and place as the sale of the Dragging Shareholder(s) Shares to the Drag Buyer (or as the Drag Buyer may direct) unless all of the Dragged Shareholders and the Dragging Shareholder(s) otherwise agree, in which case completion of the sale and purchase of the Dragged Shares shall take place on a date that is no more than 20 Business Days later.
- 18.10 On or before the Drag Completion Date each Dragged Shareholder shall deliver to the Company:
- 18.10.1 duly executed transfers of the Dragged Shares registered in its name in favour of the Drag Buyer (or as the Drag Buyer directs in the Drag Along Notice);
- 18.10.2 the relevant share certificate(s) in respect of those Dragged Shares (or an indemnity in a form reasonably satisfactory to the Directors for any lost certificates); and
- 18.10.3 a duly executed sale agreement (in a form agreed by the Dragging Shareholders).
- 18.11 Subject to compliance with Article 18.10, and to the extent only that the Drag Buyer has put the Company in the requisite cleared funds or other form of consideration, the Company shall on the Drag Completion Date pay, on behalf of the Drag Buyer, to each of the Dragged Shareholders in respect of its Dragged Shares the consideration (if any) it is due in accordance with Articles 18.4 to 18.7, less any amount that is to be deducted from such consideration pursuant to Article 18.13. Payment to the Dragged Shareholder shall be made to the relevant Dragged Shareholder's last known address on the Company's register of member. The Company's receipt of the requisite cleared funds or other form of consideration from the Drag Buyer shall be a good discharge to the relevant Drag Buyer. Pending compliance by each Dragged Shareholder with its obligations in Article 18.10, the Company shall hold the funds or other form of consideration received from the Drag Buyer in respect of the Dragged Shares (less any amount that is to be deducted from such funds pursuant to Article 18.13) on trust for the Dragged Shareholders, without any obligation to pay interest.

- 18.12 Unless and to the extent that the Majority Investor(s) otherwise direct the Company in writing, upon any person (other than the Drag Buyer or its nominee), following the date of service of a Drag Along Notice, becoming a Shareholder (or increasing an existing shareholding in the Company) including pursuant to the exercise of any option, warrant or other right to acquire or subscribe for, or to convert any security into, Shares ("New Shareholder"):
- 18.12.1 a Drag Along Notice on the same terms as the previous Drag Along Notice shall be deemed to have been served upon the New Shareholder, who shall then be bound to sell and transfer the legal and beneficial title to all such Shares acquired by him (free from all liens, charges and encumbrances and together with all rights attaching to them and with full title guarantee) to the Drag Buyer (or as the Drag Buyer may direct); and
- 18.12.2 the provisions of this Article 18 shall apply (with necessary modifications) to the New Shareholder as if it were a Dragged Shareholder, except that, where completion of the sale and purchase of the Dragged Shares to the Dragged Buyer (or as the Drag Buyer may direct) has already taken place, the completion date of the sale and purchase of the Shares shall take place on such date as the Drag Buyer shall determine.
- 18.13 The reasonable transaction fees, costs and expenses incurred by the Dragging Shareholders and the Dragged Shareholders that (as determined by the Majority Investor(s)) are attributable to the transfer of Shares made in accordance with this Article 18 shall be borne by each of the Dragging Shareholders and the Dragged Shareholders pro rata to their entitlement to Equity Proceeds arising from the transaction determined in accordance with Article 6. An amount equal to the Dragged Shareholders' proportionate share of such fees, costs and expenses shall, if the Majority Investor(s) so require, be deducted by the Company from the amount of consideration which the Dragged Shareholders are entitled to receive for their Dragged Shares (as determined in accordance with Article 18.4) and shall be used to pay their proportionate share of such fees, costs and expenses.

## **19. SHARE TRANSFERS - GENERAL**

- 19.1 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the Directors, which is executed by or on behalf of the transferor and (if any of the Shares are not fully paid) by and on behalf of the transferee.
- 19.2 No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any Share.
- 19.3 The Company may retain any instrument of transfer which is registered but if the Directors refuse to register the transfer of a Share, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.
- 19.4 The transferor remains the holder of a Share until the transferee's name is entered in the register of members as holder of it.

## **20. TRANSMISSION OF SHARES**

- 20.1 If title to a Share passes to a Transmitttee, the Company may only recognise the Transmitttee as having any title to that Share, but nothing in these Articles releases the estate of a deceased Shareholder from any liability in respect of a Share solely or jointly held by that Shareholder.

- 20.2 A Transmittree who produces such evidence of entitlement to Shares as the Directors may properly require:
- 20.2.1 may, subject to these Articles, choose either to become the holder of those Shares or to have them transferred to another person; and
- 20.2.2 subject to these Articles, and pending any transfer of the Shares to another person, has the same rights as the holder had.
- 20.3 Transmittrees who wish to become the holders of Shares to which they have become entitled must notify the Company in writing of that wish.
- 20.4 Transmittrees do not have the right to attend or vote at a general meeting or at any separate meeting of the holders of any class of Shares, or to agree to a proposed written resolution, in respect of Shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those Shares.
- 20.5 Subject to Article 14 (*Compulsory Transfers*), if the Transmittree wishes to have a Share transferred to another person, the Transmittree must execute an instrument of transfer in respect of it.
- 20.6 Any transfer made or executed under this Article is to be treated as if it were made or executed by the person from whom the Transmittree has derived rights in respect of the Share, and as if the event which gave rise to the transmission had not occurred.
- 20.7 If a notice, document or other information is served on or sent or supplied to a Shareholder in respect of Shares and a Transmittree is entitled to those Shares, the Transmittree is bound by the notice, document or other information if it was served on or sent or supplied to the Shareholder before the Transmittree's name, or the name of any person nominated under Article 20.2.1, has been entered in the register of members.

## **21. COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS**

Except as required by law, no person is to be recognised by the Company as holding any Share upon any trust, and except as otherwise required by law or these Articles, the Company is not in any way to be bound by or recognise any interest in a Share other than the holder's absolute ownership of it and all the rights attaching to it.

## **22. SHARE CERTIFICATES**

- 22.1 The Company must issue each Shareholder, free of charge, with one or more certificates in respect of the Shares which that Shareholder holds.
- 22.2 Every certificate must specify:
- 22.2.1 in respect of how many Shares, and of what class, it is issued;
- 22.2.2 the nominal value of those Shares;
- 22.2.3 the amount paid up (or credited as paid up) on them (including both the nominal value and any share premium); and
- 22.2.4 any distinguishing numbers assigned to them.

- 22.3 No certificate may be issued in respect of Shares of more than one class.
- 22.4 If more than one person holds a Share, only one certificate may be issued in respect of it.
- 22.5 Certificates must be executed in accordance with the Companies Acts.
- 22.6 If a certificate issued in respect of a Shareholder's Shares is:
- 22.6.1 damaged or defaced; or
  - 22.6.2 said to be lost, stolen or destroyed,
- that Shareholder is entitled to be issued with a replacement certificate in respect of the same Shares.
- 22.7 A Shareholder exercising the right to be issued with such a replacement certificate:
- 22.7.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;
  - 22.7.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and
  - 22.7.3 must comply with such reasonable conditions as to evidence, indemnity and the payment of a reasonable fee as the Directors (with Investor Director Consent) decide.

## **23. COMPANY'S LIEN**

- 23.1 The Company has a lien ("Company's Lien") over every Share (whether fully paid or not) which is registered in the name of any person (whether solely or jointly with others) for all debts or liabilities payable by such person or his estate (either solely or jointly with any other person) to the Company, whether payable immediately or at some time in the future.
- 23.2 The Company's Lien over a Share:
- 23.2.1 takes priority over any third party's interest in that Share; and
  - 23.2.2 extends to any dividends or other sums payable by the Company in respect of that Share and (if the Company's Lien is enforced and the Share is sold by the Company) the proceeds of sale of that Share.
- 23.3 The Directors may (with Investor Consent) at any time decide that a Share which is or would otherwise be subject to the Company's Lien shall not be subject to it, either wholly or in part.

## **24. ENFORCEMENT OF THE COMPANY'S LIEN**

- 24.1 Subject to the provisions of this Article 24, if:
- 24.1.1 a Lien Enforcement Notice has been given in respect of a Share; and
  - 24.1.2 the person to whom the Lien Enforcement Notice was given has failed to comply with it,

the Company may sell that Share in such manner as the Directors (with Investor Consent) decide.

**24.2 A "Lien Enforcement Notice":**

- 24.2.1 may only be given in respect of a Share which is subject to the Company's Lien, and in respect of any sums/money payable to the Company where such sum is payable or the due date for payment of that sum has passed
- 24.2.2 must specify the Share concerned;
- 24.2.3 must be in writing and require payment of the sum payable within 14 clear days of the Lien Enforcement Notice (that is, excluding the day on which the Lien Enforcement Notice is given and the day on which that 14 day period expires);
- 24.2.4 must be addressed either to the Shareholder or to a Transmittree entitled to it; and
- 24.2.5 must state the Company's intention to sell the Share if the Lien Enforcement Notice is not complied with.

