

Company number SC513633

**PRIVATE COMPANY LIMITED BY SHARES
WRITTEN RESOLUTION
of
PACLA MEDICAL LIMITED ("Company")**

2 September 2019 ("Circulation Date")

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006 ("CA 2006"), the directors of the Company ("Directors") propose that the following resolutions are passed as ordinary and special resolutions as specified ("Resolution"):

SPECIAL RESOLUTION

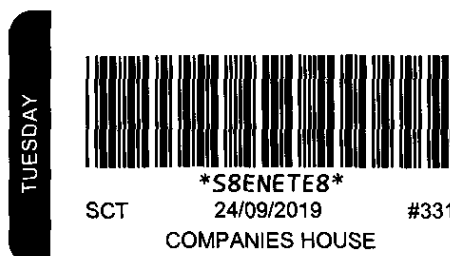
1. Adoption of Articles of Association

That the Company adopt new articles of association as are attached to this resolution and which are by this resolution adopted as the new articles of association in substitution for and to the complete exclusion of the existing articles of association of the Company.

ORDINARY RESOLUTIONS

2. Authority to Allot

That, in accordance with section 551 of the CA 2006, the Directors be generally and unconditionally authorised to allot Ordinary Shares in the Company or grant rights to subscribe for or to convert any security into shares in the Company ("Rights") up to an aggregate nominal amount of £31.06057 provided that this authority shall, unless renewed, varied or revoked by the Company, expire 12 months after the date of this resolution save that the Company may, before such expiry, make an offer or agreement which would or might require shares to be allotted or Rights to be granted and the Directors may allot shares or grant Rights in pursuance of such offer or agreement notwithstanding that the authority conferred by this resolution has expired. This resolution shall become effective on the receipt of the relevant subscription monies and should any of the investors fail to advance their subscription monies, the relevant shares shall not be allotted to that investor and the number of shares allotted shall be adjusted down accordingly or reallocated to an alternative investor on the same terms as that of the original. This authority revokes and replaces all unexercised authorities previously granted to the Directors.



SPECIAL RESOLUTION

3. Disapplication of Pre-Emption Rights

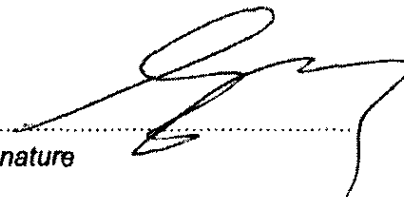
That, subject to section 570 of the CA 2006, the Directors be generally empowered to allot equity securities (as defined in section 560 of the CA 2006) pursuant to the authority conferred by resolution 2, as if Article 3.3 of the Company's Articles of Association did not apply to any such allotment, provided that this power shall be limited to the nominal amount and time period specified in resolution 2 (unless renewed, varied or revoked by the Company prior to or on that date), save that the Company may, before such expiry make an offer or agreement which would or might require equity securities to be allotted after such expiry and the Directors may allot equity securities in pursuance of any such offer or agreement notwithstanding that the power conferred by this resolution has expired.

AGREEMENT

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

The undersigned, being persons entitled to vote on the Resolution on the Circulation Date, hereby irrevocably agree to the Resolution:

Signed by
Chongsu Lee

Signature 

Date:

Signed by
Andrew McCullough Graham

Signature

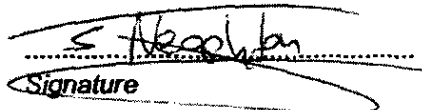
Date:

Signed by
**Authorised Signatory for and on
behalf of Scottish Enterprise**

Signature

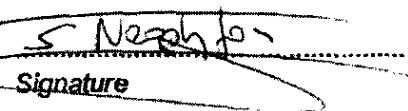
Date:

Signed by SAVVAS NEOPHYTON
Deepbridge Capital LLP (acting
by its nominee Reyker Nominees Limited
(Company No. 02056221))


Signature

Date:

Signed by SAVVAS NEOPHYTON
Deepbridge Capital LLP (acting
by its nominee WCS Nominees Limited
(Company No. 06002307))


Signature

Date:

Signed by
Paul Jourdan

.....
Signature

Date:

Signed by
Eric Woehrling (as trustee of the
Eric Woehrling SIPP)

.....
Signature

Date:

SPECIAL RESOLUTION

3. Disapplication of Pre-Emption Rights

That, subject to section 570 of the CA 2006, the Directors be generally empowered to allot equity securities (as defined in section 560 of the CA 2006) pursuant to the authority conferred by resolution 2, as if Article 3.3 of the Company's Articles of Association did not apply to any such allotment, provided that this power shall be limited to the nominal amount and time period specified in resolution 2 (unless renewed, varied or revoked by the Company prior to or on that date), save that the Company may, before such expiry make an offer or agreement which would or might require equity securities to be allotted after such expiry and the Directors may allot equity securities in pursuance of any such offer or agreement notwithstanding that the power conferred by this resolution has expired.

AGREEMENT

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

The undersigned, being persons entitled to vote on the Resolution on the Circulation Date, hereby irrevocably agree to the Resolution:

Signed by
Chongsu Lee Signature

Date:

Signed by
Andrew McCullough Graham Signature

Date:

Signed by MARIANNE CHARRIER
Authorised Signatory for and on Signature
behalf of Scottish Enterprise

Date: 17 September 2019



NOTES

1. If you agree with the Resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company using one of the following delivery methods:

By hand: delivering the signed copy to Eric at the Company's registered office.

E-mail: by attaching a scanned copy of the signed document to an e-mail and sending it to woehrting@paclamedical.com. Please type **"Written resolutions"** in the e-mail subject box.

If you do not agree to the 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 Resolution, you may not revoke your agreement.
3. Unless, within 30 days of the Circulation Date, sufficient agreement has been received for the Resolution to pass, it will lapse. If you agree to the 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.
5. If you are signing this document on behalf of a person under a power of attorney or other authority please send a copy of the relevant power of attorney or authority when returning this document.

Company No. SC513633

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
WRITTEN RESOLUTION
OF
PACLA MEDICAL LIMITED
(the "Company")

On 17th September 2019 the following special resolution was duly passed as a written resolution of the Company pursuant to section 288 of the Companies Act 2006:

SPECIAL RESOLUTION

That the Company adopt new articles of association as are attached to this resolution and which are by this resolution adopted as the new articles of association in substitution for and to the complete exclusion of the existing articles of association of the Company.



Director, for and on behalf of,
Pacla Medical Limited

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ARTICLES OF ASSOCIATION

of

PACLA MEDICAL LIMITED

(Registered Number SC513633)

(Adopted 17 September 2019)

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ARTICLES OF ASSOCIATION

of

PACLA MEDICAL LIMITED

(Registered Number SC513633)

A PRIVATE LIMITED COMPANY

Incorporated under

THE COMPANIES ACTS

Adopted: 2019

1 Definitions and Interpretation

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

2018 Investors means Deepbridge and Scottish Enterprise in accordance with the Subscription and Shareholders Agreement

Act means the Companies Act 2006

Acting in Concert shall have the meaning given to it in the City Code on Takeovers and Mergers from time to time

Articles means these articles of association constituted by the following regulations together with any duly authorised amendments or alterations from time to time, and the term **Article** shall be a reference to a regulation contained in these Articles

Associated Company shall have the meaning given to it in the Act

Auditors means the Auditors of the Company from time to time; unless auditors are not required pursuant to the Act and have not been appointed, in which case such reference shall instead mean the accountants of the Company from time to time

Bad Leaver means a person who is a Leaver and is not a Good Leaver

Beneficial Owner means a person whose Shares are held on trust by NomineeCo or by a Deepbridge Nominee (as applicable)

Board means the board of Directors of the Company from time to time (including the Investors Directors (if any))

