

**ARTICLES OF ASSOCIATION OF  
MICROBIRA LIMITED**

**REGISTERED NUMBER SC621160**

**ADOPTED ON 25.06.2020**



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**THE COMPANIES ACT 2006**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION**

**OF**

**MICROBIRA LIMITED**

**(Adopted by special resolution passed on 25.06.2020)**

**INTRODUCTION**

**1. INTERPRETATION**

**1.1** The following definitions and rules of interpretation apply in these Articles:

**Act:** the Companies Act 2006.

**acting in concert:** has the meaning given to it in the City Code on Takeovers and Mergers published by the Panel on Takeovers and Mergers (as amended).

**Adoption Date:** the date of adoption of these Articles.

**Articles:** the Company's articles of association for the time being in force.

**Available Profits:** means profits available for distribution within the meaning of part 23 of the Act;

**Bad Leaver:** an Employee who becomes a Departing Employee as a result of:

- a) such person's resignation as an Employee except in circumstances which constitute a constructive, wrongful and/or unfair dismissal save in the case that unfair dismissal is as a result of a procedural defect; or
- b) that person's dismissal as an Employee for cause, where "cause" shall mean: (i) the lawful termination of that person's contract of employment or consultancy without notice or payment in lieu of notice as a consequence of that person's gross misconduct; and/or (ii) that person's fair dismissal pursuant to section 98(2) (a) (capability) or 98(2) (b) (conduct) of the Employment Rights Act 1996.

**Board Consent:** means the consent of a simple majority of the Board, however in the circumstance that less than two Non-Executive Directors are appointed to the Board, then Board Consent shall mean Investor Director Consent.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Chairman:** has the meaning given to it in *article 6.6*;

**Company:** means Microbira Limited a company incorporated in Scotland with registered number SC621160 and registered office at 6 Logie Mill, Edinburgh, United Kingdom, EH7 4HG.

**Company's Lien:** has the meaning given to it in *article 22.1*.

**Connected:** has the meaning given in section 252 of the Act.

**Controlling Interest:** an interest in Shares conferring on the holder or holders control of the Company within the meaning of section 1124 of the Corporation Tax Act 2010.

**Deemed Transfer Notice:** a Transfer Notice which is deemed to have been served by any of the provisions of these Articles.

**Departing Employee:** an Employee who ceases to be a director or employee of, or consultant to, any Group Company (other than Ashraf Ismail, a Non-Executive Director or Investor Director) and who does not continue as, or become, a director or employee of, or consultant to, any Group Company.

**Directors:** the directors of the Company from time to time.

**Disposal:** the disposal by the Company of all, or a substantial part of, its business and assets.

**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).

**Employee:** an individual who is, or has been, a director and/or an employee of, or who does provide or has provided consultancy services to, any Group Company.

**Equity Shares:** the Ordinary Shares.

**Exit:** a Share Sale, a Disposal or a Listing.

**Fair Value:** has the meaning given in *article 15.2*.

**Family Trust:** as regards any particular Shareholder who is an individual (or deceased or former Shareholder who is an individual) any trust (whether arising under a settlement, declaration of trust or other instrument by whomsoever or wheresoever made, or under a testamentary disposition or on an intestacy) under which no immediate beneficial interest in any of the Shares in question is for the time being vested in any person other than the particular Shareholder and/or any of the Privileged Relations of that Shareholder (and so that for this purpose a person shall be considered to be beneficially interested in a Share if such Share or the income thereof is liable to be transferred or paid or applied or appointed to or for the benefit of any such person or any voting or other rights attaching thereto are exercisable by or as directed by any such person pursuant to the terms of the relevant trusts or in consequence of an exercise of a power or discretion conferred thereby on any person or persons).

**Financial Year:** an accounting reference period (as defined in section 391 of the Act) of the Company.

**Founder(s):** any of Marianne Ismail and Ashraf Ismail, each a "Founder" and together the "Founders".

**Good Leaver:** an Employee who becomes a Departing Employee and who is not a Bad Leaver where the Directors, excluding the Departing Employee in question, with Board Consent, determine such person is a Good Leaver. For the avoidance of doubt and for the purposes of these Articles, Marianne Ismail shall, in the event that she becomes a Departing Employee, be a Good Leaver.

**Group:** the Company, any subsidiary or any holding company from time to time of the Company, and any subsidiary from time to time of a holding company of the Company from time to time and **Group Company** shall be construed accordingly.

**Holding company:** has the meaning given in article 1.11.

**Independent Expert:** the auditors for the time being of the Company or, if they decline the instruction, an independent firm of accountants jointly appointed by the Company and the Seller (or, for the purposes of article 15.5, the Investor Director) or, in the absence of agreement between the Company and the Seller (or the Investor Director, as the case may be) on the identity of the expert within 10 Business Days of the expiry of the 5 Business Day period referred to in *article 15.1*, an independent firm of accountants appointed by the President, for the time being, of the Institute of Chartered Accountants of England and Wales (in each case acting as an expert and not as an arbitrator).

**Investment Agreement:** the investment agreement dated on or around the Adoption Date amongst the Company, the Founders, the Existing Shareholders and the Investors (terms as defined therein) (as the same may have been varied, supplemented, adhered to or superseded in accordance with its terms for the time being).

**Investors:** has the meaning given to it in the Investment Agreement.

**Investor Consent:** means the consent of the Investor Majority.

**Investor Director:** any investor director appointed in accordance with article 6.1.

**Investor Director Consent:** the consent of the Investor Director (as appointed from time to time) or his/her validly appointed alternate or, should an Investor Director not be appointed, Investor Majority Consent. For the avoidance of doubt, Investor Director Consent shall only be required in the circumstance that less than two Non-Executive Directors are appointed to the Board.

**Investor Majority:** means the consent of Investors holding more than 50% by nominal value of the Shares held by Investors in the Company.

**Issue Price:** in respect of any Share, the subscription price paid (or agreed to be paid) in respect of that Share, including any share premium.

**Lien Enforcement Notice:** means a notice in writing which complies with the requirements of *article 23.2*.

**Listing:** the successful application and admission of all or any of the Shares, or securities representing such Shares (including American depositary receipts, American depositary shares and/or other instruments) to the Official List of the Financial Conduct Authority or on the AIM market operated by the London Stock Exchange plc, or the Nasdaq National Stock Market of the Nasdaq Stock Market Inc., or to any recognised investment exchange (as defined in section 285 of the Financial Services and Markets Act 2000).

**Member of the Same Group:** as regards any company, a company which is from time to time a holding company or a subsidiary of that company or a subsidiary of any such holding company.

**Model Articles:** the model articles for private companies limited by shares contained in Schedule 1 to The Companies (Model Articles) Regulations 2008 (S/ 2008/3229), as amended prior to the Adoption Date.

**Non-Executive Directors:** shall mean Walter Nimmo and Ian Gray (and each a "Non-Executive Director").

**Ordinary Shares:** the ordinary shares of £0.01 each in the capital of the Company.

**Original Shareholder:** has the meaning given in *article 13.1*.

**Permitted Transfer:** a transfer of Shares made in accordance with *article 13*.

**Permitted Transferee:** in relation to:

- (a) a Shareholder who is an individual, any of his Privileged Relations or the trustee(s) of a Family Trust;
- (b) a Shareholder which is a company, a Member of the Same Group as that company; and
- (c) an Investor, to another member of his or her investor syndicate or to another Investor.

**Privileged Relation:** in relation to a Shareholder who is an individual (or a deceased or former Shareholder who is an individual) means a spouse, civil partner (as defined in the Civil Partnerships Act 2004), child or grandchild (including step or adopted or illegitimate child and their issue) and such other family and friends of the member as may be approved by the Board from time to time either generically or on an individual basis.

**Relevant Securities:** any Shares or other securities convertible into, or carrying the right to subscribe for Shares, issued by the Company after the Adoption Date, other than:

- (a) the grant of any options under a Share Option Scheme (and the issue of Shares on the exercise of any such options) where the grant has been approved by the Board;
- (b) any Shares or other securities issued by the Company in order for the Company to comply with its obligations under these Articles and/or the Investment Agreement; and
- (c) any Shares or other securities issued in consideration of the acquisition by the Company of any company or business which has been approved by the Board.

