

THE COMPANIES ACTS 1985 AND 1989

COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

of

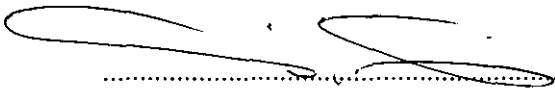
EDIBLE ARRANGEMENTS UK LIMITED  
("Company")

In accordance with section 381A of the Companies Act 1985 ("Act"), we, being the only the member of the Company who, at the date of these written resolutions is entitled to vote at general meetings of the Company, hereby approve the following resolution as if it had been passed at a general meeting of the Company duly convened and held:

**Special Resolution**

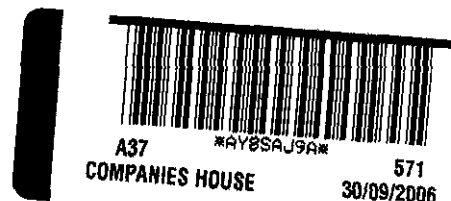
**That**, the draft regulations attached and initialled by a director for identification purposes be adopted as the articles of association of the Company to the exclusion of and in substitution for the existing articles of association of the Company.

Signature of this resolution by any holders of any class of shares in the Company shall also constitute their consent as holders of that class of shares to the passing of the resolutions set out above.



EA Global LLC

15 September 2006  
September 2006



**Company number 5892344**

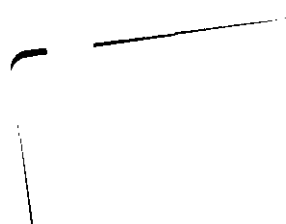
**THE COMPANIES ACT 1985**

**PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF  
ASSOCIATION**

**of  
EDIBLE ARRANGEMENTS UK  
LIMITED**

Adopted on 18/9 2006



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DLA Piper Rudnick Gray Cary UK LLP  
India Buildings  
Water Street  
Liverpool  
L2 0NH

Date of Original: 19 July 2006  
Date of Version: 14 September 2006  
Draft No: 1

Tel: +44 (0) 8700 111 111  
Fax: +44 (0)151 237 4788

Ref: SJB/LIVDP/-/-/10454365.1

**THE COMPANIES ACT 1985**  
**PRIVATE COMPANY LIMITED BY SHARES**  
**ARTICLES OF ASSOCIATION**

of

**EDIBLE ARRANGEMENTS UK LIMITED**

adopted by a special resolution of the Company passed on 15/9 2006

**1. TABLE A**

The regulations contained in Table A in the schedule to the Companies (Tables A to F) Regulations 1985 (as amended) shall not apply to the Company. The following articles shall constitute the entire articles of association of the Company.

**2. DEFINITIONS AND INTERPRETATION**

In these Articles the following words and expressions shall (except where the context otherwise requires) have the following meanings:

**"Accountants"** means the accountants of the Company from time to time;

**"the Act"** means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force;

**"Agreed Proportions"** means the proportions that the aggregate nominal value of the Shares for time being held respectively by each Member bears to the total number of Shares in issue;

**"Approved Offer"** shall have the meaning given in Article 13.1;

**"the Articles"** means these articles of association of the Company as may be amended from time to time;

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

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

**"Chairman"** shall have the meaning given in Article 31.5;

**"Clear Days"** in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;

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

**"Company"** means Edible Arrangements UK Limited;

**"Compulsory Seller"** and **"Compulsory Sellers"** shall have the meanings given in Article 11.4;

**"Connected Person"** shall have the meaning given in section 839 of the Income and Corporation Taxes Act 1988;

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

**"Credited as Fully Paid"** means the amounts paid up or credited as paid up on a Share including any premium;

**"Deemed Transfer Notice"** shall have the meaning given in Article 11.1;

**"Directors"** means the directors of the Company from time to time;

**"Drag Along Right"** shall have the meaning given in Article 13.2;

**"Electronic Communication"** means any communication transmitted by way of fax or email;

**"Executed"** includes any mode of execution;

**"Fair Value"** shall have the meaning given in Article 10.7;

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

**"the Holder"** in relation to Shares means the Member whose name is entered in the register of members as the holder of the Shares; and "holding" shall be construed accordingly;

**"Majority Member"** means a Member who at the time it wants to or is required to transfer their Shares in accordance with these Articles, hold 25% or more of the Shares;

**"Member"** means a registered Holder of any Share as recorded in the Company's register of members;

**"Minority Member"** means a Member who, at the time it wants to or is required to transfer their Shares in accordance with these Articles, holds less than 25% of the Shares;

**"Office"** means the registered office of the Company;

**"Other Members"** shall have the meaning given in Article 13.2;

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

**"Sale Shares"** means Shares which a Seller wishes to transfer;

**"the Seal"** means the common seal of the Company;

**"Secretary"** means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company from time to time, including a joint, assistant or deputy secretary;

**"Seller"** means any Member who wishes to transfer any Shares;

**"Share"** means a share in the issued share capital of the Company;

**"Transfer Notice"** means a notice in writing by a Seller of his wish to transfer any Shares;

**"Transfer Price"** shall have the meaning given in Article 10.5;

**"UK Listing Authority"** means the Financial Services Authority acting in its capacity as the competent authority for the purposes of part VI of the FSMA including, where the context so permits, any committee, employee, officer or servant to whom any function of the UK Listing Authority may from time to time be delegated; and

**"the United Kingdom"** means Great Britain and Northern Ireland.

2.1 Unless the context otherwise requires, words or expressions contained in these Articles bear the same meaning as in the Act.

2.2 In these Articles, unless a contrary intention appears:

2.2.1 words which refer to the singular include the plural and vice versa, words that refer to one gender include all genders and words which refer to persons include bodies corporate and unincorporated associations and vice versa;

2.2.2 reference to a statute or a statutory provision includes reference to:

2.2.2.1 the statute or statutory provision as modified or re-enacted or both from time to time; and

2.2.2.2 any subordinate legislation made under the statutory provision (as modified or re-enacted as set out above);

2.2.3 reference to a "transfer" of Shares or any similar expression will be deemed to include (without limitation):

2.2.3.1 any sale or other disposition of the legal or equitable interest in a Share (including any voting rights attached to a Share) ("**Interest**");

2.2.3.2 the creation of any mortgage, charge pledge or other encumbrance over any Interest;

2.2.3.3 any direction by a Member entitled to an allotment or issue of Shares, be allotted or issued to some person other than himself; and

2.2.3.4 any grant of an option to acquire either or both of the legal and equitable ownership of any Share by any Member entitled to any such Share;

2.2.4 reference to an address for the purposes of any Electronic Communication means any number or address used for the purpose of such communication; and

2.2.5 reference to "written" or "in writing" includes any method of representing or reproducing words in a legible form including, for the avoidance of doubt, Electronic Communication.

2.3 The headings in these Articles are included for convenience only and do not affect the meaning of these Articles.

2.4 Where, for any purpose, an ordinary resolution of the Company is required a special or an extraordinary resolution is also effective for that purpose, and where, for any purpose, an extraordinary resolution is required, a special resolution is also effective for that purpose.

### **3. SHARE CAPITAL**

3.1 The authorised share capital of the Company as at the date of adoption of these Articles £1,000 divided into 1,000 ordinary shares of £1 each.

3.2 The rights and restrictions attaching to the Shares are set out in full in these Articles.

3.3 Subject to the provisions of the Act, Shares may be issued which are to be redeemed or are to be liable to be redeemed at the option of the Company or the Holder on such terms and in such manner as may be provided by these Articles.

3.4 The Company may exercise the powers of paying commissions conferred by the Act. Subject to the provisions of the Act, any such commission may be satisfied by the payment of cash or by the allotment of fully or partly paid Shares or partly in one way and partly in the other.