Business Day means any day from Monday to Friday inclusive which is not a local, public or statutory holiday in Edinburgh and Glasgow

Circulation Date means the earliest date on which a proposed written resolution is communicated in hard copy or electronic form (including without limitation by electronic mail or by publication on a website) to every eligible member who is entitled to receive such communication

Company means Pacla Medical Limited, a private limited company incorporated under the Act, registered in Scotland under number SC513633 and having its registered office at Reception Business Centre, 21 Lansdowne Crescent, Edinburgh, Scotland, United Kingdom, EH12 5EH

Companies Acts means the Companies Acts (as defined in section 2 of the Act), in so far as they apply to the relevant company

Compulsory Transferor means a member (including any joint holder) required to transfer his shares in accordance with Article 8.1 and **Compulsory Transfer** shall be construed accordingly

Connected Persons shall have the meaning given to it in sections 1122 and 1123 of the Corporation Tax Act 2010

Control Percentage means more than 50% of the issued share capital

Controlling Interest means an interest in the Control Percentage or more of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue and conferring the right to attend and vote at all general meetings

Crowdcube Group means Crowdcube Limited (Company No. 07014587) and any of its subsidiary companies from time to time

Deepbridge means Deepbridge Capital LLP including any nominee entities that hold shareholdings in the Company for and on behalf of Deepbridge Capital LLP

Deepbridge Group means Deepbridge and any of its subsidiary companies from time to time

Deepbridge Investor Director means an Investor Director appointed by Deepbridge

Deepbridge Nominees means Reyker Nominees Limited (Company No. 02056221), WCS Nominees Limited (Company No. 06002307), a Permitted Transferee of any such Deepbridge Nominees or such other nominee as Deepbridge shall nominate from time to time in writing and the expression **Deepbridge Nominee** shall be construed accordingly

Deepbridge Warrant Instrument means the warrant instrument entered into in 2017 by Deepbridge and the Company equal to 5% of the fully diluted share capital of the Company

Deemed Transfer Notice shall have the meaning given to it in Article 8.1

Director means a director of the Company or any alternate director duly appointed in accordance with these Articles

Disposal means the sale or transfer of the whole or substantially the whole of the undertaking or assets of the Company and its subsidiaries (in one transaction or as a series of related transactions) after the date of adoption of these Articles

Eligible Director means a Director who would be entitled to vote on the matter at a meeting of Directors (but excluding any Director whose vote is not to be counted in respect of the particular matter), as determined in particular in accordance with article 14 of the Model Articles

Exit means:

- (a) a Listing
- (b) a Sale and/or

- (c) a Disposal

Founder means Mr Chongsu Lee

Founder Director means the directors appointed in accordance with Article 15.2

Good Leaver means a person who is a Leaver in any of the following situations

- (a) by reason of wrongful dismissal of the employee
- (b) by reason of the employee leaving employment for reasons of ill health or disability as certified to the Board's and the Investor Majority's reasonable satisfaction by an independent doctor (provided such ill health or disability was not as a result of the abuse or drugs and/or alcohol) or where the death or long term illness or disability of a spouse, civil partner, long term partner, parent or child of the employee makes it reasonably necessary for the employee to provide care by himself or herself to that spouse, civil partner, long term partner, parent or child
- (c) by reason of the unfair dismissal (including constructive unfair dismissal) of the employee
- (d) by reason of the dismissal of the employee by reason of redundancy
- (e) by reason of the death of the employee, consultant or the Director (as the case may be)
- (f) by reason of the removal of a Director and employee as Director in circumstances where simultaneous dismissal as an employee would fall within the categories in paragraphs (a) or (c) above
- (g) where the Board (with the prior written consent of an Investor Majority) determines such person is a Good Leaver

Group Member means any holding company, subsidiary company, wholly-owned subsidiary company or a parent company, in each case as defined in the Act from time to time and member of the Group and Group Company shall be construed accordingly; and, in respect of Deepbridge Capital, shall include any subsidiary undertakings of any holding company, Deepbridge Partners Limited, Deepbridge Advisers Limited, and any party succeeding in whole or in part to the respective interests of any of the foregoing

Investor Majority means the Investors holding for the time being more than 50% by nominal value of the shares in the Company for the time being held by the Investors; but must always include Scottish Enterprise except with respect to Paragraphs 19 and 20 of Schedule 8 of the Subscription and Shareholder's agreement

Investors means the 2018 Investors and any investor who becomes an investor by subscribing for Ordinary Shares and provided that such investor enters into a Deed of Adherence (as defined in the Subscription and Shareholders' Agreement)

Investor Director means such persons appointed as non-executive directors of the Company pursuant to Article 15.3

Issued Amount means £178.48 divided into 17,848,050 ordinary shares of £0.00001 each in the Company

Leaver means an individual shareholder of the Company (for the avoidance of doubt excluding Deepbridge and SE) who ceases:

- (a) employment with the Company or any Group Member of the Company or
- (b) holding the office of Director (excepting for the avoidance of doubt any Investor Director) or
- (c) being a consultant of the Company or any Group Member of the Company (and, in each case, is not re-engaged in any such capacity)

Listing means the admission to listing of any part of the Company's share capital (or the share capital of any Group Member of the Company) on the London Stock Exchange pie, or any other recognised investment exchange (including without limitation any recognised investment exchange as defined in section 285 of the Financial Services and Markets Act 2000) and their respective share dealing markets or any prescribed market, recognised overseas investment exchange, designated investment exchange, or regulated market or equivalent in any part of the world, including without limitation a reverse takeover (within the meaning contained in (and in accordance with) the UKLA publication entitled the **Listing Rules** current at the date of adoption of these Articles) by a member of another group of companies any of whose shares are already the subject of a flotation and/or listing

Member of the Same Fund Group if a Shareholder is a fund, partnership, company, syndicate or other entity whose business is managed by a Fund Manager (an Investment Fund), or a nominee of any such person:

- (a) any participant or partner in, or member, employee or consultant of, any such Investment Fund, or the holders of any unit trust which is a participant or partner in (or member of) any such Investment Fund (but only in connection with the dissolution of such Investment Fund, or any distribution of assets of the Investment Fund in the ordinary course of that Investment Fund's business)
- (b) any fund managed by that Fund Manager which is, or whose nominee is, the transferor or
- (c) any holding company or Subsidiary of that Fund Manager, or any Subsidiary of any holding company of that Fund Manager or
- (d) any trustee, nominee or custodian of such Investment Fund and vice versa
- (e) in addition, Deepbridge Partners and Deepbridge Advisors, and their respective participants, partners, members, employees and consultants are deemed to be a Member of the Same Fund Group as Deepbridge Capital LLP

NomineeCo means Crowdcube Nominees Limited (company number 09820478) or a Permitted Transferee of such NomineeCo

Observers means such person(s) appointed in accordance with Article 18

Ordinary Shares means ordinary shares of £0.00001 each in the capital of the Company

Permitted Transferee means, in relation to NomineeCo and the Deepbridge Nominees only (as applicable), another nominee company which will hold any transferred Shares for the Beneficial Owners wholly for the same purpose as when the Shares were held by NomineeCo

or the Deepbridge Nominee (as applicable) immediately prior to the transfer, save that this shall only apply where NomineeCo or the Deepbridge Nominee (as applicable) wishes to transfer its Shares as a result of:

- (a) an insolvency event affecting the Crowdcube Group, the Deepbridge Group or a Deepbridge Nominee (as applicable); or
- (b) regulatory reasons meaning the NomineeCo, the Deepbridge Group or a Deepbridge Nominee (as applicable) could no longer hold shares for Beneficial Owners