**24.3 Where Shares are sold under this Article 24:**

- 24.3.1 the Directors (with Investor Director Consent) may authorise any person to execute an instrument of transfer of the Shares to the purchaser or a person nominated by the purchaser; and
- 24.3.2 the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.

**24.4 The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the Company's Lien) must be applied:**

- 24.4.1 first, in payment of so much of the sum for which the Company's Lien exists as was payable at the date of the Lien Enforcement Notice; and
- 24.4.2 secondly, to the person entitled to the Shares immediately before the sale, but only after the certificate for the Shares sold has been surrendered to the Company for cancellation or an indemnity in a form reasonably satisfactory to the Directors *has been given for any lost certificates, and provided that the Company's Lien shall also apply to such proceeds for any sums/money payable to the Company after the date of the Lien Enforcement Notice.*

**24.5 A statutory declaration by a Director or the company secretary (if any) that the declarant is a Director or the company secretary (as applicable) and that a Share has been sold to satisfy the Company's Lien on a specified date:**

- 24.5.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share; and
- 24.5.2 subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the Share.

## **25. CALL NOTICES**

- 25.1 Subject to these Articles and the terms on which Shares are allotted, the Directors may (and shall if so requested by the Investor Director(s)) send a notice ("Call Notice") to a Shareholder requiring the Shareholder to pay the Company a specified sum of money ("Call") which is payable in respect of Shares which that Shareholder holds (whether solely or jointly with others) at the date when the Directors decide to send the Call Notice.
- 25.2 A Call Notice:
- 25.2.1 may not require a Shareholder to pay a Call which exceeds the total sum unpaid on that Shareholder's Shares (whether as to the Share's nominal value or any amount payable to the Company by way of premium);
  - 25.2.2 must be in writing and state when and how any Call to which it relates it is to be paid; and
  - 25.2.3 may permit or require the Call to be paid by instalments.
- 25.3 A Shareholder must comply with the requirements of a Call Notice, but no Shareholder is obliged to pay any Call before 14 clear days have passed since the Call Notice was sent (that is, excluding the day on which the Call Notice is given and the day on which that 14 day period expires).
- 25.4 Before the Company has received any Call due under a Call Notice, the Directors may (with Investor Consent):
- 25.4.1 revoke it wholly or in part; or
  - 25.4.2 specify a later time for payment than is specified in the Call Notice,
- by a further notice in writing to the Shareholder in respect of whose Shares the Call is made.
- 25.5 Liability to pay a Call is not extinguished or transferred by transferring the Shares in respect of which it is required to be paid.
- 25.6 Joint holders of a Share are jointly and severally liable to pay all Calls in respect of that Share.
- 25.7 Subject to the terms on which Shares are allotted, the Directors may, when issuing Shares, provide that Call Notices sent to the holders of those Shares may require them:
- 25.7.1 to pay Calls which are not the same; or
  - 25.7.2 to pay Calls at different times.
- 25.8 A Call Notice need not be issued in respect of sums which are specified, in the terms on which a Share is issued, as being payable to the Company in respect of that Share (whether in respect of nominal value or premium):
- 25.8.1 on allotment;
  - 25.8.2 on the occurrence of a particular event; or

25.8.3 on a date fixed by or in accordance with the terms of issue;

but if the due date for payment of such a sum has passed and it has not been paid, the holder of the Share concerned is treated in all respects as having failed to comply with a Call Notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

25.9 If a person is liable to pay a Call and fails to do so by the call payment date:

25.9.1 the Directors may (and shall if so requested by the Investor Director(s)) issue a notice of intended forfeiture to that person; and

25.9.2 until the Call is paid, that person must pay the Company interest on the Call from the call payment date at the relevant rate.

25.10 For the purposes of Article 25.9:

25.10.1 **"call payment date"** means the time when the Call Notice states that a Call is to be paid, unless the Directors give a notice in writing specifying a later date, in which case the **"call payment date"** is that later date;

25.10.2 **"relevant rate"** means:

25.10.2.1 the rate fixed by the terms on which the Share in respect of which the Call is due was allotted; or

25.10.2.2 such other rate as was fixed in the Call Notice which required payment of the Call, or has otherwise been determined by the Directors; or

25.10.2.3 if no rate is fixed in either of these ways, five per cent per annum.

25.11 The relevant rate must not exceed by more than five percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998.

25.12 The Directors may (with Investor Consent) waive any obligation to pay interest on a Call wholly or in part.

## **26. FORFEITURE**

26.1 A notice of intended forfeiture:

26.1.1 may be sent in respect of any Share in respect of which a Call has not been paid as required by a Call Notice;

26.1.2 must be in writing and sent to the Shareholder or to a Transmittée entitled to it;

26.1.3 must require payment of the Call and any accrued interest by a date which is not less than 14 clear days after the date of the notice of intended forfeiture (that is, excluding the day on which the notice of intended forfeiture is given and the day on which that 14 day period expires);

26.1.4 must state how the payment is to be made; and

- 26.1.5 must state that if the notice of intended forfeiture is not complied with, the Shares in respect of which the Call is payable will be liable to be forfeited.
- 26.2 If a notice of intended forfeiture is not complied with before the date by which payment of the Call is required in the notice of intended forfeiture, the Directors may (and shall if so directed by Investor Direction) decide that any Share in respect of which such notice of intended forfeiture was given is forfeited, and the forfeiture is to include all dividends or other sums payable in respect of the forfeited Shares and not paid before the forfeiture.
- 26.3 Subject to these Articles, the forfeiture of a Share extinguishes:
- 26.3.1 all interests in that Share, and all claims and demands against the Company in respect of it; and
- 26.3.2 all other rights and liabilities incidental to the Share as between the person whose Share it was before the forfeiture and the Company.
- 26.4 Any Share which is forfeited in accordance with these Articles:
- 26.4.1 is deemed to have been forfeited when the Directors decide that it is forfeited;
- 26.4.2 is deemed to be the property of the Company; and
- 26.4.3 may be sold, re-allotted or otherwise disposed of as the Directors (with Investor Consent) think fit.
- 26.5 If a person's Shares have been forfeited:
- 26.5.1 the Company must send that person notice in writing that forfeiture has occurred and record it in the register of members;
- 26.5.2 that person ceases to be a Shareholder in respect of those Shares;
- 26.5.3 that person must surrender the certificate for the Shares forfeited to the Company for cancellation;
- 26.5.4 that person remains liable to the Company for all sums payable by that person under these Articles at the date of forfeiture in respect of those Shares, including any interest (whether accrued before or after the date of forfeiture); and
- 26.5.5 the Directors may (and shall at the request of the Investor Director(s)) waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal.
- 26.6 At any time before the Company disposes of a forfeited Share, the Directors (with Investor Consent) may decide to cancel the forfeiture on payment of all Calls and interest due in respect of it and on such other terms as they think fit.
- 27. PROCEDURE FOLLOWING FORFEITURE**
- 27.1 If a forfeited Share is to be disposed of by being transferred, the Company may receive the consideration for the transfer and the Directors may authorise any person to execute the instrument of transfer.



27.2 A statutory declaration by a Director or the company secretary (if any) that the declarant is a Director or the company secretary (as applicable) and that a Share has been forfeited on a specified date:

27.2.1 is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share; and

27.2.2 subject to compliance with any other formalities of transfer required by these Articles or by law, constitutes a good title to the Share.

27.3 A person to whom a forfeited Share is transferred is not bound to see to the application of the consideration (if any), nor is that person's title to the Share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the Share.

27.4 If the Company sells a forfeited Share, the person who held it before its forfeiture is entitled to receive from the Company the net proceeds of such sale, after payment of the costs of sale and any other costs relating to the forfeiture of the Share, and excluding any amount which:

27.4.1 was, or would have become, payable; and

27.4.2 had not, when that Share was forfeited, been paid by that person in respect of that Share,

but no interest is payable to such a person in respect of such proceeds, and the Company is not required to account for any money earned on them.

## **28. SURRENDER OF SHARES**

28.1 A Shareholder may surrender any Share:

28.1.1 in respect of which the Directors may issue a notice of intended forfeiture in accordance with Article 26.1;

28.1.2 which the Directors may forfeit in accordance with Article 26.2; or

28.1.3 which has been forfeited.

28.2 The Directors may accept the surrender of any such Share.

28.3 The effect of surrender on a Share is the same as the effect of forfeiture on that Share.

28.4 A Share which has been surrendered may be dealt with in the same way as a Share which has been forfeited.

## **29. PROCEDURE FOR DECLARING DIVIDENDS**

29.1 Subject to Article 4 (*Share Rights - General*) and without prejudice to Article 5 (*Share Rights - Income*) the Company may (with Investor Consent) by ordinary resolution declare dividends, and the Directors may (with Investor Consent) decide to pay interim dividends.