3.5 Except as required by law or these Articles, no person shall be recognised by the Company as taking any Share upon any trust and, except as otherwise provided by law or these Articles, the Company shall not be bound by or recognise any interest in any Share except an absolute right to the entirety thereof in the Holder.

### **4. SHARE CERTIFICATES**

4.1 Every Member, upon becoming the Holder of any Shares, shall be entitled without payment, to one certificate for all the Shares of each class held by him (and, upon transferring a part of his holding of Shares of any class, to a certificate for the balance of such holding) or several certificates each for one or more of his Shares upon payment for every certificate after the first of such reasonable sum as the Directors may determine. Every certificate shall be sealed with the Seal or Executed in such other manner as the Directors authorise, having regard to the Act and shall specify the number, class and distinguishing numbers (if any) of the Shares to which it relates and the amount or respective amounts paid up thereon. The Company shall not be bound to issue more than one certificate for Shares held jointly by several persons and delivery of a certificate to one joint Holder shall be a sufficient delivery to all of them.

4.2 If a Share certificate is defaced, worn-out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and payment of the expenses reasonably incurred by the Company in investigating evidence as the Directors may determine but otherwise free of charge, and (in the case of defacement or wearing-out) on delivery up of the old certificate.

## **5. LIEN**

- 5.1 The Company shall have a first and paramount lien over every Share (whether fully paid or not) registered in the name of any Member (whether solely or jointly with others) for all debts or liabilities due from such Member or his estate whether solely or jointly with any other person (whether or not a Member) and whether or not such debts or liabilities are presently payable or dischargeable. The Company's lien on a Share shall extend to all dividends or other monies and rights payable on it or accruing to it or in respect of it.
- 5.2 The Company may sell in such manner as the Directors determine any Shares on which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within fourteen Clear Days after notice has been given to the Holder of the Share or to the person entitled to it in consequence of the death or bankruptcy of the Holder, demanding payment and stating that if the notice is not complied with the Shares may be sold.
- 5.3 To give effect to a sale referred to in Article 5.2, the Directors may authorise some person to execute an instrument of transfer of the Shares sold to, or in accordance with the directions of, the purchaser. The title of the transferee to the Shares shall not be affected by any irregularity in or invalidity of the proceedings in reference to the sale.
- 5.4 The net proceeds of a sale made in accordance with this Article 5, after payment of the costs, shall be applied in payment of so much of the sum for which the lien exists as is presently payable, and any residue shall (upon surrender to the Company for cancellation of the certificate for the Shares sold and subject to a like lien for any monies not presently payable as existed upon the Shares before the sale) be paid to the person entitled to the Shares at the date of the sale.

## **6. CALLS ON SHARES AND FORFEITURE**

- 6.1 Subject to the terms of allotment, the Directors may make calls upon the Members in respect of any monies unpaid on their Shares (whether in respect of nominal value or premium) and each Member shall (subject to receiving at least fourteen Clear Days' notice specifying when and where payment is to be made) pay to the Company as required by the notice the amount called on his Shares. A call may be required to be paid by instalments. A call may, before receipt by the Company of any sum due thereunder, be revoked in whole or part and payment of a call may be postponed in whole or part. A person upon whom a call is made shall remain liable for calls made upon him notwithstanding the subsequent transfer of the Shares in respect whereof the call was made.
- 6.2 A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.
- 6.3 The joint Holders of a Share shall be jointly and severally liable to pay all calls in respect thereof.
- 6.4 If a call remains unpaid after it has become due and payable, the person from whom it is due and payable shall pay interest on the amount unpaid from the day it became due and payable until it is paid at the rate fixed by the terms of allotment of the Share or in the notice of the call, or if no rate is fixed, at the appropriate rate (as defined by the Act) but the Directors may waive payment of the interest wholly or in part.

- 6.5 An amount payable in respect of a Share on allotment or at any fixed date, whether in respect of nominal value or premium or as an instalment of a call, shall be deemed to be a call and if it is not paid the provisions of these Articles shall apply as if that amount had become due and payable by virtue of a call.
- 6.6 Subject to the terms of allotment, the Directors may make arrangements on the issue of Shares for a difference between the Holders in the amounts and times of payment of calls on their Shares.
- 6.7 If a call remains unpaid after it has become due and payable the Directors may give to the person from whom it is due not less than fourteen Clear Days' notice requiring payment of the amount unpaid together with any interest which may have accrued. The notice shall name the place where payment is to be made and shall state that if the notice is not complied with the Shares in respect of which the call was made will be liable to be forfeited.
- 6.8 If the notice is not complied with, any Share in respect of which it was given may, before the payment required by the notice has been made, be forfeited by a resolution of the Directors and the forfeiture shall include all dividends or other monies payable in respect of the forfeited Shares and not paid before the forfeiture.
- 6.9 Subject to the provisions of the Act, a forfeited Share may be sold, re-allotted or otherwise disposed of on such terms and in such manner as the Directors determine either to the person who was before the forfeiture the Holder or to any other person and at any time before sale, re-allotment or other disposition, the forfeiture may be cancelled on such terms as the Directors think fit. Where for the purposes of its disposal a forfeited Share is to be transferred to any person, the Directors may authorise some person to execute an instrument of transfer of the Share to that person.
- 6.10 A person any of whose Shares have been forfeited shall cease to be a Member in respect of them and shall surrender to the Company for cancellation the certificate for the Shares forfeited but shall remain liable to the Company for all moneys which at the date of forfeiture were presently payable by him to the Company in respect of those Shares with interest at the rate at which interest was payable on those moneys before the forfeiture or, if no interest was so payable, at the appropriate rate (as defined in the Act) from the date of forfeiture until payment but the Directors may waive payment wholly or in part or enforce payment without any allowance for the value of the Shares at the time of forfeiture or for any consideration received on their disposal.
- 6.11 A statutory declaration by a Director or the Secretary that a Share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the Share and the declaration shall (subject to the Execution of an instrument of transfer if necessary) constitute a good title to the Share and the person to whom the Share is disposed of shall not be bound to see to the application of the consideration, if any, nor shall his title to the Share be affected by any irregularity in or invalidity of the proceedings in reference to the forfeiture or disposal of the Share.

## **7. ISSUE AND ALLOTMENT OF NEW SHARES**

- 7.1 In accordance with section 91(1) of the Act, the provisions of sections 89(1) and 90 (1) to (6) (inclusive) of the Act shall not apply to the allotment of any Shares in the



Company and therefore, the Company shall not be obliged to first offer any new Shares for subscription to the existing Holders of Shares.

- 7.2 The Directors are generally and unconditionally authorised for the purposes of section 80 of the Act to allot relevant securities provided that (1) the aggregate nominal value of the relevant securities allotted pursuant to this authority does not exceed the aggregate nominal value of the relevant securities of the Company as at the date of adoption of these Articles (which is, for the avoidance of doubt £999 (nine hundred and ninety nine pounds)); and (2) this authority shall expire on the fifth anniversary of the date of adoption of these Articles (unless varied or revoked or renewed by the Company in general meeting). At any time before the expiry of the authority granted by this Article, the Directors shall be entitled to make or enter into any offer or agreement which may or will require relevant securities to be allotted after the expiry of such authority, and the Directors may allot relevant securities in pursuance of the offer or agreement as if such authority had not expired.

## **8. TRANSFERS OF SHARES - PROHIBITED TRANSFERS**

### ***General Prohibition***

- 8.1 The Directors will refuse to register a transfer of any Shares:
- 8.1.1 upon which the Company has a lien;
  - 8.1.2 which is not fully paid;
  - 8.1.3 to a person of whom they do not approve; or
  - 8.1.4 which is not made in accordance with the provisions of these Articles.
- 8.2 If the Directors refuse to register a transfer of Shares, they shall within two months after the date on which the transfer was lodged with the Company, send to the transferee notice of refusal.
- 8.3 No Member shall dispose of any Share(s) or any interest in, or right attaching to, or renounce or assign any right to receive or subscribe for any Share or create or permit to exist any charge, lien, encumbrance or trust over any Share or agree (whether subject to any condition precedent, condition subsequent or otherwise) to do any of such things except as permitted by these Articles. If a Member attempts to do any of the above in breach of these Articles, they shall be deemed immediately prior thereto to have served a Deemed Transfer Notice in respect of its entire holding of Shares and the provisions of Article 11.