Privileged Relation means in respect of an individual

- (a) the spouse, civil partner, surviving civil partner or widow of the relevant person
- (b) the relevant person's issue (including step and adopted issue)
- (c) the relevant person's parents and grandparents (including step and adoptive parents)
- (d) the relevant person's siblings and their respective issue (including step and adoptive siblings) (the persons referred to in (a) to (d) being the **family members**)
- (e) any trust (including without limitation any pension fund) established for the benefit of the relevant person or his family members or
- (f) any charitable trust established by the relevant person and/or by his family members
- (g) and in respect of any such family trust referred to in paragraph (e), a beneficiary of such trust

Qualifying Majority means 75% (which must include an Investor Majority)

Related Company has the meaning given in Article 6

Sale means a change in the ownership of any shares in the share capital of the Company (in one transaction or a series of transactions and including without limitation any sale of or grant of a right to acquire or to dispose of any such shares) which results in any party (together with any persons connected with him) holding directly or indirectly a Controlling Interest in the Company, where such person was either not a shareholder of the Company immediately prior to such sale or who, directly or indirectly, held less than a Controlling Interest in the Company immediately prior to such change of ownership

Scottish Enterprise or SE means Scottish Enterprise, established by the Enterprise and New Towns (Scotland) Act 1990 and having its principal place of business at Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ

SE Investor Director means an Investor Director appointed by SE

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

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

Scottish Enterprise Warrant Instrument means the warrant instrument entered into by the Company in favour of SE on or around 18 September 2018

Share(s) means any share forming part of the share capital of the Company

Subscription Price means in respect of each share, the price per share (including any premium) paid in cash or otherwise to the Company for the subscription of such share

Subscription and Shareholders' Agreement means the Agreement dated 18 September 2018 between the Company, the Executive, the Investors and Others (each as therein defined)

Summary Dismissal means dismissal without notice by the Company or the relevant Group Member of an employee for reasons of fraud, gross misconduct, substantial dishonesty or some other substantial reason relating to the material adverse conduct of the employee (and in the event that the relevant person to which this definition applies is an officer or consultant of the Company or the relevant Group Member then the foregoing definition shall be construed so that the person's material adverse conduct would have resulted in him being fairly dismissed without notice if he had been an employee of the Company or the relevant Group Member)

Total Transfer Condition shall have the meaning given to it in Article 7.2 and

Valuer means the Auditors unless they decline to act and in such an instance the valuer shall instead be appointed by the President for the time being of the Institute of Chartered Accountants of Scotland.

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

2 Model Articles

- 2.1 The Model Articles shall apply to the Company except in so far as they are excluded or varied by or are inconsistent with these Articles.

- 2.2 Articles 11(2), 24(2)(d), 24(5)(a), 48(2), 48(3), 49, of the Model Articles shall not apply to the Company.

3 Share Capital

- 3.1 Notwithstanding any other provision of these Articles, the issued share capital of the Company on the date of adoption of these Articles (including, without limitation any shares issued to 2018 Investors on such date of adoption pursuant to the Subscription and Shareholders' Agreement) consists of the Issued Amount. Save to the extent authorised from time to time by an ordinary resolution of the members (but only to the extent that the approval of the same conforms to the requirements of the Subscription and Shareholders' Agreement), the Directors shall not exercise any power to allot shares or to grant rights to subscribe for, or to convert any security into, any shares in the Company. Section 550 of the Act shall not apply to the Company.
- 3.2 *Subject to Article 3.7, the Company may at its sole discretion recognise and record the holding of a share by a person on trust, or in the names of trustees, but unless specifically recognised by the Company as such a holding, the Company shall not be bound by, or obliged to recognise, any interest in any share except for the absolute rights of the holder named in the register of members.*
- 3.3 Subject to the Subscription and Shareholders' Agreement and Article 3.4, which precludes Scottish Enterprise from this Article 3.3, and 3.5, any shares of the Company for the time being unissued and any new shares from time to time to be created shall be offered to existing members in strict proportion to the number of shares held by them at that time. The offer shall be made by notice to each member specifying the number of shares offered and stating a period *(not being less than 20 days) within which the offer if not accepted by notice to the Company shall be deemed to be declined.* Following expiry of such period or receipt of notice of the acceptance or refusal of every offer made hereunder the Directors may dispose of any shares not accepted by the members in such manner as they think most beneficial to the Company provided that such shares shall not be disposed of on terms which are more favourable to the allottee than the terms on which they were offered to the members hereunder.
- 3.4 Notwithstanding any other provisions of these Articles for so long as any member of the Scottish Enterprise Group holds shares in the Company unless otherwise waived by Scottish Enterprise, the directors shall be bound to offer to any members of the Scottish Enterprise Group for the time being holding shares in the capital of the Company such a proportion of any shares forming part of the share capital of the Company which the directors determine to issue as the aggregate nominal value of shares in the share capital of the Company for the time being held by such members of the Scottish Enterprise Group bears to the total issued share capital of the Company immediately prior to the issue of the shares. Any shares issued to a member of the Scottish Enterprise Group pursuant to such offer shall be issued upon terms and conditions that are identical regarding payment and otherwise to those made available to other shareholders. Such shares shall at the request of Scottish Enterprise be registered in the name or names of any one or more members of the Scottish Enterprise Group.
- 3.5 Article 3.3 shall not apply to any shares which the Company may, having had the consent of an Investor Majority, at any time by special resolution declare shall not be subject to the provisions of Article 3.3.
- 3.6 Pursuant to the Act, all statutory rights of pre-emption shall be excluded from applying to the Company. In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall *not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the Company.*

3.7 The Company shall recognise and record from time to time any interest in all or any of the shares in the Company held by:

- (a) Crowdcube as being held by Crowdcube in trust for undisclosed beneficial owners; and
- (b) Deepbridge as being held by Deepbridge or a Deepbridge Nominee (as notified in writing to the Company by Deepbridge) in trust for undisclosed beneficial owners.

4 Lien

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

5 Transfer of Shares

5.1 The Directors shall refuse to register any transfer of shares made in contravention of the provisions of these Articles.

5.2 Subject only to Articles 8, 9 and 10, the Directors shall register a transfer of shares complying with one or more of the following conditions (declaring for the avoidance of doubt that any transfers complying with the conditions set out in Articles 5.2(d) to 5.2(h) or Article 6 below may be made without restriction as to price or otherwise):

- (a) a transfer of a share made pursuant to Article 6 or Article 7;
- (b) a transfer of a share made pursuant to Article 8, Article 9 or Article 10;
- (c) a transfer of a share made with the prior written consent of the holders of 50% by nominal share value of the shares in the share capital of the Company for the time being (which must include an Investor Majority, other than the transferor);
- (d) a transfer or transmission of a share by any Investor who is an individual to a Privileged Relation and a retransfer of any such share from such Privileged Relation to such Investor;
- (e) (other than a member of the Scottish Enterprise Group) a transfer or transmission of a share by any Investor, which is a company, to a Group Member of that company, subject to the obligation on any such corporate transferee to retransfer any such share to the original transferor in the event that the corporate transferee ceases to be a Group Member;
- (f) a transfer or transmission of a share by any member of the Scottish Enterprise Group to any other member of the Scottish Enterprise Group;
- (g) any transfer or transmission by Deepbridge to any Member of the Same Fund Group, and any subsequent transfer or transmission by one Member of the Same Fund Group of Deepbridge to another Member of the Same Fund Group of Deepbridge, or to a Privileged Relation of any such person;

- (h) a transfer or transmission of a share by the Founder to a Privileged Relation provided that in this instance any such transfer is conditional upon the transferor remaining the holder of at least one Ordinary Share thereafter, and in the event that such transferee ceases to be a Privileged Relation, the immediate retransfer of any such share from such Privileged Relation to such transferor, and (b) prior to any such transfer Deepbridge and Scottish Enterprise are notified in writing about the transfer.