29.2 Except as otherwise provided by these Articles, a dividend must not be declared unless the Directors (with Investor Consent) have made a recommendation as to its amount and such a dividend must not exceed the amount recommended by the Directors.

- 29.3 No dividend may be declared or paid unless it is in accordance with Shareholders' respective rights.
- 29.4 Unless the Shareholders' resolution to declare or Directors' decision to pay a dividend, or these Articles or the terms on which Shares are issued, specify otherwise, a dividend must be paid by reference to each Shareholder's holding of Shares on the date of the resolution or decision to declare or pay it.
- 29.5 If the Company's share capital is divided into different classes, no interim dividend may be paid on Shares carrying deferred or non-preferred rights if, at the time of payment, there are any Arrears of any preferential dividend.
- 29.6 The Directors may (with Investor Director Consent) pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- 29.7 If the Directors act in good faith, they do not incur any liability to the holders of Shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on Shares with deferred or non-preferred rights.

### **30. CALCULATION OF DIVIDENDS**

- 30.1 Except as otherwise provided by these Articles or the rights attached to Shares, all dividends must be declared and paid in proportions based on the amounts paid up (or credited as paid up) on the nominal value of the Shares during any portion or portions of the period in respect of which the dividend is paid.
- 30.2 If any Share is issued on terms providing that such Share shall be entitled to a dividend as if the nominal value of it were fully paid or partly paid from a particular date (in the past or the future), then such Share shall be entitled to a dividend on that basis.

### **31. PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS**

- 31.1 Where a dividend or other sum which is a distribution is payable in respect of a Share, it must be paid by one or more of the following means:
- 31.1.1 transfer to a bank or building society account specified by the distribution recipient either in writing or as the Directors may otherwise decide;
- 31.1.2 sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the Share), or (in any other case) to an address specified by the distribution recipient either in writing or as the Directors may otherwise decide;
- 31.1.3 sending by post a cheque made payable to such person, and sent to such person at such address, as the distribution recipient has specified either in writing or as the Directors may otherwise decide; or
- 31.1.4 any other means of payment as the Directors agree with the distribution recipient either in writing or by such other means as the Directors decide.

- 31.2 In these Articles, the "**distribution recipient**" means, in respect of a Share in respect of which a dividend or other sum is payable:
- 31.2.1 the holder of the Share; or
  - 31.2.2 if the Share has two or more joint holders, whichever of them is named first in the register of members; or
  - 31.2.3 if the holder is no longer entitled to the Share by reason of death or bankruptcy, or otherwise by operation of law, the Transmitten.
- 31.3 The Company may not pay interest on any dividend or other sum payable in respect of a Share unless otherwise provided by:
- 31.3.1 these Articles;
  - 31.3.2 the terms on which the Share was issued; or
  - 31.3.3 the provisions of another agreement (which has been entered into with Investor Consent) between the holder of that Share and the Company.
- 31.4 Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a Share by giving the Company notice in writing to that effect, but if:
- 31.4.1 the Share has more than one holder; or
  - 31.4.2 more than one person is entitled to the Share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the Share.

## **32. DEDUCTIONS FROM DISTRIBUTIONS IN RESPECT OF SUMS OWED TO THE COMPANY**

- 32.1 If:
- 32.1.1 a Share is subject to the Company's Lien; and
  - 32.1.2 the Directors are entitled to issue a Lien Enforcement Notice in respect of it,
- they may (and shall if so requested by the Investor Director(s)) instead of issuing a Lien Enforcement Notice, deduct from any dividend or other sum payable to a distribution recipient in respect of the Share any sum or money which is payable to the Company by the distribution recipient to the extent that they are entitled to require payment of such sum or money under a Lien Enforcement Notice.
- 32.2 Money so deducted must be used to pay any of the sums/money payable to the Company by the relevant distribution recipient.
- 32.3 The Company must notify the distribution recipient in writing of:
- 32.3.1 the fact and amount of any such deduction;

32.3.2 any non-payment of a dividend or other sum payable in respect of a Share resulting from any such deduction; and

32.3.3 how the money deducted has been applied.

### **33. UNCLAIMED DIVIDENDS**

33.1 All dividends or other sums which are:

33.1.1 payable in respect of Shares; and

33.1.2 unclaimed after having been declared or become payable,

may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed.

33.2 The payment of any such dividend or other sum into a separate account does not make the Company a trustee in respect of it.

33.3 If:

33.3.1 12 years have passed from the date on which a dividend or other sum became due for payment; and

33.3.2 the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the Company.

### **34. NON-CASH DISTRIBUTIONS**

34.1 Subject to these Articles and the terms of issue of the Share in question, the Company may (with Investor Consent) by ordinary resolution on the recommendation of the Directors, decide to pay all or part of a dividend or other distribution payable in respect of a Share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

34.2 For the purposes of paying a non-cash distribution, the Directors may (with Investor Consent) make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:

34.2.1 fixing the value of any assets;

34.2.2 paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and

34.2.3 vesting any assets in trustees.

### 35. CAPITALISATION OF PROFITS

- 35.1 Subject to these Articles, the Directors may (with Investor Consent) and if they are so authorised by an ordinary resolution:
- 35.1.1 decide to capitalise any profits of the Company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of any other reserve of the Company (including any share premium account, capital redemption reserve or other undistributable reserve); and
  - 35.1.2 appropriate any sum which they so decide to capitalise ("**capitalised sum**") to the persons who would have been entitled to it if it were distributed by way of dividend ("**persons entitled**") and in the same proportions as their entitlement to dividends ("**relevant proportions**").
- 35.2 Capitalised sums must be applied on behalf of the persons entitled and in the relevant proportions.
- 35.3 Any capitalised sum may be applied in paying up new Shares of a nominal and premium amount equal to the capitalised sum, which are then allotted, credited as fully paid, to the persons entitled or as they may direct.
- 35.4 A capitalised sum which was appropriated from profits available for distribution may be applied:
- 35.4.1 in or towards paying up any amounts unpaid on existing Shares held by the persons entitled (whether as to the nominal value of the Shares or any amount payable to the Company by way of premium); or
  - 35.4.2 in paying up new debentures of the Company which are then allotted, credited as fully paid, to the persons entitled or as they may direct.
- 35.5 Subject to these Articles, the Directors (with Investor Consent) may :
- 35.5.1 apply capitalised sums in accordance with Articles 35.3 and 35.4 partly in one way and partly in another;
  - 35.5.2 make such arrangements as they think fit where any difficulty arises with regard to any distribution of any capitalised sum and, in particular, in the case of Shares or debentures becoming distributable under this Article 35 in fractions, the Directors may decide:
    - 35.5.2.1 that the benefit of fractional entitlements belongs to the Company;
    - 35.5.2.2 that fractions are to be ignored;
    - 35.5.2.3 to make payments in cash in lieu of fractional entitlements; or
    - 35.5.2.4 otherwise deal with fractions as they think fit;
  - 35.5.3 authorise any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of Shares and debentures to them under this Article 35; and

- 35.5.4 generally do all acts and things required to give effect to any capitalisation pursuant to this Article 35.5.
- 35.6 Whenever, as the result of any consolidation or consolidation and division of shares, any Shareholder would become entitled to fractions of shares, the Directors may (with Investor Consent), subject to the provisions of the Companies Acts, allot to each such Shareholder, credited as fully paid by way of capitalisation, the minimum number of new shares required to round up his holding following the consolidation to a whole number (such allotment being deemed to have been effected immediately before consolidation). For such purpose, the Directors may (with Investor Consent):
- 35.6.1 capitalise a sum equal to the aggregate nominal amount of the new Shares to be allotted on that basis out of any profits or reserve referred to in Article 35.1.1;
- 35.6.2 appropriate and apply such sum in paying up in full the appropriate number of new Shares for allotment and distribution to such Shareholders on that basis; and
- 35.6.3 generally do all acts and things required to give effect to any capitalisation pursuant to this Article 35.6.

### **PART 3: OFFICERS**

#### **36. NUMBER OF DIRECTORS**

Unless and until otherwise determined by ordinary resolution, the number of Directors (other than alternate directors) shall be no less than two and no more than five.

#### **37. DIRECTORS' GENERAL AUTHORITY**

Subject to these Articles, and without prejudice to the Investment Agreement, the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

#### **38. SHAREHOLDERS' RESERVE POWER**

- 38.1 The Shareholders may (with Investor Consent), by special resolution, direct the Directors to take, or refrain from taking, specified action.
- 38.2 No such special resolution invalidates anything which the Directors have done before the passing of the resolution.

#### **39. DIRECTORS MAY DELEGATE**

- 39.1 Subject to these Articles, and without prejudice to the Investment Agreement, the Directors may (with Investor Consent) delegate any of the powers which are conferred on them under these Articles and which are not specifically reserved to the Directors only:
- 39.1.1 to such person or committee;
- 39.1.2 by such means (including by power of attorney);
- 39.1.3 to such an extent;
- 39.1.4 in relation to such matters or territories; and

39.1.5 on such terms and conditions,

as they think fit.