**Relevant Shares:** in relation to an Employee means all Shares held by:

- (a) the Employee in question; and
- (b) any Permitted Transferee of that Employee (other than those Shares held by those persons that the Non- Executive Directors (or if no Non-Executive Director are appointed, the Investor Director) declares himself satisfied were not acquired directly or indirectly from the Employee or by reason of his/her relationship with the Employee),

and including any Shares acquired by any such person after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Transfer Notice.

**Restricted Shares:** has the meaning given in *article 16.10*.

**Sale Proceeds:** means the consideration payable (including any deferred and/or contingent consideration) whether in cash or otherwise to those Shareholders selling Shares under a Share Sale less any fees and expenses payable by the selling Shareholders under that Share Sale.

**Sale Shares:** has the meaning given in *article 14.2(a)*.

**Seller:** has the meaning given in *article 14.2*.

**Shareholder:** a holder for the time being of any Share or Shares, but excluding any member holding Shares in treasury.

**Share Option Scheme:** any share option scheme of the Company which the Board identifies in writing as being a Share Option Scheme for the purposes of these Articles.

**Shares:** shares (of any class) in the capital of the Company and **Share** shall be construed accordingly.

**Share Sale:** the sale of (or the grant of a right to acquire or to dispose of) any Shares (in one transaction or as a series of transactions) which would, if completed, result in the buyer of those Shares (or grantee of that right) and persons acting in concert with him together acquiring a Controlling Interest, except where the identities of the shareholders in the buyer and the proportion of shares of the buyer held by each of them following completion of the sale are the same as the identities of the Shareholders and their respective shareholdings in the Company immediately before the sale.

**Subscription Shares:** means the shares subscribed for by the Investors in accordance with the Investment Agreement.

**subsidiary:** has the meaning given in *article 1.11*.

**Termination Date:** means:

(a) where employment ceases by virtue of notice given by the employer to the employee, the date on which such notice expires;

(b) where a contract of employment is terminated by the employer and a payment is made in lieu of notice, the date on which notice of termination was served;

(c) where an Employee dies, the date of his death;

(d) where the Employee concerned is a director but not an employee, the date on which his service agreement (or other terms of appointment) with the relevant Group Company is terminated; or

(e) in any other case, the date on which the employment or holding of office is terminated.

**Transfer Notice:** has the meaning given in *article 14.2*.

**Transfer Price:** has the meaning given in *article 15*.

**Writing or written:** the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise, save that, in relation to a Transfer Notice (or Deemed Transfer Notice), "writing" or "written" shall not include the sending or supply of notices, documents or information in electronic form (other than by fax).

- 1.2 Headings in these Articles shall not affect the interpretation of these Articles.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and the plural shall include the singular.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles (but excluding any statutory modification of them not in force on the Adoption Date).
- 1.6 A reference in these Articles to:
  - (a) an **Article** is a reference to the relevant numbered article of these Articles; and
  - (b) a **model article** is a reference to the relevant article,unless expressly provided otherwise.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force on the Adoption Date. A reference to a statute or statutory provision shall include all subordinate legislation made as at the Adoption Date under that statute or statutory provision.
- 1.8 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.9 Where the context permits, **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.
- 1.10 A reference in these Articles to a holder, or the holder(s), of Shares, Equity Shares or any class of Shares as the case may be shall, in each case, be deemed to exclude any member holding Shares in treasury.
- 1.11 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Act and for the purposes only of the membership requirement contained in sections 1159(1)(b)



and (c), a company shall be treated as a member of another company even if its shares in that other company are registered in the name of:

- (a) another person (or its nominee), by way of security or in connection with the taking of security; or
- (b) its nominee.

In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Act shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

## **2. ADOPTION OF THE 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 or are inconsistent with these Articles, and, subject to any such modifications, exclusions or inconsistencies, shall together with these Articles constitute the articles of association of the Company to the exclusion of any other articles or regulations set out in any statute or in any statutory instrument or other subordinate legislation.
- 2.2 Model articles 7, 8, 9(1) and (3), 11(2) and (3), 12, 13, 14(1) to (4) (inclusive), 16, 18(e), 22, 26(5), 38, 39, and 51 to 53 (inclusive) shall not apply to the Company.
- 2.3 In model article 25(2)(c), the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".
- 2.4 Model article 29 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 transmittee's name".

## **DIRECTORS**

### **3. NUMBER OF DIRECTORS**

Unless otherwise determined by ordinary resolution, the number of Directors shall not exceed 3 but shall not be less than 2.

### **4. PROCEEDINGS OF DIRECTORS**

- 4.1 Any decision of the Directors must be taken at a meeting of Directors in accordance with these Articles or must be a decision taken in accordance with article 4.2.
- 4.2 A resolution of the Directors may be made by way of written resolution signed or approved or otherwise consented to by sufficient Eligible Directors as would have

together been entitled to pass a resolution at a meeting of Directors if all the Eligible Directors in relation to the relevant decisions had been present and all Eligible Directors not signing, approving or otherwise consenting to the resolution had voted against it at that meeting.

- 4.3 Model articles 5(1) to (3) (inclusive) and 6(2) shall be modified by the insertion of the words "(acting with Board Consent)" following each reference to "the directors" in such model articles.
- 4.4 Meetings of the Directors shall take place at regular intervals and at least 6 times in each year. Any Director may call a meeting of the Directors. At least 5 Business Days' advance notice of each such meeting shall be given to each Director (except with the prior consent of the Non-Executive Directors (or the Investor Director if appointed), when meetings of the Directors may take place less frequently or on shorter notice).
- 4.5 The quorum for any meeting (or, where specified below, part of a meeting) of the Directors shall be 2 Eligible Directors, which must include a Non-Executive Director (or the Investor Director if appointed) in office for the time being or his alternate, unless:
- (a) there is no Non-Executive Director or Investor Director in office for the time being; or
  - (b) such Non-Executive Director, Investor Director or his alternate has, in respect of any particular meeting (or part of a meeting), otherwise agreed ahead of such meeting; or
  - (c) such Non-Executive Director Investor Director is not, in respect of any particular meeting (or part of a meeting), an Eligible Director,
- in which case, subject to *article 4.6*, the quorum for such meeting (or part of the meeting, as the case may be) shall be any 2 Eligible Directors. If the necessary quorum is not present within 30 minutes from the time appointed for the meeting, or if, during a meeting, such quorum ceases to be present, the meeting shall stand adjourned to such time and place as the Directors determine.
- 4.6 For the purposes of any meeting (or part of a meeting) held pursuant to *article 8* to authorise a Conflict (as defined in *article 8.1*), if there is only one Eligible Director in office other than the conflicted Director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.
- 4.7 If the number of Directors in office for the time being is less than 2, the Director in office must not take any decision other than a decision to:
- (a) appoint further Directors; or
  - (b) call a general meeting so as to enable the Shareholders to appoint further Directors.
- 4.8 Questions arising at any meeting of the Directors shall be decided by a majority of votes. If there is an equality of votes, the Chairman (or other chairman of the meeting) shall not have a second or casting vote.

4.9 Where decisions of the Directors are taken by electronic means, such decisions shall be recorded by the Directors in permanent form, so that they may be read with the naked eye.

4.10 The Directors (acting with Board Consent) may make any rule which they think fit about how they take decisions and about how such rules are to be recorded or communicated to Directors.

## **5. APPOINTMENT AND REMOVAL OF DIRECTORS**

5.1 Model article 17(1) shall be modified by the inclusion, at the end of that model article, of the words "provided that the appointment does not cause the number of Directors to exceed the maximum number set out in article 3.1 of these Articles".

5.2 Model article 18 shall be modified by the addition of the following events upon the occurrence of which a person shall cease to be a Director:

- (a) he is convicted of a criminal offence (other than a minor motoring offence) and a majority of the other Directors resolve that he cease to be a Director;
- (b) save in the case of a Non-Executive Director or Investor Director, a majority of the other Directors resolve that he cease to be a Director; and
- (c) in the case of an executive Director only, he shall cease to be employed by the Company or other Group Company (as appropriate) and does not continue as an employee of any other Group Company.