## **9. PERMITTED TRANSFERS**

- 9.1 Where any Shares are the subject of a Transfer Notice or a Deemed Transfer Notice, no transfers of any such Shares shall be permitted pursuant to this Article 9.
- 9.2 Subject to Article 9.1 any Share may be transferred:
- 9.2.1 when required by, and in accordance with, Article 12 (Transmission of Shares);

- 9.2.2 to a Buyer in acceptance of an Approved Offer pursuant to Article 13 (Drag Along Rights);
- 9.2.3 to a transferee the identity of whom and the terms of transfer have previously been approved by the Board;
- 9.2.4 when required by and in accordance with Article 11 (Compulsory Transfers); or
- 9.2.5 by a Majority Member without restriction.

## 10. PRE-EMPTION

### *Transfer Notices*

- 10.1 Except in the case of a transfer pursuant to Article 9 (Permitted Transfers) and subject to the prohibitions on transfers set out in Article 8, a Seller wishing to transfer the legal and beneficial ownership in the Shares held by him must transfer all and not part only of the Shares held by him and must give a Transfer Notice to the Company.
- 10.2 Each Transfer Notice will (except as provided in Article 11 (Compulsory Transfer)) will specify:
  - 10.2.1 the number and class of Sale Shares;
  - 10.2.2 the identity of the Proposed Transferee (if any); and
  - 10.2.3 the date of the Transfer Notice.
- 10.3 The Transfer Price of the Sale Shares shall be determined in accordance with Articles 10.5 to 10.9 (inclusive).
- 10.4 No Transfer Notice shall be capable of variation without the consent of the Board.

### *Transfer Price*

- 10.5 The Transfer Notice will constitute the Company as the agent of the Seller for the transfer of the Sale Shares in accordance with this Article 10 at the price determined in accordance with Articles 10.6 to 10.7 (inclusive) ("**Transfer Price**").
- 10.6 Following service of the Transfer Notice, the Directors and the Seller shall endeavour to agree the Transfer Price. In the event that they fail to agree the Transfer Price within 30 days of the date of the Transfer Notice, the Company shall instruct the Accountant to certify the Fair Value of the Shares.
- 10.7 Fair Value shall be such sum as the Accountant shall certify to be in its opinion the fair value of each such Sale Share on a going concern basis as between a willing buyer and a willing seller on arm's length terms as at the date of issue of the Transfer Notice taking into account (if it is the case) that such Shares represent a majority interest or a minority interest (as the case may be) in the Company, any rights or restrictions attached to such Shares or applying to them by virtue of these Articles and any tax which might be payable by the Company in relation to the sale.

- 10.8 The Company, the Members and the Directors shall each render all such assistance, disclose all information and provide all such documentation and other information to the Accountant as may be reasonably necessary for it to certify the Fair Value of the Sale Shares and the Company shall use its reasonable endeavours to procure that the Accountant shall issue a certificate of the Fair Value ("**Valuation Certificate**") as soon as reasonably possible and in any event within 21 days from the date of the referral to the Accountant by the Company being made.
- 10.9 The Accountant shall act as expert and not arbitrator and save in the case of manifest error, its decision shall be final and binding upon the Company and the Members. The costs of the Accountant in giving its Valuation Certificate shall be borne by the Seller.
- 10.10 On receipt of the Valuation Certificate, the Company shall send a copy of the same to the Seller who subject to Article 10.4 shall be entitled to withdraw the Transfer Notice by notice in writing to the Company within seven Clear Days of his receipt of the Valuation Certificate.
- 10.11 Following the expiry of the seven Clear Day period referred to above ("**Withdrawal Expiry Date**") the Company shall offer the Sale Shares at the Transfer Price in accordance with Articles 10.12 to 10.13 (inclusive).

#### ***Offer to Members***

- 10.12 Within 30 Business Days of the Withdrawal Expiry Date, the Company (in its capacity as agent for the Seller) will give notice in writing to each of the Members (other than the Seller, any Compulsory Seller and any other Member who has served or who is deemed to have served a Transfer Notice in respect of his holding of Shares which has not then been concluded) offering the Sale Shares for sale at the Transfer Price. The notice will specify that the Members will have a period of up to 20 Business Days from the date of such notice within which to apply for some or all of the Sale Shares.
- 10.13 It will be a term of the offer that, if there is competition of Members for the Sale Shares such Sale Shares will be treated as offered among the Holders of such Shares in proportion (as nearly as possible) to their existing holdings of Shares ("**Proportionate Entitlement**"). However, the offer will also invite Members to indicate in their applications for Sale Shares, whether they would be willing to buy Shares in excess of their Proportionate Entitlement should any such Shares be available and, if so, how many ("**Extra Shares**").

#### ***Allocation of Shares***

- 10.14 After the expiry of the offer period specified in Article 10.12, (or, if sooner, upon valid applications being received for all of the Sale Shares in accordance with that Article), the Board will allocate the Sale Shares as follows:
- 10.14.1 if the total number of Sale Shares applied for (including Extra Shares) is equal to or less than the available number of Sale Shares, each offeree will be allocated the number applied for in accordance with his application; or

- 10.14.2 if the total number of Sale Shares applied for is greater than the available number of Sale Shares, each offeree will be allocated his Proportionate Entitlement, or, if less, the number of Sale Shares which he has applied for; and
  - 10.14.3 applications for Extra Shares will be allocated in accordance with such applications or, in the event of competition for such Extra Shares, among those applying for Extra Shares in such proportions as equal (as nearly as possible) the proportions of all the Shares held by such offerees.
- 10.15 Allocations of Sale Shares made by the Company pursuant to this Article 10 will constitute the acceptance by the persons to whom they are allocated of the offer to purchase those Sale Shares on the terms offered to them, provided that no person will be obliged to take more than the maximum number of Sale Shares which he has indicated to the Company he is willing to purchase.

***Completion of sale and purchase of Sale Shares***

- 10.16 The Company will immediately upon allocating any Sale Shares (pursuant to Article 10.14 give notice in writing ("**Allocation Notice**") to the Seller and to each person to whom Sale Shares have been allocated specifying:
- 10.16.1 the number of Sale Shares so allocated;
  - 10.16.2 the aggregate Transfer Price payable for them; and
  - 10.16.3 the place and time (being not later than 10 Business Days after the date of the Allocation Notice) at which the sale of the Sale Shares will be completed.
- 10.17 Completion of the sale and purchase of Sale Shares in accordance with the Allocation Notice will take place at the place and time specified in the Allocation Notice when the Seller will, upon payment of the due price, transfer those Sale Shares specified in the Allocation Notice and deliver the relevant Share certificates to the persons to whom they have been allocated.

***Default by the Seller***

- 10.18 If the Seller fails by the due completion date to execute and deliver transfers in respect of any of the Sale Shares which he is due to transfer, the Board may authorise any Director to:
- 10.18.1 execute the necessary transfer(s) on the Seller's behalf; and
  - 10.18.2 against receipt by the Company of the Transfer Price payable for the relevant Sale Shares (to be held on trust for the Seller without interest) (the receipt being a good discharge to the offeree who will not be bound to see to the application of it), deliver such transfer(s) to the relevant offeree(s).