6 Permitted Transfers

Notwithstanding anything to the contrary in these Articles, the following transfers are not restricted in any way by the provision of these Articles:

- (a) a transfer of shares by NomineeCo or a Deepbridge Nominee to another trust company, for the benefit of the Beneficial Owners;
- (b) a transfer of the beneficial ownership by a Beneficial Owner of his or her entire beneficial interest in the Shares held on trust for him or her by NomineeCo without restriction to any person, provided that the legal title in such Shares continues to be held by NomineeCo and the transferee is (or becomes prior to the completion of the transfer) a member of the crowdfunding platform operated by Crowdcube Capital Limited (Company No. 09095835);
- (c) a transfer of the beneficial ownership by a Beneficial Owner of his or her entire beneficial interest in the Shares held on trust for him or her by a Deepbridge Nominee without restriction to any person, provided that the legal title in such Shares continues to be held by a Deepbridge Nominee and the transferee is (or becomes prior to the completion of the transfer) an investor in funds managed by Deepbridge.

7 Pre-Emption Rights on Transfer

- 7.1 Except in the case of a transfer expressly authorised by Article 5.2, no person shall be entitled to dispose of any interest in any shares without first offering such shares for transfer to the holders of other shares in the Company.
- 7.2 The offer shall be made by the proposing transferor(s) (the **Transferor**) by notice in writing to the Company (a **Transfer Notice**) and may be in respect of all or some only of the shares held by the Transferor (the **Offer Shares**). The Transfer Notice shall specify the Offer Shares and the price at which they are offered for sale (the **Suggested Price**) and shall constitute the Directors as the agents of the Transferor for the sale of the Offer Shares in accordance with these Articles. A Transfer Notice may contain a provision that unless all the Offer Shares are sold under this Article, none shall be sold (a **Total Transfer Condition**). A Transfer Notice may not be revoked unless (i) it contains a Total Transfer Condition, or (ii) all the members of the Company (other than the Transferor) agree in writing that it may be revoked, or (iii) permitted in terms of Article 7.6. This Article 7.2, together with Articles 7.3 and 7.4, shall not apply to any Compulsory Transfer, and instead Articles 8.1 to 8.4 shall apply.
- 7.3 Within 7 days after a Transfer Notice (other than a Deemed Transfer Notice) is received by the Company, the Directors shall give notice to all the holders of shares in the Company (other than the Transferor) of the number and description of the Offer Shares and the Suggested Price, inviting each such holder to notify the Company within 20 days (a) if he requires the Offer Shares to be valued (such notification being a **Valuation Notice**) and (b) if he does not so require whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Suggested Price.

- 7.4 If on or before the expiry of the 20 day period referred to in Article 7.3 the Directors shall receive a Valuation Notice requesting a valuation then the Directors shall instruct a Valuer to determine the fair value of the Offer Shares in accordance with Article 7.5, acting as an expert and not an arbiter, and to produce a certificate stating such value (a **Certificate of Fair Value**) within 14 days of being instructed to do so. If the Directors do not receive a Valuation Notice within the relevant period, then the Suggested Price of the Offer Shares shall be the **Purchase Price**, and Article 7.9 shall apply accordingly.
- 7.5 *The fair value of the Offer Shares (the **Fair Value**) shall be calculated on the basis of the value of the whole Company on a going concern basis as between a willing seller and a willing buyer, with no reduction or other account being taken of the proportion which the Offer Shares bear to the total number of shares in issue, or shares of the same class as the Offer Shares in issue or any restrictions on the ability to transfer the Offer Shares. The Fair Value of each Offer Share shall be calculated by dividing the Fair Value of all the Offer Shares by the total number of the Offer Shares.*
- 7.6 Within 7 days of receipt by the Directors of the Certificate of Fair Value (whether pursuant to Article 7.4 or 8.4), the Directors shall send a copy thereof to the Transferor; declaring that the Transferor (other than a Compulsory Transferor) shall be entitled to revoke the Transfer Notice by notice in writing to the Directors within 7 days from the date of service upon the Transferor of such copy. Where the Transferor is a Compulsory Transferor, the Compulsory Transferor shall be entitled within 7 days from the date of service upon the Compulsory Transferor of such copy to notify the Company that the Compulsory Transferor objects to the calculation of the Fair Value whereupon the Company shall immediately refer the matter to the President for the time being of the Institute of Chartered Accountants of Scotland with a request to nominate forthwith an independent valuer to calculate the Fair Value within 30 days of being instructed to do so (in accordance with Article 7.5). The decision of such independently nominated valuer shall be final and binding on all parties concerned and the costs of the said valuer shall be borne by the Compulsory Transferor alone.
- 7.7 The cost of obtaining a Certificate of Fair Value shall be borne by the Company, unless (i) the Transferor revokes the Transfer Notice in accordance with Article 7.6 in which case the Transferor shall bear such cost or (ii) the Compulsory Transferor notifies the Company that the Compulsory Transferor objects to the calculation of the Fair Value in accordance with Article 7.6 in which case the Compulsory Transferor shall bear such cost.
- 7.8 In the case of a Transfer Notice other than a Deemed Transfer Notice, unless the Transfer Notice is revoked by the Transferor in accordance with Article 7.6, the Directors shall give notice to all the holders of shares in the Company (other than the Transferor) of the lower of (i) the Suggested Price and (ii) the Fair Value as determined by the Valuer (the **Purchase Price**), and in each case the number and description of the Offer Shares, inviting each such holder to notify the Company within 14 days whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Purchase Price. In the case of a Deemed Transfer Notice, as soon as reasonably practicable (if necessary, following any decision by an independently nominated valuer appointed in accordance with Article 7.6), the Directors shall give notice to all the holders of shares in the Company (other than the Compulsory Transferor) of the lower of (i) the Suggested Price and (ii) the Fair Value as determined by the independently nominated valuer referred to in Article 7.6 (the **Purchase Price**), and in each case the number and description of the Offer Shares, inviting each such holder to notify the Company within 14 days whether he is willing to purchase any and, if so, what maximum number, of Offer Shares at the Purchase Price.

- 7.9 On the expiry of the 20 day period referred to in Article 7.3 or, if a Certificate of Fair Value has been obtained, the expiry of the 14 day period referred to in Article 7.8, the Directors shall allocate the Offer Shares to those members who have applied to purchase the Offer Shares, and in the event of competition amongst members such allocation shall be in accordance with Article 7.10. If the Transfer Notice contains a Total Transfer Condition, no allocation of the Offer Shares shall be made under this Article 7.9 or Article 7.10 unless as a result of such allocation combined with the purchase of Offer Shares by the Company pursuant to Article 7.14 (if any), all the Offer Shares will be sold.
- 7.10 If the aggregate number of Offer Shares for which members have applied exceeds the number of Offer Shares available, priority shall be given to those members holding shares of the same class as the Offer Shares, and the allocation shall be made so far as practicable in proportion to the nominal amount of the share capital of that class held by each of those members but shall not in the case of any member exceed the number of Offer Shares for which he has applied. Thereafter, any Offer Shares remaining unallocated shall be allocated amongst the holders of other classes of shares so far as practicable in proportion to the nominal amount of share capital of the Company held by each of those members but shall not in the case of any member exceed the number of Offer Shares for which he has applied.
- 7.11 On the allocation being made, the Directors shall give details of the allocation in writing to the Transferor and to each member who has stated his willingness to purchase and, on the seventh day after such details are given, the members to whom the allocation has been made shall be bound to pay the Purchase Price for, and to accept a transfer of, the Offer Shares allocated to them respectively and the Transferor shall be bound, on payment of the Purchase Price, to transfer the Offer Shares to the respective purchasers.
- 7.12 If in any case a Transferor, after having become bound to transfer any shares to a purchaser, shall make default in transferring the Offer Shares, the Directors may authorise any Director to execute on behalf of and as attorney for the Transferor any necessary transfer documentation and may receive the Purchase Price and shall thereupon cause the name of the purchaser to be entered in the register as the holder of the Offer Shares and hold the Purchase Price in trust for the Transferor. The receipt by the Directors of the Purchase Price shall be a good discharge to the purchaser and after the name of the purchaser has been entered in the register of members of the Company the validity of the transfer to the purchaser may not be questioned by the Transferor.
- 7.13 Where more than one member has stated his willingness to purchase Offer Shares and through no default of the Transferor such purchase is not duly completed, the Directors shall forthwith notify all the other members who have stated their willingness to purchase Offer Shares and if, within 7 days of such notice being given, those other members shall not between them duly complete the purchase of the Offer Shares in respect of which there has been default in completion, the provisions of Article 7.14 shall apply.
- 7.14 Following the expiry of the latest applicable of (i) the 20 day period referred to in Article 7.3 or (ii) if a Certificate of Fair Value has been obtained, the 14 day period referred to in Article 7.8 or (iii) the 7 day period referred to in Article 7.13 (in all cases the **Relevant Expiry Date**), if any of the Offer Shares have not been allocated:
- (a) the Directors may within 7 days of the Relevant Expiry Date determine that the Company shall, if it is permitted to do so under the Act, attempt to purchase some or all of the Offer Shares itself at the Purchase Price (the **Determination**);

