

Company Number SC513475

The Companies Act 2006

Private Company Limited by Shares

Special Resolution

of

hub North Scotland (O&C) Limited (the "Company")

21 March 2016 (the "Circulation Date")

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that the resolution below is passed as a special resolution ("**Special Resolution**");

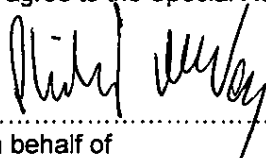
Special Resolution

That the new articles of association in the form of the annexed draft be adopted in substitution for and to the exclusion of the existing articles of association of the Company.

Agreement

Please read the notes at the end of this document before signifying your agreement to the Special Resolution.

The undersigned, being entitled to vote on the above Special Resolution on 21 March 2016 hereby irrevocably agree to the Special Resolution.


.....
For and on behalf of
hub North Scotland (O&C) Holdings Limited

Date: 21 March 2016

Notes

1. If you agree with the Special Resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company.

If you do not agree to the Special Resolution, you do not need to do anything: you will not be deemed to agree if you fail to reply.
2. Once you have indicated your agreement to the Special Resolution, you may not revoke your agreement.
3. Unless by 28 days from the Circulation Date, sufficient agreement has been received for the Special Resolution to pass, it will lapse. If you agree to the Special Resolution, please ensure that your agreement reaches us before or during this date.
4. In the case of joint holders of shares, only the vote of the senior holder who votes will be counted by the Company. Seniority is determined by the order in which the names of the joint holders appear in the register of members.

WEDNESDAY



SCT *S53TJL5M* #420
30/03/2016
COMPANIES HOUSE

Company No SC513475

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION
of
HUB NORTH SCOTLAND (O&C) LIMITED

Incorporated 19 August 2015

(Adopted by special resolution passed on 21 March 2016)

: 

Company No: SC513475

THE COMPANIES ACT 2006

PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

HUB NORTH SCOTLAND (O&C) LIMITED

(Adopted by special resolution passed on 21 March 2016)

1. DEFINITIONS AND INTERPRETATION

1.1 In these Articles, unless the context otherwise requires:

"Act"	means the Companies Act 2006;
"Address"	includes a number or address used for the purposes of sending or receiving documents or information by Electronic Means;
"Appointer"	has the meaning given in Article 8;
"Articles"	means these articles of association as from time to time altered;
"Authority"	means Argyll and Bute Council and its permitted successors and assignees in terms of the Project Agreement;
"Board"	means the Directors or any of them acting as the board of Directors of the Company;
"Business Day"	means any day other than a Saturday, Sunday or bank holiday in Scotland;
"Chair"	means the chair appointed in accordance with Article 7.3;
"Connected With"	in relation to a director has the meaning given by sections 252 to 255 of the Act;
"Directors"	means the directors for the time being of the Company;
"Document"	includes, unless otherwise specified, any document sent or supplied in Electronic Form;
"Electronic Form"	has the meaning given to it in section 1168 of the Act;

"Electronic Means"	has the meaning given to it in section 1168 of the Act;
"Eligible Director"	means a Director who would be entitled to vote on the matter at a meeting of Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter);
"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;
"Funding Agreement"	has the meaning given to that term in the Project Agreement;
"Hard Copy Form" and "Hard Copy"	has the meaning given to it in section 1168 of the Act;
"Holder"	means in relation to any Share the Member whose name is entered in the Register as the holder of that Share;
"HoldCo"	means Hub North Scotland (O&C) Holdings Limited a company incorporated in Scotland (with registered number SC513246), and having its registered office address at 11 Thistle Place, Aberdeen, AB10 1UZ, of which the Company is a wholly-owned Subsidiary;
"HoldCo A Director"	means a director of HoldCo appointed by the holder(s) of a majority of the issued A ordinary shares of £1 each in the capital of HoldCo;
"HoldCo B Director"	means a director of HoldCo appointed by the holder(s) of a majority of the issued B ordinary shares of £1 each in the capital of HoldCo;
"HoldCo C Director"	means a director of HoldCo appointed by the holder(s) of a majority of the issued C ordinary shares of £1 each in the capital of HoldCo;
"Indebtedness"	means any obligation for the payment or repayment of money, whether joint or several, actual or contingent, in respect of: (a) moneys borrowed or raised (including the capitalised value of obligations under financial leases and hire purchase agreements and deposits), debit balances at bank accounts and interest and other charges thereon or in respect thereof; (b) any liability under any debenture, bond, note, loan stock, commercial paper or other security or under acceptance or documentary credit, bill discounting or note purchase