The Board will authorise registration of the transfer(s), and of the offeree(s) as the Holder(s) of the Sale Shares so transferred, once appropriate stamp duty has been paid. After registration, the title of such offeree(s) as registered Holder(s) of such

Sale Shares will not be affected by any irregularity in, or invalidity of such proceedings, which will not be questioned by any person.

***Exhaustion of pre-emption rights - rights and restrictions with regard to sale to third party***

10.19 Immediately after the exhaustion of any pre-emption process followed in accordance with these Articles, if any of the Sale Shares remain unallocated, the Company will notify the Seller of that fact. The Seller may, at any time within one calendar month after receiving such notice (but not otherwise unless the pre-emption procedure set out in these Articles is repeated), transfer any unsold Sale Shares to the Proposed Transferee at any price which is not less than the Transfer Price, except that:

10.19.1 the Board will refuse registration of any transfer to a Proposed Transferee who is a person to whom Shares may not be transferred by virtue of Article 8.1;

10.19.2 any such transfer must be in good faith and the Board may require to be satisfied (in such manner as it may reasonably think fit) that the Sale Shares are being sold at a price which is not less than the Transfer Price without any deduction, rebate or allowance whatsoever. If not so satisfied, the Board may refuse to register the transfer;

10.19.3 the Seller shall be entitled to transfer all (but not some only) of the unsold Sale Shares to the Proposed Transferee; and

10.19.4 in the case of any compulsory transfer process pursuant to Article 11, the Compulsory Seller will not be entitled to transfer any unsold Sale Shares to any third party.

**11. COMPULSORY TRANSFER**

***Circumstances which trigger compulsory transfer***

11.1 If any Minority Member:

11.1.1 is in material breach of any of the provisions of these Articles and, where such breach is capable of remedy, fails to remedy such breach within 20 Business Days of receiving a written request from the Board requiring him to do so;

11.1.2 being an individual, declares himself bankrupt;

11.1.3 being an individual, has a bankruptcy order made against him;

11.1.4 being an individual enters into an arrangement, compromise or composition in satisfaction of his debts with his creditors or any class of them;

11.1.5 being an individual, dies; or

11.1.6 is also a Director and he resigns or otherwise ceases to be a Director.

that Minority Member shall be deemed to have served a transfer Notice ("**Deemed Transfer Notice**") in respect of all Shares then held by that Minority Member.

11.2 For the purposes of this Article 11, a Deemed Transfer Notice shall be deemed to have been served on the date of the breach, the bankruptcy declaration, bankruptcy order, arrangement being entered into or on the date of death (as appropriate) ("**Deemed Transfer Date**").

11.3 A Deemed Transfer Notice shall only be capable of being withdrawn by the Board.

#### ***Compulsory pre-emption procedure***

11.4 The service of a Deemed Transfer Notice shall, subject to Article 11.3, oblige the relevant Minority Member (or the personal representative of any deceased Minority Member or the trustee in bankruptcy of any bankrupt Minority Member) (each a Compulsory Seller and together "**Compulsory Sellers**") to offer for sale such number of the Shares registered in his name or to which he is or they are or may become entitled whether as a result of his or their holding of Shares or otherwise.

11.5 The Shares which are the subject of the Deemed Transfer Notice will be offered for sale (other than to any Compulsory Seller or any Member who has served or who is deemed to have served a Transfer Notice in respect of his holding of Shares which is still outstanding) in accordance with the provisions of Article 10, which will apply as though they were set out in full in this Article except to the extent they are varied by this Article 11. The Board may also determine at their absolute discretion to revoke any Transfer Notice previously given or deemed to have been given by the Compulsory Seller(s) which is still outstanding at the Deemed Transfer Date.

#### ***Sale Price***

11.6 The price for the Sale Shares shall be Fair Value as determined in accordance with Article 10.7.

#### ***Suspension of voting rights during compulsory transfer procedure***

11.7 Any Shares held by a Compulsory Seller on the Deemed Transfer Date will cease to confer the right to be entitled to receive notice of, attend and vote at any general meeting of a Company, with effect from the Deemed Transfer Date and such Shares will not be counted in determining the total number of votes which may be cast at any such meeting, or for the purposes of a written resolution of any Member. That right will be restored immediately upon the Company registering a transfer of the Sale Shares in accordance with this Article 11.

### **12. TRANSMISSION OF SHARES**

12.1 If a Member dies, the survivor or survivors where the deceased was a joint Holder, and his personal representatives where he was a sole Holder or the only survivor of joint Holders, shall be the only persons recognised by the Company as having any title to his interest in the Shares but nothing herein shall release the estate of a deceased Member from any liability in respect of any Share which had been jointly held by him with other persons.

12.2 without prejudice to Articles 11.1 to 11.7 (inclusive), (the provisions of which, when applicable, will override the provisions of this Article 12) a person entitled to a Share or Shares in consequence of the death, bankruptcy, receivership or liquidation of a Member or otherwise by operation of law shall be bound at any time, if called upon in writing to do so by the Directors not later than 90 days after the Directors receive

notice from the person concerned that he has become so entitled, to give a Transfer Notice in respect of all of the Shares then registered in the name of the deceased or insolvent Member in accordance with the provisions of Article 10, which will apply as if set out in full in this Article.

- 12.3 If any such person fails to give a Transfer Notice in accordance with Article 12.2 within 10 Business Days after being called upon to do so:

12.3.1 the Board may authorise any Director to execute and deliver a transfer of the Shares concerned to a person appointed by the Directors as a nominee for the person entitled to the Shares; and

12.3.2 the Company may give a good receipt for the purchase price of such Shares, register the purchaser or purchasers as the Holders of them and issue certificates for the same to such purchasers. After registration, the title of such purchaser or purchasers as registered Holder(s) of such Shares will not be affected by any irregularity in, or invalidity of, such proceedings, which will not be questioned by any person. In any such case the person entitled to the Shares as a consequence of the death, insolvency or otherwise by operation of law will be bound to deliver up the certificates for the Shares concerned to the Company whereupon he will become entitled to receive the purchase price. In the meantime, the purchase price will be held by the Company on trust for such person without interest.

- 12.4 Subject to Article 12.2, a person becoming entitled to a Share by reason of the death or bankruptcy of the Member shall upon such evidence being produced as may from time to time properly be required by the Directors and subject as hereinafter provided, elect to be registered himself as the Holder of such Share save that the Directors shall have the right to decline or suspend registration in the circumstances set out in Article 8.1.

- 12.5 All of the limitations, restrictions and provisions of these Articles relating to the right to transfer and the registration of transfers of Shares shall be applicable to the registration of transfer set out above as though the death or bankruptcy, receivership or liquidation of the Member had not occurred and the transfer was signed by that Member.

- 12.6 Subject to Articles 12.2 and 11, a person becoming entitled to a Share by reason of the death, bankruptcy, receivership or liquidation of a Member shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered Holder of the Share, except that he shall not, before being registered as a Member in respect of the Share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company.