- (b) the Directors shall have a period of 60 days from the date of any such Determination to
 - (i) obtain from the Transferor any necessary consents and authorities including any required under the Act for any such purchase by the Company and (ii) to complete any such purchase;
- (c) in the event that a Transferor either (i) refuses to sign any document necessary to enable the purchase of some or all of the Offer Shares by the Company or (ii) fails to respond to the Directors within 14 days of any such request (in accordance with Article 7.14(b)), the Directors may authorise any Director to execute on behalf of and as attorney for the Transferor any such document and may receive the Purchase Price and hold the Purchase Price in trust for the Transferor; provided that if the Transfer Notice contains a Total Transfer Condition the Directors may only so authorise any Director if all the Offer Shares will as a result be sold;
- (d) the receipt by the Directors of the Purchase Price shall be a good discharge to the Company and after the Offer Shares purchased by the Company have been cancelled, the Transferor may not question the validity of the purchase.

7.15 If either (i) the Directors do not by the close of business on the last day of the 7 day period referred to in Article 7.14(a), make a Determination; or (ii) having made such a Determination, the Company shall not complete a purchase of the Offer Shares by the close of business on the last day of the 60 day period referred to in Article 7.14(b) (in each case a **Buy-Back Expiry Date**), then the Transferor may at any time within a period of 30 days from the occurrence of the relevant Buy-Back Expiry Date, transfer the Offer Shares not allocated to other members of the Company to any person at the Purchase Price provided that (a) if the Transfer Notice contains a Total Transfer Condition the Transferor shall be entitled to transfer all but not some only of the Offer Shares and (b) in the case of a Compulsory Transfer, any such transfer of the Offer Shares shall be subject to the approval of the Board.

8 Compulsory Transfers

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

- (a) in relation to a member being an individual:
 - (i) such member is adjudicated bankrupt; or
 - (ii) such member is suffering from a mental disorder as referred to in articles 18(d) or 18(e) of the Model Articles; or
 - (iii) such member becomes a Leaver; or
 - (iv) such member is a Privileged Relation of a Leaver;
- (b) in relation to a member being a body corporate (which, for the avoidance of doubt, shall not include Scottish Enterprise):
 - (i) a receiver, manager or administrative receiver is appointed in respect of such member or over all or any part of its undertaking or its assets; or

- (ii) such member enters into liquidation (other than a voluntary liquidation for the purposes of a bona fide scheme of solvent amalgamation or reconstruction;) or
- (iii) such member ceases to be controlled (as defined by Sections 450-451 of the Corporation Tax Act 2010) by the person(s) who controlled such member on the date on which it became the member of the Company or the date of adoption of these Articles (whichever is later); or
- (iv) in relation to a member being a trust or charitable trust, such member is a Privileged Relation of a Leaver.

8.2 The Deemed Transfer Notice shall be deemed to constitute the Directors as the agents of the Compulsory Transferor for the sale of the Offer Shares in accordance with these Articles and it shall confer upon the Directors the authority to implement a Compulsory Transfer of the Offer Shares, subject to the passing of a Board resolution or otherwise in accordance with Article 8.1. A Deemed Transfer Notice cannot contain a Total Transfer Condition and may not be revoked by the Compulsory Transferor.

8.1 The Deemed Transfer Notice may be enforced by the Directors, if the Directors pass a resolution to that effect, by written notice to the Compulsory Transferor (and his Privileged Relations, as appropriate) at any time within a period of eighteen months from the date of the event which results in a Deemed Transfer Notice. After expiry of this period, the Deemed Transfer Notice may not be enforced, but the provisions of Article 8.9 continue to apply. The Directors must enforce a Deemed Transfer Notice at the written request of an Investor Majority without the need for any further resolution of the Directors. Immediately upon written notice having been served upon the Compulsory Transferor, the provisions of Articles 8.2 to 8.9 shall apply and the provisions of Article 7 shall apply to any Deemed Transfer Notice as if it were a Transfer Notice, subject always to the overriding effect of Articles 8.2 to 8.9.

8.2 In the event that a Compulsory Transferor makes an application to an employment tribunal within any applicable time period for the making of such application, the Deemed Transfer Notice shall continue to apply but the application of the remaining provisions of Article 8 shall be suspended until the application has been Finally Determined.

8.3 The Deemed Transfer Notice shall be deemed to specify the price at which the Offer Shares are offered for sale (the **Suggested Price**), which price shall be calculated as follows:

- (a) where the Deemed Transfer Notice relates to (i) a Compulsory Transferor (pursuant to Article 8.1(a)(iii)) who was a Bad Leaver by virtue of a Summary Dismissal or (ii) a Compulsory Transferor (pursuant to Article 8.1(a)(iv) or 8.1(b)(iv)) who is the Privileged Relation of a Bad Leaver by virtue of a Summary Dismissal, the Suggested Price shall be the lower of (i) par value of the shares and (ii) the Fair Value; and
- (b) where the Deemed Transfer Notice relates to (i) a Compulsory Transferor (pursuant to Article 8.1(a)(iii)) who was a Bad Leaver otherwise than by virtue of a Summary Dismissal or (ii) a Compulsory Transferor (pursuant to Article 8.1(a)(iv) or 8.1(b)(iv)) who is the Privileged Relation of a Bad Leaver otherwise than by virtue of a Summary Dismissal, the Suggested Price shall be the lower of (i) the Subscription Price of the shares and the Fair Value; and
- (c) where the Deemed Transfer Notice relates to (i) a Compulsory Transferor (pursuant to Article 8.1(a)(iii)) who was a Good Leaver or (ii) a Compulsory Transferor (pursuant to Article 8.1(a)(iv) or 8.1(b)(iv)) who is the Privileged Relation of a person who was a Good Leaver, the Suggested Price shall be the price agreed by the Compulsory

Transferor and the Directors (with the prior written consent of an Investor Majority), or if the Compulsory Transferor and the Directors (with the prior written consent of an Investor Majority) are unable to agree in writing a price within 20 days of the Directors giving notice pursuant to Article 8.1, the Sale Price shall be the Fair Value; and

(d) in all other circumstances, the Suggested Price shall be the Fair Value.