	facilities;
	(c) any liability in respect of the deferred acquisition cost of property, assets or services to the extent payable after the time of acquisition or possession thereof by the party liable;
	(d) any guarantee or other assurance against financial loss in respect of any of the indebtedness specified in this definition;
	(e) any cost or liability under any interest rate or currency hedging agreement; and
	(f) any other transaction having the commercial effect of the borrowing or raising of money;
"Information System"	means a system for generating, sending, receiving, storing or otherwise processing electronic communications;
"Instrument"	means a document in Hard Copy Form;
"Loan Stock"	means any debenture, bond, note, loan stock, commercial paper or other similar form of document or instrument issued by the Company;
"Member"	means a member of the Company;
"Model Articles"	means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles;
"Operator"	means a person approved by the Treasury under the Regulations;
"Ordinary Resolution"	has the meaning given in section 282 of the Act;
"Paid"	means paid or credited as paid;
"Project"	means the construction of new school facilities for Oban High School and Campbeltown Grammar DBFM project;
"Project Agreement"	means the agreement dated on or around the date of the adoption of these Articles between DBFM Co and the Authority in connection with the Project;
"Project Documents"	has the meaning given to that term in the Project Agreement;
"Qualifying HoldCo Majority"	means the Holders of not less than seventy five per cent of the Shares of HoldCo then in

issue;

"Register"	means the register of Members of the Company and shall, so long as the Regulations so permit or require, include a related Operator register of members;
"Regulations"	means the Uncertificated Securities Regulations 2001 (SI 2001 No 3755);
"Secretary"	means the secretary of the Company or any other person appointed by the Board to perform the duties of the secretary of the Company including a joint, assistant or deputy secretary;
"Shareholder"	means a person who is the Holder of a Share;
"Shares"	means shares in the Company;
"Special resolution"	has the meaning given in section 283 of the Act;
"Subsidiary"	has the meaning given in section 1159 of the Act
"Subsidiary Undertaking"	means a subsidiary undertaking of the Company;
"Transmittee"	means a person entitled to a Share by reason of the death or insolvency of a Shareholder or otherwise by operation of law;
"United Kingdom"	means Great Britain and Northern Ireland; and
"In Writing"	means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether comprised in Electronic Form or otherwise, and "written" shall be construed accordingly.

- 1.2 References to the Act are to the provisions of the Act which are for the time being in force.
- 1.3 Unless the context otherwise requires, words or expressions contained in these Articles bear the same meaning as in the Act but excluding any statutory modification thereof not in force when these Articles become binding on the Company.
- 1.4 Unless the context otherwise requires, the singular shall include the plural and vice versa and reference to any gender shall include all genders.
- 1.5 In these Articles, reference to a **"person"** includes a reference to an individual, partnership, unincorporated association or body corporate wherever incorporated or situated and includes a reference to that person's legal representatives, successors or permitted transferees or assignees.
- 1.6 The voting rights of any member whose voting rights shall have been suspended, shall while such suspension is continuing be excluded for all purposes from and deemed not to exist for any calculation based on the voting rights of all members.

- 1.7 Headings in these Articles are for convenience only and shall not affect the interpretation hereof.
- 1.8 Where an Ordinary Resolution of the Company is expressed to be required for any purpose, a Special Resolution is also effective for that purpose.
- 1.9 A reference in these Articles to an "Article" is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.10 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
 - 1.10.1 any subordinate legislation from time to time made under it; and
 - 1.10.2 any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.11 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
2. **MODEL ARTICLES**
 - 2.1 The Model Articles shall apply to the Company except in so far as they are modified or excluded by these Articles.
 - 2.2 Articles 5, 6(2), 8, 9(1) and (3), 10, 11, 12, 13, 14, 17, 19, 26, 38, 39, 41, 44(2), 45, 46, 49, 52 and 53 of the Model Articles shall not apply to the Company.
 - 2.3 Article 7 of the Model Articles shall be amended by:
 - 2.3.1 the insertion of the words "for the time being" at the end of Article 7(2)(a); and
 - 2.3.2 the insertion in Article 7(2) of the words "(for so long as he remains the sole Director)" after the words "and the Director may".
 - 2.4 Article 20 of the Model Articles shall be amended by inserting "(including alternate Directors) and the Secretary" before the words "properly incur".
 - 2.5 In Article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
 - 2.6 Article 27(3) of the Model Articles shall be amended by the insertion of the words ", subject to article 10," after the word "But".
 - 2.7 Article 29 of the Model Articles shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under Article 28(2)," after the words "the Transmittree's name".
 - 2.8 Articles 31(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the Directors may otherwise decide".
 - 2.9 In Article 33(3)(a) of the Model Articles the words "twelve years" shall be deleted and replaced with the words "five years".