39.2 If the Directors (with Investor Consent) so specify, any such delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.

39.3 Without prejudice to the Investment Agreement, the Directors may (with Investor Consent) revoke any delegation in whole or part, or alter its terms and conditions.

#### **40. COMMITTEES**

40.1 Committees to which the Directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of these Articles which govern decision-making by Directors.

40.2 Without prejudice to the Investment Agreement, the Directors may make rules of procedure for all or any committees, which prevail over rules derived from these Articles if they are not consistent with them.

#### **41. DIRECTORS TO TAKE DECISIONS COLLECTIVELY**

Decisions of the Directors must be taken by:

41.1 a majority decision at a meeting; or

41.2 a majority decision by a Directors' written resolution adopted in accordance with Article 42 (*Directors' Written Resolutions*).

#### **42. DIRECTORS' WRITTEN RESOLUTIONS**

42.1 Any Director may propose a Directors' written resolution and the company secretary (if any) must propose a Directors' written resolution if a Director so requests.

42.2 Subject to Article 42.3, a Directors' written resolution is proposed by giving notice in writing of the proposed resolution to each Director.

42.3 Any Director may waive his entitlement to notice of any proposed Directors' written resolution, either prospectively or retrospectively, and any retrospective waiver shall not affect the validity of the Directors' written resolution.

42.4 A proposed Directors' written resolution is adopted when a majority of the Eligible Directors have signed one or more copies of it, provided that (other than in the case of a decision taken in accordance with Article 45.8) those Directors would have formed a quorum at a Directors' meeting had the resolution been proposed at such a meeting.

42.5 Once a Directors' written resolution has been adopted, it must be treated as if it had been a decision taken at a Directors' meeting in accordance with these Articles.

42.6 An alternate director may sign a proposed Directors' written resolution (in addition to signing it in his capacity as a Director in his own right, if relevant) on behalf of each of his Appointors who:

42.6.1 have not signed or are not to sign the Directors' written resolution; and

42.6.2 are Eligible Directors in relation to the Directors' written resolution,

provided that (a) the alternate director is himself an Eligible Director in relation to the Directors' written resolution and (b) (other than in the case of a decision taken in accordance with Article 45.8) those persons actually signing the Directors' written resolution would have formed a quorum at a Directors' meeting had the resolution been proposed at such a meeting.

#### **43. CALLING A DIRECTORS' MEETING**

43.1 Any Director may call a Directors' meeting by giving notice of the meeting to the Directors or by authorising the company secretary (if any) to give such notice.

43.2 Notice of any Directors' meeting must indicate:

43.2.1 its proposed date and time;

43.2.2 where it is to take place; and

43.2.3 if it is anticipated that Directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

43.3 Subject to Article 43.4, not less than seven days' written notice of a Directors' meeting must be given to each Director together with an agenda specifying the business to be transacted. Notice does not need to be in writing. A Director who participates in a meeting shall be deemed to have received proper notice of the meeting.

43.4 Any Director may waive his entitlement to notice of any Directors' meeting, either prospectively or retrospectively, and any retrospective waiver shall not affect the validity of the meeting or of any business conducted at it.

#### **44. PARTICIPATION IN DIRECTORS' MEETINGS**

44.1 Subject to these Articles, Directors participate in a Directors' meeting, or part of a Directors' meeting, when:

44.1.1 the meeting has been called and takes place in accordance with these Articles; and

44.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

44.2 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.

44.3 If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

#### **45. QUORUM FOR DIRECTORS' MEETINGS**

45.1 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on or a decision is to be taken, except a proposal to call another meeting or a decision taken in accordance with Article 45.8.



- 45.2 The quorum for Directors' meetings is two Directors (or such other number of Directors as may be fixed from time to time by the Directors (with Investor Consent)) of which:
- 45.2.1 one (save in the circumstances set out in Article 45.6) must be an Investor Director or his alternate director; and
  - 45.2.2 one (save in the circumstances set out in Article 45.6) must be an Original Manager Director or his alternate director.
- 45.3 Subject to Article 48 and the terms on which any authorisation by the Directors for the purposes of section 175 of the Act has been given, a person who is an alternate director, but is not himself in his own right a Director, may be counted as participating for the purposes of determining whether a quorum is participating in any decision at a Directors' meeting, provided that his Appointor (or one of his Appointors):
- 45.3.1 is not participating in the decision at the Directors' meeting; and
  - 45.3.2 would have been an Eligible Director in relation to the decision if he had been participating in it.
- 45.4 No alternate director may be counted as more than one Director for the purposes of determining whether a quorum is participating in any decision at a Directors' meeting.
- 45.5 If the necessary quorum is not present within 10 minutes of the time at which the Directors' meeting was due to start, or if during the meeting a quorum ceases to be present, the meeting shall be adjourned for the consideration of the same business until the same time and place the next following week when those Directors or the Director present, provided that (save in circumstances set out in Article 45.6) one of them or the one Director is an Investor Director or his alternate director, shall constitute a quorum.
- 45.6 The circumstances referred to in Articles 45.2.1 and 45.5 are:
- 45.6.1 where Investor Consent is given;
  - 45.6.2 where there is no Investor Director in office; or
  - 45.6.3 in respect of a particular decision at a Directors' meetings, where there is no Investor Director in office who would be an Eligible Director in relation to that decision.
- 45.7 The circumstances referred to in Articles 45.2.2 are:
- 45.7.1 where the consent in writing of the B Shareholder Representative is given;
  - 45.7.2 where there is no Original Manager Director in office; or
  - 45.7.3 in respect of a particular decision at a Directors' meetings, where there is no Original Manager Director in office who would be an Eligible Director in relation to that decision.
- 45.8 If the total number of Directors (other than alternate directors) in office for the time being is less than the number for the time being of Directors required to form a quorum in accordance with Article 45.2, the remaining Director or Directors must not take any decision other than a

decision to appoint sufficient Directors to make up the required quorum or to call a general meeting to do so.

#### **46. CHAIRMAN OF THE BOARD**

46.1 A majority of Directors shall (with Investor Consent):

46.1.1 within three months of the Commencement Date; or

46.1.2 within three months of any subsequent date upon which there is no Chairman appointed by a majority of the Directors (with Investor Consent),

(each a "Start Date"),

appoint a person to be a director of the Company and chairman of the Board ("Chairman"), and a majority of Directors (with Investor Consent) or the Lead Investor may at any time remove him from each such office. Until such appointment, an Investor Director elected by the Lead Investor shall act as Chairman and if the Directors fail to appoint a Chairman within three months of the applicable Start Date, then the Lead Investor will appoint the Chairman.

46.2 Any appointment or removal of the Chairman by the Lead Investor pursuant to Article 46.1 shall be in writing, served on the Company and signed by or on behalf of the Lead Investor.

46.3 The Chairman shall preside at every Directors' meeting in which he is participating, but if no Chairman has been appointed, or if he is unwilling to preside at a Directors' meeting or he is not participating in a Directors' meeting within 10 minutes of the time it was to start:

46.3.1 any Investor Director; or

46.3.2 where there is no Investor Director present, any other person appointed by the Directors for the purpose;

will be the Chairman for the purposes of that Directors' meeting.

#### **47. VOTING AT DIRECTORS' MEETINGS**

47.1 Subject to Article 48 (*Enhanced Voting Rights*):

47.1.1 a decision is taken at a Directors' meeting by a majority of the votes of the Eligible Directors participating in the decision at the meeting; and

47.1.2 Subject to Article 48 (*Enhanced Voting Rights*), each Director participating in a decision at a Directors' meeting has one vote.

47.2 Subject to Article 48 (*Investor Director Enhanced Voting Rights*) (in respect of an alternate director appointed by an Investor Director), Article 49 (*Participation and Voting When Director Interested*) and the terms on which any authorisation by the Directors for the purposes of section 175 of the Act has been given, an alternate director shall have one vote (in addition to his own vote in his capacity as a Director in his own right, if relevant) on any decision at a Directors' meeting for each of his Appointors who:

47.2.1 are not participating in the decision at the Directors' meeting; and

47.2.2 would have been Eligible Directors in relation to the decision if they had been participating in it.

47.3 Subject to Article 48 (*Investor Director Enhanced Voting Rights*) and Article 49 (*Participation and Voting When Director Interested*) and the terms on which any authorisation by the Directors for the purposes of section 175 of the Act has been given, if the numbers of votes for and against a proposal at a Directors' meeting are equal, the Chairman will have a casting vote.