### 13. CHANGE OF CONTROL - DRAG ALONG RIGHTS

- 13.1 For the purposes of this Article 13:

**"Approved Offer"** means an offer in writing served on all Members holding Shares (including the proposing transferor), offering to purchase all the Shares held by such Members (including any Shares which may be allotted pursuant to the exercise or conversion of options, rights to subscribe for or securities convertible into Shares in existence at the date of such offer) which:

- 13.1.1 is stipulated to be open for acceptance for at least 15 Business Days;
  - 13.1.2 offers the same or equivalent consideration for each Share (whether in cash, securities or otherwise in any combination), provided that a reduction, withholding or retention of consideration to take account of tax payable or which might be payable by a Member or by his employing company in relation to the conversion of securities, the exercise of an option over Shares, and/or the disposal of Shares shall not prejudice the application of this paragraph; and
  - 13.1.3 is on terms that the sale and purchase of Shares in respect of which the offer is accepted will be completed at the same time.
- 13.2 Whenever an Approved Offer is made the Holders of more than 50% of the Shares shall have the right ("**Drag Along Right**") to require (in the manner set out in Article 13.3) all of the other Holders of Shares including persons who acquire Shares following the making of the Approved Offer pursuant to the exercise of options or conversion of securities ("**Other Members**") to accept the Approved Offer in full.
- 13.3 The Drag Along Right may be exercised by the service of notice to that effect on the Other Members at the same time as, or within ten Business Days following the making of the Approved Offer (or, if later, within ten Business Days following the acquisition by the relevant Other Member of any Shares). Such notice will be accompanied by all documents required to be Executed by the Other Members to give effect to the relevant transfer.
- 13.4 On the exercise of the Drag Along Right, each of the Other Members will be bound to accept the Approved Offer in respect of its entire holding of Shares and to comply with the obligations assumed by virtue of such acceptance.
- 13.5 If any of the Other Members fails to accept the Approved Offer or, having accepted such offer, fails to complete the sale of any of its Shares pursuant to the Approved Offer, or otherwise fails to take any action required of it under the terms of the Approved Offer, any persons so authorised by the Board may accept the offer on behalf of the Other Member(s) in question, or undertake any action required under the terms of the Approved Offer on the part of the Other Member(s) in question. In particular, such person may execute the necessary transfer(s) on that Other Member's behalf; and against:
- 13.5.1 receipt by the Company (on trust for such Other Member(s)) of the consideration payable for the relevant Shares (the receipt being a good discharge to the Buyer, who will not be bound to see to the application of it); and
  - 13.5.2 compliance by the Buyer and, where relevant, the Company with all other terms of the Approved Offer,

deliver such transfer(s) to the Buyer (or its nominee). The Board will then authorise registration of the transfer(s) and of the Buyer (or its nominee) as the Holder of the Shares so transferred. After registration, the title of the Buyer (or its nominee) as registered holder of such Shares will not be affected by any irregularity in, or invalidity of such proceedings, which will not be questioned by any person. The Other Member(s) will in such a case be bound to deliver up its certificate for its



Shares to the Company, or a statutory declaration of loss (as appropriate) whereupon the Other Member(s) will be entitled to receive the purchase price for such Shares.

#### **14. CONVERSION OF SHARES INTO STOCK**

- 14.1 The Company may by ordinary resolution convert paid up Shares into stock and reconvert any stock into paid up Shares of any denomination.
- 14.2 The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to those Articles to which the Shares from which the stock arose might previously to conversion have been transferred in accordance with, or as near thereto as circumstances permit and the Directors may from time to time fix the minimum amount of stock transferable but so that such minimum shall not exceed the nominal amount of the Shares from which the stock arose.
- 14.3 The holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the Company and other matters as if they held the Shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the Company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in Shares, have conferred that privilege or advantage.
- 14.4 Such of these Articles as are applicable to paid up Shares shall apply to stock and the words "Share" and "Shareholder" shall include "Stock " and "Stockholder".

#### **15. ALTERATION OF SHARE CAPITAL**

- 15.1 The Company may by ordinary resolution -
- (a) increase its share capital by new Shares of such amount as the resolution prescribes;
  - (b) consolidate and divide all or any of its Share capital into Shares of larger amount than its existing Shares;
  - (c) subject to the provisions of the Act, sub-divide its Shares, or any of them, into Shares of smaller amount and the resolution may determine that, as between the Shares resulting from the sub-division, any of them may have any preference or advantage as compared with the others; and
  - (d) cancel Shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.
- 15.2 Whenever as a result of a consolidation of Shares any Member would become entitled to fractions of a Share, the Directors may, on behalf of the Members, sell the Shares representing the fractions for the best price reasonably obtainable to any person (including, subject to the provisions of the Act, the Company) and distribute the net proceeds of sale in due proportion among those Members and the Directors may authorise any person to execute an instrument of transfer of the shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the Shares be

affected by any irregularity in or the invalidity of the proceedings in reference to the sale.

- 15.3 Subject to the provisions of the Act, the Company may by special resolution reduce its share capital, any capital redemption reserve and/or any share premium account in any way.

## **16. PURCHASE OF OWN SHARES**

Subject to the provisions of the Act, the Company may purchase its own Shares (including any redeemable shares) and, if it is a private company, make a payment in respect of the redemption or purchase of its own Shares otherwise than out of distributable profits of the Company or the proceeds of a fresh issue of Shares.

## **17. GENERAL MEETINGS**

- 17.1 All general meetings other than annual general meetings shall be called extraordinary general meetings.

- 17.2 The Directors may call general meetings and, on the requisition of Members pursuant to the provisions of the Act, shall forthwith proceed to convene an extraordinary general meeting for a date not later than four weeks after receipt of the requisition. If there are not within the United Kingdom sufficient Directors to call a general meeting, any Director may call a general meeting.

- 17.3 A general meeting may consist of a conference between Members, some or all of whom are in different places if each Member who participates is able:

17.3.1 to hear each of the other participating Members addressing the meeting; and

17.3.2 if he so wishes to address all of the other participating Members simultaneously

whether directly, by conference telephone or by any other form of communications equipment (whether in use when these Articles are adopted or not) or by a combination of those methods.

- 17.4 A quorum is declared to be present if the conditions set out at Article 17.3 above are satisfied in respect of at least the number of Members required to form a quorum. A meeting held in this way is deemed to take place at the place where the largest group of participating Members is assembled or, if no such group is readily identifiable, at the place from where the Chairman of the meeting participates. A resolution put to the vote of a meeting will be decided by each Member indicating to the Chairman (in such manner as the Chairman may direct) whether the Member votes in favour of or against the resolution or abstains. References in this Article 17.4 to Members includes their duly appointed proxies and in the case of corporate Members, their duly authorised representatives.

## **18. NOTICE OF GENERAL MEETINGS**

- 18.1 An annual general meeting and an extraordinary general meeting called for the passing of a special resolution or a resolution appointing a person as a Director shall be called by at least twenty-one Clear Days' notice. All other extraordinary general

meetings shall be called by at least fourteen Clear Days' notice but a general meeting may be called by shorter notice if it is so agreed:

- 18.1.1 in the case of an annual general meeting, by all the Members entitled to attend and vote thereat; and
- 18.1.2 in the case of any other meeting by a majority in number of the Members having a right to attend and vote being a majority together holding not less than ninety-five per cent in nominal value of the Shares giving that right.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such.

- 18.2 Subject to the provisions of these Articles and to any restrictions imposed on any Shares, the notice shall be given to all the Members whether or not they are absent from the United Kingdom, subject to Article 11 to all persons entitled to a share in consequence of the death, bankruptcy, receivership or liquidation of a Member and to the Directors.
- 18.3 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

## **19. PROCEEDINGS AT GENERAL MEETINGS**

- 19.1 No business shall be transacted at a general meeting unless a quorum is present both at the commencement of the Meeting and also when that business is voted on. Subject to Article 19.3 a quorum shall be at least one Member who is not a Minority Member and who is a person entitled to vote upon the business to be transacted, or a proxy for such Member or the duly authorised representative of a Member which is a corporation.
- 19.2 A corporation which is a Member may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or at any meeting of Members or meetings of such Members holding the same class of Shares. The person so authorised is entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Member.
- 19.3 If such a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Directors may determine.
- 19.4 The Chairman or in his absence some other Director nominated by the Directors shall preside as Chairman of the meeting, but if neither the Chairman nor such other Director (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the Directors present shall elect one of their number to be Chairman of the meeting and, if there is only one Director present and willing to act, he shall be Chairman of the meeting.