3. **PRIVATE COMPANY**

- 3.1 The Company is a private company limited by shares and accordingly any invitation to the public to subscribe for any Shares or debentures of the Company is prohibited.

4. **SHARE CAPITAL**

- 4.1 The issued Share capital of the Company at the date of adoption of these Articles is £1000 divided into 1000 ordinary Shares of £1 each.

5. **TRANSFER OF SHARES AND LOAN STOCK**

- 5.1 Subject to Article 5.2 and Article 5.3, the Board shall not register the transfer of any share or any interest in any Share unless the written consent of a Qualifying HoldCo Majority is obtained to the transfer.

- 5.2 Notwithstanding anything to the contrary contained in these Articles, the Directors shall not decline to register the transfer of a Share (whether or not it is a Fully Paid Share) or Loan Stock:

5.2.1 to any bank, financial institution or other person in whose favour any such Share or Loan Stock (as the case may be) has been charged or assigned by a Member by way of security pursuant to the Funding Agreements (or to any nominee of, or to any person acting as agent or security trustee for, any such bank, financial institution or other person) (a "**Secured Institution**"); or

5.2.2 delivered to the company for registration by a Secured Institution in order to perfect its security over any such Share or Loan Stock (as the case may be); or

5.2.3 executed by a Secured Institution pursuant to a power of sale or other powers conferred by or pursuant to such security or by law,

and may not suspend the registration of any such transfer and, furthermore, notwithstanding anything to the contrary contained in these Articles, no transferor, or proposed transferor, of any such Share or Loan Stock to a Secured Institution, and no Secured Institution, shall (in respect of any transfer referred to above) be required to offer any such Share or Loan Stock to the Members for the time being of the Company or any of them and no such Member shall have any right under the Articles or otherwise howsoever to require any such Share or Loan Stock to be transferred to that Member whether for any valuable consideration or otherwise.

- 5.3 Subject to Article 5.2, the Board shall not register the transfer of any Share unless the proposed transfer is either:

5.3.1 permitted under the Project Agreement with the consent of the Authority and such consent has been provided In Writing; or

5.3.2 permitted under the Project Agreement without the consent of the Authority

and in all cases, such transfer is permitted in terms of the Funding Agreements.

- 5.4 No arrangement shall be entered into by any Member whereby the terms upon which that Member holds any Shares are to be varied if as a result any interest in those Shares is varied, disposed of or created or extinguished.

- 5.5 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.

5.6 No fee may be charged for registering any Instrument of transfer or other document relating to or affecting the title to any Share.

5.7 The Company may retain any Instrument of transfer which is registered.

5.8 The transferor remains the Holder of a Share until the transferee's name is entered in the Register as Holder of it.

6. NUMBER OF DIRECTORS

The number of Directors shall not be less than three. No Director shall be required to retire or vacate his office, and no person shall be ineligible for appointment as a director by reason of his having attained any particular age.

7. APPOINTMENT AND REMOVAL OF DIRECTORS

7.1 The Directors of the Company shall at all times be those individuals who are the HoldCo A Director(s), HoldCo B Director(s), and HoldCo C Director(s), such that:

(a) any person on becoming a HoldCo A Director, HoldCo B Director, or HoldCo C Director shall automatically become a director of the Company; and

(b) any director of the Company, on ceasing to be a HoldCo A Director, HoldCo B Director, or HoldCo C Director, shall automatically cease to be a director of the Company.

7.2 No Director shall be appointed or removed otherwise than pursuant to this Article and the applicable provisions of the Model Articles, save as provided by law.

7.3 The Director appointed as chair of the Board of Directors of HoldCo from time to time shall act as chair ("Chair") of the meeting of Directors.

8. APPOINTMENT AND REMOVAL OF ALTERNATE DIRECTORS

8.1 The alternate Directors of the Company shall at all times be those individuals who are the alternates of the HoldCo A Director(s), HoldCo B Director(s), and HoldCo C Director(s), such that:

8.1.1 any person on becoming an alternate HoldCo A Director, HoldCo B Director, or HoldCo C Director shall automatically become an alternate director of the Company; and

8.1.2 any alternate Director of the Company, on ceasing to be a HoldCo A Director, HoldCo B Director, or HoldCo C Director, shall automatically cease to be an alternate Director of the Company.