#### **48. INVESTOR DIRECTOR ENHANCED VOTING RIGHTS**

48.1 If an Enhanced Voting Event has occurred and the Lead Investor serves notice in writing to that effect on the Company, then notwithstanding any other provisions of these Articles, with effect from when the notice is received by the Company until such notice is withdrawn by a further notice in writing from the Lead Investor:

48.1.1 one Investor Director (or his alternate) shall be sufficient to constitute a quorum at a Directors' meeting;

48.1.2 the Investor Director(s) shall (subject always to section 175 of the Companies Act 2006 (to the extent applicable) in respect of quorum requirements when the resolution under consideration is a resolution to authorise a conflict situation involving an Investor Director) have that number of votes in relation to each resolution of the Directors which exceed by one the number of votes in aggregate of the other Directors and their alternate directors; and

48.1.3 if an Investor Director signs a Directors' written resolution, that resolution shall be deemed to have been adopted, notwithstanding that a majority of the Eligible Directors have not signed one or more copies of it.

#### **49. PARTICIPATING AND VOTING WHEN DIRECTOR INTERESTED**

49.1 A Director shall not be counted as participating for quorum and voting purposes in a decision at a Directors' meeting to authorise a matter for the purposes of section 175 of the Act if, in accordance with section 175(6) of the Act, the matter is such that the authorisation would only be effective if:

49.1.1 any requirement as to the quorum at the Directors' meeting at which the matter is considered is met without him counting; and

49.1.2 the matter was agreed to without him voting or would have been agreed to if his vote had not been counted.

49.2 Without prejudice to the obligations of any Director:

49.2.1 to disclose any interest in proposed or existing transactions or arrangements with the Company in accordance with the Companies Acts; and

49.2.2 to disclose any interest in accordance with Article 53.1,

and subject always to Article 49.1 and the terms on which any authorisation by the Directors for the purposes of section 175 of the Act has been given, a Director shall be counted as participating for quorum and voting purposes in any decision at a Directors' meeting that is concerned with a matter in which he has, directly or indirectly, an interest provided that he

has first obtained Investor Director Consent (unless the Director concerned is an Investor Director (or his alternate director) in which case no such consent shall be required).

49.3 If any question arises at a Directors' meeting as to the right of a Director (other than the Chairman) to be counted as participating for quorum or voting purposes in the meeting (or part of the meeting) the question may, before the conclusion of the meeting, be referred to the Chairman whose ruling in relation to any Director (other than the Chairman) is to be final and binding.

49.4 If any question arises at a Directors' meeting as to the right of the Chairman to be counted as participating for quorum or voting purposes in the meeting (or part of the meeting) the question is to be decided by a decision of the Directors (with Investor Director Consent) at that meeting, for which purpose the Chairman is not to be counted as participating for quorum or voting purposes.

#### **50. DIRECTORS' DISCRETION TO MAKE FURTHER RULES**

Subject to these Articles, the Directors may (with Investor Consent) make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to Directors.

#### **51. RECORDS OF DIRECTORS' DECISIONS TO BE KEPT**

The Directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every decision taken by the Directors.

#### **52. DIRECTORS' INTERESTS - TRANSACTIONS OR ARRANGEMENTS WITH THE COMPANY**

Subject to compliance with the Companies Acts (including sections 177 (Duty to declare interest in proposed transaction or arrangement) and 182 (Declaration of interest in existing transaction or arrangement) of the Act) and, in the case of any Director who is not an Investor Director (or the alternate director of an Investor Director), Investor Consent, a Director may be a party to, or otherwise (directly or indirectly) interested in, any transaction or arrangement with the Company.

#### **53. DIRECTORS' CONFLICTS OF INTEREST**

53.1 Subject to Article 53.2, for the purposes of section 175 of the Act:

53.1.1 a Director shall be authorised to hold office as a director or other officer of, be employed or engaged by, hold shares or other securities in, or otherwise be interested in, whether directly or indirectly, any other Group Member or any other undertaking in which the Company is otherwise (directly or indirectly) interested;

53.1.2 an Investor Director (and his alternate director) shall be authorised to hold office as a director or other officer of, be employed or engaged by, hold shares or other securities in, or otherwise be interested in, whether directly or indirectly:

53.1.2.1 an Investor;

53.1.2.2 an Investor Associate of any Investor; or

- 53.1.2.3 any other company in which an Investor or Investor Associate also holds shares or other securities or is otherwise (directly or indirectly) interested;
- 53.1.3 a Director shall be authorised to enter into, or otherwise be interested in, whether directly or indirectly, any transaction or arrangement in which the Company is (directly or indirectly) interested (other than a transaction or arrangement with the Company); and
- 53.1.4 a Director shall be authorised to be a party to any transaction or arrangement with any other Group Member or any other undertaking in which the Company is otherwise (directly or indirectly) interested.
- 53.2 In the case of any Director (other than an Investor Director (or his alternate director)) any authorisation pursuant to Article 53.1 is subject to:
  - 53.2.1 Investor Consent; and
  - 53.2.2 the Director declaring the nature and extent of his interest (other than a Non-Disclosable Interest) to the other Directors.
- 53.3 For the purposes of Article 53.2.2, a "**Non-Disclosable Interest**" is an interest which cannot reasonably be regarded as likely to give rise to a conflict of interest or one that the other Directors are already aware of or ought reasonably to be aware of.
- 53.4 For the purposes of section 175 of the Act, where an office, employment, engagement or interest held by an Investor Director (or his alternate director) in another entity has been authorised pursuant to Article 53.1.2 and his relationship with that entity gives rise to an actual or potential conflict of interest (or any actual or potential conflict of interest may reasonably be expected to arise out of the matter so authorised), such Investor Director (or his alternate director) shall be authorised to:
  - 53.4.1 attend and vote at meetings of the Directors (or any committee thereof) at which any matter relating to the actual or potential conflict of interest will or may be discussed and receive Board papers or other documents relating thereto;
  - 53.4.2 receive confidential information and other documents and information relating to the Group, use and apply such information in performing his duties as a director, officer or employee of, or consultant to an Investor or Investor Associate and disclose that information to third parties in accordance with these Articles and/or the Investment Agreement; and
  - 53.4.3 give or withhold consent (including an Investor Director Consent) or give any direction or approval (including an Investor Director Direction) under the Investment Agreement and/or these Articles on behalf of an Investor; and
  - 53.4.4 exercise the rights conferred on him pursuant to Article
- 53.5 The following provisions of this Article apply to any authorisation of a matter by the Directors for the purposes of section 175 of the Act:
  - 53.5.1 an authorisation may extend to any actual or potential conflict of interest (including a conflict of interest and duty and a conflict of duties) which may reasonably be expected to arise out of the matter so authorised;

- 53.5.2 an authorisation shall be subject to such conditions or limitations as the Directors may determine, whether at the time such authorisation is given or subsequently, and may be terminated by the Directors at any time; and
  - 53.5.3 a Director must comply with any obligations imposed on him by the Directors pursuant to any authorisation.
- 53.6 If a matter, office, employment, engagement, position, transaction or arrangement or interest has been authorised either pursuant to Article 53.1 or by the Directors in accordance with section 175 of the Act, then the Director in question shall not be required to disclose to the Company any confidential information received by him (other than by virtue of his position as Director) relating to such matter, office, employment, engagement, position, transaction or arrangement or interest, or to use such information in relation to the Company's affairs, if to do so would result in a breach of a duty or obligation of confidence owed by him in relation to or in connection with that matter, office, employment, engagement, position, transaction or arrangement or interest.
- 53.7 For the purposes of this Article 53, a conflict of interest includes a conflict of interest and duty and a conflict of duties.
- 54. ACCOUNTING FOR PROFIT WHEN INTERESTED**
- 54.1 Subject to compliance with the Companies Acts (including section 177 (Duty to declare interest in proposed transaction or arrangement) and 182 (Declaration of interest in existing transaction or arrangement) of the Act) and (other than in the case of an Investor Director (or his alternate director) to Investor Consent:
- 54.1.1 a Director shall not be accountable to the Company for any profit, remuneration or other benefit which he (or a person connected with him as defined in section 252 of the Act) derives from or in connection with any interest (whether directly or indirectly) in any transaction or arrangement with the Company;
  - 54.1.2 no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest, profit, remuneration or benefit; and
  - 54.1.3 the receipt of any such profit, remuneration or other benefit shall not constitute a breach of his duty under section 176 of the Act.
- 54.2 Subject always to the obligation of the Director to disclose his interest in accordance with Article 53.1 and to the terms on which any authorisation for the purposes of section 175 of the Act has been given and (other than in the case of an Investor Director (or his alternate director)) to Investor Consent:
- 54.2.1 a Director shall not be accountable to the Company for any profit, remuneration or other benefit which he (or a person connected with him as defined in section 252 of the Act) derives from or in connection with anything authorised pursuant to Article 53.1 or by the Directors for the purposes of section 175 of the Act;
  - 54.2.2 no such thing authorised shall be liable to be avoided on the grounds of any such interest, profit, remuneration or benefit; and
  - 54.2.3 the receipt of any such profit, remuneration or other benefit shall not constitute a breach of his duty under section 176 of the Act.