- 19.5 If no Director is willing to act as Chairman of the meeting, or if no Director is present within fifteen minutes after the time appointed for holding the meeting, the Members present and entitled to vote shall choose one of their number to be Chairman of the meeting.
- 19.6 A Director shall, notwithstanding that he is not a Member, be entitled to attend and speak at any general meeting and at any separate meeting of the Holders of any class of Shares in the Company.
- 19.7 The Chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven Clear Days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
- 19.8 A resolution put to the vote of a meeting shall be decided on a show of hands unless before, or on the declaration of the result of the show of hands, a poll is duly demanded.

Subject to the provisions of the Act, a poll may be demanded:

- 19.8.1 by the Chairman;
- 19.8.2 by at least two Members having the right to vote at the meeting; or
- 19.8.3 by a Member or Members having Shares conferring a right to vote at the meeting being Shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all of the Shares conferring that right,

and a demand by a person as proxy for a Member shall be the same as a demand by the Member.

- 19.9 Unless a poll is duly demanded, a declaration by the Chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 19.10 The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the Chairman and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.
- 19.11 A poll shall be taken as the Chairman directs and he may appoint scrutineers (who need not be Members) for declaring the result of the poll. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 19.12 In the case of an equality of votes on a poll, the Chairman shall not be entitled to a casting vote in addition to any other vote he may have.

- 19.13 A poll demanded will be taken forthwith. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before, the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
- 19.14 A resolution in writing Executed by or on behalf of each Member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each Executed by or on behalf of one or more Members. If such a resolution in writing is described as a special resolution or as an extraordinary resolution or as an elective resolution, it shall have effect accordingly.

## **20. VOTES OF MEMBERS**

- 20.1 Subject to any rights or restrictions attached to any Shares on a show of hands every Member who (being an individual) is present in person or (being a corporation) is present by a duly authorised representative, not himself being a Member shall have one vote and, on a poll every Member shall have one vote for every Share of which he is the Holder and a proxy and a duly authorised representative of a corporate Member shall also be entitled to vote on a show of hands and on a poll.
- 20.2 In the case of joint Holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint Holders and seniority shall be determined by the order in which the names of the Holders stand in the register of members.
- 20.3 A Member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may subject to the provisions of these Articles vote, by his receiver, curator bonis or other person authorised in that behalf appointed by that court, and any such receiver, curator bonis or other person may vote by proxy. Evidence to the satisfaction of the directors of the authority of the person claiming to exercise the right to vote shall be deposited at the Office, or at such other place as is specified in accordance with these Articles for the deposit of instruments of proxy, 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 default the right to vote shall not be exercisable.
- 20.4 No Member shall unless the Directors otherwise determine vote at any general meeting or at any separate meeting of the Holders of any class of Shares in the Company, either in person or by proxy, in respect of any Share held by him unless all monies presently payable by him in respect of that Share have been paid.
- 20.5 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the Chairman whose decision shall be final and conclusive.
- 20.6 On a poll, votes may be given either personally or by proxy. A Member may appoint more than one proxy to attend on the same occasion. Deposit of an instrument of proxy will not preclude a Member from attending and voting at the Meeting or at any adjournment thereof.

- 20.7 The appointment of a proxy shall be Executed by or on behalf of the appointor and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the Directors may approve) -

" PLC/LIMITED

I/We, , of , being a member/members of the above-named company, hereby appoint of , or failing him of , as my/our proxy to vote in my/our name(s) and on my/our behalf at the annual/extraordinary general meeting of the company to be held on , and at any adjournment thereof.

Signed on ."

- 20.8 Where it is desired to afford Members an opportunity of instructing the proxy how he shall act the appointment of a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the Directors may approve) -

" PLC/LIMITED

I/We, , of , being a member/members of the above-named company, hereby appoint of , or failing him of , as my/our proxy to vote in my/our name(s) and on my/our behalf at the annual/extraordinary general meeting of the company to be held on , and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows -

Resolution no. 1 \*for \*against

Resolution no. 2 \*for \*against

\*Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed this day of ."

- 20.9 The appointment of a proxy and any authority under which it is Executed or a copy of such authority certified notarially or in some other way approved by the Directors may -

- (a) in the case of an instrument in writing be left at or sent by post to the Office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
- (aa) in the case of an appointment contained in an Electronic Communication, where an address has been specified for the purpose of receiving electronic communications -

- (1) in the notice convening the meeting, or
- (2) in any instrument of proxy sent out by the Company in relation to the meeting, or
- (3) in any invitation contained in an Electronic Communication to appoint a proxy issued by the Company in relation to the meeting,

be received at such address not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote

and an appointment of proxy which is not left at or sent by post in a manner so permitted shall be invalid unless the Directors resolve otherwise.

In this Article and the next, "address", in relation to Electronic Communications, includes any number or address used for the purposes of such communications.

- 20.10 A vote given by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting unless notice of the determination was received by the Company at the office or at such other place at which the instrument of proxy was duly deposited or, where the appointment of the proxy was contained in an Electronic Communication, at the address at which such appointment was duly received before the commencement of the meeting or adjourned meeting at which the vote is given.

## **21. NUMBER OF DIRECTORS**

- 21.1 Unless otherwise determined by ordinary resolution, the number of Directors (other than alternate directors) shall be not be subject to any maximum and the minimum shall be one. Whilst there is only one Director, he shall constitute a quorum for all meetings of Directors.
- 21.2 Where only one Director is in office, he shall have and may exercise all of the powers and authorities in and over the affairs of the Company as conferred on the Board by these Articles by written resolution.

## **22. ALTERNATE DIRECTORS**

- 22.1 Any Director (other than an alternate Director) may in writing under his hand appoint any other person (whether or not they are also a Director) willing to act, to be an alternate Director and may remove from office an alternate director so appointed by him.
- 22.2 An 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, to attend and vote at any such meeting at which the Director appointing him is not personally present, and generally to perform all the functions of his appointor as a Director in his absence but shall not be entitled to receive any remuneration from the Company for his services as an alternate director. It shall be necessary to give notice of such a meeting to an alternate Director who is absent from the United Kingdom. An alternate Director may waive the requirement that notice be given to him of a meeting of Directors or a committee of Directors of which his appointor is a Member, either prospectively or retrospectively.

- 22.3 An alternate Director shall not be entitled to receive any remuneration from the Company, but shall be entitled to be reimbursed by the Company, such expenses as might properly be reimbursed to him if he were a Director.
- 22.4 An alternate Director shall cease to be an alternate Director if his appointor ceases to be a Director or if he resigns by written notice left at or sent to the Office.
- 22.5 Any appointment or removal of an alternate Director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors. Any such notice may be left at or sent by post or facsimile transmission to the Office.
- 22.6 Save as otherwise provided in these Articles, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him.
- 22.7 A Director or any other person nominated pursuant to Article 22.1 may act as an alternate Director to represent more than one Director and an alternate Director will be entitled at any meeting of the Board to one vote for every Director whom he represents in addition to his own vote (if any) as a Director, but he will count as only one person for the purposes of determining whether a quorum is present.

### **23. POWERS OF DIRECTORS**

- 23.1 Subject to the provisions of the Act, the memorandum and these Articles and to any directions given by special resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the memorandum or these Articles and no such direction shall invalidate any prior act of the Directors which would have been valid if that alteration had not been made or that direction had not been given. A meeting of Directors at which a quorum is present may exercise all powers exercisable by the Directors.
- 23.2 The Directors may, by power of attorney or otherwise, appoint any person to be the agent of the Company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his powers.
- 23.3 The Directors may exercise all the powers of the Company (whether express or implied) to borrow and/or secure the payment of money, to guarantee the payment of money, the fulfilment of obligations and the performance of contracts and to mortgage or charge the property, assets and uncalled capital of the Company and (subject to section 80 of the Act) to issue debentures, debenture stock and all other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party).