8.2 An alternate Director shall, whether or not he is absent from the United Kingdom, be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of the Director of which he is an alternate for to attend and vote at any such meeting at which the Director he is an alternate for is not personally present, and generally to perform all the functions as a Director in his absence but shall not be entitled to receive any remuneration from the Company for his services as an alternate Director.

8.3 An alternate Director shall cease to be an alternate Director if the Director he is an alternate for ceases to be a Director.

8.4 Save as otherwise provided in the Articles, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him.

- 8.5 An alternate Director may be Paid expenses and shall be entitled to be indemnified by the Company to the same extent as if he were a Director.

9. NOTICE OF BOARD MEETING

- 9.1 A Director may, and the Secretary at the request of a Director shall, call a meeting of Directors.
- 9.2 Notice of a meeting of the Directors shall be deemed to be properly given to a director if it is given to him personally or by word of mouth or sent In Writing to him at his last known Address or any other Address given by him to the Company for this purpose, or by any other means authorised In Writing by the Director concerned.
- 9.3 A Director absent or intending to be absent from the United Kingdom may request the Directors that notices of meetings of the Directors shall during his absence be sent In Writing to him at an Address or to an email Address or to a fax number given by him to the Company for this purpose, but if no request is made to the Directors it shall not be necessary to give notice of a meeting of the Directors to any Director who is for the time being absent from the United Kingdom.
- 9.4 A Director may waive notice of any meeting either prospectively or retrospectively.

10. PROCEEDINGS OF DIRECTORS

- 10.1 Subject as provided in these Articles, the Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 10.2 The quorum at any meeting of the Directors shall be three Directors, of whom one at least shall be the HoldCo A Director, one at least shall be the HoldCo B Director and one at least shall be a HoldCo C Director save where the sole business of a meeting of the Directors is the consideration of a matter in which a Director is interested as envisaged by Article 11.7 or an authorisation as envisaged by Article 12 in which case the Director who is so interested or the subject of the potential authorisation (as the case may be) shall not require to be counted in the quorum. A person who holds office only as an alternate Director shall, if his appointer is not present, be counted in the quorum as a HoldCo A Director, HoldCo B Director or HoldCo C Director (as the case may be) reflecting the designation of his appointer. No business shall be transacted at any meeting of the Directors unless a quorum is present at the commencement of the meeting and also when that business is voted on. If a quorum is not present within 30 minutes of the time for the relevant meeting as set out in the notice of meeting then the meeting shall be adjourned for 7 days and at the adjourned meeting the quorum shall be any two Directors.
- 10.3 In the event that either a HoldCo A Director or HoldCo B Director has not been appointed or there are no HoldCo C Directors appointed, then, if a meeting of the Directors of the Company is called in accordance with these Articles and notice of the meeting is given to each of the holders of shares issued by HoldCo entitled to vote on the appointment of such HoldCo A Director, HoldCo B Director, or HoldCo C Directors (as the case may be) as if they were a Director of the Company, the meeting shall be deemed to be quorate notwithstanding the fact that no such HoldCo A Director, HoldCo B Director, or HoldCo C Directors (as the case may be) has been appointed.
- 10.4 At any meetings of the Directors each Director shall have one vote. The Chair (or any other Director chairing a meeting of the Directors) shall not have a casting vote.
- 10.5 If the Chair is not participating in a Directors meeting within ten minutes of the time at which it was to start, the participating Directors must appoint one of themselves to chair it.