## 55. METHODS OF APPOINTING DIRECTORS

55.1 Any person who is willing to act as a Director, and is permitted by law to do so, may (subject to Investor Consent) be appointed to be a Director:

55.1.1 by ordinary resolution;

55.1.2 by notice in writing to the Company signed by (or, in the case of a corporation, signed on its behalf by a director or by a person authorised by a decision of the directors or other governing body) the holder or holders of such number of Shares as confer the right to a majority of the votes at a general meeting or on a written resolution of the Shareholders (and may consist of several documents in similar form each signed by or on behalf of one or more holders), such appointment to take effect when the notice is received by the Company or on such later date (if any) specified in the notice; or

55.1.3 by a decision of the Directors (with Investor Consent).

55.2 Without prejudice to Article 55.1 and Article 46.1, and subject to Article 55.3, the Lead Investor shall be entitled to appoint:

55.2.1 two people as non-executive directors of the Company (each such person an **"Investor Director"**); and

55.2.2 a representative (**"Investor Observer"**) to attend and speak at, but not to vote at, any meetings of the board, and any meetings of any committee of the board of any Group Company,

and in each case to remove each such person so appointed from office and to appoint another person in his place.

55.3 Without prejudice to Article 48, if an Enhanced Voting Event has occurred and the Lead Investor serves notice in writing to that effect on the Company, then notwithstanding any other provisions of these Articles, with effect from when the notice is received by the Company until such notice is withdrawn by a further notice in writing from the Lead Investor, the Lead Investor shall be entitled to appoint such number of additional directors as, together with the Investor Director(s), have that number of votes in relation to resolutions of the directors of the relevant Group Company which exceed by one the number of votes in aggregate of the other directors and their alternate directors.

55.4 Any appointment made pursuant to Article 55.2 or 55.3 (as applicable) shall be in writing, served on the Company and signed by or on behalf of the Lead Investor.

55.5 Subject to Article 55.6, the Original Managers acting together shall be entitled to appoint:

55.5.1 two people as directors of the Company (each such person an **"Original Manager Director"**); and

55.5.2 a representative (**"Manager Observer"**) to attend and speak at, but not to vote at, any meetings of the board, and any meetings of any committee of the board of any Group Company,

and in each case to remove each such person so appointed from office and to appoint another person in his place.

- 55.6 The Original Managers' appointment rights pursuant to Article 55.5 are subject to the following terms:
- 55.6.1 no person other than Gordon MacGregor or Keith Nelson shall be appointed as a director pursuant to Article 55.5.1 or a Manager Observer pursuant to Article 55.5.2 without Investor Consent;
  - 55.6.2 a person who is not an employee or Consultant to a Group Company shall not be appointed as a director pursuant to Article 55.5.1 or a Manager Observer pursuant to Article 55.5.2 without Investor Consent; and
  - 55.6.3 in the event that Gordon MacGregor or Keith Nelson or any other person appointed as a director pursuant to Article 55.5.1 or a Manager Observer pursuant to Article 55.5.2:
    - 55.6.3.1 ceases to be and is no longer continuing as an employee and/or Consultant of any Group Company or any reason (including death); or
    - 55.6.3.2 continues to be an employee and/or Consultant of any Group Company but becomes eligible for benefits under a permanent health insurance policy of any Group Company,
- the Original Members shall be deemed to have served notice to remove any such person from office as director and or Manager Observer in accordance with Articles 55.5 and 55.7 when required by Investor Direction.
- 55.7 Any appointment or removal pursuant to Article 55.5.1 or Article 55.5.2 shall be effected by notice in writing served on the Company and signed by or on behalf of all of the Original Managers.
- 55.8 An Investor Observer shall be entitled to receive notice of meetings of directors (and committees of directors) of each Group Company and copies of all board papers as if he were a director of each such Group Company and all other information in respect of such meetings that an Investor Director would be entitled to receive and shall be entitled to receive such information (including notice of such meetings) at the same time as the Investor Director(s).
- 55.9 A Manager Observer shall be entitled to receive notice of meetings of directors (and committees of directors) of each Group Company and copies of all board papers as if he were a director of each such Group Company and all other information in respect of such meetings and shall be entitled to receive such information (including notice of such meetings) at the same time as the directors of each such Group Company.
- 55.10 Subject to section 168 of the Act, on any resolution to remove an Investor Director the Shares held by the Lead Investor shall together carry one vote in excess of 50 per cent of all the other votes exercisable either at a general meeting at which such resolution is to be proposed or on a written resolution of the Shareholders, and if any such Director is removed pursuant to section 168 of the Act or otherwise, the appointing Shareholder may reappoint him or any other person.
- 55.11 Any Director or Investor Observer appointed pursuant to Article 55.2 or Article 55.3 (as applicable) shall be entitled to be appointed (as a Director or Observer (as applicable)) to any committee of the Directors and to the board of directors of any Group Company and to any committee of directors of any Group Member.



- 55.12 Any person appointed as an Investor Observer pursuant to Article 55.2.2 or a Management Observer pursuant to Article 55.5.1 shall not be a director of any Group Member and shall not be counted in the quorum of any meeting of directors (or committee of directors) of any Group Member.
- 55.13 In any case where, as a result of death or bankruptcy, the Company has no Shareholders and no Directors, the Transmittor(s) of the last Shareholder to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing to the Company, to appoint a person who is willing to act as a Director, and is permitted by law to do so, to be a Director, such appointment to take effect when the notice is received by the Company or on such later date (if any) specified in the notice.
- 55.14 For the purposes of Article 55.13, where two or more Shareholders die in circumstances rendering it uncertain who was the last to die, a younger Shareholder is deemed to have survived an older Shareholder.

## **56. TERMINATION OF DIRECTOR'S APPOINTMENT**

A person ceases to be a Director as soon as:

- 56.1 (other than in the case of an Investor Director (or his alternate director)) that person is removed as a Director:

56.1.1 by ordinary resolution; or

56.1.2 by notice in writing to the Company signed by (or, in the case of a corporation, signed on its behalf by a director or by a person authorised by a decision of the directors or other governing body) the holder or holders of such number of Shares as confer the right to a majority of the votes at a general meeting or on a written resolution of the Shareholders (and may consist of several documents in similar form each signed by or on behalf of one or more holders), such removal to take effect when the notice is received by the Company or on such later date (if any) specified in the notice; or

56.1.3 save where that person has been appointed pursuant to Article 55.5.1, by notice in writing to the Company signed by, or on behalf of, the Majority Investor(s) (and may consist of several documents in similar form each signed by or on behalf of one or more Investors), such removal to take effect when the notice is received by the Company or on such later date (if any) specified in the notice,

provided that any such removal shall be without prejudice to any claim such Director may have for breach of any contract of service between him and the Company;

- 56.2 that person ceases to be a Director by virtue of any provision of the Companies Acts (including pursuant to section 168 of the Act) or is prohibited from being a Director by law;
- 56.3 a bankruptcy order is made against that person;
- 56.4 a composition or arrangement is made with that person's creditors generally in satisfaction of that person's debts;
- 56.5 a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a Director and may remain so for more than three months;

- 56.6 by reason of that person's mental health, 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;
- 56.7 notice in writing is received by the Company from the Director that he is resigning from office, and such resignation has taken effect in accordance with its terms;
- 56.8 (other than in the case of an Investor Director (or his alternate directors)) that person has for more than six consecutive months been absent without permission of the Directors from Directors' meetings held during that period and his alternate director (if any) has not during that period attended any such meetings instead of him, and the Directors (with Investor Consent) decide that that person should cease to be a Director; or
- 56.9 being an executive Director he ceases, for whatever reason, to be employed (or engaged) by any Group Member.

## **57. DIRECTORS' REMUNERATION**

- 57.1 Directors may undertake any services for the Company that the Directors (with Investor Consent) decide.
- 57.2 Directors are entitled to such remuneration as the Directors (with Investor Consent) determine:
  - 57.2.1 for their services to the Company as Directors; and
  - 57.2.2 for any other service which they undertake for the Company.
- 57.3 Subject to these Articles, a Director's remuneration may:
  - 57.3.1 take any form; and
  - 57.3.2 include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that Director.
- 57.4 Unless the Directors (with Investor Consent) decide otherwise, Directors' remuneration accrues from day to day.
- 57.5 An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director, except such part of his Appointor's remuneration as the Appointor may direct by notice in writing made to the Company.

## **58. DIRECTORS' EXPENSES**

The Company may pay any reasonable expenses which the Directors properly incur in connection with their attendance at:

- 58.1 meetings of Directors or committees of Directors;
- 58.2 general meetings; or
- 58.3 separate meetings of the holders of any class of Shares or of debentures of the Company,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

## **59. APPOINTMENT AND REMOVAL OF ALTERNATE DIRECTORS**

59.1 Subject to Article 59.2, any Director (other than an alternate director) ("**Appointor**") may appoint as an alternate any other Director, or any other person approved by resolution of the Directors (with Investor Consent), willing to act to:

59.1.1 exercise that Director's powers; and

59.1.2 carry out that Director's responsibilities,

in relation to the taking of decisions by the Directors in the absence of the alternate's Appointor, and may remove from office an alternate so appointed by him.