### **24. DELEGATION OF DIRECTORS' POWERS**

The Directors may delegate any of their powers to any committee consisting of one or more Directors. They may also delegate to any managing director or to any Director holding any other executive office such of their powers as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the Directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by these Articles regulating the proceedings of Directors so far as they are capable of applying. Where a provision of these Articles refers to the exercise of a power,



authority or discretion by the Directors and that power, authority or discretion has been delegated by the Directors to a committee, the provision must be construed as permitting the exercise of the power, authority or discretion by the committee.

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

- 25.1 No person will be disqualified from being appointed a Director and no Director will be required to vacate that office by reason only of the fact that he has attained the age of 70 years or any other age.
- 25.2 Directors will not retire by rotation and a Director appointed to fill a vacancy or as an additional Director will not retire from office at the annual general meeting next following his appointment.
- 25.3 The Company shall by ordinary resolution appoint a person who is willing to act to be a Director either to fill a vacancy or as an additional Director.
- 25.4 The Directors may appoint a person who is willing to act to be a director, either to fill a vacancy or as an additional Director.

## **26. DISQUALIFICATION AND REMOVAL OF DIRECTORS**

Without prejudice to the other provisions of these Articles, the office of a Director shall be vacated if -

- 26.1 he ceases to be a Director by virtue of any provision of the Act or he becomes prohibited by law from being a director; or
- 26.2 he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- 26.3 he becomes, in the opinion of a majority of the co-Directors incapable by reason of mental disorder of discharging his duties as Director; or
- 26.4 he resigns his office by notice to the company; or
- 26.5 he shall for more than six consecutive months have been absent without permission of the Directors from meetings of Directors held during that period and his alternate Director (if any) has not during that period attended only such meetings instead of him, and the Directors resolve that his office be vacated; or
- 26.6 the Director is also a Minority Shareholder and he ceases to hold Shares, whereupon he shall automatically be deemed to have resigned as a Director with effect from the date of his Transfer Notice or the date of the Deemed Transfer Notice (as appropriate).

## **27. REMUNERATION OF DIRECTORS**

The Directors shall be entitled to such remuneration as the Company may by ordinary resolution determine and, unless the resolution provides otherwise, the remuneration shall be deemed to accrue from day to day.

## **28. DIRECTORS' EXPENSES**

The Directors may be paid all travelling, hotel and other expenses properly incurred by them in connection with their attendance at meetings of Directors or committees of directors or general meetings or separate meetings of the Holders of any class of Shares or of debentures of the Company or otherwise in connection with the discharge of their duties.

## **29. DIRECTORS' APPOINTMENTS AND INTERESTS**

29.1 Subject to the provisions of the Act, the Directors may appoint one or more of their number or any other person to the office of managing director or to any other executive office under the Company and may enter into an agreement or arrangement with any Director or such other person for his employment by the Company or in the case of a Director for the provision by him of any services outside the scope of the ordinary duties of a Director. Any such appointment, agreement or arrangement may be made upon such terms as the Directors determine and they may remunerate any such Director or person for his services as they think fit. Any appointment of a Director to an executive office shall terminate if he ceases to be a Director but without prejudice to any claim to damages for breach of the contract of service between the Director and the Company.

29.2 Subject to the provisions of the Act, and provided that he has disclosed to the Directors the nature and extent of any interest of his, a Director notwithstanding his office -

- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is in any way interested;
- (b) may be a Director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is in any way interested; and
- (c) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

29.3 For the purposes of Articles 29.2 and 29.4 -

- (a) a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such transaction of the nature and extent so specified;
- (b) an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and
- (c) an interest of a person who is for any purposes of the Act connected with a Director shall be treated as an interest of the Director and in relation to an alternate Director, an interest of his appointer shall be treated as an interest of

the alternate Director without prejudice to any interest which the alternate Director otherwise has.

- 29.4 Without prejudice to his obligations of disclosure under the Act, a Director (including an alternate Director) may vote at a meeting of Directors or on a committee of directors on any resolution concerning a matter in which he has, directly or indirectly an interest. If he does so vote, his vote shall be counted and he shall be counted in the quorum when any such matter is under consideration.
- 29.5 A Director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with his office of director for such period and on such terms (as to remuneration and otherwise) as the Directors may determine and no Director or intending Director shall be disqualified by his office from contracting with the Company either with regard to his tenure of any such office or place of profit or as vendor, purchaser or otherwise, nor shall any such contract, or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested, be liable to be avoided nor shall any director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship established by his holding of that office.
- 29.6 If a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to vote the question may, before the conclusion of the meeting, be referred to the Chairman and his ruling in relation to any Director other than himself shall be final and conclusive.

### **30. DIRECTORS' GRATUITIES AND PENSIONS**

The Directors may provide benefits, whether by the payment of gratuities or pensions or by insurance or otherwise, for any Director who has held but no longer holds any executive office or employment with the Company or with any body corporate which is or has been a subsidiary of the Company or a predecessor in business of the Company or of any such subsidiary, and for any member of his family (including a spouse and a former spouse) or any person who is or was dependent on him, and may (as well before as after he ceases to hold such office or employment) contribute to any fund and pay premiums for the purchase or provision of any such benefit.

### **31. PROCEEDINGS OF DIRECTORS**

- 31.1 Subject to the provisions of these Articles, the Directors may regulate their proceedings as they think fit. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. Every Director shall receive notice of a meeting whether or not he is absent from the United Kingdom. Notice of meetings shall be deemed to be properly given to a Director if it is given personally or by word of mouth or sent in writing to his last known address or such other address (if any) as may for the time being be notified by him or on his behalf to the Company for that purpose, or sent using Electronic Communications to such address, if any, as may for the time being be notified by him or on his behalf to the Company for that purpose.
- 31.2 Questions arising at a meeting shall be decided by a majority of votes. A Director who is also an alternate Director shall be entitled in the absence of his appointor to a separate vote on behalf of his appointor in addition to his own vote. In the case of an equality of votes, the Chairman shall not have a second or casting vote.

- 31.3 Save where there is a sole Director (in which case the provisions of Article 21 shall apply), the quorum for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be two. A person who holds office only as an alternate director shall, if his appointor is not present, be counted in the quorum. If a quorum is not present at a meeting of the Board, the meeting shall be adjourned and re-convened for a date and time agreed by the Directors.
- 31.4 All business at a meeting of Directors shall be determined only by resolution. No resolution shall be effective unless carried by a majority of votes.
- 31.5 The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number.
- 31.6 The Directors may appoint one of their number to be the chairman of the board of directors ("**Chairman**") and may at any time remove him from that office. Unless he is unwilling to do so, the Director so appointed shall preside at every meeting of Directors at which he is present. But if there is no Director holding that office, or if the Director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the Directors present may appoint one of their number to be Chairman of the meeting.
- 31.7 All acts done by a meeting of Directors, or of a committee of Directors, or by a person acting as a Director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any Director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director and had been entitled to vote.
- 31.8 A resolution in writing signed by all of the Directors entitled to receive notice of a meeting of Directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held and may consist of several documents in the like form each signed by one or more Directors; but a resolution signed by an alternate Director need not also be signed by his appointor and, if it is signed by a Director who has appointed an alternate Director, it need not be signed by the alternate Director in that capacity.
- 31.9 Any Director (including an alternate Director) may validly participate in a meeting of Directors or of a committee of Directors though the medium of a conference telephone or similar form of communication equipment provided that all persons participating in the meeting are able to hear and speak to each other throughout such meeting. A person so participating shall be deemed to be present in person at the meeting and shall accordingly be counted in a quorum and be entitled to vote. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or if there is no such group, where the Chairman of the meetings then is.

## 32. SECRETARY

Subject to the provisions of the Act, the Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them.

### **33. MINUTES**

The Directors shall cause minutes to be made in books kept for the purpose -

- (a) of all appointments of officers made by the Directors; and
- (b) of all proceedings at meetings of the Company, of the Holders of any class of Shares in the Company, and of the Directors, and of committees of directors including the names of the Directors, present at each such meeting.