- 10.6 A committee of the Directors shall include at least one HoldCo A Director, one HoldCo B Director and one HoldCo C Director. The provisions of Article 10.2 shall apply equally to meetings of any committee of the Directors as to meetings of the Directors.
- 10.7 All or any of the Directors or members of any committee of the Directors may participate in a meeting of the Directors or that committee by means of a conference telephone or any communication equipment which allows all persons participating in the meeting to hear each other. A Director so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum; and accordingly, subject to Article 10.2, a meeting of the Directors or committee of the Directors may be held where each of those present or deemed to be present is in communication with the others only by telephone or other communication equipment as aforesaid. A meeting where those present or deemed to be present are in different locations shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the Chair of the meeting then is.
- 10.8 Any decision of the Directors may take the form of a resolution In Writing where each Eligible Director has signed one or more copies of it, or to which each Eligible Director has otherwise indicated agreement In Writing.
11. **CONFLICTS OF INTEREST**
- 11.1 A Director who is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the Company must declare, in accordance with the Act, the nature and extent of his interest to the other Directors.
- 11.2 A Director who is in any way, directly or indirectly, interested in a transaction or arrangement that has been entered into by the Company must declare, in accordance with the Act, the nature and extent of his interest to the other Directors unless the interest has been declared under Article 11.1 above.
- 11.3 For the purposes of Articles 11.1 and 11.2:
- 11.3.1 the declaration of interest must be made at a meeting of the Directors or by notice In Writing to the Directors in accordance with section 184 of the Act or by general notice in accordance with section 185 of the Act;
 - 11.3.2 if the declaration proves to be or becomes inaccurate or incomplete, a further declaration must be made;
 - 11.3.3 a declaration in respect of a proposed transaction or arrangement must be made before the Company enters into the transaction or arrangement;
 - 11.3.4 a declaration in respect of an existing transaction or arrangement must be made as soon as is reasonably practicable;
 - 11.3.5 a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question is not required; and
 - 11.3.6 an interest of a person who is Connected With a Director shall be treated as an interest of the Director.
- 11.4 A Director need not declare an interest under Articles 11.1 and 11.2:
- 11.4.1 if it cannot reasonably be regarded as likely to give rise to a conflict of interest;

- 11.4.2 if, or to the extent that, the other Directors are already aware of it (and for this purpose the other Directors are treated as aware of anything of which they ought reasonably to be aware); or
- 11.4.3 if, or to the extent that, it concerns terms of his service contract that have been or are to be considered:
- (a) by a meeting of the Directors; or
 - (b) by a committee of the Directors appointed for the purpose under the Articles.
- 11.5 Subject to the provisions of the Act, and provided that he has disclosed to the Board the nature and extent of any interest of his in accordance with Articles 11.1 and 11.2, a Director notwithstanding his office:
- 11.5.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;
 - 11.5.2 may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and
 - 11.5.3 shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.
- 11.6 Any Director may act by himself or his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.
- 11.7 In the case of interests arising under Articles 11.1 and 11.2, save as otherwise provided in these Articles or as all the Members otherwise agree In Writing, a Director shall not vote at a meeting of the Board or of a committee of the Board on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material (otherwise than by virtue of his interest in shares, debentures or other securities of, or otherwise in or through, the Company) unless his interest or duty arises only because the case falls within one or more of the following paragraphs:
- 11.7.1 the resolution relates to the giving to him or a person Connected With him of a guarantee, security or indemnity in respect of money lent to, or an obligation incurred by him or such a person at the request of or for the benefit of, the Company or any Subsidiary Undertaking;
 - 11.7.2 the resolution relates to the giving to a third party of a guarantee, security or indemnity in respect of a debt or obligation of the Company or any Subsidiary Undertaking for which the director or a person Connected With him has assumed responsibility in whole or part and whether alone or jointly with others under a guarantee or indemnity or by the giving of security;
 - 11.7.3 his interest arises by virtue of him or a person Connected With him subscribing or agreeing to subscribe for any shares, debentures or other securities of the Company or any Subsidiary Undertaking or by virtue of him or a person Connected With him being, or intending to become, a participant in the underwriting or sub-underwriting of an offer of any such shares, debentures, or other securities by the Company or any Subsidiary Undertaking for subscription, purchase or exchange;

- 11.7.4 the resolution relates in any way to a company (the counterparty) in which he is interested solely because he or any person connected to him is a shareholder in the counterparty or any company of which the counterparty is a Subsidiary or which is a Subsidiary of the counterparty, provided that he and any persons Connected With him do not to his knowledge hold an interest in shares (as that term is used in Part 22 of the Act) representing one per cent or more of any class of the equity share capital of the company in question or of the voting rights available to members of such company (excluding any shares in the company held as treasury shares and any voting rights attached thereto);
- 11.7.5 the resolution relates in any way to an arrangement in whole or in part for the benefit of the employees of the Company or any Subsidiary Undertakings which does not award him as such any privilege or advantage not generally awarded to the employees to whom such arrangement relates;
- 11.7.6 the resolution relates in any way to the purchase or maintenance for the Directors of insurance against any liability which by virtue of any rule of law would otherwise attach to all or any of them in respect of any negligence, default, breach of duty or breach of trust in relation to the Company or any Subsidiary Undertaking;
- 11.7.7 the resolution relates to (i) a HoldCo shareholder or; (ii) a member of the HoldCo shareholder; or (iii) a member of the same group of the member of the HoldCo shareholder who ultimately appointed him as Director; or
- 11.7.8 the resolution relates to the parent company of the Company.
- 11.8 A Director shall not be counted in the quorum present at a meeting in relation to a resolution on which he is not entitled to vote.
- 11.9 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the Company or a body corporate in which the Company is interested the proposals may be divided and considered in relation to each director separately and (provided he is not for another reason precluded from voting) each of the Directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.
- 11.10 If a question arises at a meeting of the Directors or of a committee of the Directors as to the right of a Director to vote or be counted in the quorum and such question is not resolved by his voluntarily agreeing to abstain from voting or not to be counted in the quorum, the question shall be decided by a majority of the Directors (other than the Director concerned).
- 12. **DIRECTORS' POWERS TO AUTHORISE CONFLICTS OF INTEREST**
- 12.1 The Directors may authorise, to the fullest extent permitted by law, any matter proposed to them which would otherwise result in a Director infringing his duty under section 175 of the Act to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the Company and which may reasonably be regarded as likely to give rise to a conflict of interest.
- 12.2 Authorisation of a matter under Article 12.1 is effective only if:
 - 12.2.1 the matter has been proposed to the Directors by being submitted In Writing for consideration at a meeting of the Directors or for the authorisation of the Directors by resolution In Writing and in accordance with the Board's normal procedures or in such other manner as the Board may approve;