## **6. INVESTOR DIRECTOR, FOUNDER DIRECTOR AND CHAIRMAN**

6.1 To the extent that there are no Non-Executive Directors appointed to the Board, the Investors shall, acting by an Investor Majority, from time to time so long as they and their Permitted Transferees hold in aggregate at least 5% by nominal value of the total voting rights attached to the Equity Shares, have the right to appoint, by notice in writing addressed to the Company from the Investors, and to maintain in office, one person as a Director (the "Investor Director") and to remove any such Investor Director and to appoint a replacement by the same majority notice.

6.2 Marianne Ismail shall, from time to time so long as she holds (or her Permitted Transferees hold) in aggregate at least 5% of the total voting rights attached to the Equity Shares, have the right to appoint, by notice in writing addressed to the Company, and to maintain in office, one person as a Director (a "Founder Director") and to remove any such Founder Director and to appoint a replacement by the same notice. Save with the consent of the Non-Executive Directors (or Investor Director Consent if an Investor Director is appointed), the appointed Founder Director shall be Marianne Ismail.

6.3 Any appointment or removal of an Investor Director and/or a Founder Director made in accordance with articles 6.1 and 6.2 shall take immediate effect upon receipt (or deemed receipt) by the Company of such notice in writing, or the production of such notice at a meeting of the Directors or, if later, the date (if any) specified in such notice.

- 6.4 The Investor Director shall be entitled to be appointed to any committee of the Directors established from time to time. On the receipt of the request in writing of his appointor(s), the Company shall procure that any Investor Director shall be appointed as a director of any other Group Company, to the extent specified in such request (but such Investor Director shall not be entitled to any additional fee).
- 6.5 The reasonable expenses of the Investor Director shall be payable by the Company.
- 6.6 The Directors may, with Board Consent, appoint any person as Chairman of the board of Directors ("Chairman") and may, with Board Consent, remove and replace any such Chairman.

**7. TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY**

Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company:

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
- (b) shall be an Eligible Director for the purposes of any proposed decision of the Directors (or committee of the Directors) in respect of such existing or proposed transaction or arrangement in which he is interested;
- (c) shall be entitled to vote at a meeting of Directors (or of a committee of the Directors) or participate in any unanimous decision, in respect of such existing or proposed transaction or arrangement in which he is interested;
- (d) 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;
- (e) may be a Director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
- (f) shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he (or a person connected with him) derives from any such transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

## 8. DIRECTORS' CONFLICTS

- 8.1 The Directors may, in accordance with the requirements set out in this *article 8*, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director (an **Interested Director**) breaching his duty under section 175 of the Act to avoid conflicts of interest (**Conflict**).
- 8.2 Any authorisation under this *article 8* will be effective only if:
- (a) the matter in question shall have been proposed by any Director for consideration 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 for consideration of the relevant matter is met without counting the Interested Director; and
  - (c) the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.
- 8.3 Any authorisation of a Conflict under this *article 8* 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 or situation so authorised;
  - (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the Directors or otherwise) related to the Conflict;
  - (c) subject to Board Consent, provide that the Interested Director shall or shall not be an Eligible Director in respect of any future decision of the Directors in relation to any resolution related to the Conflict;
  - (d) impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the Directors think fit;
  - (e) provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a Director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
  - (f) permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the Directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.
- 8.4 Where the Directors authorise a Conflict, the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the Directors in relation to the Conflict.

- 8.5 The Directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.
- 8.6 A Director, notwithstanding his office, may be a Director or other officer of, employed by, or otherwise interested (including by the holding of shares) in his appointor(s) (or any Permitted Transferee of such appointor(s)) and no authorisation under *article 8.1* shall be necessary in respect of any such interest.
- 8.7 Any Investor Director shall be entitled from time to time to disclose to his appointor(s) (and to any Permitted Transferee of such appointor(s)) such information concerning the business and affairs of the Company as he shall at his discretion see fit.
- 8.8 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 in accordance with these Articles or by the Company in general meeting (subject in each case to any terms and conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.
- 8.9 For the purposes of section 175 of the Act, any Investor Director appointed in accordance with article 6 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 relevant investor group as appropriate ("**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 and such conflicts or potential conflicts are expressly authorised.

## **9. SECRETARY**

The Directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the Directors so decide, appoint a replacement, in each case by a decision of the Directors.

## **SHARES AND DISTRIBUTIONS**

### **10. DIVIDENDS**

- 10.1 Any amounts which the Company may, with Investor Consent, determine to distribute in respect of any Financial Year will be distributed among the holders of the Equity Shares *pari passu* and *pro rata* to their respective holdings of Equity Shares.
- 10.2 Subject to the Act, the Directors may pay interim dividends provided that:
- (a) the available profits of the Company justify the payment; and

(b) the Company obtains Board Consent to any such interim dividend.

10.3 Notwithstanding Article 10.1, on the fifth anniversary of the Adoption Date (and on an annual basis thereafter (and it being acknowledged that it may be practical to shorten this period immediately after to align with the Accounts Date)), the Company and the Founders undertake that they shall use all reasonable endeavours to prepare Accounts (whether annual or otherwise) which are (i) to the satisfaction of the Investors, and (ii) to a standard capable of supporting a valid decision of the Board to ascertain the Company's ability to make dividend payments or distributions to Shareholders in a timely manner and without undue delay.

10.4 The Company shall as soon as reasonably practicable after the Accounts in Article 10.3 have been prepared (and before the application of any profits to reserve or for any other purpose) distribute to the Shareholders, pro-rata to the number of Shares held, an amount equal to 75% of the aggregate and accrued Available Profits, subject to the Act, the Articles and other applicable laws and regulations.

10.5 The obligations in clause 12.7 may be waived by the Board at its discretion acting with Board Consent (or Investor Director Consent where required in accordance with the Investment Agreement and these Articles).

#### **11. PRE-EMPTION RIGHTS ON THE ISSUE OF FURTHER SHARES**

11.1 The Directors shall not, save with Investor Consent, exercise any power to allot Shares or to grant rights to subscribe for, or to convert any security into, any Shares.

11.2 Subject to the other provisions of this *article 11*, the Directors are generally and unconditionally authorised, for the purposes of section 551 of the Act, to exercise any power of the Company to:

- (a) offer or allot;
- (b) grant rights to subscribe for or to convert any security into; and
- (c) otherwise deal in, or dispose of,

any Shares (or any options, warrants, conversion rights and all other rights to acquire or subscribe for Shares) to any person, at any time and subject to any terms and conditions as the Directors think proper.

11.3 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.

11.4 Save with Investor Consent and the sanction of a special resolution of the Company (which for the avoidance of doubt may be passed by way of written resolution) if the Company proposes to allot any Relevant Securities, those Relevant Securities shall not be allotted to any person unless the Company has first offered them to the holders (on the date of the offer) of the Equity Shares (each

- an Offeree) on a pari passu basis (as if they constituted Shares of the same class) and in the respective proportions that the number of Equity Shares held by each such holder bears to the total number of Equity Shares held by all such holders (as nearly as possible without involving fractions) and on the same terms, and at the same price, as those Relevant Securities are being, or are to be, offered to any other person.
- 11.5 For the purposes of article 11.4, the Investors may assign any rights they have to accept the offer of any Shares between themselves to any other Investors .
- 11.6 An offer made under *article 11.4* shall:
- (a) be in writing and give details of the number, class and subscription price (including any share premium) of the Relevant Securities being offered;
  - (b) remain open for a period of at least 15 Business Days from the date of service of the offer; and
  - (c) stipulate that any Offeree who wishes to subscribe for a number of Relevant Securities in excess of the number to which he is entitled under *article 11.4* shall, in his acceptance, state the number of excess Relevant Securities (**Excess Securities**) for which he wishes to subscribe.
- 11.7 If, on the expiry of an offer made in accordance with *article 11.4*, the total number of Relevant Securities applied for is less than the total number of Relevant Securities so offered, the Directors shall allot the Relevant Securities to the Offerees in accordance with their applications, subject to a maximum of each Offeree's proportionate entitlement.
- 11.8 Any Relevant Securities not accepted by Offerees pursuant to an offer made in accordance with *article 11.4* shall be used to satisfy any requests for Excess Securities made pursuant to *article 11.6(c)*. If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants in the respective proportions that the number of Equity Shares held by each such applicant bears to the total number of such Equity Shares held by all applicants (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any Shareholder beyond that applied for by him).
- 11.9 If, after completion of the allotments referred to in articles *article 11.7* and *article 11.8*, not all of the Relevant Securities have been allotted, the balance of such Relevant Securities shall, subject to *article 11.10* be offered to any other person(s) as the Directors may, with Board Consent, determine, at the same price and on the same terms as the offer to the Shareholders.
- 11.10 No Shares shall be allotted to any current or prospective employee or director of any Group Company unless such person shall first have entered into a joint election with the relevant Group Company under section 431 of the Income Tax (Earnings and Pensions) Act 2003.