### **34. THE SEAL**

If the Company has a Seal, it shall only be used by the authority of the Directors or of a committee of Directors authorised by the Directors. The Directors may determine who shall sign any instrument to which the Seal is affixed and unless otherwise so determined it shall be signed by a Director and by the Secretary or by a second Director.

### **35. DIVIDENDS**

- 35.1 Subject to the provisions of the Act, the Company may by ordinary resolution declare dividends in accordance with the respective rights of the members, but no dividend shall exceed the amount recommended by the Directors.
- 35.2 Subject to the provisions of the Act, the Directors may pay interim dividends if it appears to them that they are justified by the profits of the Company available for distribution. If the Share capital is divided into different classes, the Directors may pay interim dividends on Shares which confer deferred or non-preferred rights with regard to dividend as well as on Shares which confer preferential rights with regard to dividend, but no interim dividend shall be paid on Shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear. The Directors may also pay at intervals settled by them any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment. Provided the Directors act in good faith, they shall not incur any liability to the Holders of Shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on any shares having deferred or non-preferred rights.
- 35.3 Subject to Articles 35.4 and 35.8, where dividends are declared they shall be payable to the Members in the Agreed Proportions.
- 35.4 A general meeting declaring a dividend may, upon the recommendation of the Directors, direct that it shall be satisfied wholly or partly by the distribution of assets and, where any difficulty arises in regard to the distribution, the Directors may settle the same and in particular may issue fractional certificates and fix the value for distribution of any assets and may determine that cash shall be paid to any Member upon the footing of the value so fixed in order to adjust the rights of members and may vest any assets in trustees.
- 35.5 Any dividend or other monies payable in respect of a Share may be paid by cheque sent by post to the registered address of the Member entitled or, if two or more persons are the Holders of the Share or are jointly entitled to it by reason of the death or bankruptcy of a Member or otherwise, to the registered address of that one of those persons who is first named in the register of Members or to such person and to such address as the person or persons entitled may in writing direct. Every cheque shall be

made payable to the order of the Member or persons entitled or to such other person as the Member or persons entitled may in writing direct and payment of the cheque shall be a good discharge to the Company. Any joint Holder or other person jointly entitled to a Share as aforesaid may give receipts for any dividend or other monies payable in respect of the Share.

- 35.6 No dividend or other monies payable in respect of a Share shall bear interest against the Company.
- 35.7 Any dividend which has remained unclaimed for twelve years from the date when it became due for payment shall, if the Directors so resolve, be forfeited and cease to remain owing by the Company.
- 35.8 The Directors may deduct from any dividend or other monies payable to any Member on or in respect of any Share, any monies presently payable by such Member to the Company in respect of such Share.

### **36. CAPITALISATION OF PROFITS**

The Directors may with the authority of an ordinary resolution of the Company -

- (a) subject as hereinafter provided, resolve to capitalise any undivided profits of the Company not required for paying any dividend (whether or not they are available for distribution) or any sum standing to the credit of the Company's share premium account or capital redemption reserve;
- (b) appropriate the sum resolved to be capitalised to the Members who would have been entitled to it if it were distributed by way of dividend and in the same proportions and apply such sum on their behalf either in or towards paying up the amounts, if any, for the time being unpaid on any Shares held by them respectively, or in paying up in full unissued shares or debentures of the Company of a nominal amount equal to that sum, and allot the shares or debentures Credited as Fully Paid to those Members, or as they may direct, in those proportions, or partly in one way and partly in the other: but the share premium account, the capital redemption reserve, and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up unissued Shares to be allotted to members Credited as Fully Paid;
- (c) make such provision by the issue of fractional certificates or by payment in cash or otherwise as they determine in the case of Shares or debentures becoming distributable under this regulation in fractions; and
- (d) authorise any person to enter on behalf of all the Members concerned into an agreement with the Company providing for the allotment to them respectively, Credited as Fully Paid, of any Shares or debentures to which they are entitled upon such capitalisation, any agreement made under such authority being binding on all such members.

### **37. NOTICES**

- 37.1 Any notice to be given to or by any person pursuant to these Articles (other than a notice calling a meeting of the Directors) shall be in writing or shall be given using Electronic Communications to an address for the time being notified for that purpose to the person giving the notice.

In this regulation, "address", in relation to Electronic Communications, includes any number or address used for the purposes of such communications.

- 37.2 The Company may give any notice to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at his registered address or by leaving it at that address or by giving it using Electronic Communications to an address for the time being notified to the company by the Member. In the case of joint Holders of a Share, all notices shall be given to the joint Holder whose name stands first in the register of members in respect of the joint Holding and notice so given shall be sufficient notice to all the joint Holders. A member whose registered address is not within the United Kingdom and who gives to the company an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using Electronic Communications, shall be entitled to have notices given to him at that address, but otherwise such Member shall be entitled to receive any notice from the Company by airmail or Electronic Communication at his registered address outside the United Kingdom.

In this regulation and the next, "address", in relation to Electronic Communications, includes any number or address used for the purposes of such communications.

- 37.3 Any notice or other document may only be served on or delivered to the Company by anyone:
- 37.3.1 *by sending it through the post in a prepaid envelope addressed to the Company or any officer of the Company at the Office or such other place in the United Kingdom as may from time to time be specified by the Company;*
  - 37.3.2 *by delivering it by hand to the Office or such other place as may from time to time be specified by the Company; or*
  - 37.3.3 *if an address has been specified by the Company for such purpose (and in the case of an appointment of a proxy such address as has been specified in a document or other communication) by Electronic Communication.*
- 37.4 A Member present, either in person or by proxy, at any meeting of the Company or of the Holders of any class of Shares in the Company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 37.5 Every person who becomes entitled to a Share shall be bound by any notice in respect of that Share which, before his name is entered in the register of Members, has been duly given to a person from whom he derives his title.
- 37.6 Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an Electronic Communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given. A notice shall be deemed to be given:
- 37.6.1 *if given by hand or left at an address in accordance with these Articles, on the day it was delivered or left;*
  - 37.6.2 *at the expiration of 48 hours after the envelope containing it was posted (if posted to an address in the United Kingdom);*

- 37.6.3 if sent by airmail to or from an address outside of the United Kingdom, at the expiration of 10 days after the envelope containing it was posted; or
- 37.6.4 in the case of a notice contained in an Electronic Communication, at the expiration of 48 hours after the time it was sent provided that a fax transaction report (in the case of a fax) and (in the case of an e-mail) a confirmation setting out the total number of recipients sent to or each recipient to whom the message was sent as the case may be.
- 37.7 A notice may be given by the Company to the persons entitled to a Share in consequence of the death or bankruptcy of a Member by sending or delivering it, in any manner authorised by these Articles for the giving of notice to a Member, addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt or by any like description at the address, if any, within the United Kingdom or otherwise supplied for that purpose by the persons claiming to be so entitled. Until such an address has been supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy had not occurred.

### **38. RETURN OF CAPITAL**

- 38.1 On a return of capital of the Company following the passing of a resolution for the winding up of the Company or otherwise (save for a redemption of Shares or the purchase by the Company of its own Shares), the surplus assets and retained profits of the Company available for distribution amongst the Members shall be applied in the Agreed Proportions.
- 38.2 If the Company is wound up, the liquidator may, with the sanction of an extraordinary resolution of the Company and any other sanction required by the Act, divide among the Members in specie the whole or any part of the assets of the Company and may, for that purpose, value any assets and determine how the division shall be carried out as between the Members or different classes of Members. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the Members as he with the like sanction determines, but no Member shall be compelled to accept any assets upon which there is a liability.

### **39. INDEMNITY**

Subject to the provisions of the Act but without prejudice to any indemnity to which a Director may otherwise be entitled, every Director or other officer or auditor of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.