8.4 In the event that a valuation of the Offer Shares is required in terms of Article 8.3, the Directors shall instruct the Valuer, acting as an expert and not as an arbiter, (i) to determine the Fair Value (in accordance with Article 7.5) of the Offer Shares as at the date of the event giving rise to the Deemed Transfer Notice, whereby in the case of a Deemed Transfer Notice arising under Articles 8.1(a)(iii), 8.1(a)(iv) or 8.1(b)(iv) (other than on account of death), account shall be taken in assessing the Fair Value of the effect of the relevant person ceasing to be an employee, Director or consultant, and (ii) to produce a certificate stating such value (a **Certificate of Fair Value**) within 30 days of being instructed to do so.

8.5 Where a former employee, consultant, Director or officer of the Company (or a Group Member of the Company) (a **Former Worker**) acquires shares after cessation of such employment, consultancy or appointment by exercising an option or warrant which was granted to such Former Worker while he was an employee, consultant, Director or officer of the Company (or a Group Member of the Company, as appropriate), or where a personal representative or executor of a Former Worker acquires shares in such manner, then (except where the Company has explicitly contracted otherwise explicitly disapplying this Article 8.5, with the prior written consent of an Investor Majority) this Article 8 shall apply such that:

(a) the Former Worker (or his personal representative or executor) in question shall be deemed to have given a Deemed Transfer Notice in respect of such shares on the date of issue of such shares; and

(b) where the Former Worker was a Bad Leaver by virtue of a Summary Dismissal, the Suggested Price shall be the lower of (i) the par value of the shares and (ii) the Fair Value on the date of cessation of employment, consultancy or appointment (as appropriate);

(c) where the Former Worker was a Bad Leaver otherwise than by virtue of a Summary Dismissal, the Suggested Price shall be the lower of (i) the Subscription Price for the shares or (ii) the Fair Value on the date of cessation of employment, consultancy or appointment (as appropriate); and

(d) in all other instances the Suggested Price shall be Fair Value on the date of issue of the shares.

8.6 Any obligation to transfer a share under the provisions of this Article 8 shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such share free from any lien, charge or other encumbrance.

8.7 Articles 8.1 to 8.6 (inclusive) shall not apply to (i) the Investors, (ii) any transferee thereof under Article 5.2(d), 5.2(e), 5.2(f), or 5.2(h), or (iii) any Investor Directors

8.8 The provisions of this Article 8 may be waived in whole or in part in any particular case with the prior written consent of an Investor Majority, and in particular:

(a) the application of this Article 8 to all or some of the relevant Offer Shares may be waived;

- (b) at the request of the Directors, an alternate arrangement in respect of any Offer Shares held by a Compulsory Transferor may be approved;
- (c) the Compulsory Transferor may be declared a **Good Leaver**;

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

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

- (a) shall, in relation to such shares, be entitled to receive notice of and to attend general meetings of the Company;
- (b) shall, in relation to such shares, have no right to vote thereat or sign any written resolutions;
- (c) shall, in relation to such shares, (i) have no right to participate in any other offer round of shares (pursuant to Articles 7 or 8) and (ii) be deemed to waive any rights of pre-emption accordingly; and
- (d) shall, in relation to such shares, have no right to receive a dividend (or other distribution) thereunder and/or have no right to participate in or receive proceeds from an Exit and/or other return of capital to the Company's shareholders.

Declaring that all voting and economic rights attached to such shares which are the subject of a Deemed Transfer Notice shall be suspended forthwith (with effect from the sooner to occur of the Deemed Transfer Notice or Compulsory Transfer) until such time as (i) the transfer of those shares is completed (being, for the avoidance of doubt, the registration of the transferee's name in the register of members in respect of those shares) in accordance with these Articles, or (ii) the provisions of Article 8 are waived in respect of such Deemed Transfer Notice in accordance with Article 8.8.

8.10 The provisions of this Article 8 (specifically Articles 8.1 to 8.9) shall not apply to Crowdcube.

9 Limitation on Change of Control or Control-Tag Along Rights

9.1 Notwithstanding any other Article, no sale or transfer (other than a sale or transfer permitted by Articles 5.2(c) (provided that there is no change in the Controlling Interest), 5.2(d), 5.2(e), 5.2(f) or 5.2(g)), of the legal or beneficial interest in any shares in the Company (the **Specified Shares**) may be made or validly registered if as a result of a sale or transfer of the legal and or beneficial interest in any such shares in the Company either:

- (a) a Controlling Interest would be obtained in the Company by any person or group of persons Acting in Concert; or
- (b) 50% or more of the shares held collectively by the Founders and/or their Privileged Relations and/or Connected Persons would be transferred to any person or group of persons Acting in Concert.

unless the proposed transferee or transferees or his or their nominees has or have offered to purchase all the shares for the time being in issue at the Specified Price (as defined below) (or, in relation to Article 8 and shares subject to a Deemed Transfer Notice, the Suggested Price)

(the **Tag Along Offer**), such offer to be made by notice in writing to all Recipients (as defined below) and such offer stipulated to be open for acceptance for at least 20 days.

- 9.2 A Tag Along Offer shall expire 20 days (or such longer period of acceptance stipulated within the Tag Along Offer) after the date of the Tag Along Offer. Any Recipient who wishes to accept the Tag Along Offer must notify the proposed transferee(s) in writing of its acceptance of such offer. Any Recipient who fails to accept the Tag Along Offer within the period limited for acceptance shall be deemed to have rejected it.
- 9.3 The Specified Price in respect of a particular share shall take into account any differences in class rights between it and any other share including, without limitation, any Specified Share.
- 9.4 If any part of the Specified Price is to be paid except by cash then each Recipient may, at its option, elect to take a price per share of such cash sum as may be agreed by it and the proposed transferee having regard to the transaction as a whole.
- 9.5 In the event of a disagreement, the calculation of the Specified Price (including a determination of the Fair Value) shall be referred to an independent expert (acting as an expert and not as an arbiter and whose decision shall be final and binding) nominated by the President for the time being of the Institute of Chartered Accountants of Scotland and acting at the expense of the proposed transferee(s) or his or their nominees (as appropriate).
- 9.6 For the purposes of this Article 9:

Recipients means all members of the Company; and

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

10 Sale by Qualifying Majority – Drag Along Rights

- 10.1 Notwithstanding any other Article but subject to Article 10.3, where any person or persons (an **Offeror**) makes a Qualifying Offer (as hereinafter defined) and this is to be accepted by the Majority Members (as hereinafter defined), the Majority Members may by notice in writing (a **Drag Along Notice**) to the other members of the Company (the **Minority Members**) require the Minority Members to (i) forthwith accept such Qualifying Offer, and (ii) transfer all of their shares free from all charges, liens, encumbrances and other third party rights to the Offeror at the same time as the Majority Members transfer all of their own shares to the Offeror. The Drag Along Notice shall specify the intended date of completion of the transfer of the shares pursuant to the Qualifying Offer, being a date not less than 15 Business Days following the date of the Drag Along Notice (the **Drag Along Completion Date**).
- 10.2 A Drag Along Notice is irrevocable but the Drag Along Notice and all obligations thereunder shall lapse if for any reason the sale of the shares of the Majority Members pursuant to Article 10.1 does not complete within 60 days after the date of the Drag Along Notice.
- 10.3 Upon any person, following the issue of a Drag Along Notice, becoming a member of the Company pursuant to the exercise of a pre-existing option to acquire shares in the Company or

otherwise (a **New Member**), a Drag Along Notice shall be deemed to have been served upon the New Member on the same terms as the previous Drag Along Notice and the New Member shall thereupon be bound to sell and transfer all such shares acquired by him to the Offeror and the provisions of this Article 9 shall apply to the New Member (and the New Member shall be deemed to be a **Minority Member** for the purposes of this Article 10).