## 12. TRANSFERS OF SHARES: GENERAL

- 12.1 In these Articles, reference to the transfer of a Share includes the transfer, assignment or other disposal of a beneficial or other interest in that Share, or the creation of a trust or encumbrance over that Share, and reference to a Share includes a beneficial or other interest in a Share.
- 12.2 No Share shall be transferred, and the Directors shall refuse to register a transfer of any Share, unless it is made in accordance with these Articles. Subject to *article 12.5*, the Directors shall register any duly stamped transfer made in accordance with these Articles, unless they suspect that the proposed transfer may be fraudulent.
- 12.3 If a Shareholder transfers (or purports to transfer) a Share other than in accordance with these Articles, he shall, save with Board Consent to the contrary, be deemed to have immediately served a Transfer Notice in respect of all Shares held by him.
- 12.4 Any transfer of a Share by way of sale which is required to be made under *article 16*, *article 17* or *article 18* shall be deemed to include a warranty that the transferor sells the Share with full title guarantee.
- 12.5 The Directors may (and shall, if requested by the Investor Director), as a condition to the registration of any transfer of Shares, require the transferee to execute and deliver to the Company a deed, in favour of the Company and the other shareholders agreeing to be bound by the terms of the Investment Agreement, shareholders agreement (or similar document) in force between any of the Shareholders the Company, in such form as the Directors (acting with Board Consent) may reasonably require (but not so as to oblige the transferee to have any obligations or liabilities greater than those of the proposed transferor). If any condition is imposed in accordance with this *article 12.5*, the transfer may not be registered unless and until that deed has been executed and delivered to the Company's registered office by the transferee.
- 12.6 To enable the Directors to determine whether or not there has been any transfer (or purported transfer) of Shares the Directors may, and shall if so requested by the Investor Director, require:
- (a) any holder (or the legal representatives of a deceased holder); or
  - (b) any person named as a transferee in a transfer lodged for registration; or
  - (c) such other person as the Directors or a Investor Director may reasonably believe to have information relevant to that purpose,
- to provide the Company with any information and evidence that the Directors think fit regarding any matter which they deem relevant to that purpose.
- 12.7 If any such information or evidence referred to in *article 12.6* is not provided to enable the Directors to determine to their reasonable satisfaction that no breach has occurred, or that as a result of the information and evidence provided the Directors are reasonably satisfied that a breach has occurred, the Directors shall immediately notify the holder of such Shares of that fact in writing and, if the holder

fails to remedy that situation to the reasonable satisfaction of the Directors (including the Investor Director) within 15 Business Days of receipt of such written notice, then, unless otherwise directed in writing by the Investor Director:

- (a) the relevant Shares shall cease to confer on the holder of them any rights:
  - (i) to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise), including in respect of any resolution of any class of Shares;
  - (ii) to receive dividends or other distributions otherwise attaching to those Shares; or
  - (iii) to participate in any future issue of Shares issued in respect of those Shares; and
- (b) the Directors may, by notice in writing to the relevant holder, determine that a Transfer Notice shall be deemed to have been given in respect of some or all of his Shares with effect from the date of service of the notice (or such later date as may be specified in such notice).

The Directors may (with Board Consent) reinstate the rights referred to in *article 12.7(a)* at any time and, in any event, such rights shall be reinstated on completion of a transfer made pursuant to *article 12.7(b)*.

12.8 Unless expressly provided otherwise in these Articles, if a Transfer Notice is deemed to have been given under these Articles, the Deemed Transfer Notice shall be treated as having specified that:

- (a) it does not contain a Minimum Transfer Condition; and
- (b) the Seller wishes to transfer all the Shares held by him (including any Shares acquired after the date the relevant Transfer Notice is deemed given but before completion of the transfer of Shares pursuant to the relevant Transfer Notice).

12.9 Any Transfer Notice (but not an Offer Notice (as defined in *article 17*) or a Drag Along Notice (as defined in *article 18*)) served in respect of the transfer of any Share which has not completed before the date of service of a Deemed Transfer Notice shall (save with Board Consent to the contrary) automatically be revoked by the service of a Deemed Transfer Notice.

### 13. PERMITTED TRANSFERS OF SHARES

13.1 Subject to *article 13.9*, a Shareholder (the "**Original Shareholder**") may transfer all or any of his or its Shares to a Permitted Transferee.

13.2 Where Shares are held by the trustee(s) of a Family Trust, the trustee(s) may transfer Shares to:

- (a) the Original Shareholder;
- (b) any Privileged Relation(s) of the Original Shareholder;

- (c) subject to *article 13.3*, the trustee(s) of another Family Trust of which the Original Shareholder is the Settlor; or
- (d) subject to *article 13.3*, to the new (or remaining) trustee(s) upon a change of trustee(s) of a Family Trust,

without any price or other restriction.

13.3 A transfer of Shares may only be made to the trustee(s) of a Family Trust if the Board (acting with Board Consent) is satisfied:

- (a) with the terms of the trust instrument and, in particular, with the powers of the trustee(s);
- (b) with the identity of the proposed trustee(s);
- (c) that the proposed transfer will not result in 50% or more of the aggregate of the Company's equity share capital being held by trustees of that and any other trusts; and
- (d) that no costs incurred in connection with the setting up or administration of that Family Trust are to be paid by the Company.

13.4 If the Original Shareholder is a company, and a Permitted Transfer has been made, the Permitted Transferee shall, within 5 Business Days of ceasing to be a Member of the Same Group as the Original Shareholder, transfer the Shares held by it to:

- (a) the Original Shareholder; or
- (b) a Member of the Same Group as the Original Shareholder,

(which in either case is not in liquidation), without any price or other restriction. If the Permitted Transferee fails to make a transfer in accordance with this *article 13.4*, a Transfer Notice shall be deemed to have been given in respect of such Shares on the expiry of the period set out in this *article 13.4*.

13.5 If the Original Shareholder is an individual and a Permitted Transfer has been made to a Privileged Relation of the Original Shareholder, the Permitted Transferee (or the transmittee(s) of any such person), shall within 5 Business Days of ceasing to be a Privileged Relation of the Original Shareholder (whether by reason of death, divorce or otherwise) either:

- (a) execute and deliver to the Company a transfer of the Shares held by him to the Original Shareholder (or to any Permitted Transferee of the Original Shareholder) for such consideration as may be agreed between them; or
- (b) give a Transfer Notice to the Company in accordance with *article 14*,

failing which a Transfer Notice shall be deemed to have been given in respect of such Shares on the expiry of the period set out in this *article 13.5*. This *article 13.5* shall not apply to a transmittee of a Permitted Transferee if that transmittee is also a Permitted Transferee of the Original Shareholder, to the extent that such transmittee is legally or beneficially entitled to those Shares.