- 12.2.2 any requirement as to quorum at the meeting of the Directors (as amended when considering a conflict in accordance with Article 10.2) at which the matter is considered is met without counting the Director in question and any other interested Director; and
 - 12.2.3 the matter has been agreed to without the Director in question and any other interested Director voting or would have been agreed to if their votes had not been counted.
- 12.3 Any authorisation of a matter under Article 12.1 shall extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised.
- 12.4 The Board may authorise a matter pursuant to Article 12.1 on such terms and for such duration, or impose such limits or conditions on it, as it may decide and vary the terms or duration of such an authorisation (including any limits or conditions imposed on it) or revoke it. A Director shall comply with any obligations imposed on him by the Directors pursuant to any such authorisation.
- 12.5 Any terms imposed by the Board under Article 12.4 may include (without limitation):
 - 12.5.1 whether the Director may vote (or be counted in the quorum) at a meeting of the Board or any committee or sub-committee of the Board in relation to any resolution relating to the relevant matter;
 - 12.5.2 whether the Director is to be given any documents or other information in relation to the relevant matter; and
 - 12.5.3 whether the Director is to be excluded from discussions in relation to the relevant matter at a meeting of the Board or any committee or sub-committee of the Board or otherwise.
- 12.6 The Director shall not be required to disclose any confidential information obtained in relation to the relevant matter (other than through his position as a director of the Company) to the Company or to use or apply it in performing his duties as a Director 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.
- 12.7 A Director does not infringe any duty he owes to the Company by virtue of sections 171 to 177 of the Act if he acts in accordance with such terms, limits and conditions (if any) as the Board may impose in respect of its authorisation of the Director's conflict of interest or possible conflict of interest under Article 12.1.
- 12.8 A Director shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he (or a person Connected With him) derives from any matter authorised by the Directors under Article 12.1 and any contract, transaction or arrangement relating thereto shall not be liable to be avoided on the grounds of any such benefit.
- 12.9 A reference in these Articles to a conflict of interest includes a conflict of interest and duty and a conflict of duties.
- 12.10 For the purposes of Articles 11 and 12:
 - 12.10.1 an interest of a person Connected With a Director shall be treated as an interest of the Director; and
 - 12.10.2 section 252 of the Act shall determine whether a person is Connected With a Director.

- 12.11 The Company may with the consent of the Holders of seventy-five per cent or more of the Shares then in issue, suspend or relax to any extent, either generally or in respect of any particular matter, any provision of these Articles prohibiting a Director from voting at a meeting of the Board or of a committee of the Board or ratify any contract, transaction or arrangement, or other proposal, not duly authorised by reason of a contravention of any provisions of these Articles.