59.2 Any Investor Director may each appoint any person willing to act, whether or not he is a Director, to be an alternate director and any such appointment does not need to be approved by resolution of the Directors.

59.3 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. The appointment or removal shall take effect, subject to any required approval of the Directors, when the notice is received by the Company or on such later date (if any) specified in the notice.

59.4 The notice must:

59.4.1 identify the proposed or existing alternate; and

59.4.2 in the case of a notice of appointment, contain (or be accompanied by) a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice.

59.5 A person may act as an alternate for more than one Director.

## **60. RIGHTS AND RESPONSIBILITIES OF ALTERNATE DIRECTORS**

60.1 Except as these Articles specify otherwise, alternate directors:

60.1.1 are deemed for all purposes to be Directors;

60.1.2 are liable for their own acts and omissions;

60.1.3 are subject to the same restrictions as their Appointors; and

60.1.4 are not deemed to be agents of or for their Appointors.

60.2 Subject to these Articles, an alternate director has the same rights in relation to any decision of the Directors and any meetings of committees of Directors as each of the alternate's Appointors. In particular, each alternate director is entitled to receive notice of all proposed Directors' written resolutions and of all Directors' meetings and meetings of committees of Directors which each of his Appointors is entitled to receive.

## **61. TERMINATION OF ALTERNATE DIRECTORSHIP**

An alternate director's appointment as an alternate for an Appointor terminates:

- 61.1 when that Appointor removes his alternate director in accordance with Article 59 (*Appointment and Removal of Alternate Directors*);
- 61.2 on the occurrence in relation to the alternate director of any event which, if it occurred in relation to that Appointor, would result in the termination of that Appointor's appointment as a Director;
- 61.3 on the death of that Appointor;
- 61.4 when that Appointor's appointment as a Director terminates; or
- 61.5 when notice in writing is received by the Company from the alternate director that he is resigning as an alternate director of that Appointor, and such resignation has taken effect in accordance with its terms.

## **62. COMPANY SECRETARY**

The Directors may appoint any person who is willing to act to be the company secretary for such term and on such conditions as they think fit, and may remove any company secretary so appointed.

## **PART 4: DECISION-MAKING BY SHAREHOLDERS**

### **63. WRITTEN RESOLUTIONS**

- 63.1 Subject to Article 8 (*Voting - Enhanced Voting Events and Defaulting Shareholders*), a resolution of the Shareholders (or a class of Shareholders) may be passed as a written resolution in accordance with Chapter 2 of Part 13 of the Act.
- 63.2 A proposed written resolution lapses if it is not passed before the end of the period of 28 days beginning with the circulation date (as defined in section 290 of the Act).

### **64. CALLING GENERAL MEETINGS**

- 64.1 Any Investor Director and/or any A Shareholder acting alone may call a general meeting.
- 64.2 If, and for so long as, the Company has only a single Shareholder, such Shareholder shall be entitled at any time to call a general meeting.
- 64.3 A Shareholder present in person or by proxy at a general meeting shall be deemed to have received proper notice of the meeting and, if required, of the purposes for which it was called.

### **65. ATTENDANCE AND SPEAKING AT GENERAL MEETINGS**

- 65.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

- 65.2 A person is able to exercise the right to vote at a general meeting when:
- 65.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
  - 65.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- 65.3 The Directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- 65.4 In determining attendance at a general meeting, it is immaterial whether any two or more Shareholders attending it are in the same place as each other.
- 65.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

## **66. QUORUM FOR GENERAL MEETINGS**

- 66.1 The quorum for a general meeting (other than a general meeting adjourned in accordance with Article 69.1) shall be as stated in the Act but, for any general meeting, other than a separate meeting of the holders of a class of Shares, the quorum must include at least one A Shareholder present in person or by proxy and (save in the circumstances set out in Article 66.3) at least one Original Manager Shareholder present in person or by proxy.
- 66.2 No business other than the appointment of the Chairman of the Meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.
- 66.3 The circumstances referred to in Articles 45.2.2 are:
- 66.3.1 where the consent in writing of the B Shareholder Representative is given; and
  - 66.3.2 where there is no Original Manager Shareholder.

## **67. CHAIRING GENERAL MEETINGS**

- 67.1 The Chairman shall chair general meetings if present and willing to do so.
- 67.2 If no Chairman has been appointed, or if the Chairman is unwilling to chair the general meeting or is not present within 10 minutes of the time at which a meeting was due to start:
- 67.2.1 any Investor Director; or
  - 67.2.2 if no Investor Director is present within 10 minutes of the time at which the meeting was due to start, the Directors present; or
  - 67.2.3 if no Directors are present within 10 minutes of the time at which the meeting was due to start, the meeting,

must appoint a Director or Shareholder to chair the meeting, and the appointment of the chairman of the Meeting must be the first business of the meeting.

67.3 The person chairing a general meeting in accordance with this Article is referred to as "**the Chairman of the Meeting**".

**68. ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS**

68.1 Directors may attend and speak at general meetings, whether or not they are Shareholders.

68.2 The Chairman of the Meeting may permit other persons who are not:

68.2.1 Shareholders of the Company; or

68.2.2 otherwise entitled to exercise the rights of Shareholders in relation to general meetings,

to attend and speak at a general meeting.

**69. ADJOURNMENT**

69.1 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, the Chairman of the Meeting must adjourn it. If at such an adjourned meeting the persons attending within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during such an adjourned meeting a quorum ceases to be present, the Shareholders or the Shareholder present in person or by proxy, (provided that at least one of them is an A Shareholder present in person or by proxy) shall constitute a quorum.

69.2 The Chairman of the Meeting may adjourn a general meeting at which a quorum is present if:

69.2.1 the meeting consents to an adjournment; or

69.2.2 it appears to the Chairman of the Meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.

69.3 The Chairman of the Meeting must adjourn a general meeting if directed to do so by the meeting.

69.4 When adjourning a general meeting, the Chairman of the Meeting must:

69.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Directors (with Investor Consent); and

69.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.

69.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least seven clear days' notice of it (that is, excluding the day on which the notice is given and the day of the adjourned meeting):

69.5.1 to the same persons to whom notice of the Company's general meetings is required to be given; and

69.5.2 in the same manner in which such notice is required to be given and containing the same information which such notice is required to contain.

69.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

## **70. VOTING: GENERAL**

A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with these Articles.

## **71. ERRORS AND DISPUTES**

71.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.

71.2 Any such objection must be referred to the Chairman of the Meeting, whose decision is final.

## **72. POLLS**

72.1 A poll on a resolution may be demanded:

72.1.1 in advance of the general meeting where it is to be put to the vote; or

72.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.

72.2 A poll may be demanded by:

72.2.1 the Chairman of the Meeting;

72.2.2 the Directors present; or

72.2.3 any person having the right to vote on the resolution.

72.3 A demand for a poll may be withdrawn if:

72.3.1 the poll has not yet been taken; and

72.3.2 the Chairman of the Meeting consents to the withdrawal.

A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.

72.4 Polls must be taken immediately and in such manner as the Chairman of the Meeting directs.

## **73. CONTENT OF PROXY NOTICES**

73.1 Proxies may only validly be appointed by a notice in writing ("**proxy notice**") which:

73.1.1 states the name and address of the Shareholder appointing the proxy;

- 73.1.2 identifies the person appointed to be that Shareholder's proxy and the general meeting or adjourned meeting in relation to which that person is appointed;
  - 73.1.3 is signed by or on behalf of the Shareholder appointing the proxy, or is authenticated in such manner as the Directors may otherwise determine;
  - 73.1.4 is delivered to the Company in accordance with these Articles and any instructions contained in the notice of the general meeting or adjourned meeting to which it relates; and
  - 73.1.5 is received by the Company before the commencement of the general meeting or adjourned meeting to which the proxy notice relates.
- 73.2 The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- 73.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 73.4 Unless a proxy notice indicates otherwise, it must be treated as:
- 73.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
  - 73.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

#### **74. DELIVERY OF PROXY NOTICES**

- 74.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person. However, if that person votes at the meeting or adjourned meeting on a resolution, then as regards that resolution any proxy notice delivered to the Company by or on behalf of that person shall:
- 74.1.1 on a show of hands, be invalid;
  - 74.1.2 on a poll, be invalid to the extent that such person votes in respect of the Shares to which the proxy notice relates.
- 74.2 An appointment under a proxy notice may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- 74.3 A notice revoking a proxy appointment only takes effect if it is received by the Company before the commencement of the meeting or adjourned meeting to which it relates.
- 74.4 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.
- 74.5 When two or more valid but different proxy notices are received in respect of the same Share for use at the same meeting or adjourned meeting, the one which is last validly received



(regardless of its date or the date of its execution) shall be treated as replacing and revoking the other(s) as regards that Share. If the Company is unable to determine which was last received, none of them shall be treated as valid in respect of that Share.