13.6 Any Investor may transfer any or all of their Shares to another Investor.

- 13.7 Any Investor may direct that his or her Shares or any part of them are issued and registered in the name of any one or more nominee or custodian holding such shares on the Investor's behalf. For the avoidance of doubt, if an Investor elects to transfer his or her Shares to a nominee or custodian, then transfers may be made without restriction by the nominee or custodian (as the legal owner of the Shares) to the Investor (who will be beneficially entitled to the Shares) and vice versa.
- 13.8 Notwithstanding any other provision of this *article 13*, a transfer of any Shares approved by the Directors may be made without any price or other restriction and any such transfer shall be registered by the Directors.
- 13.9 Any transfer of Shares by a Founder or executive director, for consideration or otherwise, shall not be made without Board Consent, except when the transfer is to a Privileged Relation or a Family Trust.
- 14. PRE-EMPTION RIGHTS ON THE TRANSFER OF SHARES**
- 14.1 Except where the provisions of *article 13*, *article 17* or *article 18* apply, any transfer of Shares by a Shareholder shall be subject to the pre-emption rights in this *article 14*.
- 14.2 A Shareholder who wishes to transfer Shares (a **Seller**) shall, before transferring or agreeing to transfer any Shares, give notice in writing (a **Transfer Notice**) to the Company specifying:
- (a) subject to *article 12.8(b)*, the number of Shares he wishes to transfer (**Sale Shares**);
  - (b) the name of the proposed transferee, if any;
  - (c) subject to *article 16.5*, the price per Sale Share (in cash), if any, at which he wishes to transfer the Sale Shares (the **Proposed Sale Price**); and
  - (d) subject to *article 12.8(a)*, whether the Transfer Notice is conditional on all or a specific number of the Sale Shares being sold (a **Minimum Transfer Condition**).
- 14.3 Once given, a Transfer Notice may only be withdrawn with Board Consent.
- 14.4 A Transfer Notice (or Deemed Transfer Notice) constitutes the Company the agent of the Seller for the sale of the Sale Shares at the Transfer Price.
- 14.5 As soon as practicable following the later of:
- (a) receipt of a Transfer Notice (or in the case of a Deemed Transfer Notice, the date such notice is deemed to be served); and
  - (b) the determination of the Transfer Price,
- the Directors shall (unless the Transfer Notice is withdrawn in accordance with *article 14.3*) offer the Sale Shares for sale in the manner set out in the remaining provisions of this *article 14* at the Transfer Price. Each offer shall be in writing and shall give details of the number and Transfer Price of the Sale Shares offered.

- 14.6 For the purposes of article 14.5, any Investor may assign his right to accept any offer of Shares to any other Investor.
- 14.7 Subject to article 14.8, the Directors shall offer the Sale Shares to the Shareholders (other than the Seller), inviting them to apply in writing within the period from the date of the offer to the date 30 calendar days after the offer (both dates inclusive) (the **First Offer Period**) for the maximum number of Sale Shares they wish to buy.
- 14.8 Where a transfer is being made subject to a Compulsory Employee Transfer, the Company shall be offered such Sale Shares first at the price in accordance with article 16.5 and may acquire all, some or none of the Sale Shares at its option. Any remaining Sale Shares shall be offered in accordance with the following provisions in this article 14.
- 14.9 If:
- (a) at the end of the First Offer Period, the number of Sale Shares applied for is equal to or exceeds the number of Sale Shares, the Directors shall allocate the Sale Shares to each Shareholder who has applied for Sale Shares in the proportion which his existing holding of Shares bears to the total number of Shares of the class being offered held by all Shareholders (other than the Seller). Fractional entitlements shall be rounded down to the nearest whole number (save where such rounding would result in not all Sale Shares being allocated, in which case, the allocation of any such fractional entitlements shall be determined by the Directors (acting with Board Consent)). No allocation shall be made to a Shareholder of more than the maximum number of Sale Shares which he has stated he is willing to buy;
  - (b) not all Sale Shares are allocated following allocations in accordance with *article 14.9(a)*, but there are applications for Sale Shares that have not been satisfied, the Directors shall allocate the remaining Sale Shares to such applicants in accordance with the procedure set out in *article 14.9(a)*. The procedure set out in this *article 14.9(b)* shall apply on any number of consecutive occasions until either all Sale Shares have been allocated or all applications for Sale Shares have been satisfied; and
  - (c) at the end of the First Offer Period, the total number of Sale Shares applied for is less than the number of Sale Shares, the Directors shall allocate the Sale Shares to the First Offer Shareholders in accordance with their applications. The balance (the **Initial Surplus Shares**) shall be dealt with in accordance with *article 14.10*.
- 14.10 At the end of the First Offer Period, the Company shall have a period of 30 calendar days during which it shall be entitled to purchase any Initial Surplus Shares on the same terms as offered to the other Shareholders. Following such period, or earlier if the Company confirms it does not wish to purchase any of the Sale Shares, the Seller may, at any time during the 30 calendar days following the date of lapse of the Transfer Notice, or the date of service of the Allocation Notice as the case may be, transfer the Sale Shares (in the case of a lapsed offer) or the Shares not taken up by Shareholders or the Company (as the case may be) to any person at a price

at least equal to the Transfer Price. The sale of the Sale Shares (following the lapse of a Transfer Notice) in accordance with this *article 14.10* shall continue to be subject to any Minimum Transfer Condition.

14.11 Where the Transfer Notice contains a Minimum Transfer Condition:

- (a) any allocation shall be conditional on the fulfilment of the Minimum Transfer Condition (which may be fulfilled by an aggregate allocation to Shareholders and the Company); and
- (b) if the total number of Sale Shares applied for is less than the number of Sale Shares, the Board shall notify the Seller and all those Shareholders to whom Sale Shares have been conditionally allocated stating that the condition has not been met and that the relevant Transfer Notice has lapsed with immediate effect.

14.12 Where either:

- (a) the Transfer Notice does not contain a Minimum Transfer Condition; or
- (b) allocations have been made in respect of all the Sale Shares,

the Directors shall, when no further offers or allocations are required to be made give notice in writing of the allocations of Sale Shares (an **Allocation Notice**) to the Seller and each Shareholder to whom Sale Shares have been allocated (each an **Applicant**). The Allocation Notice shall specify the number of Sale Shares allocated to each Applicant and the place and time for completion of the transfer of the Sale Shares (which shall be at least 10 Business Days, but not more than 20 Business Days, after the date of the Allocation Notice).

14.13 On the dates specified for completion in the Allocation Notice, the Seller shall, against payment from an Applicant, transfer the Sale Shares allocated to such Applicant, in accordance with any requirements specified in the Allocation Notice.

14.14 If the Seller fails to comply with *article 14.13*:

- (a) the Chairman (or, failing him, any other Director or some other person nominated by a resolution of the Directors) may, as agent and attorney on behalf of the Seller:
  - (i) complete, execute and deliver in his name all documents necessary to give effect to the transfer of the relevant Sale Shares to the Applicants (including if reasonably necessary a share certificate indemnity in a form acceptable to the board of Directors);
  - (ii) receive the Transfer Price and give a good discharge for it (and no Applicant shall be obliged to see to the distribution of the Transfer Price); and
  - (iii) (subject to the transfer being duly stamped) enter the Applicants in the register of Shareholders as the holders of the Shares purchased by them; and

- (b) the Company shall pay the Transfer Price into a separate bank account in the Company's name on trust (but without interest) for the Seller until he has delivered his certificate(s) for the relevant Shares (or an indemnity, in a form reasonably satisfactory to the Directors, in respect of any lost certificate, together with such other evidence (if any) as the Board may reasonably require to prove good title to those Shares) to the Company.

14.15 The Seller's right to transfer Shares under *article 14.9* does not apply if the Directors reasonably consider that:

- (a) the transferee is a person (or a nominee for a person) whom the board determines to be a competitor (or a Member of the Same Group as a competitor) of the business of any Group Company;
- (b) the sale of the Sale Shares is not bona fide or the price is subject to a deduction, rebate or allowance to the transferee; or
- (c) the Seller has failed or refused to promptly provide information available to him and reasonably requested to enable it to form the opinion referred to in *article 14.15(b)*.