13. QUORUM AND PROCEEDINGS AT GENERAL MEETINGS

- 13.1 If and for so long as the Company only has one Member, the quorum at any general meeting of the Company or adjourned general meeting shall be one person present and entitled to vote (whether as the authorised representative of a Member which is a body corporate or as the proxy for a Member) otherwise a quorum shall be two Members present and entitled to vote (whether as the authorised representative of a Member which is a body corporate or as the proxy for a Member).
- 13.2 No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.
- 13.3 If a quorum is not present within half an hour after the time set for the meeting, the meeting is automatically adjourned to the same day in the next week, at the same time and place, or to another day, time and place decided by the Directors. If such reconvened meeting is not quorate within half an hour of the time it was to start, solely due to the non-attendance of the same Shareholder(s), then any decisions taken by those present at such a meeting shall constitute decisions of the Shareholders for the purpose of these Articles.
- 13.4 The Chair will preside as chair of every general meeting of the Company or in his absence some other Director nominated by the Directors shall preside as chair of the meeting, but if neither the Chair nor such other Director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the Directors present shall elect one of their number to chair the meeting and if there is only one Director present and willing to act, he shall be chair.
- 13.5 If at any general meeting no Director is willing to act as chair, or if no Director is present within fifteen minutes after the time set for the meeting, the Shareholders present and entitled to vote must choose one of themselves to chair the meeting.
- 13.6 The chair may adjourn the meeting with the consent of any quorate meeting (and must if required by a simple majority of the Members present or represented at the meeting), but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice is required of an adjourned meeting unless the meeting is adjourned for 30 days or more, in which case notice must be given as in the case of the original meeting.
- 13.7 At any general meeting, a resolution put to the vote of the meeting will be decided on a show of hands unless a poll is demanded (before or on the declaration of the result of the show of hands). Subject to the Act, a poll may be demanded:
- 13.7.1 by the chair;
 - 13.7.2 by at least two Members having the right to vote at the meeting present (where the Member is an individual) in person or by proxy or present (where the Member is a corporation) by a duly authorised representative or by proxy; or
 - 13.7.3 by any Member or Members present (where the Member is an individual) in person or by proxy or (where the Member is a corporation) by a duly authorised representative or by proxy and, in either case, representing not

less than 10% of the total voting rights of all the Members having the right to vote at the meeting.

- 13.8 Unless a poll is demanded, a declaration by the chair that a resolution has been carried or lost on a show of hands, whether unanimously or by a particular majority, and an entry to that effect in the minutes, is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 13.9 The demand for a poll may be withdrawn before the poll is taken, but only with the consent of the chair. The withdrawal of a demand for a poll does not invalidate the result of a show of hands declared before the demand for the poll is made.
- 13.10 Except as provided in Article 13.11, if a poll is demanded it may be taken in such manner as the chair directs but the chair has no authority in exercising this power to extend the poll to Members who are not present at the meeting in question. The result of the poll is deemed to be the resolution of the meeting at which the poll was demanded.
- 13.11 A poll demanded on the election of a chair, or on a question of adjournment of a meeting, must be taken immediately. A poll demanded on any other question may be taken at such time as the chair directs. If there is an interval before the time for closing the poll, the meeting may deal with any business other than the business being determined by poll.

14. VOTES

At a general meeting, on a show of hands every Member present in person (in the case of a body corporate, present via its authorised representative) shall have one vote, and on a poll every Member present in person (in the case of a body corporate, present via its authorised representative) or by proxy shall have one vote for each Share of which he is the Holder.

15. PROXIES

- 15.1 An Instrument appointing a proxy shall be In Writing, executed by or on behalf of the appointer and in any common form or in such other form as the Directors may approve, and the Directors may at their discretion treat a faxed or other machine-made copy of an Instrument in any such form as an original copy of the Instrument. The Instrument of proxy shall, unless the contrary is stated in it, be valid for any adjournment of the meeting as well as for the meeting to which it relates, and shall be deemed to include authority to vote as the proxy thinks fit on any amendment of a resolution put to the meeting for which it is given.
- 15.2 The Instrument appointing a proxy and (if required by the Directors) any authority under which it is executed or a copy of the authority (certified notarially or in any other manner approved by the Directors) may be delivered to the registered office, or to some other place or to some person specified or agreed by the Directors, before the time for holding the meeting or adjourned meeting at which the person named in the Instrument proposes to act or, in case of a poll taken after the date of the meeting or adjourned meeting, before the time appointed for the taking of the poll, and an Instrument of proxy which is not so delivered shall be invalid.