## **75. CORPORATE REPRESENTATIVES**

Where a Shareholder that is a corporation has authorised a representative or representatives to act on its behalf at a general meeting or at any separate meeting of the holders of any class of Share in accordance with section 323 of the Act:

- 75.1 the corporation shall, for the purposes of these Articles, be deemed to be present in person at any such meeting if any such representative is present at it, and all references to attendance and voting in person shall be construed accordingly;
- 75.2 a Director or the company secretary (if any) may require any such representative to produce a certified copy of such authority before such representative is entitled to exercise any power on behalf of the corporation which he represents; and
- 75.3 a vote given or poll demanded by such representative at a general meeting or adjourned meeting (or at any separate meeting of the holders of any class of Share) shall be valid even though his authority has previously terminated unless notice in writing of the termination was received by the Company before the commencement of that meeting.

## **76. NO VOTING OF SHARES ON WHICH MONEY DUE AND PAYABLE TO THE COMPANY**

Unless the Directors (with Investor Consent) otherwise determine, no voting rights attached to a Share may be exercised unless all amounts (including the nominal value and any share premium) due and payable to the Company in respect of that Share have been paid.

## **77. AMENDMENTS TO RESOLUTIONS**

- 77.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:
  - 77.1.1 notice of the proposed amendment is given to the Company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the Chairman of the Meeting may determine); and
  - 77.1.2 the proposed amendment does not, in the reasonable opinion of the Chairman of the Meeting, materially alter the scope of the resolution.
- 77.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:
  - 77.2.1 the Chairman of the Meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and
  - 77.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

- 77.3 If the Chairman of the Meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the Chairman of the Meeting's error does not invalidate the vote on that resolution.

**78. CLASS MEETINGS**

The provisions of these Articles relating to general meetings apply, with any necessary modifications, to meetings of the holders of any class of Shares. In particular, any separate meeting for the holders of any class of Shares shall be called and conducted in all respects as nearly as possible in the same way as a general meeting of the Company, provided that:

- 78.1 no Shareholder, other than a Director, shall be entitled to notice of, or to attend or speak at, any such meeting unless he is a holder of Shares of that class;
- 78.2 the quorum at any such meeting (other than an adjourned meeting) shall be person(s) present in person or by proxy holding or representing by proxy at least one-third in nominal value of the Shares of that class;
- 78.3 the quorum at any adjourned meeting shall be one person holding Shares of that class who is present in person or by proxy; and
- 78.4 a poll may be demanded by any person holding Shares of that class who is present in person or by proxy and entitled to vote at the meeting and, subject to these Articles, on a poll, every Shareholder who is present in person or by proxy shall have one vote for every Share of that class he holds.

**PART 5: ADMINISTRATIVE ARRANGEMENTS**

**79. FORM OF NOTICE**

Any notice or other document to be given pursuant to these Articles (other than a notice calling a meeting of the Directors) must be in writing.

**80. NOTICES TO THE COMPANY**

Any notice, document or other information may be served on or sent or supplied to the Company by anyone:

- 80.1 by sending it through the post in a prepaid envelope addressed to the Company or any officer of the Company at its registered office or such other place in the United Kingdom as may from time to time be specified by the Company for that purpose;
- 80.2 by delivering it by hand to or leaving it at its registered office or such other place in the United Kingdom as may from time to time be specified by the Company for that purpose in an envelope addressed to the Company or any officer of the Company;
- 80.3 by sending or supplying it by electronic means to an address specified by the Company from time to time for that purpose; or
- 80.4 by any other means authorised in writing by the Company.

## **81. NOTICES TO SHAREHOLDERS AND TRANSMITTEES**

81.1 Any notice, document or other information may be served on or sent or supplied to any Shareholder:

- 81.1.1 personally;
- 81.1.2 by sending it through the post in a prepaid envelope addressed to the Shareholder at his registered address;
- 81.1.3 by delivering it by hand to or leaving it at that address in an envelope addressed to the Shareholder;
- 81.1.4 by sending or supplying it by electronic means to an address notified by the Shareholder to the Company from time to time for that purpose; or
- 81.1.5 by any other means authorised in writing by the relevant Shareholder.

81.2 Nothing in Article 81.1 shall affect any provision of the Companies Acts requiring offers, notices or documents to be served on or sent or supplied to a Shareholder in a particular way.

81.3 In the case of joint holders of a Share:

- 81.3.1 all notices, documents or other information shall be served on or sent or supplied to the person named first in the register in respect of the joint holding, and notice so given shall be sufficient notice to all joint holders; and
- 81.3.2 any request for consent to the receipt of communications in electronic form shall be sent or supplied to the person named first in the register in respect of the joint holding, and any express consent given by such holder to the receipt of communications in such manner shall bind all joint holders.

81.4 Notices, documents or other information to be served on or sent or supplied to a Transmittée may be served on or sent or supplied to him by name, or by the title of the representative of the deceased or trustee of the bankrupt (or by any like description), at an address supplied for the purpose by him. Articles 81.1 and 83 (Service of Notice on Shareholders or Directors) shall apply to any notice, document or information so served, sent or supplied as if references in those Articles to:

- 81.4.1 **"Shareholder"** are to the Transmittée; and
- 81.4.2 a Shareholder's **"registered address"** or **"address"** are to the address so supplied.

This Article 81.4 is without prejudice to paragraph 17 of Schedule 5 to the Act.

## **82. NOTICES TO DIRECTORS**

Any notice, document or other information may be served on or sent or supplied to a Director by the Company or by any other Director or the company secretary (if any):

- 82.1 personally;
- 82.2 (other than a notice of a proposed Directors' written resolution) by word of mouth;

- 82.3 by sending it through the post in a prepaid envelope addressed to the Director at his registered address or such other postal address as may from time to time be specified by him for that purpose;
- 82.4 by delivering it by hand to or leaving it at that address in an envelope addressed to him;
- 82.5 by sending or supplying it by electronic means to an address specified from time to time by the Director for that purpose; or
- 82.6 by any other means authorised in writing by the Director.

### **83. SERVICE OF NOTICES ON SHAREHOLDERS OR DIRECTORS**

Any notice, document or other information (other than any notice, document or other information given to the Company including, for the avoidance of doubt, the appointment of a proxy):

- 83.1 addressed to a Shareholder or a Director in the manner prescribed by these Articles shall, if sent by post (whether in hard copy form or electronic form), be deemed to have been received:

- 83.1.1 (if prepaid as first class) 24 hours after it was posted;
- 83.1.2 (if prepaid as second class) 48 hours after it was posted;
- 83.1.3 (if prepaid as airmail) 72 hours after it was posted,

and, in proving such receipt, it shall be sufficient to prove that the envelope containing such notice, document or other information was properly addressed, prepaid and put in the post;

- 83.2 not sent by post, but addressed to a Shareholder or a Director and delivered by hand to or left at an address in accordance with these Articles, shall be deemed to have been received on the day it was so delivered or left;
- 83.3 served, sent or supplied to a Shareholder or a Director by electronic means shall be deemed to have been received on the day it was sent, and, in proving such receipt, it shall be sufficient to show that such notice, document or information was properly addressed;
- 83.4 served, sent or supplied by any other means authorised in writing by the Shareholder or the Director shall be deemed to have been received when the Company has carried out the action it has been authorised to take for that purpose.

### **84. COMPANY SEALS**

- 84.1 Any common seal may only be used by the authority of the Directors.
- 84.2 The Directors may decide by what means and in what form any common seal is to be used.
- 84.3 Unless otherwise decided by the Directors, if the Company has a common seal and it is affixed to a document, the document must also be signed by:
  - 84.3.1 two Directors;
  - 84.3.2 one Director and the company secretary (if any); or

84.3.3 one authorised person in the presence of a witness who attests the signature.

84.4 For the purposes of this Article, an authorised person is:

84.4.1 any Director of the Company;

84.4.2 the company secretary (if any); or

84.4.3 any person authorised by the Directors for the purpose of signing documents to which the common seal is applied.

#### **85. NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS**

Except as provided by law or authorised by the Directors or an ordinary resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a Shareholder.

#### **86. PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS**

The Directors may (with Investor Consent) decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries (other than a Director or former director or shadow director of the Company) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that subsidiary.

#### **87. CHANGE OF NAME**

The Company may change its name by resolution of the Directors (with Investor Consent).

#### **88. DIRECTORS' INDEMNITY AND INSURANCE**

To the extent permitted by the Companies Acts, the Company may:

88.1 indemnify any Director of the Company or of any associated company against any liability (other than any liability arising out of the Investment Agreement);

88.2 purchase and maintain insurance against any liability (other than any liability arising out of the Investment Agreement) for any Director of the Company or of any associated company.