## 15. VALUATION

15.1 The Transfer Price for each Sale Share the subject of a Transfer Notice (or Deemed Transfer Notice) shall, save where expressly provided otherwise in these Articles, be the price per Sale Share (in cash) agreed between the Directors (any Director with whom the Seller is connected not voting), acting with Board Consent, and the Seller or, in default of agreement within 10 Business Days of the date of service of the Transfer Notice (or, in the case of a Deemed Transfer Notice, the date on which the board of Directors first has actual knowledge of the facts giving rise to such deemed service), the Fair Value of each Sale Share.

15.2 The Fair Value shall be the price per Sale Share determined by the Independent Expert on the following bases and assumptions:

- (a) valuing the Sale Shares as on an arm's-length sale between a willing seller and a willing buyer as at the date the Transfer Notice was served (or deemed served);
- (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
- (c) that the Sale Shares are capable of being transferred without restriction;
- (d) valuing the Sale Shares as a rateable proportion of the total value of all the issued Shares without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent; and
- (e) reflecting any other factors which the Independent Expert reasonably believes should be taken into account.

- 15.3 If any difficulty arises in applying any of these assumptions or bases then the Independent Expert shall resolve that difficulty in whatever manner it shall in its absolute discretion think fit.
- 15.4 The Directors will give the Independent Expert access to all accounting records or other relevant documents of the Group, subject to it agreeing such confidentiality provisions as the Directors may reasonably impose.
- 15.5 The parties are entitled to make submissions to the Independent Expert and shall provide (or procure that others provide) the Independent Expert with such assistance and documents as the Independent Expert may reasonably require for the purpose of reaching a decision.
- 15.6 The Independent Expert shall act as expert and not as arbitrator and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).
- 15.7 The Independent Expert shall be requested to determine the Fair Value within 10 Business Days of its appointment and to deliver its certificate to the Company. Forthwith upon receipt, the Company shall deliver a copy of the certificate to the Seller.
- 15.8 The cost of obtaining the Independent Expert's certificate shall be borne by the parties equally or in such other proportions as the Independent Expert directs unless:
- (a) the Seller withdraws the relevant Transfer Notice in accordance with *article 14.3*; or
  - (b) in respect of a Deemed Transfer Notice, the Fair Value is less than the price per Sale Share offered to the Seller by the Directors before the appointment of the Independent Expert,

in which case the Seller shall bear the cost.

## **16. COMPULSORY TRANSFERS**

- 16.1 A person entitled to a Share in consequence of the bankruptcy of a Shareholder (or equivalent procedure in any jurisdiction outside England and Wales) shall be deemed to have given a Transfer notice in respect of that Share at such time as the Directors (acting with Board Consent) may determine.
- 16.2 If a Shareholder which is a body corporate either suffers or resolves to appoint a liquidator, administrator or administrative receiver over it, or any material part of its assets (other than a voluntary liquidation for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or suffers or takes any equivalent action in any jurisdiction outside England and Wales, that Shareholder shall be deemed to have given a Transfer Notice in respect of all Shares held by it at such time as the Directors (acting with Board Consent) may determine.



- 16.3 If there is a change in control (as 'control' is defined in section 1124 of the Corporation Tax Act 2010) of any Shareholder which is a company, it shall be bound at any time, if and when required in writing by the Directors to do so, to give (or procure the giving in the case of a nominee) a Transfer Notice in respect of all the Shares registered in its name (or the name of its nominee(s)) save that, where that Shareholder acquired Shares as a Permitted Transferee of an Original Shareholder, it shall first be permitted to transfer those Shares back to the Original Shareholder from whom it received its Shares or to any other Permitted Transferee of that Original Shareholder before being required to serve a Transfer Notice. This *article 16.3* shall not apply to a Shareholder that is an Investor.
- 16.4 If an Employee becomes a Departing Employee a Transfer Notice shall, unless the Directors (with Board Consent) otherwise direct in writing in respect of any particular Relevant Shares prior to or within 15 Business Days after the relevant Termination Date, be deemed to have been served on the relevant Termination Date in respect of all Relevant Shares (a **Compulsory Employee Transfer**) and any Transfer Notice served in respect of any of such Relevant Shares before the date such Employee becomes a Departing Employee shall automatically lapse.
- 16.5 Notwithstanding any other provisions of these Articles, the Transfer Price per Sale Share in respect of a Compulsory Employee Transfer shall, where the Departing Employee is:
- (a) a Bad Leaver, be restricted to the lower of the subscription price or the Fair Value of such Sale Share; and
  - (b) a Good Leaver, be the aggregate Fair Value of such Sale Share.
- 16.6 The Board may, with Board Consent, direct that some higher (but not lower) Transfer Price shall apply to any or all Sale Shares which would otherwise be subject to *article 16.5*.
- 16.7 Where the Departing Employee is a Bad Leaver, then 100% of the Departing Employee's Relevant Shares shall be subject to a Deemed Transfer Notice at the price specified in Article 16.5(a).
- 16.8 Where the Departing Employee is a Founder and a Good Leaver (the "**Departing Founder**"), the Departing Founder may retain a portion of the Relevant Shares in accordance with the following vesting schedule:
- (a) 25% of the Relevant Shares held by the Founder (and his Permitted Transferees) if he becomes a Departing Employee before the first anniversary of the Adoption Date;
  - (b) 40% of the Relevant Shares held by the Founder (and his Permitted Transferees) if he becomes a Departing Employee on or after the first anniversary of the Adoption Date but before the second anniversary;
  - (c) 60% of the Relevant Shares held by the Founder (and his Permitted Transferees) if he becomes a Departing Employee on or after the second anniversary of the Adoption Date but before the third anniversary; and

- (d) 75% of the Relevant Shares held by the Founder (and his Permitted Transferees) if he becomes a Departing Employee on or after the third anniversary of the adoption of these Articles;

in each case, the "**Retained Shares**". The remaining portion of the Relevant Shares, excluding the Retained Shares, shall be subject to the Deemed Transfer Notice (if served in accordance with *Article 16.4*) and the Transfer Price in respect of those Sale Shares shall be as provided for under Article 16.5(b). For the avoidance of doubt, the above provisions shall not apply where the Founder becomes a Departing Employee by reason of an Exit, in which circumstances he shall be entitled to have all his Shares (and those held by his Permitted Transferees) deemed Retained Shares.

- 16.9 For the avoidance of doubt, and for the purposes of Articles 16.7 to 16.9 (inclusive), the definition of Relevant Shares shall include any Shares which have been transferred to a Permitted Transferee.
- 16.10 Forthwith upon a Transfer Notice being deemed to be served under article 16 the Relevant Shares (**Restricted Shares**) shall cease to confer on the holder of them any rights:
  - (a) to vote (whether on a show of hands, on a poll or otherwise and whether in person, by proxy or otherwise), including in respect of any resolution of any class of Shares;
  - (b) to receive dividends or other distributions otherwise attaching to those Shares; or
  - (c) to participate in any future issue of Shares issued in respect of those Shares.

The Directors may (with Board Consent) reinstate the rights referred to in *article 16.8* at any time and, in any event, such rights shall be reinstated in respect of any Shares transferred pursuant to article *article 16* on completion of such transfer.

## 17. MANDATORY OFFER ON CHANGE OF CONTROL

- 17.1 Without prejudice to the other provisions of this article 17, in the event that either:
  - (a) any Founder proposes to transfer (other than (i) a transfer of Shares made pursuant to article 21.2, or (ii) made pursuant to article 13 with Board Consent or (iii) made pursuant to article 16) as one or as a series of transactions, more than 50% of Shares held by them as at the date of adoption of these articles (a **Proposed Transfer**) (and the Founder shall be referred to as the **Seller** for the purposes of this article 17 only); or
  - (b) a proposed transfer of Shares (other than a transfer of Shares made pursuant to (i) *article 13* with Board Consent, (ii) *article 16* or (iii) *article 21.2*, but after the operation of the pre-emption procedure set out in *article 14*), whether made as one or as a series of transactions (a **Proposed Transfer**) would, if completed, result in any person (the **Buyer**), including for the avoidance of doubt any Shareholder, together with any person acting in concert with the Buyer, acquiring a Controlling Interest,

articles 17.2 to 17.5 (inclusive) shall apply.