- 10.4 In the event that any **Minority Member** fails to accept such *Qualifying Offer* or having accepted such *Qualifying Offer* fails to execute and deliver any of the documents required to effect any transfer of shares pursuant thereto on or before the later of (i) 30 days after receipt or deemed receipt of the *Qualifying Offer* or (ii) the Drag Along Completion Date, such **Minority Member** shall be deemed to have irrevocably appointed any of the Directors to be his agents and attorneys for the purposes of accepting such *Qualifying Offer* and/or transferring all of that **Minority Member's** shares(as the case may) and executing and delivering any such documents. The provisions of Article 7.12 shall have effect as if such **Minority Member** was the Transferor and the Offeror was the purchaser.

- 10.5 For the purposes of this Article 10:

Majority Members means members holding shares conferring in aggregate more than the Qualifying Majority of the total voting rights conferred by all the shares in the capital of the Company for the time being in issue and conferring the right to attend and vote at all general meetings of the members of the Company, and such group of members must include the affirmative vote or written consent by an Investor Majority;

Qualifying Offer means an offer which:

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

- 10.6 In determining whether an offer satisfies condition (a) of Article 10.5 above such independent expert shall take into account:

- (a) any differences in class rights between shares; and
- (b) any consideration (in cash or otherwise) received or receivable by any member which having regard to the substance of the transaction as a whole can reasonably be regarded as an addition to the price paid or payable to that member including, without limitation, any increase in salary, any bonus or termination payment.

- 10.7 The determination of the Fair Value pursuant to condition (b) of Article 10.5 may be referred by the Company to an independent expert (acting as an expert and not as an arbiter and whose decision shall be final and binding) nominated by the President for the time being of the Institute of Chartered Accountants of Scotland and acting at the expense of the Company. In the event that the calculation of the Fair Value by the independent expert appointed pursuant to this Article 10.7 differs from the calculation of the Fair Value by the independent expert appointed pursuant

to Article 10.5, then the Fair Value for the purposes of the Qualifying Offer shall be the average of such Fair Value calculations.

- 10.8 For the avoidance of doubt, the provisions of Article 7 do not apply in the event of any acquisition of shares pursuant to this Article 10.

11 Proceedings at General Meeting

- 11.1 The quorum for the transaction of business at a general meeting must include SE and Deepbridge. *If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, and such meeting was convened on the requisition of members, then the chairman of the meeting must dissolve the meeting.*
- 11.2 If the persons attending an adjourned general meeting within half an hour of the time at which the adjourned meeting was due to start do not constitute a quorum, then the members present shall be a quorum.
- 11.3 On a show of hands or on a poll, votes may be given either personally or by proxy, or if a corporation, by its duly authorised representative.

12 Written Resolutions

- 12.1 Where a resolution is to be proposed as a written resolution and such written resolution is accepted by or on behalf of:

- (a) in the case of an ordinary resolution, over 50%; and
- (b) in the case of a special resolution, 75% or more

of the members who would be entitled to receive notice of and to attend and vote at a general meeting at which such resolution was to be proposed shall, subject always to the provisions of the Act from time to time, be valid, effectual and binding on all of the members of the Company. Any such written resolution may consist of several documents in materially the same form, each accepted by or on behalf of the requisite number of members. Acceptance of a written resolution shall be in terms of the procedure set out in section 296 of the Act. In the case of a corporation which is a member of the Company, acceptance (following section 296 of the Act) by a director or its secretary or by a duly appointed and authorised attorney or representative shall be sufficient.

- 12.2 No resolution concerning a matter which requires approval by Investor Directors or by an Investor Majority, as the case may be, pursuant to the Subscription and Shareholder Agreement shall be valid, effectual and binding without such prior approval by the Investor Directors and/or an Investor Majority.
- 12.3 A proposed written resolution circulated to the members shall lapse if it is not passed by the requisite number of members before the expiration of three months from the Circulation Date stated on the proposed written resolution.

13 Number of Directors

- 13.1 Unless otherwise determined by an Investor Majority, the maximum number of directors at any one time shall be 8 and the minimum number of directors shall be one.

13.2 A Director shall not be required to hold any share in the Company in order to qualify for office as a Director. A Director, whether or not the Director holds any share in the Company, shall be entitled to attend and speak at any general meeting, or any meeting of any class, of the members of the Company.

13.3 The chairman of the Board shall be appointed by a majority resolution of the Board from time to time and the chairman shall not be entitled to any casting vote.

14 Alternate Directors

14.1 Any Director (the **Appointor**) may appoint as an alternate any other Director, or any other person approved by resolution of the Directors, to exercise that Director's powers and carry out that Director's responsibilities, in relation to the taking of decisions by the Directors in the absence of the alternate's Appointor.

14.2 Any appointment or removal of an alternate must be effected by notice in writing to the Company signed by the Appointor, or in any other manner approved by the Directors.

14.3 Any notice relating to an alternate must identify the proposed alternate and, in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the Director giving the notice.

14.4 An alternate Director may act as alternate Director to more than one Director and has the same rights in relation to any decision of the Directors as the alternate's Appointor.

14.5 Except as the Articles specify otherwise, alternate Directors are deemed for all purposes to be Directors, are liable for their own acts and omissions, are subject to the same restrictions as their Appointors, are not deemed to be agents of their Appointors and, in particular (without limitation), each alternate Director shall be entitled to receive notice of all meetings of Directors and of all meetings of committees of Directors of which his Appointor is a member.

14.6 A person who is an alternate Director but not a Director:

- (a) may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's Appointor is not participating);
- (b) may participate in a unanimous decision of the Directors (but only if his Appointor is an Eligible Director in relation to that decision, but does not participate); and
- (c) shall not be counted as more than one Director for the purposes of Articles 14.6(a) and 14.6(b).

14.7 A Director who is also an alternate Director is entitled, in the absence of his Appointor, to a separate vote on behalf of his Appointor, in addition to his own vote on any decision of the Directors (provided that his Appointor is an Eligible Director in relation to that decision), but shall not count as more than one Director for the purposes of determining whether a quorum is present.

14.8 An alternate Director is not entitled to receive any remuneration from the Company for serving as an alternate Director except such part of the alternate's Appointor's remuneration as the Appointor may direct by notice in writing made to the Company.

14.9 An alternate Director's appointment as an alternate terminates:

- (a) when the alternate's Appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;
- (b) on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's Appointor, would result in the termination of the Appointor's appointment as a Director;
- (c) on the death of the alternate's Appointor; or
- (d) when the alternate's Appointor's appointment as a Director terminates.

15 Appointment of Directors

- 15.1 The Company may by ordinary resolution appoint a person who is willing to act as a Director, either to fill a vacancy or as an additional Director (but not to fill the vacancy of any Investor Director).
- 15.2 For so long as the Founder holds not less than 40% of the Shares in issue he shall have the right to appoint and maintain in office up to two (2) natural persons as the Founder may from time to time direct as his Founder Directors and a member of each and any committee of the Board and to remove any directors so appointed and, upon their removal whether by the Founder or otherwise, to appoint other persons to act as Founder Director in their place.
- 15.3 For so long as they hold not less than 8% of the Shares, Deepbridge shall be entitled from time to time to nominate and appoint one person at any given time as a *non-executive director* of the Company and remove from office any such person so appointed and to nominate and appoint another person in his place. For so long as they hold any Shares, Scottish Enterprise shall be entitled from time to time to nominate and appoint one person at any given time as a *non-executive director* of the Company and remove from office any such person so appointed and to nominate and appoint another person in his place. Any director appointed in such way shall be an **Investor Director**. The Investor Directors may be appointed to committees of the Board (if any) from time to time.
- 15.4 In the absence of any Investor Director holding office at the relevant time:
 - (a) any provision in these Articles requiring the prior consent, approval or agreement of an Investor Director shall be deemed instead to refer to an Investor Majority; and
 - (b) any provision in these Articles requiring the notification of the Investors' Directors shall be deemed instead to refer to Deepbridge and Scottish Enterprise.
- 15.5 Any Investor Director appointed by Scottish Enterprise pursuant to Article 15.3 shall be entitled to become a member of any committee of the Board and to receive remuneration of an amount to be agreed between such Investor Director and the Board, failing which, of an amount determined by Scottish Enterprise (acting reasonably).
- 15.6 Any Investor Director appointed by Deepbridge pursuant to Article 15.3 shall be entitled to become a member of any committee of the Board and to receive remuneration of an amount to be agreed between such Investor Director and the Board, failing which, of an amount determined by Scottish Enterprise (acting reasonably).