16. MEANS OF COMMUNICATION

- 16.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
- 16.1.1 if properly addressed and sent:

- (a) by prepaid United Kingdom first class post to an Address in the United Kingdom; or
- (b) to an Address outside the United Kingdom from within the United Kingdom or from outside the United Kingdom to an Address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least five (5) Business Days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider),

on the earlier of actual receipt and five (5) Business Days after it was sent; or

16.1.2 if properly addressed and delivered by hand, when it was given or left at the appropriate Address; or

16.1.3 if properly addressed and sent by facsimile, where there is confirmation of uninterrupted transmission by a transmission report and where there has been no telephonic communication by the recipient to the senders (to be confirmed In Writing) that the fax has not been received in legible form:

- (a) within two (2) hours after sending, if sent on a Business Day between the hours of 9am and 4pm; or
- (b) by 11am on the next following Business Day, if sent after 4pm on a Business Day or on a day which is not a Business Day;
- (c) by 11am on a Business Day if sent before 9am on that Business Day; or

16.1.4 if properly addressed and sent by other Electronic Means:

- (a) at the time the e-mail enters the Information System of the intended recipient designated by them from time to time to receive electronic notices for this purpose if on a Business Day between the hours of 9am and 4pm; or
- (b) by 11am on the next following Business Day, if the time the email enters the intended recipient's relevant Information System is after 4pm on a Business Day or on a day which is not a Business Day; or
- (c) by 11am on a Business Day, if the time the email enters the intended recipient's relevant Information System is before 9am on that Business Day,

and provided that no error message indicating failure to deliver has been received by the sender and provided further that within 24 hours of transmission a Hard Copy of the e-mail signed by or on behalf of the person giving it is sent by first class post or international overnight courier or delivered by hand to the intended recipient; or

16.1.5 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

For the purposes of this Article, no account shall be taken of any part of a day that is not a Business Day.

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

17. INDEMNITY

- 17.1 Subject to the provisions of the Act, but without prejudice to an indemnity to which he may otherwise be entitled, every officer of the Company shall be indemnified out of the assets of the Company against all costs, charges, losses and liabilities incurred by him in the execution of his duties or the exercise of his powers, authorities and discretions including (without prejudice to the generality of the foregoing) a liability incurred:

- 17.1.1 defending proceedings (whether civil or criminal) in which judgment is given in his favour or in which he is acquitted, or which are otherwise disposed of without a finding or admission of material breach of duty on his part, or
- 17.1.2 in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

- 17.2 The Directors may exercise all the powers of the Company to purchase and maintain insurance for the benefit of a person who is an officer or employee, or former officer of employee, of the Company or of a company which is Subsidiary of the Company or in which the Company has an interest (whether direct or indirect), or who is or was trustee of a retirement benefits scheme or another trust in which an officer or employee or former officer or employee is or has been interested, indemnifying him against liability for negligence, default, breach of duty or breach of trust or another liability which may lawfully be insured against by the Company.

18. POWERS OF DIRECTORS

- 18.1 For the avoidance of doubt, notwithstanding article 4 of the Model Articles, the Shareholders shall not be entitled (whether by Special Resolution or otherwise):

- 18.1.1 to alter the scope of the Directors' powers or functions; or
- 18.1.2 to require the Directors to act in a specified manner or issue any other direction to the Directors in relation to the exercise of any of their powers.

- 18.2 Subject to Article 18.1 and Article 18.3, and to the provisions of the Act, the Company and its assets and undertaking shall be managed by the Directors, who may exercise all the powers of the Company.

- 18.3 Any decision relating to any of the matters below require the consent of a Qualifying HoldCo Majority:

- 18.3.1 authorising the Directors to allot Shares or to grant rights to subscribe for, or to convert any security into, any Shares in the Company;
- 18.3.2 issue by the Company (except as provided in any Funding Agreement) of any or any debenture or Loan Stock (whether secured or unsecured) or the creation of any mortgage, charge, lien, encumbrance or other third party right over any of the Company's assets or the giving by the Company of any guarantee or indemnity to or becoming surety for any third party;
- 18.3.3 any arrangement for any joint venture or partnership or for the acquisition of whole or substantially whole of the assets and undertaking of the Company or an acquisition by the Company of any part of the issued share capital or of the assets and undertaking of another company;

- 18.3.4 any change in the nature of the business of the Company;
- 18.3.5 the merger, acquisition or winding-up of the Company;
- 18.3.6 the making of any loan by the Company (other than as provided for pursuant to the Funding Agreements);
- 18.3.7 the appointment of any committee of the Board or the delegation of any of the powers of the Board to any committee;
- 18.3.8 the remuneration to be Paid to Directors for their services to the Company as Directors and for any other service which they undertake for the Company; and/or
- 18.3.9 the making of any contract outwith the course of business or otherwise not at arms-length by the Company (other than in accordance with the Project Documents and the Funding Agreements).

19. **ASSET LOCK**

- 19.1 The Company shall not transfer any of its assets other than for full consideration.
- 19.2 Article 19.1 shall not apply to any dividends payable to Shareholders or the distribution of assets on a winding up permitted under these Articles.