- 17.2 The Seller shall procure that, prior to the completion of the Proposed Transfer, the Buyer shall make an offer (the **Offer**) to each Shareholder and, in respect of all Equity Shares held in treasury, the Company (each an **Offeree**) on the date of the Offer other than any holder(s) of Restricted Shares, to buy all of the Equity Shares held by such Offerees on the date of the Offer for a consideration in cash per Equity Share (the **Offer Price**) which is equal to the highest price per Equity Share offered, paid or to be paid by the Buyer, or any person acting in concert with the Buyer, for any Equity Shares in connection with the Proposed Transfer.
- 17.3 The Offer shall be made by notice in writing (an **Offer Notice**) addressed to each Offeree on the date of the Offer at least 15 Business Days (the **Offer Period**) before the date fixed for completion of the Proposed Transfer (the **Sale Date**). The Offer Notice shall specify:
- (a) the identity of the Buyer (and any person(s) acting in concert with the Buyer);
  - (b) the Offer Price and any other terms and conditions of the Offer;
  - (c) the Sale Date; and
  - (d) the number of Equity Shares which would be held by the Buyer (and persons acting in concert with the Buyer) on completion of the Proposed Transfer.
- 17.4 The completion of the Proposed Transfer shall be conditional in all respects on:
- (a) the making of an Offer in accordance with this *article 17*; and
  - (b) the completion of the transfer of any Equity Shares by any Offeree (each an **Accepting Offeree**) who accepts the Offer within the Offer Period, and the Directors shall refuse to register any Proposed Transfer made in breach of this *article 17.4*.
- 17.5 The Proposed Transfer is, but the purchase of Shares from Accepting Offerees pursuant to an Offer made under this *article 17* shall not be, subject to the pre-emption provisions of *article 14*.
18. **DRAG ALONG**
- 18.1 If the holders of more than (i) 50% by nominal value of the Ordinary Shareholders (but excluding those Shares held by the Investors), and (ii) more than 50% by nominal value of the Ordinary Shares held by the Investors only (together the **Selling Shareholders**) wish to transfer all of their interest in Equity Shares (**Sellers' Shares**) to a bona fide purchaser on arm's-length terms (**Proposed Buyer**), the Selling Shareholders shall have the option (**Drag Along Option**) to require all the other holders of Equity Shares on the date of the request, including the Company in respect of Equity Shares held in treasury, if any (**Called Shareholders**) to sell and transfer all their interest in Equity Shares with full title

guarantee to the Proposed Buyer (or as the Proposed Buyer may direct) in accordance with the provisions of this *article 18*.

- 18.2 The Selling Shareholders may exercise the Drag Along Option by giving notice in writing to that effect (a **Drag Along Notice**), at any time before the completion of the transfer of the Sellers' Shares, to the Proposed Buyer and each Called Shareholder. A Drag Along Notice shall specify:
- (a) that the Called Shareholders are required to transfer all their Equity Shares (**Called Shares**) pursuant to this *article 18*;
  - (b) the identity of the Proposed Buyer (and, if relevant, the transferee(s) nominated by the Proposed Buyer);
  - (c) the consideration payable for the Called Shares calculated in accordance with *article 18.4*;
  - (d) the proposed date of completion of transfer of the Called Shares.
- 18.3 Once given, a Drag Along Notice may not be revoked save with prior Board Consent. However, a Drag Along Notice shall lapse if, for any reason, the Selling Shareholders have not completed the transfer of all the Sellers' Shares to the Proposed Buyer (or as the Proposed Buyer may direct) within 20 Business Days of serving the Drag Along Notice. The Selling Shareholders may serve further Drag Along Notices following the lapse of any particular Drag Along Notice.
- 18.4 The consideration (in cash or otherwise) for which the Called Shareholders shall be obliged to sell each of the Called Shares shall be that to which they would be entitled if the total consideration proposed to be paid by the Proposed Buyer were distributed to the holders of the Called Shares and the Sellers' Shares pro rata to the Shares held.
- 18.5 No Drag Along Notice shall require a Called Shareholder to agree to any terms except those specifically set out in this *article 18*.
- 18.6 Completion of the sale and purchase of the Called Shares shall take place on the same date as, and conditional upon the completion of, the sale and purchase of the Sellers' Shares unless:
- (a) all of the Called Shareholders and the Selling Shareholders otherwise agree; or
  - (b) that date is less than 20 Business Days after the date of service of the Drag Along Notice, in which case completion of the sale and purchase of the Called Shares shall take place 25 Business Days after the date of service of the Drag Along Notice.
- 18.7 Within 20 Business Days of the Selling Shareholders serving a Drag Along Notice on the Called Shareholders, the Called Shareholders shall deliver stock transfer forms for their Equity Shares in favour of the Proposed Buyer (or as the Proposed Buyer may direct), together with the share certificate(s) in respect of those Equity Shares (or a suitable indemnity in respect thereof) to the Company. On the expiration of that 20 Business Day period the Company shall pay the Called

Shareholders, on behalf of the Proposed Buyer, the amounts they are respectively due pursuant to *article 18.4* to the extent the Proposed Buyer has put the Company in the requisite funds. The Company's receipt for the amounts due pursuant to *article 18.4* shall be a good discharge to the Proposed Buyer. The Company shall hold the amounts due to the Called Shareholders pursuant to *article 18.4* in trust for the Called Shareholders without any obligation to pay interest.

- 18.8 To the extent that the Proposed Buyer has not, on the expiration of the 20 Business Day period, put the Company in funds to pay the amounts due pursuant to *article 18.4*, the Called Shareholders shall be entitled to the return of the stock transfer forms and share certificate(s) (or suitable indemnity) for the relevant Equity Shares and the Called Shareholders shall have no further rights or obligations under this *article 18* in respect of their Equity Shares.
- 18.9 If any Called Shareholder fails to deliver to the Company a duly executed stock transfer form (or forms) in respect of the Called Shares held by him (together with the share certificate(s) in respect of those Called Shares (or a suitable indemnity in respect thereof)) the defaulting Called Shareholder shall be deemed to have appointed any person nominated for the purpose by the Selling Shareholders to be his agent and attorney to execute and deliver all necessary transfers on his behalf, against receipt by the Company (on trust for such holder) of the consideration payable for the Called Shares. After the Proposed Buyer (or person(s) nominated by the Proposed Buyer) has been registered as the holder of any such Called Shares, the validity of such proceedings shall not be questioned by any person. Failure to produce a share certificate shall not impede the registration of any transfer of Shares under this *article 18*.
- 18.10 Upon any person, following the issue of a Drag Along Notice, becoming a Shareholder (or increasing an existing shareholding) including, without limitation, pursuant to the exercise of any option, warrant or other right to acquire or subscribe for, or to convert any security into, Equity Shares, whether or not pursuant to a Share Option Scheme (a **New Shareholder**), a Drag Along Notice shall be deemed to have been served upon the New Shareholder, on the same terms as the previous Drag Along Notice, who shall then be bound to sell and transfer all such Equity Shares acquired by him to the Proposed Buyer (or as the Proposed Buyer may direct) and the provisions of this *article 18* shall apply mutatis mutandis to the New Shareholder, save that completion of the sale of such Equity Shares shall take place forthwith upon the later of the Drag Along Notice being deemed served on the New Shareholder and the date of completion of the sale of the Called Shares. References in this Article 23.11 to a person becoming a Shareholder (or increasing an existing shareholding) shall include the Company, in respect of the acquisition of any of its own Equity Shares.
- 18.11 A transfer of Called Shares to a Proposed Buyer (or as the Proposed Buyer may direct) pursuant to a sale in respect of which a Drag Along Notice has been duly served shall not be subject to the pre-emption provisions of *article 14*.
- 18.12 Any Transfer Notice or Deemed Transfer Notice served in respect of the transfer of any Share which has not completed before the date of service of a Drag Along Notice shall automatically be revoked by the service of a Drag Along Notice.