16 Proceedings of Directors

The quorum for the transaction of business of the Directors shall be three Directors, of which at least one must be a Deepbridge Investor Director or his alternate (insofar as appointed) and one must be an SE Investor Director or his alternate (insofar as appointed) except when the Director in question, in respect of his attendance or that of his alternate, has waived such requirement. In the absence of any person holding the office of Investor Director, the quorum shall be two.

17 Directors' Conflict of Interest

17.1 The Directors may, in accordance with the requirements set out in this Article, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director breaching his duty under Section 175 of the Act to avoid conflicts of interest (a **Conflict**).

17.2 Any authorisation under this Article will be effective only if:

- (a) the matter in question shall have been proposed by any Director for consideration at a meeting of Directors in the same way that any other matter may be proposed to the Directors under the provisions of these Articles or in such other manner as the Directors may determine;
- (b) any requirement as to the quorum at the meeting of the Directors at which the matter is considered is met without counting the Director in question; and
- (c) the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.

17.3 Any authorisation of a Conflict under this Article may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
- (b) be subject to such terms and for such duration, or impose such limits or conditions as the Directors may determine; and
- (c) be terminated or varied by the Directors at any time.

17.4 This will not affect anything done by the Director prior to such termination or variation in accordance with the terms of the authorisation.

17.5 In authorising a Conflict the Directors may decide (whether at the time of giving the authorisation or subsequently) that if a Director has obtained any information through his involvement in the Conflict otherwise than as a Director of the Company and in respect of which he owes a duty of confidentiality to another person, the Director is under no obligation to:

- (a) disclose such information to the Directors or to any Director or other officer or employee of the Company; or
- (b) use or apply any such information in performing his duties as a Director where to do so would amount to a breach of that confidence.

- 17.6 Where the Directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the Director:
- (a) is excluded from discussions (whether at meetings of Directors or otherwise) related to the Conflict;
 - (b) *is not given any documents or other information relating to the Conflict; and*
 - (c) may or may not vote (or may or may not be counted in the quorum) at any future meeting of Directors in relation to any resolution relating to the Conflict.
- 17.7 Where the Directors authorise a Conflict:
- (a) the Director will be obliged to conduct himself in accordance with any terms imposed by the Directors in relation to the Conflict; and
 - (b) the Director will not infringe any duty he owes to the Company by virtue of Sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the Directors impose in respect of its authorisation.
- 17.8 A Director is not required, by reason of being a Director (or because of the fiduciary relationship established by reason of being a Director), to account to the Company for any remuneration, *profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the Directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.*
- 17.9 For the purposes of section 175 of the Act, any Investor Director appointed in accordance with Article 15.2 may be expressly authorised to have interests which arise from or are connected with their having a relationship (as employees or otherwise) with and acting as appointed representatives of, the Investors (**Investor-related interests**), notwithstanding that their Investor-related interests may directly or indirectly conflict, or have the potential to conflict, with the interests of the Company.
- 17.10 Each Investor Director so appointed shall:
- (a) be at liberty from time to time to make such disclosure to the Investors concerning the Company as he shall think fit, subject always to the requirement that prior to making any such disclosure, the *Investor Director shall ensure that the intended Investor recipients have entered into a binding confidentiality arrangement in respect of the Company's confidential information;*
 - (b) be entitled to keep confidential and not to disclose to the Company any information which comes into his possession as a result of his Investor-related interests where such information is confidential as regards the Investors or third parties; and
 - (c) in relation to any meeting at which Investor-related interests may directly or indirectly conflict, or have the potential to conflict, with the interests of the Company, be entitled to receive notice thereof (including all relative papers), attend, count in the quorum and vote.

18 Observers

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

19 Notices

- 19.1 Subject to Article 19.1, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company.
- 19.2 Any notice required or permitted to be given by the Company to a member shall be sufficiently given to that member if sent in a legible form by facsimile transmission (**fax**), first class or express registered post (**post**), or airmail, or by personal delivery, including courier delivery, to the registered address of the member, or by electronic mail (**e-mail**) to the e-mail address of the member notified to the Company. A notice shall be deemed to have been received: (i) in the case of fax, when a successful transmission report is generated during that or the next Business Day; (ii) in the case of post, forty-eight hours from midnight (00.00 hrs) on the date of posting, postage prepaid, evidenced by the relevant proof of posting; (iii) in the case of airmail, on the seventh Business Day following mailing, if mailed by airmail, postage prepaid, evidenced by the relevant proof of posting; (iv) in the case of personal delivery, thirty minutes after the time of delivery, evidenced, where appropriate, by the courier's receipt duly counter-signed for or on behalf of the addressee and (v) in the case of e-mail, when a successful delivery receipt is generated during that or the next Business Day. Where the deemed day of receipt of a notice is not a Business Day or where deemed receipt occurs at the place of delivery on a Business Day but after 1800hrs, that notice shall be deemed to have been received at 0930hrs on the next Business Day. For the avoidance of doubt and notwithstanding the foregoing, notice shall not be validly served if sent to Scottish Enterprise or Deepbridge by fax. Any notice to be served on Scottish Enterprise shall require to be addressed to "The Head of the Transactions Team" (with a copy of the notice also being sent to the "The Head of the Portfolio Management Team" at Scottish Enterprise Investments).
- 19.3 Subject to the Articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being.
- 19.4 A Director may agree with the Company that notices or documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than as expressly required in these Articles.

20 Scottish Enterprise Voting Rights

- 20.1 Subject to Article 20.3, in the event that as a result of the buyback, redemption, conversion, cancellation, forfeiture of any shares or the disenfranchisement of voting rights of any part of the share capital of the Company (or any other event having similar effect), the rights attributable to Scottish Enterprise (and/or the Scottish Enterprise Group) pursuant to these Articles would otherwise operate in such a manner as to give Scottish Enterprise (and/or the Scottish Enterprise Group) control of the exercise of 30% or more of the votes at a General Meeting of the Company (a **Trigger Event**), the voting rights of Scottish Enterprise (and/ or any member of the Scottish Enterprise Group) applicable to their shareholding on any resolution proposed at a General Meeting shall be deemed to be restricted to 29.99% of the votes cast on any poll and

the votes cast by any other holder of voting shares shall be deemed to be proportionately increased such that the aggregate voting rights of all other holders of voting shares for the purpose of any vote shall equal 70.01%.

- 20.2 The Company shall give notice to Scottish Enterprise immediately upon becoming aware of the occurrence or anticipated occurrence of any event which could reasonably be expected to constitute a Trigger Event.
- 20.3 The operation of Article 20.1 may be cancelled or suspended at any time or times either prior to the occurrence of any Trigger Event or subsequent to such provisions taking effect by Scottish Enterprise (and/or the Scottish Enterprise Group) in its sole discretion providing written notice to the Company of its intention to cancel or suspend the operation of Article 20.1. Immediately upon receipt of such notice, the provisions of Article 20.1 shall be suspended or cancelled accordingly. Votes taken by the Company during the period of operation of any suspension or cancellation under Article 20.1 shall not be affected by any such suspension or cancellation.
- 20.4 Notice given by Scottish Enterprise (and/or the Scottish Enterprise Group) in terms of Article 20.3 shall be given by the Company to all shareholders whose rights to vote are affected by the operation of such Article.

21 Governing Law

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