## **DECISION-MAKING BY SHAREHOLDERS**

### **19. GENERAL MEETINGS**

- 19.1 No business other than, subject to *article 19.2*, the appointment of the Chairman of the meeting is to be transacted at a general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.
- 19.2 The Chairman shall chair general meetings. If there is no Chairman in office for the time being, or the Chairman is unable to attend any general meeting, the Directors present (or, if no Directors are present, the meeting) must appoint another Director present at the meeting (or, if no Directors are present, a Shareholder) to chair the meeting and the appointment of the Chairman of the meeting must be the first business of the meeting.
- 19.3 The quorum for a general meeting shall require the presence either in person or by proxy of (i) a simple majority of the Shareholders (by nominal value) but excluding Shares held by the investors, and (ii) an Investor Majority.

### **20. VOTING**

- 20.1 Subject to any other provisions in these Articles concerning voting rights, each Share in the Company shall carry the right to receive notice of and to attend, speak and vote at all general meetings of the Company.
- 20.2 Model article 44(3) shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that model article.
- 20.3 Model article 45(1) shall be amended by:
- (a) the deletion of model article 45(1)(d) and its replacement with the words "is delivered to the company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate"; and
  - (b) the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the Directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that model article.

### **21. PURCHASE OF OWN SHARES**

- 21.1 Subject to the Act but without prejudice to any other provision of these Articles, the Company may, with Board Consent, purchase its own shares in accordance with Chapter 4 of Part 18 of the Act, including (without limitation) with cash up to any amount in a financial year not exceeding the lower of:
- (a) £15,000; and

(b) the value of 5% of the Company's share capital.

21.2 Subject to the remaining provisions of this article 16, on a purchase of Shares in accordance with Chapter 4 of Part 18 of the Act, the Company may:

- (a) hold the Shares (or any of them) in treasury;
- (b) deal with any of the Shares, at any time, in accordance with section 727;  
or
- (c) cancel any of the Shares, at any time, in accordance with section 729 of the Act.

21.3 The provisions of articles 16.4 to 16.11 (inclusive) shall apply to a sale or transfer of Shares held in treasury pursuant to article 22.2(a) save that, for the purposes of this article 22.3:

- (a) reference in article 16 to an allotment shall include the sale or transfer of Shares; and
- (b) reference in the definition of "Relevant Securities" to Shares "issued after the Adoption Date" shall include Shares to be sold or transferred by the Company,

that immediately before the sale or transfer were, in each case, held by the Company as treasury shares

## **22. COMPANY'S LIEN OVER SHARES**

22.1 The Company has a lien (the **Company's Lien**) over every Share which is registered in the name of a person indebted or under any liability to the Company, whether he is the sole registered holder of the Share or one of several joint holders, for all monies payable by him (either alone or jointly with any other person) to the Company, whether payable immediately or at some time in the future.

22.2 The Company's Lien over a share:

- (a) takes priority over any third party's interest in that Share; and
- (b) extends to any dividend or other money payable by the Company in respect of that Share and (if the lien is enforced and the Share is sold by the Company) the proceeds of sale of that Share.

22.3 The Directors may at any time decide that a Share which is or would otherwise be subject to the Company's Lien shall not be subject to it, either wholly or in part.

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

23.1 Subject to the provisions of this *article 23*, if:

- (a) a Lien Enforcement Notice has been given in respect of a Share; and
- (b) the person to whom the notice was given has failed to comply with it,

the Company may sell that Share in such manner as the Directors decide.

23.2 A Lien Enforcement Notice:

- (a) may only be given in respect of a Share which is subject to the Company's Lien and in respect of a sum payable to the Company for which the due date for payment has passed;
- (b) must specify the Share concerned;
- (c) must require payment of the sum within 14 clear days of the notice (that is, excluding the date on which the notice is given and the date on which that 14 day period expires);
- (d) must be addressed either to the holder of the Share or to a transmittee of that holder; and
- (e) must state the Company's intention to sell the Share if the notice is not complied with.

23.3 Where Shares are sold under this *article 23*:

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

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

- (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the Lien Enforcement Notice; and
- (b) second, to the person entitled to the Shares at the date of the sale, but only after the certificate for the Shares sold has been surrendered to the Company for cancellation, or an indemnity in a form reasonably satisfactory to the Directors has been given for any lost certificates, and subject to a lien equivalent to the Company's Lien over the Shares before the sale for any money payable by that person (or his estate or any joint holder of the shares) after the date of the Lien Enforcement Notice.

23.5 A statutory declaration by a Director or the company secretary that the declarant is a Director or the company secretary and that a Share has been sold to satisfy the Company's Lien on a specified date:

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

**ADMINISTRATIVE ARRANGEMENTS**



**24. MEANS OF COMMUNICATION TO BE USED**

24.1 Subject to article 24.3, any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:

- (a) if delivered by hand, on signature of a delivery receipt; or
- (b) if sent by fax, at the time of transmission; or
- (c) if sent by pre-paid first class post, recorded delivery or special delivery to an address in the United Kingdom, at 9.00 am on the second Business Day after posting; or
- (d) if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the fifth Business Day after posting; or
- (e) if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt; or
- (f) if sent or supplied by e-mail, one hour after the notice, document or information was sent or supplied; or
- (g) 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; and
- (h) if deemed receipt under the previous paragraphs of this article 24.1 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 9.00 on the day when business next starts in the place of deemed receipt. For the purposes of this article, all references to time are to local time in the place of deemed receipt.

24.2 To prove service, it is sufficient to prove that:

- (a) if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or
- (b) if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or
- (c) if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted; or
- (d) if sent by e-mail, the notice was properly addressed and sent to the e-mail address of the recipient.

24.3 A Transfer Notice (or Deemed Transfer Notice) may not be served or delivered in electronic form (other than by fax), or by means of a website.

24.4 In proving that any notice, document or information was properly addressed, it will suffice to show that the notice, document or information was addressed to an address permitted for the purpose by the Act.

**25. INDEMNITY AND INSURANCE**

25.1 Subject to *article 25.2*, but without prejudice to any indemnity to which a Relevant Officer is otherwise entitled:

- (a) each Relevant Officer shall be indemnified out of the Company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a Relevant Officer:
  - (i) in the actual or purported execution and/or discharge of his duties, or in relation thereto; and
  - (ii) in relation to the Company's (or other Group Company's) activities as trustee of an occupational pension scheme (as defined in section 235(6) of the Act),

including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted, or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part, or in connection with any application in which the court grants him, in his capacity as a Relevant Officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or other Group Company's) affairs; and

- (b) the Company may provide any Relevant Officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in *article 25.1* and otherwise may take any action to enable such Relevant Officer to avoid incurring such expenditure.

25.2 This *article 25* does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.

25.3 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any Relevant Officer in respect of any Relevant Loss.

25.4 In this *article 25*:

- (a) **Relevant Loss** means any loss or liability which has been or may be incurred by a Relevant Officer in connection with that Relevant Officer's duties or powers in relation to the Company (or other Group Company) or any pension fund or employees' share scheme of the Company (or other Group Company); and
- (b) **Relevant Officer** means any director or other officer or former director or other officer of any Group Company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act).

**26. DATA PROTECTION**

- 26.1 Each of the Shareholders and Directors (from time to time) consents to the processing of his personal data by the Company, its Shareholders and Directors (each a **Recipient**) for the purposes of due diligence exercises, compliance with applicable laws, regulations and procedures and the exchange of information amongst themselves. A Recipient may process such personal data either electronically or manually.
- 26.2 The personal data that may be processed for such purposes under this *article 26* shall include any information which may have a bearing on the prudence or commercial merits of investing in, or disposing of any Shares (or other investment or security) in, the Company. Save as required by law, court order or any regulatory authority, that personal data shall not be disclosed by a Recipient or any other person, except to:
- (a) a Member of the Same Group as the Recipient (each a **Recipient Group Company**);
  - (b) employees, directors and professional advisers of that Recipient or any Recipient Group Company; and
  - (c) funds managed by any of the Recipient Group Companies.
- 26.3 Each of the Shareholders and Directors consent (from time to time) to the transfer of such personal data to persons acting on behalf of any Recipient and to the offices of any Recipient, both within and outside the European Economic Area, for the purposes stated above, where it is necessary or desirable to do so.